



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. _____ OF 2026

(Arising out of SLP (Crl.) No. 7454 of 2025)

**THE STATE OF BIHAR THR.
VIGILANCE**

...APPELLANT(S)

Versus

SUDHA SINGH

...RESPONDENT(S)

With

CRIMINAL APPEAL NO. _____ OF 2026
(Arising out of SLP (Crl.)... D.No. 15698 of 2025)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

Criminal Appeal@ SLP (CrI) 7454 of 2025

2. This appeal at the instance of the State of Bihar takes exception to Criminal Appeal (SJ) No.662 of 2013, which was allowed in favour of the Respondent *herein* in terms of judgment dated 27th September 2023, setting aside attachment proceedings against the respondent on account of the fact that her husband, namely Ravindra Prasad Singh, the main accused in two FIRs viz., Vigilance P.S. Case No.52/2009 under Sections 7, 13(2) read with 13(1)(d), of the Prevention of Corruption Act, 1988¹, and 409, 201, 120-B, Indian Penal Code 1860² Vigilance P.S. Case No. 84/2009 under Sections 7, 13(2) read with 13(1)(e), P.C. Act, had passed away.

3. The period during which the husband of the respondent is alleged to have amassed disproportionate assets was between 28th June 1975 to 11th May 2009 to the tune of Rs.12,96,516/-, apart from several immovable properties and other valuables. A chargesheet was filed on 7th October 2009. The Act under which the present proceedings came to be before the High Court, came into effect on 8th February 2010. Notice was issued to both the respondent and her husband on 17th August 2012. Having

¹ PC Act

² IPC

considered the responses, the Authorised Officer, by order dated 5th August 2013 passed in Confiscation Case No.6 of 2012, ordered confiscation of the assets listed in Schedule A -1 and 2 and B of the petition. The reasoning of the Authorised Officer is as follows:

17. Now I will come to the defence, taken by O.P. No. 2 and O.P. No.1, regarding income of O.P. No. 2 generated through her skills in stitching, knitting, sewing etc. O.P. No. 2 is wife of O.P. No.1 the delinquent Govt. Servant. Admittedly she boasts of doing business in stitching, knitting, sewing etc. and earning huge amounts to the tune of Rs. 13,20,392/- during the check period and through her personal income and through other sources as detailed in para 10 and 11 of her rejoinder she invested Rs.13,16,818 out of which amounts of investment in purchase of land is Rs.9,85,700/- O.P. No.1 was a govt. servant and as such was subject to Bihar govt. Servant conduct Rules 1976 and rule 16(2) of which clearly stipulates that if any member of the Govt. servant's family is engaged in any business or trade, he will inform about the same to the govt. Further rule 19(2) enshrines that no Govt. servant shall, without prior information to the Govt. acquire any immovable properties either in his name or in name of any of his family members. /further sub rule 4 of Rule 19 stipulates that State Govt. or concerned authority may be special or general order demand/force its employees to give detail about acquisition of movable and immovable properties by him or his family members and movable properties includes life Insurance Policies, annual premium of which exceeds Rs.30,000/-. Now in this case nothing has been said about compliance of aforesaid rules by O.P. No.1. Such huge landed properties were acquired by his wife in Patna district and New Delhi

without any information to the Govt. Such huge amount of investment have been made by his wife in different L.I.C. Policies but no information was given to the govt. Sub rule (1) of Rule 19 requires that every Govt. servant on the date of his first appointment and thereafter on interval of every 12 months shall given declaration of his assets and liabilities in the prescribed form which includes declaration about both immovable and movable properties acquired by him or in name of his family members or through ancestral property. But O.P. No.1 is completely silent about compliance of the same. The O.P. No. 1 and 2 have been boasting of filing I.T. Return by O.P. No. 2 but surprisingly O.P. No. 1 is completely silent about filing of his I.T. Return or statement of income or T.D.S. (Form 16). Since he was a Govt. servant he must have been filing T.D.S. and I.T. Returns but why he has not filed any of this schedule of income tax or T.D.S. – Form 16 or I.T. Return filed by him during the check period.

18. So far as earning of O.P. No.2 is concerned only proof in respect of that is the filing of I.T. Return since F/Y 2004-05. Filing of I.T. Return or no proof of mode of earning unless it is shown that I.T. department has assessed and verified her income declaration. I agree with reply of learned Spl. P.P. that O.P. No.2 claimed to earn such huge amount during the relevant period and invest so much in L.I.C. policies. And in purchase of lands but neither the Investigating Officer found any infrastructure of the business nor any documentary proof of the business nor O.P. No.1 and 2 have filed or produced any documentary proof of the business. In confiscation proceeding only prima facie proof is required as the order passed is not final and is subject to result of the D.A. Case in the special Court as per Sec. 19 of the Act.

passed away on 18th January 2018. The Court held that the Bihar Special Courts Act, 2009³ had no provision to continue confiscation proceedings, upon the death of the public servant and as such, continuation thereof will lead to a travesty of justice. With reference to Section 19 of the BSCA, it was observed that since the Act provides that upon acquittal, property is to be returned and, in this case, proceedings were dropped, property could no longer continue as confiscated. The relevant paras of the impugned judgment are as follows:

“...Since he appellant was never accused in the case lodged under the Prevention of Corruption Act and the Deceased-appellant was the sole accused in the case, in absence of any provision to sustain the proceeding in case of death of public servant who illegally acquired the wealth disproportionate to his known source of income confiscation proceeding could not be continued. Moreover, there is no provision under the law for substitution of legal heirs or continuance of trial against opposite party when the public servant has died, such proceeding could not continue against the present appellant. Therefore, the order of learned Authorized Officer against the present appellant for confiscation of properties could not be upheld since it has not remain maintainable.”

5. The relevant provisions of the PC Act as also the BSCA are as follows:

³ BSCA

P.C. Act

“ 13. Criminal misconduct by a public servant.—1 [(1) A public servant is said to commit the offence of criminal misconduct,— (a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant or allows any other person so to do; or (b) if he intentionally enriches himself illicitly during the period of his office.

Explanation 1.—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

Explanation 2.—The expression “known sources of income” means income received from any lawful sources.]

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than 2 [four years] but which may extend to 3 [ten years] and shall also be liable to fine.”

BSCA

“CHAPTER III CONFISCATION OF PROPERTY

13. Confiscation of property.—(1) Where the State Government, on the basis of prima-facie evidence, have reasons to believe that any person, who has held or is holding public office and is or has been a public servant has committed the offence, the State Government may, whether or not the Special Court has taken cognizance of the offence, authorise the Public Prosecutor for making an application to the

authorised officer for confiscation under this Act of the money and other property, which the State Government believe the said person to have procured by means of the offence.

... ..

14. Notice for Confiscation.— (1) Upon receipt of an application made under section 13 of this Act, the authorised officer shall serve a notice upon the person in respect of whom the application is made (hereafter referred to as the person affected) calling upon him within such time as may be specified in the notice, which shall not be ordinarily less than thirty days, to indicate the source of his income, earnings or assets, out of which or by means of which he has acquired such money or property, the evidence on which he relies and other relevant information and particulars, and to show cause as to why all or any of such money or property or both, should not be declared to have been acquired by means of the offence and be confiscated to the State Government.

(2) Where a notice under sub-section (1) to any person specifies any money or property or both as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

... ..

15. Confiscation of property in certain cases.— (1) The authorised officer may, after considering the explanation, if any, to the show cause notice issued under section 14 and the materials available before it, and after giving to the person affected (and in case here the person affected holds any money or property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any other money or properties in question have been acquired illegally.

... ..

(3) Where the authorised officer records a finding under this section to the effect that any money or property or both have been acquired by means of the offence, he shall declare that such money or property or both shall, subject to the provisions of this Act, stand confiscated to the State Government free from all encumbrances: Provided that if the market price of the property confiscated is deposited with the authorised officer, the property shall not be confiscated.

... ..”

(emphasis supplied)

6. The sole question that arises for consideration is as to whether the confiscated properties in the name of a closed relative/spouse can continue to remain confiscated with the State, upon the death of the public servant?

7. We have heard the learned senior counsels appearing for the State as also the learned counsel for the respondent. The case of the State is that the High Court’s holding of proceedings of confiscation being automatically set aside on account of death of the accused is erroneous for the same does not flow from the statute. The only situations contemplated for refund of confiscated money or property are- the modification/ annulment of the order of confiscation by the High Court in appeal or the accused is acquitted by the Special Court; the position in BSCA is different and distinct from the PC Act for it provides that if the

accused public servants or family members are unable to explain the circumstances of the property being in their possession and ownership, the same are confiscated which is different from attachment during pendency of trial; confiscation proceedings are not *per se* criminal proceedings as per ***Yogendra Kumar Jaiswal v. State of Bihar***⁴ and as such the general principle of abatement of criminal proceedings upon death of the accused, will not apply; Section 15 would apply to the respondent as well. *Per contra*, the respondent's position as can be made out from the record is that the procedure provided for under BSCA is not independent of the PC Act and in the absence of any finding against the respondent's husband prior to his death, there would be a presumption of innocence in place. The factum of registration of a case against the respondent's mother-in-law, despite the fact that she had already passed away, displays a vindictive attitude of the appellant against respondents; the proceedings against the respondent would not survive since the case would not come under Section 13 of the BSCA since she was not a Government servant.

8. At the outset it must be noticed that the power of confiscation is provided for in Section 15 of the BSCA which

⁴ 2016 (3) SCC 183

postulates that an order for confiscation can be passed by the authorised officer after issuance of notice, consideration of the explanation, if any furnished and opportunity of being heard, being given to the person concerned, that is he who holds the money or properties specified in the notice, or any other person, through whom such money/property may be held. That being the plain position of law, proceedings against the respondent herein, cannot be questioned on the ground of lack of authority.

9. The question to be dealt with is, when does a proceeding before a Court of law, abate? In *Gurmail Singh v. State of U.P.*⁵, C.T Ravikumar J, observed as under:

27. The term “abatement” or “abate” has not been defined in CrPC. In the said circumstances, its dictionary meaning has to be looked into. As relates criminal proceedings going by the meaning given in *Black's Law Dictionary*, 10th Edn., abatement means “the discontinuation of criminal proceedings before they are concluded in the normal course of litigation, as when the defendant dies”. Thus, it can be seen that the meaning of “abatement” can only be taken in criminal proceedings as “discontinuation of such proceedings owing to the death of the accused/convict pending such proceedings”. In short, it would reveal that an appeal against conviction (except an appeal from a sentence of fine) would abate on the death of the appellant as in such a situation, the sentence under appeal could no longer be executed.

⁵ (2022) 10 SCC 684

28. The abatement is certainly different from acquittal and a mere glance at the proviso to Section 394(2)CrPC, will make this position very clear. The said proviso reads thus:

“Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the appellate court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.”

10. It is clear from the above pronouncement that there is a clear distinction between acquittal and abatement of proceedings. The latter takes place since the death of the accused leaves no other possibility open. It is not a comment on the merits of the matter. In the present case, the death would not let the respondent ‘*off the hook*’ since she had been proceeded against for holding the delinquent officer’s, allegedly illegally begotten property right from the time that the authorities became alive to his alleged misdeeds. Still further, we may observe that it is a settled position in law that a non-public servant can be proceeded against when the initial case is registered under Section 13 of PC Act by virtue of Section 107 of Indian Penal Code. In *P. Nallammal v. State*⁶, it has been held as follows:

“17. Thus, one of the objects of the new Act was to incorporate all the provisions to make them more

⁶ (1999) 6 SCC 559

effective. Section 165-A of the Penal Code read like this:

“165-A. Punishment for abetment of offences defined in Section 161 or Section 165.—Whoever abets any offence punishable under Section 161 or Section 165, whether or not that offence is committed in consequence of the abetment, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

18. Therefore, the legislative intent is manifest that abettors of all the different offences under Section 13(1)(e) of the PC Act should also be dealt with along with the public servant in the same trial held by the Special Judge.

...

24. Shri Shanti Bhushan cited certain illustrations which, according to us, would amplify the cases of abetments fitting with each of the three clauses in Section 107 of the Penal Code vis-a-vis Section 13(1)(e) of the PC Act.

The first illustration cited is this:

If *A*, a close relative of the public servant tells him of how other public servants have become more wealthy by receiving bribes and *A* persuades the public servant to do the same in order to become rich and the public servant acts accordingly. If it is a proved position there cannot be any doubt that *A* has abetted the offence by instigation.

Next illustration is this:

Four persons including the public servant decide to raise a bulk amount through bribery and the remaining persons prompt the public servant to keep such money in their names. If this is a proved position then all the said persons are guilty of abetment through conspiracy.

The last illustration is this:

If a public servant tells *A*, a close friend of his, that he has acquired considerable wealth through bribery but he cannot keep them as he has no known source of income to account, he requests *A* to keep the said wealth in *A*'s name, and *A* obliges the public servant in doing so. If it is a proved position *A* is guilty of abetment falling under the “Thirdly” clause of Section 107 of the Penal Code.

25. Such illustrations are apt examples of how the offence under Section 13(1)(e) of the PC Act can be abetted by non-public servants. The only mode of prosecuting such offender is through the trial envisaged in the PC Act.”

Recently, a co-ordinate bench in *P. Nallammal v. State*⁷, followed the above pronouncement and, while differing on the eventual conclusion, were *ad idiem* on the point of law.

11. That apart, Section 15 BSCA itself provides that confiscation order be made after hearing the delinquent officer or any other person through whom the property or money in question is being held. When it provides that the other person in the equation can also be prosecuted insofar as the illegitimately procured property or money is taken away, the plain requirement is that at the time of initiation of the proceedings the person on whom proceedings under Section 13 of the PC Act are to be

⁷ 2025 SCC OnLine SC 1040

initiated, must be alive and noticed about such proceedings. The death of such a person does not extinguish the fact that confiscation order has been made after hearing the parties.

12. The BSCA is a special statute, enacted by the State legislature after having received Presidential assent therefor. The Act itself provides for the situations in which the money/property confiscated thereunder can be returned to the owner, making the legislative intent fairly clear and obvious. They are: (a) modification or annulment of the confiscation order by the High Court or (b) acquittal by the Special Court. In other words, no other possibilities have been accounted for. Here itself we may deal with the argument advanced on part of the respondent that the BSCA does not provide for substitution of Legal representatives and so the proceedings cannot continue. Such a submission is entirely misconceived for the respondent had also been put to notice right at the inception of proceedings along with the delinquent officer. We are of the considered view that the only path available to High Court was to decide the respondent's appeal on merits for that route is the only one available to reach the two possibilities contemplated under this Act.

13. Consequently, the impugned judgment is set aside. The appeal is restored to the file of the High Court and the same shall be decided on merits.

Criminal Appeal @ SLP (Crl)..D.No. 15698 of 2025

Delay condoned.

1. This appeal is by the State of Bihar challenging the final judgment and order passed in Criminal Appeal(SJ) 1371 of 2022 whereby proceedings against the appellants namely Uma Devi and Amresh Kunal, were set aside on account of the fact that Naresh Paswan, the public servant/delinquent officer against whom proceedings were initiated in terms of P.S. Case No.81 of 2010 Thana-Vigilance, District-Patna, had passed away during the pendency of the appeal on 24th August 2022. In this case, the accused-delinquent officer had been convicted under Section(s) 7 and 13(2) read with 13(1)(d) of the PC Act by judgment dated 27th March 2019 passed by Special Judge, Patna.

2. The High Court proceeded on the same footing as in the case above that since the appeal of the main accused abates in their death and the Act does not provide for any provision continuing the proceedings, the same had to be set aside.

3. In view of the discussion made hereinabove in Criminal Appeal@ SLP (Crl) 7454 of 2025, the judgment of the learned Single Judge, impugned herein is also set aside. The High Court shall decide the appeal on merits. The same is restored to the file of the Court.

In view of the above, both the appeals are allowed. Pending application(s), if any, shall stand closed.

.....**J.**
(SANJAY KAROL)

.....**J.**
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;
March 20, 2026