

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1389 of 2018

- Smt. Laila Babu W/o S. Babu, Aged About 65 Years, R/o MIG-387, Padmanabhpur, Durg, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through the Police Station Anti Corruption Bureau, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant – Shri Uttam Pandey, Advocate.

For the State/respondent– Shri Sudeep Verma, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-01-2020

Heard.

1. This revision has been brought challenging the legality, propriety and correctness of the order dated 10-07-2018 passed by the Special Court under the provisions of the Prevention of Corruption Act, Raipur in Special Case No.226/2016 rejecting the application of the applicant filed under Section 451 of the Cr.P.C.

2. It is submitted that the respondent have made seizure of jewelery and cash from the premises of this applicant and her husband who is being prosecuted under Section 13(1)(e) and 13(2) of the Prevention of Corruption Act. This applicant has a claim over the jewelery that being her Streedhan and also the cash amount of six lakhs which was her income from the lawful sources from her own properties situated in the State of Kerala. Therefore, cash is earning of the applicant and the jewelery seized is her Streedhan, for which she has entitlement and on that basis it is prayed that her application for interim custody of these articles should have been allowed by the Court below, which has been rejected arbitrarily.

It is further submitted the applicant has presented proof in the form of affidavit given by her brother, the photographs of the marriage which shows that she is wearing the jewelery and also a gift deed by his father in her favour regarding the property situated in Kerala, which are her source of income which should be taken into account. In this manner, the applicant has established her claim over the seized property which she is claiming for interim custody. Hence, it is prayed that the revision be allowed and the order impugned be set aside.

3. Learned counsel for the State/respondent opposes the petition and the submission made in this respect. It is submitted that the learned trial Court has not committed any error in passing the impugned order. All the claim that have been made by the applicant are subject to proof before the trial Court. Therefore, no interference is called in the impugned order.

4. Heard learned counsel for both the parties and perused the petition and the documents annexed.

5. Admittedly, the seizure of the articles have been made from the premises of the husband of the applicant who is being prosecuted for offence under the provisions of the Prevention of Corruption Act. As it is mentioned in the impugned order that the articles seized have been taken in calculation of the assets in possession of the husband of the applicant, it has been worked out by the investigating agency that the applicant's husband was in possession of the assets disproportionate to his known and legal source of income. It is mentioned in the impugned order that there is nothing to suggest that there is no material present in the charge sheet to suggest that the seized jewelery and cash belong to the applicant as her Streedhan or is her own income, therefore, all the claim that the applicant has made before the trial Court and in this petition has to be established in the trial by bringing evidence in that regard. Therefore, only on the basis of a prayer made by the applicant it cannot be

regarded as held, that the property claimed belongs to the applicant and she has entitlement to receive the same in interim custody as her Streedhan and her own income. Therefore, I do not find any substance in this revision petition, which is dismissed at the motion stage.

Sd/-

(Rajendra Chandra Singh Samant)

Judge