

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.3082 of 2018

Arising Out of PS. Case No. -3 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-
PATNA

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Pammi Devi, wife of Anil Singh @ Makhru Singh, resident of village Khutaha,
P.S. Barhiya, District- Lakhisarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. Mr. S.K Pandey, Assistant Director, Directorate of Enforcement, Patna Zonal
Office, Chandpura Place, West Gandhi Maidan, Bank Road, Patna- 800001.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate

For the Respondent/s : Mr. Manoj Kumar Singh, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-09-2018

This appeal has been filed under Section 42 of the Prevention of Money Laundering Act, 2002 (for short 'the Act') by the appellant against the order dated 22.06.2018 passed by the learned Sessions Judge-cum-Special Judge, Patna in Special Trial (P.M.L. Act) No. 3 of 2015 by which he has refused to release the vehicle Toyota Fortuner bearing registration no. BR-53-B/0009 in favour of the appellant.

2. At the outset, a preliminary objection has been raised by the learned counsel appearing for the Union of India regarding maintainability of the present application. He submitted that vehicle in question had been attached under Section 5 of the Act. The Adjudicating Authority upon adjudication has already passed order



under Section 8 of the Act. The order of Adjudicating Authority is appealable before the Appellate Tribunal under Section 26 of the Act and the order of Appellate Tribunal is appealable under Section 42 of the Act. He contended that the offences are triable by the Special Court under Section 44 of the Act. However, the Special Court is not authorised to deal with attachment of property under the Act. He contended that the application filed by the appellant before the Special Judge itself was not maintainable. Hence, the Special Judge has rightly dismissed the application vide impugned order dated 22.06.2018.

3. Mr. Ajay Kumar Thakur, learned Advocate appearing for the appellant admitted that an appeal before this court under Section 42 of the Act would be maintainable only if any person aggrieved by any decision of the Adjudicating Authority may challenge the order before Appellate Tribunal under Section 26 of the Act and any person aggrieved by any decision or order of the Appellate Tribunal may file to the High Court. He contended that the application was erroneously filed before the Special Court. He also admitted that this appeal has also been wrongly filed under Section 42 of the Act against the order passed by the Special Court.

4. In view of the admitted position of law, this appeal is



dismissed as not maintainable.

5. The appellant would be at liberty to challenge the order of the Adjudicating Authority before the Appellate Tribunal under Section 26 of the Act. Under such circumstance, the same has to be disposed of in accordance with law without being prejudiced in any manner by the impugned order passed by the learned Special Judge.

(Ashwani Kumar Singh, J)

Md.S./-Sanjeev

AFR/NAFR	NAFR
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