IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56839 of 2021

Arising out of PS. Case No.-37 Year-2015 Thana- VIGILANCE District- Patna

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Phulpari Kumari, W/o Yogendra Kumar Madhup, R/o Gayatrinagar Bisunpur Pakari, P.S.- Phulwarisharif, District- Patna.

... ... Petitioner/s

Versus

The State of Bihar Through Vigilance Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Adv.
Mr. Ranjeet Kumar, Adv.
Mr. Kanishk Kaustubh, Adv.
Ms. Lakshmi Kumari, Adv.
Mr. Rajnish Prakash, Adv.
Mr. Ankesh Kumar Sinha, Adv.
Ms. Prerna, Adv.
Dr. Rajesh Kumar, Adv.

For the Opposite Party/s : Mr. Arvind Kumar, SP/PP

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CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT
Date : 14-05-2026

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. Petitioner seeks quashing of the order of cognizance dated 28.01.2021 passed by learned Special Judge, Vigilance, Patna in connection with Special Case No. 20 of 2015 arising out of Vigilance P.S. Case No. 37 of 2015 registered for the offences under Sections 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988.

3. The petitioner was posted as CDPO Patna. While taking bribe, she was trapped by the Vigilance and the case was registered *vide* Vigilance P.S. Case No. 54 of 2013. During the search of the house, inventory of other articles was prepared along with several documents showing investment in Bank. Vigilance PS Case No. 37 of 2015 was instituted under Section 13(1)(e) of the Prevention of Corruption Act. During the course of enquiry, the D.A. against her husband was found minimal. Therefore, no charge-sheet was submitted against her. The difference between the total income and expenditure of the petitioner during the check period was Rs. 12,71,693/-. The total weight of gold jewellery was 646.400 grams. The case of the petitioner is that the same not only belongs to her but also to her unmarried daughter and other family members.

4. Learned counsel for the petitioner has relied upon Instruction No. 1916 dated 11.05.1994 and Press Release issued by Ministry of Finance, Department of Revenue, Central Board of Direct Taxes dated 01.12.2016 which prescribes that a married woman is entitled to possess 500 Grams of gold jewellery, unmarried lady is entitled to possess 250 Grams of gold jewellery and male is entitled to possess 100 Grams of gold jewellery. There is no doubt that the petitioner is a married woman and married woman is entitled to 500 Grams of gold and the petitioner has a daughter who was unmarried on the date of search, i.e., 17.08.2013.

5. Learned counsel for the Vigilance submits that Instruction No. 1916 dated 11.05.1994 and Press Release issued by Ministry of Finance, Department of Revenue, Central Board of Direct Taxes dated 01.12.2016 will not be applicable in the case of the petitioner. He has filed counter-affidavit where the details of mode and manner of assessment of gold jewellery has been given but it is categorical case of the Vigilance Department that the Instruction has been issued to the Income Tax Department with reference to possession of gold jewellery. In sum and substance, it is submitted by learned counsel for the Vigilance that the aforesaid Executive Instruction/Guidelines issued by the Government has no application in the present case of the petitioner.

6. In the present case, if the gold is calculated with reference to the aforesaid Circular, the petitioner does not possess more than 750 Grams which is the permissible limit of petitioner. Thus, the Vigilance Department has seized the gold erroneously and has committed error in calculating the weight of the gold jewellery of the petitioner and determining the proportionate assets of the petitioner.

7. In such view of the matter, the order of cognizance dated 28.01.2021 passed by learned Special Judge, Vigilance, Patna in connection with Special Case No. 20 of 2015 arising out of Vigilance P.S. Case No. 37 of 2015 registered for the offences under Sections 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988 is quashed so far as the petitioner is concerned.

8. Accordingly, the present application stands allowed.

(Ansul, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	