IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37475 of 2016

Arising Out of PS. Case No.-41 Year-2010 Thana- C.B.I CASE District- Patna

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1. Qudsia Bano @ Shagufta Yasmin, wife of Syed Sadique Hussain
2. Sufia Sadique, wife of Tanvir Haidar, D/o Syed Sadique Hussain
3. Syed Mudassir Hussain @ Syed Mudassir Hussain son of Syed Sadique Hussain All are residents of Magistrate Colony, P.S. Rajiv Nagar, District-Patna.

... ... Petitioner/s

Versus

The State Of Bihar Through Vigilance, Investigation Bureau Department, Through Additional Director

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Nandan Prasad, Adv.
For the State	:	Mr. Arvind Kumar, Adv (vigilance).

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

13 25-11-2024 Heard Mr. Raj Nandan Prasad, learned counsel for the petitioners and Mr. Arvind Kumar, learned APP for the State.

2. The instant criminal miscellaneous petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') for setting aside the order dated 08.01.2014 passed by the court of learned Special Judge, Vigilance (Trap), Patna, in connection with Special Case No. 27 of 2010 arising out of Vigilance P.S. Case No. 41/2010, by which the prayer of the petitioners to defreeze their bank accounts and release the fixed deposits and the original deeds has been denied.

3. Mr. Raj Nandan Prasad, learned counsel for the petitioners submits that the instant matter relates to accepting of illegal gratification of Rs. 10,000/- by the accused Syed Sadique Hussain and the petitioners are said to be the relatives of him. Undoubtedly, the instant matter relates to taking bribe of Rs. 10,000/- allegedly by the accused Syed Sadique Hussain and during the course of investigation in Vigilance Case No. 41/2010 registered under sections 7/13(2) read with section 13(1)(d) of the Prevention of Corruption Act (in short 'PC Act'), the house of the said accused Syed Sadique Hussain was raided and allegedly unaccounted money, jewellery, account books and other household articles, including deeds, were seized and in this regard, seizure list was prepared vide Annexure '1A'. Earlier, a petition was filed for releasing the jewellery, defreezing the seized bank accounts and for releasing the seized deeds and cash amount in favour of the petitioners by way of Cr. Misc. No. 39832/2014 which was partly allowed vide order dated 07.05.2015 by the then learned co-ordinate Bench of this Court only in respect of seized jewellery but the prayer of the petitioners was rejected in respect of the rest seized articles and thereafter, a modification prayer was made by the petitioners by filing Cr. Misc. No. 20550/2016 which was rejected vide order dated 11.05.2016. It appears that in the orders dated 07.05.2015 and 11.05.2016 passed in the said Cr. Misc. cases, the prayer of the petitioners was not considered mainly on this ground that a D.A. case was pending against them in respect of the seized articles. It is further submitted by the petitioners' counsel that the prayer of the petitioners was not decided on merit and on earlier occasion, all relevant facts were not put up, particularly, the non-relevancy of the seized bank accounts, cash amount and deeds concerned to the petitioners. It is further submitted that the seized articles in respect of which a prayer for release has been made have no concern or relevancy with the alleged offence of illegal gratification punishable under section 7/13(2) read with section 13(1)(d) of the PC Act.

4. On the other hand, Mr. Arvind Kumar, learned counsel appearing for the Vigilance Department submits that the seized cash amount, deeds and frozen bank accounts of the petitioners are relevant and material objects and evidence in the Vigilance P.S. Case No. 32/2015 relating to the assests of the petitioners being disproportionate to their known sources and the same have also been exhibited in said vigilance P.S. Case, so, releasing and defreezing them will adversely affect the trial of the petitioners concerned to D.A. Case.

5. Heard both the sides and perused the order impugned and the relevant materials. Admittedly, the cash amount, the bank accounts of the petitioners and the deeds which have been frozen and seized have no any kind of relevancy to the alleged offence of taking illegal gratification by the accused Syed Sadique Hussain and these articles and documents were seized in Special Case No. 27/2010 registered for the offences under PC Act which relates to accepting of bribe money of Rs. 10,000/- by the accused Syed Sadique Hussain and during the course of argument, the learned counsel appearing for the Vigilance Department has not satisfied this Court as to the relevancy of the aforesaid seized materials to the offences concerned to the PC Act in which these articles have been seized. This Court is of the view that an article can be seized or kept in the custody of the court or police if the same is one in respect of which an offence has been committed or the same has been used in an offence or it is otherwise relevant to the alleged offence. In the present time, the Vigilance Department has not shown any material to reveal the relevancy of the seized cash amount, deeds, frozen bank accounts of the petitioners to the offences of the PC Act and the seized articles have been running under the custody of the vigilance court since 2010 in Vigilance P.S. Case No. 41/2010 which has been lodged for the offences of the PC Act and for keeping these articles under custody in the said case there is no any justification on the part of the Vigilance Department. Though as per the learned counsel appearing for the Vigilance Department, the seized articles have been exhibited in the D.A. Case which relates to Vigilance P.S. Case No. 32/2015 lodged against the petitioners and at the time of dictating the order, it comes to the knowledge of this Court that the above-mentioned seized money, bank accounts and deeds have also been seized in the D.A. Case in connection with Vigilance P.S. Case No. 32/2015, so, in such a situation, these materials must be kept as seized articles in the Vigilance P.S. Case No. 32/2015 as the same is still pending against the petitioners. Accordingly, the Vigilance court is directed not to keep the above-mentioned bank accounts, seized money and deeds as seized articles in the Special Case No. 27/2010 arising out of Vigilance P.S. Case No. 41/2010 by passing a formal order in this regard but the same shall be deemed to be as seized articles in the D.A. Case in connection with vigilance P.S. Case No. 32/2015 and in this regard, an appropriate direction by the learned trial court for proper custody of the seized articles viz. money, bank accounts and deeds may be issued in view of the prayer of the Vigilance

Department. With this direction, the instant petition stands disposed of.

6. Let the order's copy be sent to the court/s concerned where the Special Case No. 27/2010 arising out of Vigilance P.S. Case No. 41/2010 and the D.A. Case in connection with vigilance P.S. Case No. 32/2015 are running for needful information.

(Shailendra Singh, J)

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