



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on : 02.11.2023

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Pronounced on : 30.01.2024

+ **W.P.(CRL) 623/2023**

CENTRAL BUREAU OF INVESTIGATION

..... Petitioner

Through: Mr. Anupam S. Sharma, SPP for CBI
with Ms. Harpreet Kalsi, Mr.
Prakarsh Airan, Mr. Ripudaman
Sharma, Mr. Abhishek Batra and Mr.
Vashisht Rao, Advocates.

versus

STATE

..... Respondent

Through: Mr. Rahul Tyagi, ASC for the State
with Mr. Sangeet Sibour, Mr. Jatin
and Mr. Ashish Chojar, Advocates.
Ms. Aanchal Budhiraja, Advocate for
Intervener.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

JUDGMENT

RAJNISH BHATNAGAR, J.

1. By way of this judgment I shall dispose of the present writ petition filed on behalf of the writ petitioner-CBI under Article 226 of the Constitution of India read with Section 482 Cr.P.C.
2. The instant writ petition has been filed against the order dated 18.11.2022 passed by Learned Special Judge CBI-018, New Delhi whereby the application filed by the CBI seeking certified copies of the documents was dismissed.



3. Heard.
4. Records perused.
5. During the course of the arguments, learned SPP for the petitioner-CBI submitted that the documents sought by the CBI were filed before the learned Special Judge in connection with the FIR/RC-33(A)/2016/CBI/ACB/Delhi and the application was filed before the Ld. Special Judge in this regard wherein it was prayed that the documents be supplied for investigation purposes in connection with the another FIR/RC-DAI-2022-A-0051-CBI-ACB-DLI. He further submitted that once documents seized by the Investigating Officer in one case and have been forwarded to the Court, such documents are considered to be in the custody of the Court and permission of the Court where the said documents are lying is required for taking over such documents in another case for investigation purpose. He further submitted that files 0.53 DAV and 0.55 DAV are concerned with videography of the scene of the crime and Rule 14.16 of the CBI (Crime) Manual, 2005 (now Rule 9.9 of the CBI (Crime) Manual, 2020) that the crime scene should be photographed as well as videographed as far as possible during the course of investigation such as pre-trap and post-trap proceedings specifically to cases of disproportionate assets. He further submitted that it is mandatory that search proceedings should also be videographed in order to enable the Court to appreciate the evidence collected by CBI.
6. Learned SPP for the petitioner-CBI submitted that it is trite that the accused has to be provided with even a list of unrelayed documents at the time of supply of documents under section 207 Cr.P.C. hence,



for all purposes in case those unrelayed documents are required for the purpose of investigation/trial in another case, the same, as a matter of propriety, should be included in the investigation of the other case only with the permission of the Court. It was further submitted that the present FIR i.e. RC-DAI-2022-A-0051-CBI-ACB-DLI involves the issue of disproportionate assets which require details of verified movable and immovable assets, the value of assets based on purchase price which should be supported by documentary of other credible evidence at the time of their acquisition, income under different heads during check period and the progressive expenditure during the check period. He further submitted that investigation in a case involving disproportionate assets mandates the thorough examination of documents and the documents so sought by Petitioner-CBI forms the bed rock and foundation for the investigation in the present case FIR/RC-33(A)/2016/CBI/ACB/Delhi. Thus, it was prayed that the impugned order dated 18.11.2022 passed by Ld. Special Judge (PC Act) (CBI)-18, Rouse Avenue District Courts, New Delhi be set aside as it will create hassles in the investigation.

7. I have the perused the impugned order dated 18.11.2022 and the records of the case. A bare perusal of the impugned order shows that Trial Court has taken the view that CBI official during the course of the proceedings has copied the court CD in their official laptop and has observed that it would not be appropriate to *de-seal* a material document in connection with other case. Trial Court has further observed that the CBI is already in possession of the complete set of



documents. In my opinion, the acquisition of documents directly from the court records is essential for ensuring the highest level of authenticity in legal proceedings. Such an approach guarantees an unimpeachable source of documentation, thereby mitigating any potential prejudice that may arise in the case of either party. Certainly, obtaining documents from the court records not only upholds the integrity of the legal process but also ensures a fair and impartial adjudication, free from any undue influence or bias.

8. For proper adjudication, it would be appropriate to look into Rule 14.16 of the CBI (Crime) Manual, 2005 (now Rule 9.9 of the CBI (Crime) Manual, 2020). The same reads as under :

“Photographing/Videographing the Scene of Crime/Trap/Search Proceedings

As far as possible, the crime scene, steps during the course of investigation such as pretrap and post-trap proceedings, search proceedings should be photographed as well as videographed. In case, the photographs are taken by conventional method, the negatives must be preserved. In the event of digital still photography and videography, the images may be downloaded/transferred, in the presence of witnesses, to a ‘write only’ compact disk (CD) or ‘writeonly’ digital video disk (DVD) for preservation. This would prevent the independent witnesses turning hostile during the course of trial. In all important cases of disproportionate assets/recoveries, search proceedings should also be videographed so that the Court may appreciate the evidence collected by CBI about the luxurious lifestyle of the accused or the circumstances under which a particular recovery was made. A



memorandum be prepared to this effect by the I.O. on the spot in the presence of witnesses.”

9. It is also pertinent to note here that investigation in a case involving disproportionate assets mandates the thorough examination of documents as per the CBI manual referred by the learned SPP. One cannot lose sight of the fact as submitted by learned SPP that the CBI's probe rests upon the foundation of the documents that the petitioner-CBI is seeking and obtaining those documents through a legitimate process cannot be questioned at any stage, as all the required documents form the part of Court record.

10. Therefore, in view of the above the present writ petition is allowed and the order dated 18.11.2022 passed by Learned Special Judge CBI-018 is hereby set aside and concerned Trial Court is directed to supply the documents mentioned in "ANNEXURE-E" in the present petition (page nos. 168-171) and the petitioner-CBI is at liberty to prepare an investigation copy from the Court Compact Disc dealing with files 0.53 DAV and 0.55 DAV.

11. With the above observations the present writ petition is disposed of along with pending application(s), if any.

12. Needless to state that the present judgment is passed looking into the peculiar facts and circumstances of this case and the same shall not have any precedential value.

RAJNISH BHATNAGAR, J

JANUARY 30, 2024/p