

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3106 of 2018

Arising Out of PS. Case No.-25 Year-2015 Thana- C.B.I CASE District- Muzaffarpur

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1. Sweety Gupta Wife of Abhishek Kumar
 2. Mamta Devi Wife of Ajay Kumar Gupta
 3. Abhishek Kumar Son of Ajay Kumar Gupta
 4. Ajay Kumar Gupta Son of Late Raghunath Prasad All are resident of Teliyapatti,P.S. MotihariTown,Distt.-East Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar, Through The Vigilance Investigation Bureau, Government Of Bihar, Patna.
2. The Bank of India, Bank Road Branch, Motihari, East Champaran at Motihari

... .. Respondent/s

with

CRIMINAL REVISION No. 122 of 2019

Arising Out of PS. Case No.-25 Year-2015 Thana- C.B.I CASE District- Muzaffarpur

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1. THE STATE OF BIHAR THROUGH THE SUPT. OF POLICE, VIGILANCE INVESTIGATION BUREAU, PATNA AND ANR Vigilance Investigation Bureau, Patna
 2. The Investigation officer, vigilance P.S Case no 25/15.

... .. Petitioner/s

Versus

1. AJAY KUMAR GUPTA AND ORS son of late Raghunath Prasad Resident of village- Ramna Near S.N.S. College, P.S- Town , Motihari , at present posted as Tax Inspector, Nagar Parishad, Motihari
2. Mamta Devi wife of Ajay Kumar Gupta R/o village- Ramna Near S.N.S. College, P.S. Town, Motihari
3. Sweety Gupta daughter of Ajay Kumar Gupta R/o village- Ramna Near S.N.S. College, P.S. Town, Motihari
4. Abhishek Kumar son of Ajay Kumar Gupta R/o village- Ramna Near S.N.S. College, P.S. Town, Motihari

... .. Respondent/s

Appearance :

(In Criminal Writ Jurisdiction Case No. 3106 of 2018)

For the Petitioner/s : Mr. Ansul

For the Respondent/s : Mr. Rupak Kumar, Advocate



(In CRIMINAL REVISION No. 122 of 2019)

For the Petitioner/s : Mr. Mrigendra Kumar
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 24-04-2023

CRIMINAL REVISION No. 122 of 2019

Heard learned counsel for the parties.

This application has been filed for setting aside the order dated 10.04.2018 passed in Special Case No. 7/15 (State vs. Ajay Kumar Gupta and others) arising out of Vigilance Case No. 25/15 whereby the learned Special Judge, Vigilance, North Bihar, Muzaffarpur was pleased to allow the four petitions filed by the opposite parties. Against the said petitions the learned court has released the jewelleries of Mamta Devi and Sweety Gupta respectively wife and daughter in law of Ajay Kumar Gupta. The Court has also passed order for release of the salary account no. 32586475232 maintained at S.B.I. Bapu Dham, Motihari in the name of Abhishek Kumar and also the G.P.F. Account no. 44410110001209 of accused Ajay Kumar Gupta.

The vigilance has challenged the order dated 10.04.2018 passed in Special Case No. 7/15 (State vs. Ajay Kumar Gupta and others) arising out of Vigilance Case No. 25/15. The only ground for challenging the impugned order of release by the vigilance is that by jewelries and other goods which have been directed to be release and they should not be



released.

In this connection, learned counsel for the opposite party no. 2 has relied upon a judgment of Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat, AIR 2003 SC 638***, the following para are held follow:

13. For this purpose, the Court may follow the procedure of recording such evidence, as it thinks necessary, as provided under [Section 451](#) Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The Court should see that photographs of such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the Court under [Section 451](#) Cr.P.C. to impose any other appropriate condition.

In view of the law laid down by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat (supra)*** this application is dismissed with direction to the court below to release the ornaments and goods after videography of the goods and the vigilance will produce the video of the seizure list as evidence and the opposite party no. 2 will not object to the evidence produced in this regard with regard to the seizure goods, ornaments.

With the aforesaid observation, this application is dismissed.



Cr.W.J.C. No. 3106 of 2018

This application has been filed for comply the order dated 10.04.2018 passed in Special Case No. 07/2015 arising out of Vigilance P.S. Case No. 25/2015 passed by Special Judge, Vigilance, North Bihar, Muzaffarpur directing for releasing the seized ornaments in favour of the petitioner no. 1 releasing the contents of locker in favour of petitioner no. 2 and defreezing the salary account of petitioner no. 3 and GPF account of petitioner no. 4.

In view of the order passed in Criminal Revision No. 122 Of 2019, this application is disposed of.

The petitioner will approach the court below for releasing of the ornaments and goods as directed and the same shall be released in favour of the petitioner from the date of the receipt of copy of this order.

(Sandeep Kumar, J)

Ranjeet/-

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