

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2360 of 2021

&

I.A. No.1816 of 2021

Smt. Bharati Choudhry

....

Petitioner

Mr.Sidheswar Mohanty, Advocate

-versus-

State of Odisha (Vigilance)

....

Opposite Party

Mr. Niranjana Moharana, S.C. for Vigilance Department

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

26.04.2022

Order No.

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
 2. Heard Mr.Goutam Mishra, learned Senior Advocate for the Petitioner and Mr.Niranjana Moharana, learned Standing Counsel for the Vigilance Department. Perused the records.
 3. Challenging the rejection order dated 29.10.2021 under Annexure-3 passed by the learned Special Judge, Vigilance, Jeypore in Misc. Case 82 of 2021, arising out of G.R. Case No.10 of 2019(V), filed u/s.457 Cr.P.C., the present case has been filed.
 4. In course of hearing, learned Senior Advocate for the petitioner submits that he confines his prayer to Item Nos.1 and 2 given in the schedule to the I.A. No.1816 of 2021, those are two Title Deeds, bearing RSD No.11331401023 dated 29.09.2014 and RSD No.11331800820, dated 25.07.2018. It is further submitted by Mr. Mishra, learned Senior Advocate that the Petitioner is ready and

willing to furnish collateral security in place of the two Title Deeds, as he wants to mortgage the same to obtain a commercial loan for business purpose. It is contended that these properties were acquired fully out of the business income of the present petitioner and these properties have been shown in the Income Tax Return of the Petitioner.

5. Learned Standing Counsel for the Vigilance Department on the other hand submits that investigation is going on. Therefore, the learned counsel for the Petitioner may be directed to take back the aforesaid two Sale Deeds by furnishing collateral security against the two Title Deeds and further he may be directed to substitute the original Title Deeds with the authenticated Xerox copy of the same and further shall give an undertaking not to object to such authenticated Xerox copies while making as exhibits in trial court.

6. Considering the rival contentions and after examining the facts and circumstances of the case, this Court is of the considered opinion that further retention of the Deeds/documents are not necessary as the investigation is over and the same will now be needed during trial of the case. Further, it is also a well known fact that the trial is not likely to commence very soon. The Vigilance Department is directed to release the Title Deeds as reflected hereinabove by furnishing collateral security. In such view of the matter, the order dated 29.10.2021 is modified to the above extent. The two Title Deeds, vide RSD No.11331401023 dated 29.09.2014 and RSD No.11331800820, dated 25.07.2018 be released in favour of the Petitioner subject to Petitioner furnishing the collateral security. Further, it is open for the Petitioner to approach the I.O. with all necessary documents in support of his contentions that the

properties are recorded in the name of the Petitioner and the properties are in fact acquired from the income of the Petitioner, which have been seized by the Vigilance Authority. In the event, the Petitioner approaches the I.O. along with the relevant papers/documents, the I.O. shall consider the same and if the I.O. is satisfied that in fact the documents recorded are in the name of the Petitioner have been acquired from the income of the Petitioner and the same has no nexus with the Principal accused, i.e. the husband of the Petitioner, it is open for the I.O. to release the said documents/Title Deeds, Bonds etc. in favour of the Petitioner subject to Petitioner furnishing an undertaking that she shall produce all the documents as and when required by the I.O. or Trial Court.

7. It is further directed that the deeds referred to hereinabove shall be released in favour of the Petitioner following the terms and conditions indicated hereinabove by substituting the same with authenticated xerox copies of the above. It is made clear that the Petitioner shall not object to making of authenticated xerox copy of those documents as exhibits or raise any objection to the same before the trial court.

8. With the above direction, both CRLMC and I.A. stands disposed of.

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge