

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Misc. Petition No.1147 of 2017

Ramesh Kumar Gulati, A/O 56 years, S/o Late Indrajeet Gulati, R/o House No.23, Muskan Residency, Lalpur, Raipur, District Raipur (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, through Station House Officer, Anti Corruption Bureau, Raipur (C.G.)

---- Respondent

ANDCriminal Misc. Petition No.1154 of 2017

Aarti Gulati, A/O 45 years, W/o Shri Ramesh Gulati, R/o House No.23, Muskan Residency, Lalpur, Raipur, District Raipur (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, through Station House Officer, Anti Corruption Bureau, Raipur (C.G.)

---- Respondent

For Petitioners: Mr. Saurabh Dangi and Mrs. Surya Kawalkar Dangi,
Advocates.

For Respondent/State: -

Mr. H.S. Ahluwalia, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/02/2020

1. Since common question of law and fact is involved in these two petitions, they are being disposed of by this common order.
2. Both the petitions are directed against the impugned orders passed by the learned Special Judge under the Prevention of Corruption Act rejecting the petitioners' application under Section 457 of the CrPC for interim custody of ornaments as well as currency

principally on the ground that investigation is under way and charge-sheet has not been filed.

3. Mr. Saurabh Dangi, learned counsel appearing for the petitioners, would submit that now, the investigation is almost complete and charge-sheet is about to be filed, but on account of interim order, charge-sheet has not been filed and the decision of the Supreme Court in the matter of **Sunderbhai Ambalal Desai v. State of Gujarat**¹ by which the petitioners are entitled for interim custody of ornaments and cash has even not been considered by the Special Judge, therefore, the impugned orders in both the petitions be set-aside and the petitioners be granted the custody of ornaments as well as cash.
4. Mr. H.S. Ahluwalia, learned State counsel, would oppose the submission of learned counsel for the petitioners and would submit that charge-sheet could not be filed because the interim order is operating and investigation is almost complete.
5. I have heard learned counsel for the parties and considered the rival submissions made herein-above and also went through the material available on record with utmost circumspection.
6. Be that as it may, since the application has been rejected principally on the ground that the case is under investigation stage and parties are relatives (petitioner in Cr.M.P.No.1154/2017 – Aarti Gulati is relative of T.R. Kunjam) and it appears that even the decision of the Supreme Court in **Sunderbhai Ambalal Desai** (supra) has not been considered and the investigation is almost complete, the impugned orders in both the petitions are set-aside and the matters are

1 (2002) 10 SCC 283

remitted to the Special Judge under the Prevention of Corruption Act for consideration afresh after hearing the parties in accordance with law. It is made clear that the Court has not expressed any opinion on the merits of the matter and it is for the Special Judge to consider the matters afresh and pass order in accordance with law.

7. Both the petitions under Section 482 of the CrPC are accordingly disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

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