IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58544 of 2018

Arising Out of PS. Case No.-56 Year-2013 Thana- VIGILANCE District- Patna

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Vijay Laxmi Singh W/o Vijay Pratap Singh, R/o Vill.- Ram Gulam Tola, P.S.- Deoria, District- Deoria.

... ... Petitioner/s

Versus

The State Of Bihar Through The Vigilance

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Prakash Kumar, Advocate
For the Opposite Party/s : Mr. Arvind Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 23-09-2025

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the Vigilance Department.

2. The petitioner has filed the present application under Section 482 of the Code of Criminal Procedure, for invoking inherent jurisdiction to quash the order dated 16.04.2015, passed by the learned Special Judge, Vigilance, Muzzafarpur, in Vigilance P.S. Case No. 56 of 2013 by which cognizance has been taken under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 and Sections 109 and 120B of the Indian Penal Code (IPC) against the accused persons including the petitioner.

3. Shorn off unnecessary facts, on the basis of complaint made by one Sudhanshu Kumar, Preliminary Enquiry No. 01/Lok (Rajaswa) 223/2007 and in 01/Lok (Karmik) 15/2008, the Lokayukta, Bihar, had directed for vigilance enquiry against the husband of the petitioner, who

was posted as Sub-Divisional Officer, Hathua, Marhawra, vide Letter No. 05/06 4951 dated 20.12.2006, which was conducted by Mr. R.K. Poddar, Dy. S.P. Vigilance, who submitted enquiry report on 13.04.2012 after more than five years giving no clear information regarding disproportionate assets of the husband of the petitioner, however, subsequent to the said report dated 13.04.2012, clubbing the petitioner's income and her husband enquiry officer had again submitted another report after four months on 23.08.2012, in which, he has found that husband of the petitioner had disproportionate assets worth Rs. 20,98,129/- to his known source of income. Record reveals that before the two enquiry reports were submitted by Mr. R.K. Poddar, the Dy. S.P, Vigilance, Siwan, two more reports were submitted by Mr. Satish Kumar, Dy. S.P. Vigilance, Siwan in the year 2006-07 and another enquiry was conducted by Mr. Lakshmi Narayan Manjhi, Dy. S.P. Vigilance, Siwan, who had submitted his report in the year 2010. Both the reports found no irregularities and gave clean chit to the husband of the petitioner. However, based on the report, which was submitted by Mr. R.K. Poddar, Dy.S.P. on 23.08.2012, the vigilance lodged an FIR being Vigilance P.S. Case No. 56 of 2013 on 03.09.2013 after delay of nearly one year under Sections 13(2) read with 13(1)(3) of Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act") and Section 109 and 120(B) of the Indian Penal Code. Upon investigation, charge-sheet no. 10/2015 dated 28.01.2015 was submitted and the learned Special Judge, Vigilance, Muzaffarpur, took cognizance against the petitioner for the offences under Sections Sections 13(2) read with 13(1)(3) of Prevention of Corruption Act, 1988 and Section 109 and 120(B) of the Indian Penal Code vide order dated 16.04.2015 and only on 30.01.2023, the opposite party received the police paper and since then, the said trial is pending. The petitioner has challenged the order taking cognizance dated 16.04.2015 on account of inordinate delay in investigation and trial from the end of the check period to the lodging of the FIR compounded by sluggish proceeding, which has caused mental trauma and prejudice to the petitioner and secondly, that from the statement of the income and expenditure of the husband of the petitioner and the petitioner, it cannot be said that the income received is from unlawful sources.

ARGUMENT ON BEHALF OF THE PETITIONER

4. Learned counsel appearing on behalf of the petitioner submitted that preliminary enquiry was conducted on the basis of allegedly a complaint made by one Sudhanshu Kumar and the Lokayukta directed for vigilance enquiry in which respect preliminary enquiry was firstly conducted by one Satish Kumar, Dy. S.P. Siwan, in the year 2006-07, who submitted his enquiry report having found the husband of the petitioner to be innocent. Subsequent to the same, another preliminary enquiry was also conducted by one Mr. Lakshmit Narayan Manjhi, Dy. S.P. Vigilance, Siwan, who had also submitted enquiry report way back in the year 2010 in respect of the husband of the petitioner, who was posted as Sub-Divisional Officer, Hathua, Marworha and no material was found against the husband of the petitioner regarding unlawful source of

income. Learned counsel submitted that after two preliminary enquiries and after delay of nearly five and a half year, one another preliminary report was submitted on 13.04.2012 by Mr. R.K. Poddar, Dy. S.P. and subsequent to the preliminary enquiry, he submitted another report dated 23.08.2012. Learned counsel submitted that even according to the preliminary report submitted by Mr. R.K. Poddar, Dy.S.P. on 13.04.2012, no case of disproportionate asset was found against the petitioner's husband, however, in the last enquiry report dated 23.08.2012, the asset of the petitioner was clubbed together with her husband and a case of unknown source of income leading to alleged disproportionate asset worth Rs. 20,98,129/- was submitted. Learned counsel submitted that not only there is inordinate delay in conduct of the preliminary enquiry, one after another by three Dy. Superintendent of Police, at the same time, after submission of the last enquiry report dated 23.08.2012, after delay of more than one year, Vigilance P.S. Case No. 56/13 was lodged on 03.09.2013. No information has been given, as to why, even after obtaining sanction from the government in respect of the husband of the petitioner, nearly after five and a half year, preliminary enquiry was submitted and the FIR could only be lodged after one year i.e. on 03.09.2013 by the time, the petitioner has become very old. It has been submitted that prosecution is liable to be quashed on the ground of delay in prosecution, which is not attributable to the petitioner leading to denial of valuable constitutional right to speedy investigation and trial. The entire criminal proceeding initiated against the petitioner is fit to be quashed on this ground alone, without going into the merits of the accusation against the petitioner and also considering the age. Learned counsel, in support, has placed reliance upon a judgment of the Hon'ble Supreme Court passed in the case of ***Pankaj Kumar vs. the State of Maharashtra*** reported in ***(2008) 16 SCC 117***.

5. Learned counsel, otherwise also, on merits, submitted that the prosecution initiated against the petitioner and her husband is malicious and with a pre-determined mind as no incriminating material has been collected in course of investigation against the petitioner to show that a case as alleged against the petitioner under Sections 13(2) read with 13(1)(e) of the P.C. Act and Sections 109 and 120B of the Indian Penal Code is made out and she has abated her husband, who was posted as a public servant, to bring a case of undisclosed income. Learned counsel submitted that the investigation itself spanned nearly two years from the date of FIR and trial remained at an incipient stage even after a decade, exacerbating the petitioner's ordeal. The petitioner, drawing upon authoritative precedents, has mounted a multifaceted challenge to the impugned order. The primary grounds are:

(i) The petitioner is the spouse of the accused public servant and has been implicated primarily due to shared familial assets. However, the prosecution's case hinges on an incomplete assessment that overlooks her substantial contributions to the household's financial standing.

(ii) The Vigilance Department's computation of disproportionate assets egregiously omitted the petitioner's independent income, rendering the entire allegation flawed *ab initio*. Reliance is placed on income tax returns and documentary evidence, substantiating her earnings from professional engagements, which aggregated with her husband's income, negate any disproportion.

6. Learned counsel further submitted that the income of the petitioner is much more than the alleged disproportionate asset of Rs. 20,98,120/-. The income of the petitioner has been duly admitted even in the counter affidavit filed by the Respondent in Paragraph nos. 7 and 12. The summary of income of the petitioner is as follows:

*Income from tuition and tailoring – Rs. 24,200/-

*Income from Fishery- Rs. 33,000/-

*Income from salary- Rs. 10,72,000/-

*Income from agriculture- Rs. 5,21,313/-

*Income from Taxi plying- Rs. 45,722/-

*Income from Land Acquisition- Rs. 2,10,000/-

*Income from Petrol Pump- Rs. 8,72,632/-

*Income from Indane Gas- Rs. 9,08,031/-

7. Therefore taking into account the total independent income of the petitioner, it cannot be said that there was disproportionate asset. The income of the petitioner is much more than the alleged disproportionate asset of Rs. 20,98,120/- This calculation demonstrates that the combined family income, including the petitioner's verified

earnings, exceeds the total asset value, thereby nullifying the foundational claim of disproportion and highlighting a critical investigative oversight.

8. The above calculation demonstrates that the combined family income, including the petitioner's verified earnings, exceeds the total asset value, thereby nullifying the foundational claim of disproportion and highlighting a critical investigative oversight. During the investigation, the I.O. has unauthorizedly increased the check period from 1983-84 to 2006-07 up to the Financial Year 2013-14 by increasing the alleged disproportionate assets which cannot be looked into in the present case. FIR is based on the preliminary enquiry and during the said preliminary enquiry, learned counsel submitted that, without entirety of the history of the case and considering that except the statement, no other material has been collected to support the case of disproportionate assets to the known source of income is made out.

9. Learned counsel submitted that in the Case of ***State of Haryana vs. Bhajan Lal*** reported in (***1992) Supp 1 SCC 335***, the Hon’ble Supreme Court has categorically held that before a public servant is charges with an act of dishonesty, which amounts to serious allegation and an FIR is lodged against him, there must be some suitable allegation by a responsible officer. In the present case, four preliminary enquiries were held in respect of the husband of the petitioner and in respect of three enquiries submitted, no offence was made out under Sections Sections 13(2) read with 13(1)(e) of the P.C. Act, and Sections

109 and 120B of the Indian Penal Code against the petitioner. It is the fourth enquiry, clubbing the independent income of the petitioner and her husband, a case of misappropriation has been made out. Learned counsel further submitted that to substantiate the income of the petitioner, the petitioner has relied upon the I.T.R. for the entire check period and, as such, it can not be said that as per the source information only, the disproportionate was assessed, therefore, the statement of income and expenditure of the petitioner is nothing but arbitrary and erratic calculation, which cannot be sustained. Learned counsel submitted that the order taking cognizance is not only unsustainable on the basis of delay in lodging of the FIR, investigation and trial but also on the manner the disproportionate asset to the investigating officer has been arrived.

ARGUMENT ON BEHALF OF THE RESPONDENTS

10. Per contra, learned counsel appearing on behalf of the respondent submitted that on the basis of several complaint against the husband of the petitioner Mr. Vijay Pratap Singh that he has amassed assets disproportionate to his legal source of income, an enquiry was initiated. The enquiry revealed the fact that Shri Vijay Pratap Singh has amassed assets worth Rs. 31,76,953/- in his name and in the name of his wife Smt. Vijay Laxmi Singh in the check period from 1983-84 to 2006-07,, while their income was found to be Rs. 9,27,376/-. Thus, Disproportionate Assets came to the tune of Rs. 20,98,120/-. Therefore Vigilance P.S. case No. 56 of 13, dated 09.03.2013 u/s 13(2) r/w 13(1)(e) of the P.C. Act and section 109,120(B) I.P.C. was registered against the petitioner and her husband namely Vijay Pratap Singh. In course of investigation of this case, I.O. examined all the evidence and documents for the check period from 1983-84 to August 2013 and found that their total income was Rs. 1,72,05,078/- while their total assets and expenditure found to the tune of Rs. 2,98,93,179/-, therefore disproportionate assets came to the tune of Rs. 1,26,88,101/-and accordingly charge-sheet no.-10/2015, dated 28.01.2015 u/s 13(2) r/w 13(1)(e) of P.C. Act and u/s 109/120B of I.P.C. against Shri Vijay Pratap Singh & Smt. Vijay Laxmi Singh was submitted in the competent Court. The I.O. has given details about income from different sources of the petitioner in paragraph nos. 189 & 190 of case diary, where the I.O. has mentioned about income from tuition and tailoring/knitting as Rs. 24,200/-, income from fishery Rs. 33,000/-, on the basis of report of Income Tax Office and filed I.T.R by this petitioner. I.O. has mentioned in para 245 about salary of this petitioner from School as Rs. 10,72,000/- and it has been accepted on the basis of School Register, as well as, filed I.T.R. in para 245 of case diary I.O. has mentioned about income from agriculture as Rs. 5,21,313/- on the basis of I.T.R. of Smt. Vijay Laxmi Singh Shri Vijay Pratap Singh. In para 188 of C.D. I.O. has accepted Rs. 45,722/- as income from Taxi Plying by Smt. Vijay Laxmi Singh. In para 194 of Case diary, I.O has accepted the income as Rs. 2,10,870/- from land acquisition. In para 245 of Case diary, I.O. has accepted the income as Rs. 8,72,632/- from Petrol Pump. In para 245 of Case diary, I.O has accepted the income as Rs. 9,08,031/- from Indane Gas. The I.O. has thoroughly examined the source of income of this petitioner Smt. Vijay Laxmi Singh and he has given all benefits to the petitioner by adding it in income side. The I.O. has mentioned in paras. 244 and 245 of Case diary that in course of investigation, I.O. has considered the income as Rs. 3,88,600 from house at Allahabad income from rent of school building as Rs.4,76,280/-, income from petrol pump as 8,72,632/-, income from salary from school as P 10,72,000/-, income from agriculture as R 5,21,313/- and income from Indane gas agency Rs. 9,08,031/- on the basis of computation of income & balance sheet. On the basis of investigation, the I.O. has taken minimum and reasonable expenses incurred for marriage of her two daughters as Rs. 6,00,000/-. Which is mentioned in para of 250 of Case diary. Learned counsel submitted that therefore, the plea of this petitioner that excess amount has been calculated in expenditure side in this regard is not tenable. The I.O. has mentioned in para 154 of Case diary that the construction cost of house of the petitoner at Ramgulam Tola, Deoriya (U.P.) has been evaluated by T.E.C. of Vigilance Department and as per the T.E.C. report, the valuation of Rs. 17,71,484/- was taken in expenditure side. The petitioner has not mentioned that what was the legal source of income of her son from which she has purchased land by investment of Rs. 5,31,500/-. This petitioner has not given any reliable documentary evidence in support of her claim. The petitioner has taken plea that out of total expenditure incurred on children of this petitioner Rs. 10,54,500/- has been actually borne by children themselves. But this petitioner has not mentioned that what was the legal source of income of their children to incurred expenses on their education. In para 249 of case diary, I.O. has mentioned that out of five children of this petitioner, two children has studied MBBS course and rest three children has studied MBA course and total of Rs. 48,84,000/- has been incurred on their education. In para 228 & 229 of case diary, the I.O. has thoroughly mentioned about total interest, as well as, bank charge and over draft charge paid by this petitioner, as well as, her family members in their bank accounts as Rs. 2,97,018/-, which was added in expenditure side. The I.O. has also mentioned about the income from bank interest to the petitioners and her family members from their bank accounts A/c Rs. 4.10.016/-, which was added in his income side. In course of investigation of this case, all the relevantt documents, evidences, I.T. return and balance sheet etc., have been thoroughly examined by the I.O. and, thereafter, income and expenditure have been properly calculated.

11. He submitted that from a perusal of the materials on record, it stands manifestly established that the cumulative income of the accused petitioner and her husband, delinquent public servant Shri Vijay Pratap Singh, during the check period was only Rs.1,72,05,078/- (Rupees One Crore Seventy-Two Lakh Five Thousand Seventy-Eight only), whereas the total value of their assets and expenditure amounted to Rs.2,98,93,179/- (Rupees Two Crore Ninety-Eight Lakh Ninety-Three Thousand One Hundred Seventy-Nine only), thereby resulting in disproportionate assets to the tune of Rs.1,26,88,101/- (Rupees One

Crore Twenty-Six Lakh Eighty-Eight Thousand One Hundred One only). The income of the accused petitioner, as reflected in her income-tax returns, was only Rs.7,54,055/- (Rupees Seven Lakh Fifty-Four Thousand Fifty-Five only) during the period 1985-1986 to 2006-2007, but thereafter, during 2007-2014, her income suddenly increased to Rs.43,48,043/- (Rupees Forty-Three Lakh Forty-Eight Thousand Forty-Three only), largely attributed to rent, gas agency, and petrol pump business. Significantly, her investments in these three properties alone amounted to Rs.60,72,229/- (Rupees Sixty Lakh Seventy-Two Thousand Two Hundred Twenty-Nine only). The accused petitioner has failed to satisfactorily account for the lawful source of these investments. Cumulative income of the accused petitioner and her husband, delinquent public servant Shri Vijay Pratap Singh, during the check period was only Rs.1,72,05,078/- (Rupees One Crore Seventy-Two Lakh Five Thousand Seventy-Eight only), whereas the total value of their assets and expenditure amounted to Rs.2,98,93,179/- (Rupees Two Crore Ninety-Eight Lakh Ninety-Three Thousand One Hundred Seventy-Nine only), thereby resulting in disproportionate assets to the tune of Rs.1,26,88,101/- (Rupees One Crore Twenty-Six Lakh Eighty-Eight Thousand One Hundred One only).Upon a proper and judicious appreciation of the FIR, charge-sheet, case diary, and other materials available on record, has rightly found a prima facie case under Section 13(2) read with Section 13(1) (e) of the Prevention of Corruption Act, 1988, as well as Sections 109 and 120B of the Indian Penal Code against the accused petitioner and others. Accordingly, cognizance of the aforesaid offences was taken vide order dated 16.04.2015, which is not only proper and judicious but also fully in conformity with the settled principles of law and no interference is required.

12. Learned counsel for the Vigilance has filed written argument giving statement of Income and Expenditure of Smt. Vijay Laxmi Singh (petitioner) and her husband during the check period 1983 to August 2013, which has been kept on record.

Source of income	**Amount (Rs.)**
Rental income from house at Allahabad	388600
Rental income from school building	476280
Income from teaching/tailoring & embroidery	24200
Income from fishery	33000
Salary from school (2005 ownwards)	1072000
Agricultural income	449000
Income from gifts	290105
Income from taxi business operations	45722
Income from land acquisition	210870
Income from petrol pump	872632
Income from Indance Gas Agency	908031
Interest from bank accounts (Accused petition and others consolidated)	410016
Income from NSC (National Savings Certificates) (Petitioner and others consolidated)	360000
Interest from Recurring Deposit (including husband and children)	526337
Total Income	**6066793/-**

Head of Expenditure/Investment	**Amount (Rs.)**

Income Tax Deduction 366321
Banking charges/cess/overdraft expenses 297018
Investment in petrol pump 1401613
Investment in Indane Showrom & gas agency 1517482
Investment in land in her name and of
Vijay Shree samajeek chatena sansthan
including registration and stamp charges 680100
Cost of construction - Building No.
1 (Ram Gulam Tola, Devariya) 1771484
Cost of construction - Building No. 2
(Ram Gulam Tola, Devariya) and
Construction cost house at Allahabad 1382100
Recurring deposits (in name of Vijay Laxmit Singh &Children) 2404481
Investment in NSC 400000
Deposit in Post Office 115000
Expenses on registration of Samajik Chetna Sanstha 1850
Security Deposit 250000
Deposits in savings, CC and current accounts
(name of accused petitioner and her family members) 4957993
Value of vehicle (Scootee and Maruti Van 41000+30000=71000/-71000
<u>Total Expenditure/Investment 15616442</u>

Statement of Income and Expenditure of Shri Vijay Pratap Singh during the check period 1983 to August 2013

Sl.No.	Income	Rs.
1	Salary	6864369
2	Agricultural income	72313
3	LIC maturity / money-back	927220
4	GPF withdrawal	500000
5	Income from Shares	2639383
6	Income from gift	135000
	Total	11138285

Expenditure and Assets

Sl. No.	Expenses	Rs.
1	1/3rd unverified expenditure	2288123
3	Income tax deduction	442797
4	GPF deduction	941731
5	GIC deduction	34160
6	House rent deduction	3052
7	Loan repayment	31266
8	House tax	1631
9	Electricity bill	69265
10	Expenditure on children's education	4884000
11	Expenditure on marriage of two daughters	600000
12	Transport expenses	40800
13	Petrol/Diesel expenses	100000
14	Medical expenses	14000
15	Cooking gas expenses	81300
16	Mobile bill	14000
17	Religious ceremonies	15000
18	Pet animal maintenance	5000
19	Investment in Saraswati property	61000
20	Investment in land in the name of son Abhiuday Vijay (2013)	400000
21	Expenses on purchase of vehicles (self, son, daughter)	640326
22	Investment in shares	1943060
23	Value of ornaments (representation dated 02.04.2014, CD-39 para 177)	131395
24	Investment in LIC policies	1101262
25	Investment in non-banking schemes	7426
26	Health insurance premium	75743
27	Expenses on Rafale	19000
28	Cash recovered during house search	10000
29	Household articles (TV, AC, generator, furniture, etc.)	321400
	Total	14276737

ANALYSIS AND CONCLUSION

13. Heard the parties.

14. Petitioner is the wife of retired public servant Mr. Vijay Pratap Singh, who was posted as Sub-Divisional Officer at the relevant point of time. The allegation against her is that she has abated her husband Mr. Vijay Pratap Singh against whom, allegation is that he had amassed assets disproportionate to his known and lawful source of income. On the basis of complaint made by one Sudhanshu Kumar, the Lokayukta directed for preliminary enquiry vide Letter No. 05/06 1951 dated 20.12.2006. One preliminary enquiry report was submitted by Mr. Satish Kumar, Deputy Superintendent of Police, Vigilance, Siwan in respect of the husband of the petitioner in the year 2006-07. Subsequent to the same Mr. Lakshmi Narayan Manjhi, Deputy Superintendent of Police, Vigilance, Siwan, who was also directed to conduct preliminary enquiry, too submitted his enquiry report in the year 2010. Both the preliminary enquiry report could not conclude to hold that husband of the petitioner had amassed income disproportionate to his lawful source of income. Thereafter, a preliminary enquiry report was submitted by one R.K. Poddar, Deputy Superintendent of Police, Vigilance, Siwan, on 13.04.2012 and subsequent to same, by clubbing the income of the petitioner along with her husband, he submitted another preliminary enquiry report on 23.08.2012. The entire period till the FIR could be lodged based on the enquiry report dated 23.08.2012, on 03.09.2013, after delay of nearly six years from the date of complaint made by one

Sudhanshu Kumar and one year from the date of submission of the enquiry report dated 23.08.2012, the FIR was instituted under Sections 13(2) read with 13(1)(e) of the P.C. Act and Sections 109 and 120B of the Indian Penal Code. The husband of the petitioner, in the meantime, superannuated and the offence alleged against the petitioner, who is an old lady is of abatement of the main offence against the public servant. The impact of abnormal delay has caused colossal financial loss to the petitioner and the impact of it had shattered her proportional, professional and business development of the members of the family. The investigation could not be completed in accordance with the period prescribed under Chapter 36 of the Code of Criminal Procedure in respect of the offences, which against the petitioner is punishable with imprisonment upto seven years, but, being conscious of the law that the criminal proceeding cannot be quashed on the ground that investigation consumed a period of nearly ten years resulting into taking cognizance of the offences by the learned Special Judge, Vigilance, Muzaffarpur in connection with Special Case No. 35/2013 arising out of Vigilance P.S. Case No. 56/2013 on 16.04.2015 and the police report has been received by the opposite party as recent as on 30.01.2023 and the trial is not likely to end within one year or two years even if the Special Court would strictly adhere to the direction issued by the Hon'ble Supreme Court in the case of ***Raj Deo Sharma vs. The State of Bihar*** reported in ***(1998) 7 SCC 507***.

15. The Apex Court in similar circumstances, in the case of

Seeta Hemchandra Shashittal & Anr. vs. State of Maharashtra & Ors. reported in ***(2001) 4 SCC 525*** after analysing that there is need for speeding up investigation and trial as undue delay in culminating the criminal proceedings is a antithesis to the constitutional protection enshrined under Article 21 of the Constitution of India, observed that "*the Court has to view it from pragmatic perspective and the question of delay cannot be considered entirely from an academic angle*." The Apex Court dealing with the ground of delay to quash the criminal proceeding held the delay to be unfair and unreasonable and quashed the prosecution against them, who had allegedly abated the public servant to commit offence under Sections 13(2) of the P.C. Act. The Apex Court faced with the question of prolong investigation and trial that can criminal proceeding initiated against the accused considering the valuable constitutional right to speedy investigation and trial enshrined under Article 21 of the Constitution of India, while dealing with the allegation under Sections 13(1)(c)(d) read with Section 13(2) of P.C. Act, taking note of the unwarranted prolonged investigation relating to financial irregularities considering the lackadaisical manner of investigation quashed the criminal proceedings in the case of ***Pankaj Kumar vs. the State of Maharashtra*** reported in ***(2008) 16 SCC 17***.

16. In the facts of the said case, the alleged offence was committed sometime in the year 1981 and FIR was lodged in the year 1987 and charge-sheet was submitted on 22.02.1991 and till that date, no witnesses were examined by the prosecution too uphold the

constitutional right enshrined under Article 21 of the Constitution of India without going into the merits of the accusation against the accused of the said case and also questioning the age of the said accused at the time of commission of offence, has quashed the FIR. Similar is the present case as the alleged offence had taken place in the year 2006 and based on the preliminary enquiry report, FIR was lodged in the year 2013 and investigation was completed in the year 2015 leading the learned Special Judge, Vigilance, Muzaffarpur to take cognizance on 16.04.2015 under Sections 13(2) read with 13(1)(e) of the P.C. Act and Sections 109 and 120B of the Indian Penal Code and till date, no witnesses have been examined, can this be also a rarest case, calling for substantial justice to exercise inherent power conferred under Section 482 Cr.P.C. for quashing the entire proceeding pending in the Court of learned Special Judge, Vigilance, Muzaffarpur?

17. A few material facts necessary for disposal of the present application, which is reiterated that four preliminary enquiry were held and finally action was taken on the basis of enquiry report dated 23.08.2012 and FIR was lodged on 03.0.2013. The materials which were collected in course of investigation have summarily been brought on record by the opposite party no. 2 by way of filing counter affidavit. The same have been summerised in the written argument submitted on behalf of the opposite party no.2, which, *inter alia*, are as follows:

> *"On the basis of complaints made against the husband of the accused-petitioner, namely Vijay Pratap Singh, alleging therein that he had amassed assets disproportionate to his known and lawful sources of income, an enquiry was*

initiated against him. The said enquiry revealed that Shri Vijay Pratap Singh had acquired assets worth Rs.31,76,003/- in the name of himself and his wife, the accused-petitioner Smt. Vijay Laxmi Singh, during the check period 1983-84 to 2006-07, whereas their total lawful income during the said period was found to be only Rs.9,27,215/-. Thus, the disproportionate assets were quantified at Rs.20,38,120/-. Accordingly, Vigilance P.S. Case No. 56 of 2013, dated 09.03.2013, was registered under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, and Sections 109 and 120B of the Indian Penal Code, against the accused-petitioner and her husband, namely Vijay Pratap Singh.

It is humbly submitted that the accused petitioner has five children four daughters and one son. Out of them, three have pursued MBA courses, while two have completed the MBBS medical degree. As per the representation of her husband, Shri Vijay Pratap Singh (delinquent public servant), and his statement during interrogation, the total expenditure on the education of all five children has been calculated at Rs. 48,84,000/- (Rupees Forty-Eight Lakh Eighty-Four Thousand only).

During the relevant check period, two daughters of the accused petitioner, namely Priyanka Vijay and Kanupriya Vijay, were married in the years 2006 and 2010 respectively. On the basis of the financial transactions of the accused petitioner and her husband, as well as the statements elicited during the interrogation of the accused petitioner, the expenditure incurred on their marriages has been reasonably assessed at Rs. 6,00,000/- (Rupees Six Lakh only). This assessment is considered reasonable and proportionate, keeping in view the social and financial status of the accused petitioner and her family.

From a perusal of the materials on record, it stands manifestly established that the cumulative income of the accused petitioner and her husband, delinquent public servant Shri Vijay Pratap Singh, during the check period was only Rs.1,72,05,078/- (Rupees One Crore Seventy-Two Lakh Five Thousand Seventy-Eight only), whereas the total value of their assets and expenditure amounted to Rs.2,98,93,179/- (Rupees Two Crore Ninety-Eight Lakh Ninety-Three Thousand One Hundred Seventy-Nine only), thereby resulting in disproportionate assets to the tune of Rs.1,26,88,101/- (Rupees One Crore Twenty-Six Lakh Eighty-Eight Thousand One Hundred One only).

It is humbly and respectfully submitted that the income of the accused petitioner, as reflected in her income-tax returns, was only Rs.7,54,055/- (Rupees Seven Lakh Fifty-Four Thousand Fifty-Five only) during the period 1985-1986 to 2006-2007, but thereafter, during 2007-2014, her income suddenly increased to Rs.43,48,043/- (Rupees Forty-Three Lakh Forty-Eight Thousand Forty-Three only), largely attributed to rent, gas agency, and petrol pump business. Significantly, her investments in these three properties alone amounted to Rs.60,72,229/- (Rupees Sixty Lakh Seventy-Two Thousand Two Hundred Twenty-Nine only). The accused *petitioner has failed to satisfactorily account for the lawful source of these investments.*

Thus, even after due consideration of all claims advanced by the accused petitioner regarding her own income and that of her husband, a clear case of disproportionate assets stands prima facie established.

The petitioner did not possess sufficient lawful sources of income at the time of acquisition, and it is evident that her husband, delinquent public servant Vijay Pratap Singh, invested his illicit wealth in her name. The accused petitioner has thereby abetted and conspired with him in amassing and concealing such ill-gotten wealth.

Cumulative income of the accused petitioner and her husband, delinquent public servant Shri Vijay Pratap Singh, during the check period was only Rs.1,72,05,078/- (Rupees One Crore Seventy-Two Lakh Five Thousand Seventy-Eight only), whereas the total value of their assets and expenditure amounted to Rs.2,98,93,179/- (Rupees Two Crore Ninety-Eight Lakh Ninety-Three Thousand One Hundred Seventy-Nine only), thereby resulting in disproportionate assets to the tune of Rs.1,26,88,101/- (Rupees One Crore Twenty-Six Lakh Eighty-Eight Thousand One Hundred One only).

The learned Court below, upon a proper and judicious appreciation of the FIR, charge-sheet, case diary, and other materials available on record, has rightly found a prima facie case under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988, as well as Sections 109 and 120B of the Indian Penal Code against the accused petitioner and others. Accordingly, cognizance of the aforesaid offences was taken vide order dated 16.04.2015, which is not only proper and judicious but also fully in conformity with the settled principles of law."

18. In the present case, the petitioner is challenging the order taking cognizance dated 16.04.2015 on the basis of no material collected against her in course of enquiry. The question arises whether the same constitutes no offence if the check period from 1983-34 to 2006-2007, during which period, total income tax has been found to be Rs. 9,27,376/- and the disproportionate asset came to the tune of Rs. 20,98,120/- and on the basis of the evidences and documents for the check period from 1983-84 to August, 2013, the total income tax of the petitioner and her husband was Rs. 1,72,05,078/- while the total assets

and expenditure found to the tune of Rs. 2,99,88,864/-, therefore, disproportionate asset came to the tune of Rs. 1,26,88,101/- and the income of the petitioner can be held to be independent of her husband?

19. The law in respect of calculating the total income is well settled that income of wife (petitioner) must be considered when both the petitioner and her husband filed the relevant income tax return in order to show their respective income and assets. The respondents in paragraph no. 25 of the counter affidavit have admitted that in course of investigation , the relevant documents to the evidences, Income Tax Returns and Balance-Sheets etc. has been thoroughly examined by the Investigating Officer but have not answered any query contrary to the materials collected in course of investigation.

20. The petitioner has produced a copy of communication of the Income Tax Officer, Dewariya, in respect of the petitioner answering certain queries vide Letter dated 06.11.2008 to Deputy Superintendent of Police, Vigilance, Siwan informing that the petitioner had not filed return in respect of the Assessment Year 1985-88 and records available for ten years have been deemed to be assessed in respect of Financial Year from 2005-06 to 2007-08 and information was given to the Vigilance Investigation Bureau. The respective income tax return has not been denied in the counter affidavit as has been admitted in paragraphs nos. 6 and 7 of the counter affidavit.

21. In such circumstances, whether the Income Tax Return

should be presumed to be true and correct. Upon consideration of the income tax return of the petitioner and her husband for the check period of the year 1983-84 to 2006-07 Rs. 2,99,88,864/- which has been alleged to be more than Rs. 1,72,05,078/-, therefore, taking into account the total independent income of the petitioner, can it be said that there was disproportionate asset?

22. The offence under Sections 13(2) and 13(1)(e) of the P.C. Act, which prior to its amendment through the amending Act 16 of 2018 with effect from 26 July, 2018, provided as follows:

> *"13. Criminal misconduct by a public servant.— (1) A public servant is said to commit the offence of criminal misconduct,—*
>
> *(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income. "*

23. In the case of State of ***Orissa v. Debendra Nath Padhi*** reported in ***(2005) 1 SCC 568, Bharat Parikh v. CBI*** reported in ***(2008) 10 SCC 109, Indu Jain v. State of M.P.*** reported in ***(2008) 15 SCC 341, Asian Resurfacing of Road Agency (P) Ltd. v. CBI,*** reported in ***(2018) 16 SCC 299***, Apex Court has defined "known sources of income" means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant. The ambit of the

provision has been explained by the Apex Court in para no. 10 of the case of ***Kedari Lal vs. State of M.P***. reported in ***2015 (14) SCC 505,*** which is reproduced hereinafter:

> *"10. The expression "known sources of income" in Section 13(1)(e) of the Act has two elements, first, the income must be received from a lawful source and secondly, the receipt of such income must have been intimated in accordance with the provisions of law, rules or orders for the time being applicable to the public servant. In N. Ramakrishnaiah [N. Ramakrishnaiah v. State of A.P., (2008) 17 SCC 83, while dealing with the said expression, it was observed that "... Qua the public servant, whatever return he gets from his service, will be the primary item of his income. [Other income which can conceivably be] income qua the public servant, will be in the regular receipt from (a) his property, or (b) his investment.'*

24. In case of ***Vishwanath Chaturvedi v. Union of India*** reported in ***(2007) 4 SCC 380,*** the Apex Court has observed that "submission of income tax returns and the assessments orders passed thereon, would not constitute a foolproof defence against a charge of acquisition of assets disproportionate to the known lawful sources of income as contemplated under the PC Act and that further scrutiny/analysis thereof is imperative to determine as to whether the offence as contemplated by the PC Act is made out or not."

25. In similar circumstances, the acquisitions being reflected in income tax returns, the Apex Court granted relief to the public servant in ***M. Krishna Reddy v. State [M. Krishna Reddy v. State*** reported in ***(1992) 4 SCC 45***, it was observed as follows:

> *"14. ... Therefore, on the face of these unassailable*

documents i.e. the wealth tax and income tax returns, we hold that the appellant is entitled to have a deduction of Rs 56,240 from the disproportionate assets of Rs 2,37,842."

15. If the amounts in question, which were duly intimated and are reflected in the income tax return are thus deducted, the alleged disproportionate assets stand reduced to Rs 37,605, which is less than 10% of the income of the appellant. In case of ***Krishnanand v. State of M.P.*** *reported in* ***(1977) 1 SCC 816*** *and in* ***M. Krishna Reddy v. State*** *reported in* ***(1992) 4 SCC 45****, the Apex Court Court had granted benefit to the public servants in similar circumstances."*

26. The Apex Court in case of ***Nirankar Nath Pandey vs. State of U.P. & Ors. (Criminal Appeal No. 5009 of 2024)***, ***Seeta Hemchandra Shashittal & Anr. vs. State of Maharashtra & Ors.*** reported in ***(2001) 4 SCC 525*** and ***Pankaj Kumar Vs. State of Maharashtra & Ors.*** reported in ***(2008) 16 SCC 17*** held that the cornerstone of a disproportionate assets case under Section 13(1)(e) of the P.C. Act is a meticulous computation juxtaposing 'known sources of income against acquired assets. In ***Nirankar Nath Pandey (supra)***, the Hon'ble Supreme Court, quashed an FIR where the Vigilance Department failed to consider the wife's independent income from yoga teaching, agriculture, and rentals. The Court held that the public servant's wife's income must be considered as well while calculating the total income and assets. I find it apt of reproduce paragraph 9 of ***Nirankar Nath Pandey (supra)*** which inter alia is as follows:

"9. We are of the view that the Appellant's wife's income must be considered as well while calculating the total income and assets. Both the Appellant and his wife have filed the relevant income tax returns in order to show their respective incomes and assets. The Respondents in their Counter-Affidavit have not denied these income tax returns or alleged them to be forged or fabricated. Therefore, when a public servant is submitting his income tax returns, they should be presumed to be true and correct. If you duly consider the income tax returns of the Appellant and his wife for the check period

> *of the year 1996-2020, the total income is coming up to be Rs.1.21,06,268/-(Rupees One Crore Twenty One Lakh Six Thousand Two Hundred Sixty Eight only) which is in fact more than the assets amounting to Rs.1.16,02,669/- (Rupees One Crore Sixteen Lakh Two Thousand Six Hundred Sixty Nine only) which is said to be the disproportionate assets in question under the present FIR."*

27. Applying the above ratio *mutatis mutandis*, the petitioner's independent income, evidenced by income tax returns and unchallenged by the State, has been wholly ignored her earnings, when clubbed, elevate the family's total income beyond the alleged assets. During the investigation, the I.O., has unauthorizedly increased the check period from1983-84 to 2006-07 up to the Financial Year 2013-14 by increasing the alleged disproportionate assets which cannot be looked into in the present case. FIR cannot be said to be based only on the preliminary enquiry and the figures of income and expenditure derived by the I.O. in absence of no material collected, no case of disproportionate assets to the known source of income is made out, particularly in view of the fact that I.O. has accepted the ITR for the period Financial Year 2006 upto Financial Year, 2013-14. This omission vitiates the foundational allegation, as it contravenes the statutory mandate to consider all *'known sources'*. Furthermore, this selective exclusion of investment in LIC, income from petrol pump and gas agency, which is income received on account of commission from the Petrol Pump and Gas Agency have been added. The independent income accrued to the petitioner have been added to the income of her husband in view of the oil company has been taken in view of Letter of Intent issued to the petitioner and commission

earned, the initial investment is well accounted and in spite of accepting the same in course of investigation has added as undisclosed expenditure, similarly, on account of marriage of children of the petitioner, . The factor of inflation has also not been taken into account the I.O. having arriving to include the expenditure incurred on the education of the children of the petitioner has also been included as undisclosed income whereas by ignoring the income tax return filed during the period since the children of the petitioner were attending their school and the institution in which they were admitted. The check period is of more than 24 years. In such circumstances as has been observed by the Apex Court in ***Nirankar Nath Pandey (supra)***, it must be taken into account that over such a long period of time, there is inflation and natural progression in the changing economy that affects the value of assets. A dynamic approach is required to assess the individual income over span of more than two decades by adding the investment without determining the same from the ITR filed in respect of the petitioner which is independent income and expenditure of her husband, giving total value of asset and expenditure to Rs. 2,98,93,179/- resulting into incorrectly arriving to assess the disproportionate asset of the petitioner to the tune of Rs, 1,26,88,101/- if added with the total income of the husband of the petitioner, the assessment made by the I.O. ignoring the relevant income tax return in order to show their respective income and assets which the opposite party no. 2 has not denied in counter affidavit or have alleged that the return is the forged and fabricated in that circumstances, the

Apex Court in *Nirankar Nath Pandey (Supra)* has laid down that " *they should be presumed to be true and correct*". Paragraph no. 4 is reproduced as under:

> *"... 10. Further, we have considered that the check period is from the year 1996 to 2020, which is almost twenty five years. It must be taken into account that over such a long period of time, there is inflation and a natural progression in the changing economy that affects the value of assets such as property. This can understandably lead to discrepancies in declaring the value of assets over the years. Therefore, there should be a more dynamic approach while considering an individual's income and assets over the span of two decades, such as in the present case. The notion that the declared value of an asset such as property or gold will remain static is flawed. This has to be considered while examining an individual's assets and income while making a determination regarding disproportionate assets. Such an examination needs to reflect such adjustments and changes as is natural with the progression of time.*

28. The delay from the check period's end (2007) to FIR (2013) exceeds six years, cognizance taken on 16.04.2015 with trial languishing post-cognizance (2015). In ***Pankaj Kumar (supra)***, the Apex Court, quashed a case with three-year investigative delay, emphasizing: "Investigations dragged on for over three years. This appeal arises from the final judgment seeking quashing of the charge-sheet." In Paragraph 18 of the judgment it was observed:

> *"... 18. Tested on the touchstone of the broad principles, enumerated above, we are of the opinion that in the instant case, appellant's constitutional right recognised under Article 21 of the Constitution stands violated. It is common ground that the First Information Report was recorded on 12th May, 1987 for the offences allegedly committed in the year 1981, and after unwarranted prolonged investigations, involving afore-stated three financial irregularities, the chargesheet was submitted in Court on 22nd February, 1991. Nothing happened till April, 1999, when the appellant and his deceased mother filed criminal writ petition seeking quashing of proceedings before the trial court. Though, it is true that the plea with regard to inordinate delay in investigations and trial has been raised before us for the first time but we feel that at this distant point of time, it would be unfair to the appellant to remit the matter back to the High Court for examining the said plea of the*

> *appellant. Apart from the fact that it would further protract the already delayed trial, no fruitful purpose would be served as learned Counsel for the State very fairly stated before us that he had no explanation to offer for the delay in investigations and the reason why the trial did not commence for eight long years. Nothing, whatsoever, could be pointed out, far from being established, to show that the delay was in any way attributable to the appellant. Moreover, having regard to the nature of the accusations against the appellant, briefly referred to above, who was a young boy of about eighteen years of age in the year 1981, when the acts of omission and commission were allegedly committed by the concerns managed by his parents, who have since died, we feel that the extreme mental stress and strain of prolonged investigation by the Anti Corruption Bureau and the sword of damocles hanging perilously over his head for over fifteen years must have wrecked his entire career. Be that as it may, the prosecution has failed to show any exceptional circumstance, which could possibly be taken into consideration for condoning the prolongation of investigation and the trial. The lackadaisical manner of investigation spread over a period of four years in a case of this type and inordinate delay of over eight years (excluding the period when the record of the trial court was in the High Court), is manifestly clear. Thus, on facts in hand, we are convinced that the appellant has been denied his valuable constitutional right to a speedy investigation and trial and, therefore, criminal proceedings initiated against him in the year 1987 and pending in the court of Special Judge, Latur, deserve to be quashed on this short ground alone.*

29. Inordinate delay in the investigation and trial cannot be ignored. Applying the principle laid down by the ***Seeta Hemchandra Shasheetal (Supra)*** and ***Pankaj Kumar (supra)***, the entire proceeding can be quashed considering that the FIR was lodged on 03.09.2013 and cognizance taken on 16.04.2015 yet the trial remains at a very nascent stage as on date which can be seen from the order dated 30.01.2023, the police paper could be handed over to the opposite party no. 2 on the said date the detail of which I have taken note in paragraph no. 14 of this order. It can be held that in the present case, the delay of over more than two decades, from the check period the prosecution against the petitioner can be quashed on account of unexplained undue delay. The sluggish proceedings has caused mental trauma and prejudice to the petitioner.

Till date no witnesses have been examined warranting quashing the entire proceeding to protect the Fundamental Right granted under Article 21 of the Constitution of India. I find that the present is a rarest case, calling for substantial justice to exercise inherent power conferred under Section 482 Cr.P.C., the order taking cognizance dated 16.04.2015, passed by the learned Special Judge, Vigilance, Muzzafarpur, in Vigilance P.S. Case No. 56 of 2013 along with the entire proceeding is hereby **set aside and quashed**.

30. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	30.09.2025
Transmission Date	N/A