

THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL APPEAL No.45 of 2026

DATE: 28.04.2026

BETWEEN:

J. Nagakumari

..... Appellant/Third party

And

The State of Telangana

..... Respondent

J U D G M E N T

This Criminal Appeal is filed challenging the order dated 01.12.2025 passed in CrI.M.P.No.8 of 2025 in C.C.No.10 of 2020 by the Principal Special Judge for Trial of SPE & ACB Cases, Hyderabad.

2. The brief facts of the case are that the appellant, sister-in-law of the accused officer, filed the present petition seeking

to set aside the interim attachment of properties listed in Annexure-VI of the seizure report and for their release in her favour. The case arises out of a disproportionate assets investigation by the Anti-Corruption Bureau against the accused officer, wherein certain properties standing in the name of the petitioner were attached on the allegation that they were benami assets acquired out of the accused's ill-gotten wealth. The appellant contended that she independently acquired the said properties, including a residential flat, agricultural lands, bank balances, and documents, through her own lawful income, agricultural earnings, and family support, and that there was no nexus between her assets and the accused officer. She further relied on the fact that the accused officer had died during the pendency of the case, resulting in abatement of proceedings, and sought release of the attached properties.

3. The prosecution before the trial Court opposed the petition, asserting that the accused officer had amassed disproportionate assets and had purchased properties in the name of the appellant to conceal illicit wealth, and that the appellant lacked sufficient independent income to acquire

such properties. It was alleged that she acted as a benamidar, supported by financial transactions indicating flow of funds from the accused. Upon enquiry, although the appellant examined herself and produced certain documents, the trial Court found that she failed to satisfactorily establish the source of funds or her independent ownership of the properties. Holding that the appellant did not discharge the burden of proving lawful acquisition and that the properties were likely linked to the accused's ill-gotten income, the trial Court dismissed the petition. Challenging the same, the appellant filed the present Criminal Appeal.

4. Heard Sri P. Vamsheedhar Reddy, learned counsel appearing on behalf of the appellant as well as Sri T. Bala Mohan Reddy, learned Standing Counsel for ACB appearing on behalf of the respondent - State.

5. Learned counsel for the appellant submitted that the impugned order is illegal, arbitrary and suffers from non-application of mind, particularly in view of the admitted fact that the sole accused officer died during the pendency of proceedings, resulting in abatement of the case. He further

submitted that once the criminal proceedings abate, the very basis for continuation of attachment ceases to exist, and therefore the continued attachment of the petitioner's properties is unsustainable in law. He contended that the petitioner is a third party and not an accused, and her properties, including the residential flat and agricultural lands, were acquired through lawful and independent sources such as sale proceeds, family gift, and declared income and that there is no evidence of any nexus or money trail connecting the petitioner's properties with the alleged ill-gotten assets of the deceased accused, and the trial court failed to properly consider the documentary evidence placed on record. Therefore, he prayed the Court to set aside the order of the trial Court by allowing this Criminal Appeal.

6. On the other hand, learned counsel for the respondent opposed the appeal contending that the impugned order is well-reasoned and passed after proper appreciation of facts and evidence and that during investigation, it was established that the accused officer possessed disproportionate assets and had acquired properties in the name of the petitioner as a benamidar to conceal ill-gotten wealth. He contended that the

petitioner did not have sufficient independent income to purchase the said properties, and financial records indicate that substantial amounts were deposited by the accused into her accounts. He further contended that mere abatement of criminal proceedings does not automatically entitle release of attached properties, and the petitioner failed to discharge the burden of proving lawful acquisition of the assets. Therefore, he prayed the Court to dismiss the Criminal Appeal.

7. In the light of the submissions made by both the learned counsel and upon perusal of the material available on record, it appears that the appellant has consistently asserted that the subject properties were acquired through her independent and lawful sources of income and has placed documentary material in support of the same. Though the trial Court observed that the evidence produced was not sufficient, it is evident that no direct or cogent material has been placed by the prosecution to conclusively establish that the properties standing in the name of the appellant were in fact acquired from the ill-gotten wealth of the deceased accused officer. The finding of the trial Court appears to be based more on suspicion rather than on legally admissible

evidence establishing a clear nexus between the accused and the subject properties.

8. It is also not in dispute that the appellant is a third party and not an accused in the main proceedings. The burden, no doubt, lies on the appellant to explain the source of acquisition; however, once a plausible explanation supported by documents is offered, the onus shifts on the prosecution to establish that the properties are benami and traceable to the alleged disproportionate assets of the accused. In the present case, except for general allegations and certain financial transactions, no concrete evidence has been brought on record to prove that the appellant acted as a benamidar. Mere relationship with the accused cannot be a ground to draw an adverse inference in the absence of a clear money trail.

9. Further, the admitted fact that the sole accused officer died during the pendency of the proceedings, resulting in abatement of the criminal case, assumes significance. Though abatement by itself does not automatically entitle release of attached properties, in the absence of adjudication

of guilt and in the absence of independent proceedings conclusively establishing that the properties are tainted, continuation of attachment over the properties of a third party cannot be sustained. Retention of such attachment would amount to deprivation of property without sufficient legal basis.

10. Having regard to the above facts and circumstances, it is evident that Item No.1 property was purchased by the appellant out of the amount received by her in a divorce settlement. In respect of Item Nos.2 to 8 properties, the appellant has produced Exs.P2 to P4 to demonstrate that she purchased the said properties from her own income as well as from her father's income. However, the trial Court disbelieved these documents on the ground that the survey numbers were not tallying and that a mere certificate issued by the Tahsildar is insufficient to substantiate her claim.

11. Be that as it may, the appellant herein is a third party to the criminal case, and the allegation against the accused is that he purchased the subject properties in the name of the appellant. The initial burden lies on the prosecution to

establish that Accused No.1 had, in fact, purchased the properties in the name of the appellant as benami transactions. Mere filing of a charge sheet does not amount to proof unless cogent and convincing evidence is placed before the Court. Admittedly, the accused died prior to the commencement of trial and remained only an accused and not a convicted person. In such circumstances, the burden cannot be shifted onto the appellant to disprove the allegations in the absence of prima facie proof by the prosecution.

12. In this regard, the Hon'ble Supreme Court in **U. Subhadramma and others v. State of Andhra Pradesh and another** reported in (2016) 7 SCC 797, wherein paragraph Nos.8 and 9 held as follows:

“8. Section 13 requires the Government to inform the District Judge about the status of the criminal proceedings. It requires the Government to furnish the District Judge with a copy of the judgment or order of the trial court and with copies of the judgment or orders, if any, of the appellate or Revisional Court thereon. Sub-section (2) mandates that the District Judge shall forthwith withdraw any orders of attachment of property made in connection with the offence if (a) cognizance of alleged scheduled offence has not been taken, or (b) where the final judgment and orders of the criminal court is one of acquittal. While this section is clear that the orders of attachment must

be withdrawn if cognizance of the offence has not been taken or there has been an acquittal; the section is silent as to the effect of abatement of prosecution. It is due to this silence that it is contended by the State Government in this case that the orders of attachment could not only have been continued but could also have been confirmed. It is not possible for us to accept the submission. If the law requires that the orders of attachment should be withdrawn upon acquittal it stands to reason that such orders must be withdrawn when the prosecution abates or cannot result in a conviction due to the death of the accused, whose property is attached. Concept of abatement of a trial could be subsumed in the section where the final judgment and order of the criminal court is one of acquittal. In this context, the presumption of innocence of an accused till he is convicted must be borne in mind and there is no reason to consider this presumption to have vaporised upon the death of an accused. It may be noted that this Court has time and again reiterated the presumption of innocence of an accused till he is convicted. [Willie (William) Slaney v. State of M.P., (1955) 2 SCR 1140 at p. 1195 : AIR 1956 SC 116 : 1956 Cri LJ 291; Babu Singh v. State of Punjab, (1963) 3 SCR 749 at p. 766 : (1964) 1 Cri LJ 566; Ashish Batham v. State of M.P., (2002) 7 SCC 317, para 8 : 2002 SCC (Cri) 1718; Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra, (2005) 5 SCC 294, para 35 : 2005 SCC (Cri) 1057 and Sher Singh v. State of Haryana, (2015) 3 SCC 724, paras 12 & 17 : (2015) 2 SCC (Cri) 422]

9. As far as the circumstances of this case are concerned, we find that there has been a gross miscarriage of justice at several steps. In the first place, the finding of the trial court that Ramachandraiah was alone responsible for the offences is completely vitiated as null and void since Ramachandraiah had admittedly died on the date this finding

was rendered. It is too well settled that a prosecution cannot continue against a dead person. A fortiori a criminal court cannot continue proceedings against a dead person and find him guilty. Such proceedings and the findings are contrary to the very foundation of criminal jurisprudence. In such a case the accused does not exist and cannot be convicted. Consequently, the learned District Judge committed a gross error of law in acting upon such a finding and treating Ramachandraiah as guilty of such offences while making the order of attachment and while confirming the said order of attachment of properties.”

13. Applying the said principle to the present case, this Court finds that the prosecution has failed to place any cogent material establishing a direct nexus between the subject properties and the alleged ill-gotten wealth of the deceased accused. On the other hand, the appellant has offered a plausible explanation supported by documentary evidence regarding the source of acquisition. In the absence of any finding of guilt and in view of the abatement of proceedings due to the death of the accused, the continuation of attachment cannot be sustained. Therefore, the findings of the trial Court are unsustainable and liable to be set aside.

14. Accordingly, the Criminal Appeal is allowed. The order dated 01.12.2025 passed in Crl.M.P.No.8 of 2025 in

C.C.No.10 of 2020 by the Principal Special Judge for Trial of SPE & ACB Cases, Hyderabad, is hereby set aside. Consequently, the interim attachment of the properties listed in Annexure–VI of the seizure report is lifted, and the said properties shall be released in favour of the appellant forthwith, subject to any other proceedings, if pending, in accordance with law.

Miscellaneous applications, if any pending, shall stand closed.

K. SUJANA, J

Date: 28.04.2026
SAI

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