

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21080 of 2016

Arising Out of PS.Case No. -27 Year- 2012 Thana -C.B.I CASE District- MUZAFFARPUR

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1. Bebi Kumari Wife of Late Upendra Prasad Singh, Resident of village-
 Rahatpur, P.S.- Piparia, District- Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar through Vigilance, Bihar Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. A. K. Thakur-Advocate Mr. Ravi Ranjan-Advocate Miss. Kiran Thakur-Advocate Mr. Nilesh Kumar-Advocate
For the Opposite Party/s	:	Mr. Ramakant Sharma(L.O.,I/C Vig.) Mr. Santosh Kumar Pandey-Advocate

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 09-08-2016 Heard learned counsel for the petitioner as well as
 learned senior counsel representing the Vigilance.

2. Petitioner is an accused in connection with
 Vigilance Case No.27 of 2012 leading to Special Case No.12 of
 2012 pending before the 6th Additional Sessions Judge-cum-
 Special Judge-2, Muzaffarpur and she is aggrieved by an order
 dated 27.01.2016 whereby and whereunder the learned lower
 Court in terms of Rule-12(F) of the Bihar Special Court Rules,
 2010 had directed the petitioner to proceed at a first instance.

3. The aforesaid controversy is found properly



adjudicated upon by the Hon'ble Apex Court in ***Yogendra Kumar Jaiswal and others v. State of Bihar and others with Ramendra @ Raman Dhuldhue v. State of Madhya Pradesh with Balbhadra Parashar v. State of Madhya Pradesh reported in 2016(3) SCC 183*** wherein after detailed discussion, it has been summarized in following way:-

173. In view of the foregoing analysis, we proceed to summarise our conclusions:-

173.1. The Orissa Act is not hit by Article 199 of the Constitution.

173.2. The establishment of Special Courts under the Orissa Act as well as the Bihar Act is not violative of Article 247 of the Constitution.

173.3. The provisions pertaining to declaration and effect of declaration as contained in Section 5 and 6 of the Orissa Act and the Bihar Act are constitutionally valid as they do not suffer from any unreasonableness or vagueness.

173.4. The Chapter III of the both the Acts providing for confiscation of property or money or both neither violates Article 14 nor Article 20(1) nor Article 21 of the Constitution.

173.5. The procedure provided for confiscation and the proceedings before the Authorised

Officer do not cause any discomfort either to Article 14 or to Article 20(3) of the Constitution.

173.6. The provision relating to appeal in both the Acts is treated as constitutional on the basis of reasoning that the power subsists with the High Court to extend the order of stay on being satisfied.

173.7. The proviso to Section 18(1) of the Orissa Act does not fall foul of Article 21 of the Constitution.

173.8. The provisions contained in Section 19 pertaining to refund of confiscated money or property does not suffer from any kind of unconstitutionality.

173.9. Sub-rules (a) and (f) Rule 12 of the 2010 Rules being violative of the language employed in 199the Bihar Act are ultra vires or anything contained therein pertaining to the summary procedure is also declared as ultra vires the Bihar Act.

4. Because of the fact that Sub-rules-(A) and (F) of Rule-12 of the 2010 Rules, as referred above, have been declared ultra vires, that being so, the order impugned would not survive.

5. Accordingly, order impugned is set aside.

Petition is allowed.

(Aditya Kumar Trivedi, J)

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