IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.369 of 2019

Arising Out of PS. Case No.-140 Year-2016 Thana- VIGILANCE District- Patna

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BABY KUMARI W/o Dharmendra Kumar, Resident of Village-Ratwar, P.S.-Bhabhua, District-Kaimur, At presen residing at Ward No.18, P.S-Bhabhua, District-Kaimur.

... ... Petitioner/s

Versus

1. State of Bihar through the Director General, Vigilance Investigation Bureau, Patna Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna-800015.
2. The Director General, Vigilance Investigation Bureau, Patna Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna-800015.
3. The Superintendent of Police, Vigilance Investigation Bureau, Patna Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna-800015.
4. The Deputy Superintendent of Police, Vigilance Investigation Bureau,Patna Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna-800015.
5. The Inspector (Police), Vigilance Investigation Bureau,Patna Vigilance Department, 4th Floor, Suchana Bhawan, Bailey Road, Patna-800015.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal, Adv Mr.Yash Sahay, Adv
For the Respondent/s	:	Mr.Manoj Kumar No.1
For the Vigilance	:	Mr.Arvind Kumar, Law Officer Vigilance

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

3 14-12-2023 Heard learned counsel for the petitioner and the learned counsel for the Respondents.

2. One Dhamendra Kumar was a Clerk under the Bihar Education Officer, Bhabhua in the Department of Education, Bihar. A case under Section 13(2) read with Section 13(1)(e) under the Prevention of Corruption Act was initiated

against the said Dharemendra Kumar for disproportionate asset to his income. The case was taken up by the Vigilance Investigation Bureau for investigation. Accordingly, Special Case No. 76 of 2016 was registered in the 1st Court of learned Spl. Judge, Vigilance, Patna. In the said case, the wife of the accused, namely, Baby Kumari filed an application praying for seized gold and silver ornaments claiming to be her Stridhan (women's properties). The learned Spl. Judge by an order dated 3rd December, 2018, rejected the said petition.

3. Legality, validity and propriety of the aforesaid order, dated 3rd December, 2018, is under challenge in the instant Cr. Rev.

4. It is submitted by the learned Advocate for the petitioner that during search, the Investigating Officer, Vigilance Investigation Bureau, seized gold ornaments owing 140.400 grams and silver jewelries, weighing about 6 to 7 grams on 15th December, 2016. The petitioner has claimed the said ornaments stating that the said ornaments was her Stridhan (women's properties). The learned Spl. Judge rejected the said application.

5. It is further submitted by the learned advocate for the petitioner that in Hindu Family, wives have certain amount of ornaments which are either gifted or purchased by

her. The said ornaments gifted during the marriage of a Hindu lady or on other occasions exclusively constitute Stridhan (women's properties) and considering the amount of the jewelry in terms of their weighments, such jewelry is available almost in every family under the possession and control of a Hindu lady whose husband has some substance. In support of his contention, the learned advocate for the petitioner refers to a decision of the Division Bench of the Delhi High Court, in case of ***Sushila Devi vs. Commissioner of Income Tax-XII*** reported in ***2016 SCC OnLine Del 5726***.

6. In the aforesaid report, an income tax raid was conducted in the house of the petitioner and the Income Tax Officer seized some gold ornaments weighing about 389 grams. The wife of the petitioner moved the High Court at Delhi with a prayer to return the said ornaments claiming to be her Stridhan (women's properties). The ornaments involved 389 grams of gold. The Division Bench of the Delhi High Court on due consideration of the decision of the Supreme Court in ***Pratibha Rani vs. Suraj Kumar*** reported in ***(1985) 2 SCC 307***, held *" a Hindu married woman ins the absolute owner of her Streedhan property and can deal with it in any manner she likes and, even if it is placed in the custody of her husband or her in-laws they*

would be deemed to be trustees and bound to return the same if and when demanded by her”.

8. The Division Bench also considered the decision of Delhi High Court in the case of ***Ashok Chaddha v. Income Tax Offcer*** reported in ***[2012] 20 taxmann.com 387 (Delhi)***. Thus, under almost similar circumstances the Division Bench of Delhi passed an order of return of gold ornaments to the wife of the accused.

9. In the instant case, the position is absolutely similar. A married lady of a Clerk of Education Department may naturally have 140 grams of gold ornaments and some silver ornaments. In the State of Bihar, the married woman used silver ornaments in abundance.

10. Since the petitioner has claimed the said ornaments as her Stridhan (women’s properties), relying on the aforesaid decisions referred to as above, I am inclined to allow the instant revision. The order dated 3rd December, 2018 passed by the learned Spl. Judge Vigilance, 1st Court at Patna is set aside.

11. The Investigating Officer is directed to return the seized ornaments to the petitioner upon her executing a bound of Rs. 4 Lakhs with further condition that the petitioner shall not

change the nature and character of the ornaments or create any third party interests over the same till the disposal of the case and produce the same before the Court as and when call for during trial.

12. With the above observations/directions, the instant revision is allowed.

(Bibek Chaudhuri, J)

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