

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLA No.430 of 2018**

***Amrita Mandal***

....

***Appellant***

***-versus-***

***State of Orissa (Vigilance)***

....

***Respondent***

**CORAM: JUSTICE S. PUJAHARI**

**ORDER**

**27.04.2022**

**Order**

**No.**

11.

1. This matter is taken up through hybrid mode.
2. This appeal has been filed by the Appellant with a prayer to set aside the order dated 2<sup>nd</sup> April, 2018 passed by the learned Authorized Officer, Special Court, Cuttack in Confiscation Case No.19 of 2017 wherein the application filed by the Appellant to drop the confiscation proceeding in respect of the property in her name inasmuch as she is neither named in the F.I.R. nor an accused in the case instituted against her father, a public servant, and mother under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and Section 109 of the I.P.C.
3. Learned counsel appearing for the Appellant submits that since she is not an accused and no prima facie case made out against her for the aforesaid offences, the confiscation proceeding initiated against her before the Authorized Officer in respect of the property is not maintainable. As such, the

Authorized Officer could not have rejected her prayer on the ground stated.

4. It is the case of the Appellant that the property is meager amount, i.e., Rs.1,000/- kept in the bank, which she had got on gift and in no way related to the offence alleged. As such, continuance of the confiscation proceeding is stigma against her. Hence, the Court should not have rejected her prayer for confiscation in the facts and circumstances of the case. Therefore, learned counsel for the Appellant submits that to set aside the impugned order and quash the confiscation proceeding in respect of the aforesaid amount kept by her.

5. The same is vehemently opposed by the learned counsel appearing for the Vigilance Department and submits that on investigation, it is found that the aforesaid property which has been parked in the name of the Appellant by her father, a public servant, is the ill-gotten money of her father-accused and charge sheet in this case has been filed, taking into account the same before the Special Judge, Special Court, the confiscation proceeding is initiated against such ill-gotten property. Confiscation proceeding is an interim measure to confiscate the ill-gotten property, which is subject to outcome of the trial. Before confiscation of the same, the Appellant is also given a chance to show cause and on inquiry, if it is found that the property is not liable for confiscation, there is no impediment on the part to the Court to drop the proceeding in respect of the

property. But the Appellant without filing the show cause challenged the very initiation of the proceeding in respect of the property on the ground that the same is stigma to her. Since the aforesaid is proceeded against the property and not against the Appellant in any manner, no stigma is attracted to her. Furthermore, this Court at this stage is not supposed to interfere with a confiscation proceeding where only show cause has been issued and no determination with regard to the confiscation of the property has been made, in exercise of the appellate jurisdiction. Therefore, it should be left upon to the Authorized Officer to decide the same on its own merit in the aforesaid confiscation proceeding.

6. On consideration of the aforesaid facts and circumstances of the case, this Court is of the view that since the Appellant has been asked to show cause and given a reasonable opportunity to file the show cause, her prayer to drop the confiscation proceeding, therefore, on the ground stated is devoid of merit inasmuch as the court at this stage without going through the materials produced could not have come to a conclusion on the plea advanced by the Appellant that the same was not liable for confiscation.

7. Accordingly, this Court finds no merit in this Criminal Appeal. Hence, the Criminal Appeal filed by the Appellant is devoid of merit. Accordingly, the same stands dismissed.

8. A free copy of this order be given to the learned Standing Counsel appearing for the Vigilance Department.

**(S. Pujahari)**  
**Judge**

*DA*

