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Court : Jharkhand

Decided On : Jun-21-2013

Appellant : Swarn Singh

Respondent : Central Bureau of Investigation Through Deputy Superintendent of Police Cbi Anti Corruption Bureau D

Judgement :

In the High Court of Jharkhand at Ranchi Cr.Rev.No.80 of 2013 Swarn Singh Petitioner VERSUS Central Bureau of Investigation, through S.P, Dhanbad Opposite Party CORAM: HONBLE MR. JUSTICE R.R.PRASAD For the Petitioner:Mr.N.K.Pasari For the C.B. I. : Mr.M. Khan 8/ 21.6.13. Heard learned counsel appearing for the petitioner and learned counsel appearing for the C.B.I. Before proceeding in the matter, an order passed on 5.12.2011 in Cr.M.P.No.1275 of 2011 needs to be recorded which reads as follows: When the C.B.I raided the residential house of the petitioner,cash, jewellerys, shares, bonds, IVP, NSC, KVP and other documents worth Rs.1,40,00,000/- were found and on that basis, prosecution was initiated for an offence under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act for possessing the asset disproportionate to known source of income. Since the other materials had also been seized which had no connection with the income, the petitioner moved before this Court, vide Cr. Rev. No.9 of 2011 for release of those articles. On such application, an order was passed on

28.4.2011 that the materials mentioned in the tabular chart produced by the petitioner as also by the C.B.I be released in favour of the petitioner on executing undertaking that no part of such immovable property shall be alienated without prior permission of the court and for other instruments like securities, the Special Court may put suitable conditions. Those articles on filing application were released. However, in course of investigation, it was found by the C.B.I that the petitioner has been able to account for income of Rs.19 lacs and under that situation, an application was filed to release KVPs, IVPs, NSCs, shares, bonds and the jewellery worth Rs.19 lacs, upon which an order was passed for release of those articles but on furnishing bank guarantee of Rs.10 lacs and that order has been challenged as the petitioner would not be able to furnish bank guarantee of Rs.10 lacs in order to get the aforesaid documents released which are worth Rs.19 lacs. The condition put in by the trial court in the facts and circumstances stated above seems to be too harsh. Accordingly, order of release is modified by directing those articles be released on furnishing authenticated photocopies of the sale deeds concerning the properties belonging to the petitioner worth more than Rs.19 lacs on giving undertaking that whenever original shall be required, the same would be furnished. Let a copy of this order be communicated to the court concerned through FAX at the cost of the petitioner. Thus, this application is disposed of. Mr. Pasari, learned counsel appearing for the petitioner submits that pursuant to that order, authenticated photo copy of the sale deed was produced before the court below. In spite of that the court refused to release the articles on the premise that valuation of the properties to which sale deed was produced is worth Rs.6,50,000/- only whereas properties which were to be released are worth Rs.19 lacs. That order has been challenged in this application. It was submitted on behalf of the petitioner that sale deed is of the year 2000 wherein consideration amount has been shown as Rs.6,50,000/- but since then the value of the properties has gone up manifold. In order to substantiate it, a supplementary affidavit has been filed annexing therewith valuation report given by the Government valuer whereby the properties subject matter of the sale deed have been assessed as Rs.82,80,000/-. Upon it Mr. Khan, learned counsel appearing for the C.B.I submits that the court cannot be said to have committed any wrong as the valuation of the properties, as per the sale deed, are worth Rs.6,50,000/-. It

is true that the valuation of the properties, as per the sale deed, seems to be Rs.6,50,000/- but that sale deed is of the year 2000 whereas valuation of the properties, as per the valuation report, has gone up to Rs.82,80,000/-. In that view of the matter, let those articles which were ordered to be released, vide order dated 5.12.2011 be released in favour of the petitioner. Thus, this application stands disposed of. (R.R.Prasad, J.) ND/

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