

HONOURABLE SRI JUSTICE RAJA ELANGO

**Crl.R.C.Nos.2492/2013, 2587/2013, 2588/2013, 226/2014,
229/2014, 230/2014**

and

Crl.A.Nos.67/2016, 68/2016, 69/2016, 70/2016 & 154/2016

COMMON ORDER:

The Criminal Revision Cases are filed under Sections 397 and 401 Cr.P.C., by the petitioners/third parties against the order, dated 16.11.2012, passed in Crl.M.P.No.924 of 2010, Crl.M.P.No.377 of 2011 & Crl.M.P.No.376 of 2011 in Cr.No.11/RCA/EWG-2009, & order, dated 25.02.2013, passed in Crl.M.P.No.680 of 2011, Crl.M.P.No.220 of 2011, Crl.M.P.No.350 of 2011 in Cr.No.11/RCA/EWG-2009, by the Special Judge for SPE & ACB Cases, at Vijayawada.

Originally, the above Crl.M.Ps. are filed by the petitioners/third parties before the trial Court for return of gold ornaments and documents. The learned Special Judge dismissed all the above applications vide impugned orders, dated 16.11.2012 & 25.02.2013.

The Criminal Appeals are filed under Section 11 of the Criminal Law (Amendment) Ordinance, 1944, by the appellants/third parties against the order, dated 24.06.2013, Crl.M.P.No.626 of 2012 in C.C.No.12 of 2013, filed by the Inspector of Police, A.C.B., Eluru Range, to order for ad-interim attachment of the properties of the appellants/third parties shown in Annexures I to IX, whereby and whereunder, the learned Special Judge has allowed the Crl.M.P.No.626 of 2012.

The revision petitioners in all the criminal revision cases and the appellants in all the criminal appeals are one and the same.

Therefore, the status of the parties will hereinafter be referred to as arrayed in the criminal appeals.

Heard the learned counsel for the appellants and Sri A. Ravi Kiran Rao, learned Standing Counsel.

A case in Cr.No.11/RCA-EWG/2009 was registered against the 2nd respondent/Accused Officer that he was in possession of disproportionate assets to his known source of income by indulging in corrupt activities. Searches were conducted on the residential houses of the Accused Officer, residence of his father, residence of his brother, office premises of the Accused Officer, the residence-cum-office of the wife of Accused Officer, residence of the father-in-law of the Accused Officer, residence of brother-in-law of the Accused Officer and residences of the daughters of the Accused Officer. It came to light that the Accused Officer possessed disproportionate assets to his known source of income.

Learned counsel for the appellants submits that in spite of the objections raised by the appellants with regard to the attachment of properties, the learned trial Judge, without considering the same, passed the impugned orders. Subsequently, the final attachment order was also passed for attaching the properties of the appellants. Learned counsel further submitted that no opportunity was given to the parties to raise their objections before the learned trial Judge.

As rightly pointed out by the learned counsel for the appellants, when the properties of third parties are attached in a criminal case, then necessarily notice should be given to the third parties and they should be directed to file their objections, if any. After filing their objections, the learned trial Judge should conduct

an enquiry to the extent of the properties concerned and pass appropriate orders. But the learned trial Judge failed to issue notice to all the third parties and also failed to conduct an enquiry into the properties of the third parties, who have filed their objections and proceeded and passed the impugned orders and subsequently passed the final attachment order.

The learned Standing Counsel informed this Court that during the pendency of the applications under Sections 451 & 457 Cr.P.C. in Crl.M.P.Nos.924 of 2010, 377 of 2011, 376 of 2011, 680 of 2011, 220 of 2011 & 350 of 2011 in Cr.No.11/RCA/EWG-2009, already an order of final attachment was passed by the trial Court. The learned Standing Counsel further submits that in view of the final attachment order, all the criminal revision cases become infructuous.

Having regard to the above circumstances and the submissions of the learned counsel for the appellants and the learned Standing Counsel, Crl.R.C.Nos.2492 of 2013, 2587 of 2013, 2588 of 2013, 226 of 2014, 229 of 2014 & 230 of 2014 are dismissed as infructuous and the Crl.A.Nos.67 of 2016, 68 of 2016, 69 of 2016, 70 of 2016 & 154 of 2016 are disposed of. However, the appellants are at liberty to file an application before the concerned Court challenging the order of final attachment passed by the trial Court and to raise all the objections before the concerned Court. On such objections, the concerned Court is directed to conduct an enquiry and pass appropriate orders, uninfluenced by the impugned orders, in accordance with law, as expeditiously as possible, preferably within a period of three (3)

months thereafter. The appellants are directed to co-operate with the concerned Court for passing final orders.

With the above observations, the CrI.R.C.Nos.2492 of 2013, 2587 of 2013, 2588 of 2013, 226 of 2014, 229 of 2014 & 230 of 2014 are dismissed as infructuous and the CrI.A.Nos.67 of 2016, 68 of 2016, 69 of 2016, 70 of 2016 & 154 of 2016 are disposed of. Miscellaneous Petitions, if any, pending in the criminal revision cases and the criminal appeals shall stand closed.

RAJA ELANGO, J

Date: 29th August, 2016

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