

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5081 of 2019

Arising Out of PS. Case No.-26 Year-2016 Thana- VIGILANCE District- Patna

BHOLA GIRI S/o Late Jay Krishna Giri Resident of Flat No. 108, Radha Krishna Apartment, R.K. Bhattacharya Road, P.S.- Gandhi Maidan, District- Patna (Bihar)

... .. Appellant/s

Versus

1. The State Of Bihar Through Deputy. S.P.-CUM-INSPECTOR Of Police, Vig.I.Bureau, Patna Bihar
2. The Additional Superintendent of Police, Vigilance Investigation Bureau, Patna Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Y.V. Giri, Sr. Adv. Mr. Raju Giri & Mr. Santosh Kumar Mishra, Advocates
For the Respondent/s	:	Mr.Anjani Kumar (L.O.Inc.Vigi)

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

6 29-08-2022 Heard Mr. Y. V. Giri, learned senior counsel appearing for the appellant and learned counsel for the respondents.

2. By filing the present appeal, the appellant has prayed for setting aside the order dated 25.07.2019 passed by the Authorized Officer, Special Court, Vigilance, Patna in Special (Vigilance) Case No. 7 of 2019 arising out of Vigilance (Patna) Case No. 26 of 2016 registered under section 13(2) and 13(1) (e) of the Prevention of Corruption Act, 1988, whereby a show case notice has been issued to the appellant under section 14(1) of the Bihar Special Courts Act, 2009 to the extent that in



the Confiscation Application No. 7 of 2019 filed by the State Vigilance Investigation Bureau the properties procured by the appellant though valid source of income has also been included and mentioned at serial nos. 4 and 5 of para (f) of the Confiscation Application.

3. At the outset, learned counsel appearing for the respondents has opposed the prayer made in this appeal on the submission that such errors can very well be rectified/modified by the Special Court, and as such, instead of filing the present appeal before this Court the appellant should have approached the court below.

4. It is further submitted that as a matter of fact the appellant has appeared before the Special Court and has filed his show cause in respect of the aforesaid notice of confiscation. The respondents have also filed their rejoinder to the show cause filed by the appellant in the court below. As such, the present appeal has now become infructuous.

5. In reply to the above submissions, learned counsel for the appellant submitted that the aforesaid notice has been issued without following the prescribed procedure. He further submits that apart from the procedural errors, he has some preliminary objections as well.



6. Having considered the facts and circumstances of the case and the submissions advanced on behalf of the parties, this appeal is disposed of with liberty to the appellant to raise the above issues before the Special Court and the Special Court is directed to decide first the procedural errors and also the preliminary objections to be raised by the appellant within the time stipulated under the rules.

(Arvind Srivastava, J)

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