



**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

277

CRM-M-55778-2024

Date of decision: 08.01.2025

Surindarjit Singh Jaspal

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. R.S. Cheema, Sr. Advocate with  
Mr. J.S. Mehndiratta, Advocate and  
Mr. Satish Sharma, Advocate for the petitioner.

Mr. Deepender Brar, Sr. DAG, Punjab.

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**MANJARI NEHRU KAUL, J.**

1. This Court has been called upon to adjudicate the plea of the petitioner for quashing the order dated 16.07.2021 (Annexure P-1) whereby provisional attachment of House No.3048, Sector 20-D, Chandigarh was ordered in connection with FIR No.11 dated 17.09.2020, registered under Sections 409/420/467/468/471/120-B of the IPC, Section 13(1)(a) read with Section 13(2) of the PC Act, 1988 as amended by PC Amendment Act, 2018, at Police Station Vigilance Bureau, Flying Squad-1 Punjab at Mohali. The petitioner also seeks quashing of the subsequent order dated 14.08.2024 (Annexure P-2) whereby the application moved by him for dropping the attachment proceedings was dismissed.

2. Learned senior counsel for the petitioner has argued that the provisional attachment order dated 16.07.2021 has lapsed by operation of law as per section 10 of the Criminal Law (Amendment) Ordinance, 1944 (hereinafter referred to as 'the Ordinance'). It had been



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submitted by the learned senior counsel on the first date of hearing before this Court that the order of provisional attachment is valid for a period of one year unless extended by the Court or unless cognizance of the offense is taken within that period.

3. It has been asserted by the learned senior counsel that in the present case no extension was sought by the prosecution, and no cognizance was taken by the competent Court within the statutory period. Further, even after a lapse of three years, the prosecution till date has not taken any steps to seek an extension or confirm the provisional attachment. Consequently, the learned senior counsel has argued that in view of the statutory mandate and settled law, the order of provisional attachment would, therefore, stand automatically lapsed, and therefore, the property of the petitioner is now liable to be released. Learned senior counsel in support has relied upon the decision rendered in *M/s KCP Infra Limited, formerly known as KCP Engineers Pvt. Ltd. Vs. The State of Tamil Nada and others : 2024(1) LW(Crl) 592*, wherein Hon'ble the Supreme Court had emphasized that there has to be strict adherence to the statutory timelines prescribed under the Ordinance.

4. Per contra, learned counsel for the State has contended that the delay in adjudicating the attachment proceedings was attributable to the deliberate non-corporation by the petitioner and failure on his part to file objections before the learned Trial Court. The learned State counsel has further argued that the petitioner had employed dilatory tactics to evade adjudication of the attachment proceedings, as is



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evident from the zimni orders of the learned Trial Court. Furthermore, the prosecution had filed a request for extension of the attachment order, but the matter could not be finalized due to the conduct of the petitioner himself. It has also been asserted by the learned State counsel that the challan in the present case has been filed on 17.12.2024 and the prosecution, therefore, is well within its rights to seek absolute attachment under Section 3 of the Ordinance. It has been lastly submitted by the learned State counsel that the lapse of the provisional attachment order does not preclude the prosecution from initiating fresh proceedings for attachment, as per the statutory scheme.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding to adjudicate the matter, it is necessary to examine the following relevant statutory provisions:-

**Section 18A of the PC Act**

***18A. Provisions of Criminal Law Amendment Ordinance, 1944 to apply to attachment under this Act.—***

*(1) Save as otherwise provided under the Prevention of Money Laundering Act, 2002 (15 of 2003), the provisions of the Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944) shall, as far as may be, apply to the attachment, administration of attached property and execution of order of attachment or confiscation of money or property procured by means of an offence under this Act.*

*(2) For the purposes of this Act, the provisions of the Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944) shall have effect, subject to the modification that the references to “District Judge” shall be construed as references to “Special Judge”.]*

**Section 3 of the Ordinance**

***“3. Application for attachment of property***



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*(1) Where the State Government or, as the case may be, the Central Government, has reason to believe that any person has committed (whether after the commencement of this Ordinance or not) any scheduled offence, the State Government or, as the case may be, the Central Government may, whether or not any Court has taken cognizance of the offence, authorise the making of an application to the District Judge within the local limits of whose jurisdiction the said person ordinarily resides or carries on business, for the attachment, under this Ordinance of the money or other property which the State Government or, as the case may be, the Central Government believes the said person to have procured by means of the offence, or if such money or property cannot for any reason be attached, or other property of the said person of value as nearly as may be equivalent to that of the aforesaid money or other property.*

*(2) The provisions of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall apply to proceedings for an order of attachment under this Ordinance as they apply to suits by the Government.*

*(3) An application under sub-section (1) shall be accompanied by one or more affidavit, stating the grounds on which the belief that the said person has committed any scheduled offence is founded, and the amount of money or value of other property believed to have been procured by means of the offence. The application shall also furnish*

*(a) any information available as to the location for the time being of any such money or other property, and shall, if necessary, give particulars, including the estimated value, of other property of the said person;*

*(b) the names and addresses of any other persons believed to have or to be likely to claim, any interest or title in the property of the said person.*

#### **4. Ad interim attachment**

*(1) Upon receipt of an application under section 3, the District Judge shall, unless for reasons to be recorded in writing he is of the opinion that there exist no prima facie grounds for believe that the person in respect of whom the application is made has committed any scheduled offence or that he has procured thereby any money or other property, pass without delay an ad interim order attaching the money or other property alleged to have been so procured, or if it transpires that such money or other property is not available for attachment, such other*



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*property of the said person of equivalent value as the District Judge may think fit:*

*Provided that the District Judge may if he thinks fit before passing such order, and shall before refusing to pass such order, examine the person or persons making the affidavit accompanying the application.*

*(2) At the same time as he passes an order under sub-section (1), the District Judge shall issue to the person whose money or other property is being attached, a notice, accompanied by copies of the order, the application and affidavits and of the evidence, if any, recorded, calling upon him to show cause on a date to be specified in the notice why the order of attachment should not be made absolute.*

*(3) The District Judge shall also issue, accompanied by copies of the documents accompanying the notice under sub-section (2), to all persons represented to him as having or being likely to claim, any interest or title in the property of the person to whom notice is issued under the said sub-section calling upon each such person to appear on the same date as specified in the notice under the said sub-section and make objection if he so desires to the attachment of the property or any portion thereof on the ground that he has an interest in such property or portion thereof.*

*(4) Any person claiming an interest in the attached property or any portion thereof may, notwithstanding that no notice has been served upon him under this section, make an objection as aforesaid to the District Judge at any time before an order is passed under sub-section (1) or sub-section (3), as the case may be, of section 5.*

### ***10. Duration of attachment***

*An order of attachment of property under this Ordinance shall, unless it is withdrawn earlier in accordance with the provisions of this Ordinance, continue in force*

*(a) where no Court has taken cognizance of the alleged scheduled offence at the time when the order is applied for, one year from the date of the order under sub-section (1) of section 4 or sub-section (2) of section 6, as the case may be, unless cognizance of such offence is in the meantime so taken, or unless, the District Judge on application by the agent of the State Government or, as the case may be, the Central Government thinks it proper and just that the period should be extended and passes an order accordingly; or*



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*(b) where a Court has taken cognizance of the alleged scheduled offence whether before or after the time when the order was applied for until orders are passed by the District Judge in accordance with the provisions of this Ordinance after the termination of the criminal proceedings.”*

7. A perusal of the above reproduced provisions reveals that the Court has been empowered to pass an ad-interim order for attachment of property on an application made by the State, in cases where the said property has been acquired from the proceeds of crime, unless the Court records the satisfaction that there are no *prima facie* grounds to allow the application made by the State under Section 3 of the Ordinance. In case an order of ad-interim attachment has been passed by the Court, it shall cease to have effect after one year unless the Court takes cognizance of the offence within that period or extends the attachment upon sufficient cause. The Court has been further mandated to issue notice to the affected party and consider objections, if any, before making the provisional attachment absolute.

8. In the instant case, a perusal of the record of the learned Trial Court reveals that :

- the order of provisional attachment dated 16.07.2021 was neither extended nor made absolute within the statutory period of one year;
- the prosecution filed the challan only on 17.12.2024, more than three years after the issuance of the provisional attachment order, and well beyond the statutory period prescribed under Section 10 of the Ordinance;



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- the learned Trial Court adjourned the attachment proceedings repeatedly due to the failure of the petitioner to file objections, reflecting a lack of diligence on the part of the petitioner. However, the statutory lapse of the attachment order cannot be overridden by the conduct of the petitioner, as the statute unequivocally limits the validity of provisional attachments to one year unless specifically extended.

9. In light of the foregoing, this Court is constrained to hold that the order of provisional attachment dated 16.07.2021 (Annexure P-1) has lapsed by operation of law under Section 10 of the Ordinance. Consequently, the subsequent order dated 14.08.2024 (Annexure P-2), rejecting the application of the petitioner for dropping attachment proceedings, is rendered unsustainable in law.

10. However, this order shall not preclude the prosecution from filing a fresh application for absolute attachment under Section 3 of the Ordinance. If such an application is filed, the learned Trial Court shall adjudicate the same on its merits, in accordance with law, without being influenced by any observations made herein.

11. Accordingly, the instant petition stands disposed of in the above terms.

08.01.2025

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(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No