

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Judgment reserved on 22-2-2017****Judgment delivered on 16-5-2017****CRR No. 47 of 2016**

1. Alok Kumar Agrawal S/o Shri Radheshyam Agrawal Aged About 44 Years Presently R/o Opposite Tejaswani Girls Hostel, Parijat Extention, Nehru Nagar, Bilaspur, Chhattisgarh. Permanent R/o M I G 1, Housing Board Colony, Jai Stambh Chowk, P.S. Umariya, District Umariya, Madhya Pradesh.
2. Pawan Kumar Agrawal S/o Shri Radheshyam Agrawal Aged About 46 Years R/o Saket Extension, Q. No. L 101, Near Agrasen Chowk, Bilaspur, Distt. Bilaspur, Chhattisgarh.
3. Abhish Swami S/o Shri Krishnanand Swami Aged About 43 Years R/o B F 1, Archana Vihar, Nehru Nagar Road, Bilaspur, Chhattisgarh. Permanent R/o Aawas Yojna Colony, Camp & P.S. Umaria, District Umaria, Madhya Pradesh (Wrongly Mentioned As Chhattisgarh).
4. Radheshyam Agrawal S/o Late Shri Puranmal Agrawal Aged About 68 Years Opposite Tejaswani Girls Hostel, Parijat Extention, Nehru Nagar, Bilaspur, Chhattisgarh.
5. Smt. Pushpadevi Agrawal W/o Radheshyam Agrawal Aged About 65 Years Opposite Tejaswani Girls Hostel, Parijat Extention, Nehru Nagar, Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Station House Officer, Economic Offences Wing, Raipur, Chhattisgarh.
2. State Economic Offences Wing (E O W), Opposite Jai Jawan Petrol Pump, Telibandha, Raipur, Chhattisgarh. Through Its Superintendent Of Police.

---- Respondent

For Petitioners	Shri K.A. Ansari, Sr. Adv. with Shri A.K. Yadav, Advocate
For Respondent/State	Shri U.N.S. Deo, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

CAV Order

1. Petitioners would pray for setting aside the order passed by the trial Court on 5-1-2016 rejecting their application under Sections 91, 207 & 227 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') seeking documents which are referred in the charge sheet.
2. The petitioners are facing trial before the Special Court (PC Act) for committing offence under Sections 109, 420, 467, 468, 471 & 120-B of the IPC and Sections 13 (1)(e) read with Section 13 (2) of the Prevention of Corruption Act, 1988 on the allegation that petitioner Alok Kumar Agrawal, the Executive Engineer, Water Resources Department (WRD), Government of Chhattisgarh, in conspiracy with other accused, forged documents & records and thereby misused and abused his official position and not only caused financial loss to the Government but also amassed huge wealth to the extent of more than Rs.30.00 crores by corrupt and illegal means.

3. In the raid conducted by the prosecution in the premises of co-accused Abhish Swami, he was found to be in possession of the fixed deposits and bank accounts in the name of wife of Alok Agrawal. He was also found to possess cash of Rs.35.00 lakhs. It is said that co-accused Abhish Swami is the childhood friend of the main accused Alok Agrawal. He was working as Head Master, Umaria, M.P. from the year 1999-2011. However, he resigned from the service to be a contractor in the State of Chhattisgarh. He got himself registered as Contractor in the WRD by submitting false experience certificate that he is engaged in construction business since 2009, which was not possible because till 2011 he was working as Head Master. The said Abhish Swami obtained registration in the name of Sagareshwar Construction whereas another concern was opened by co-accused Pawan Kumar Agrawal in the name of Mahamaya Construction. Both the construction firms were opened to channelize the ill-gotten money amassed by Alok Agrawal. From his bank locker, 1 kg. golden ornaments and 5 kg. silver ornaments have also been recovered. The allegation against the main accused Alok Agrawal is of amassing total assets of Rs.49.00 crores, out of which the unexplained assets are to the tune of Rs.31.23 crores.

4. In course of trial the petitioners have moved the subject application praying for supply of documents mentioned at S.No.1 to 250, 1 to 26 and 1 to 15 on the ground that such documents which are referred in the charge sheet are mandatorily be supplied to the accused persons.
5. Petitioners' counsel would refer to the judgment rendered by this Court in **Murari Prasad Awathi v. State of C.G.**¹ to argue that the petitioners are entitled to copies of all the documents mentioned in the application, however, the provisions contained in the second proviso to Section 207 of the Cr.P.C. cannot be ignored, which says that if the Magistrate is satisfied that any document referred to in clause (v) of Section 207 is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.
6. Admittedly, the charge sheet in the present case is voluminous, therefore, the trial Court has not committed any error of jurisdiction while holding that since the trial has not begun as charges are yet to be framed, therefore, the application is rejected at this stage.

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7. Complete reading of the trial Court's order would clearly indicate that liberty has been reserved in favour of the petitioners to move the application again because the trial Court has rejected the application at this stage.
8. In view of the above, the present criminal revision challenging the order passed by the trial Court rejecting the petitioners' application under Sections 91, 207 & 227 of the Cr.P.C. has no merit.
9. In the result, the criminal revision is liable to be and is hereby dismissed, keeping intact the liberty granted by the trial Court in their favour.

Sd/-

Judge
Prashant Kumar Mishra

Gowri