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

+ **CRL.M.C. 4706/2017**

NEERAJ SINGHAL

..... Petitioner

Through: Mr. RS Cheema, Sr. Adv. with Mr.
PK Dubey, Mrs. Ranjana Roy, Mr.
Rohan Gupta, Mr. Karan Kakkar, Mr.
Anuraj Andley, Advs.

versus

CBI

..... Respondent

Through: Ms. Rajdipa Behura, SPP for CBI
with Mr. Philomon Kani, Ms. Kriti
Handa, Mr. Vignaraj Pasayat, Ms.
Hansika Sahu, Ms. Damini K, Advs.
SI Sumit Gupta, CBI.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **15.11.2017**

Crl. M.A. 18733/2017

Exemption allowed, subject to just exceptions.

Crl. M.A. No. 18732/2017

This is an application filed on behalf of petitioner seeking direction for preservation of the documents sought for by the petitioner with (medical record of the petitioner from 07.08.2014 to 12.08.2014) stated to be in custody till disposal of the petition.

It is submitted by the Standing counsel appearing for the CBI that as per instructions received by her, all the said medical documents in relation to the medical examination of the petitioner have already been preserved.

In view of the said submissions made on behalf of the CBI no further directions are required qua the said application

The application is disposed of.

CrI.M.C. 4706/2017

Vide the present petition, the petitioner assails the order dated 25.07.2017 and 19.09.2017 passed by the learned Special Judge, PC Act, CBI-05 in CC No. 34/16, declining the applications filed by the petitioner under Section 91 of the Cr.PC seeking summoning of the entire records of the medical examination conducted while he was in police custody from 02.08.2014 to 12.08.2014 and seeking the preservation of the said record of the medical examination whilst he was in police custody from 07.08.2014 to 12.08.2014 observing *inter alia* to the effect that the applicant/petitioner had not disclosed the contents and nature of the documents ought to be summoned and as to how the said documents would affect his defence and also that the CBI whilst opposing the said application submitted to the effect that it was not relying upon the medical report which had no relevance to the trial of the case.

During the course of submissions that have been made on behalf of the petitioner, the attention of the Court has been drawn to Section 54(3) of the Cr.PC, 1973, which provides as follows:

“Section 54(3); Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the

person nominated by such arrested person.”

and on the verdict of the Hon’ble Apex Court in ***D.K. Basu Vs. State of West Bengal*** in (1997) 1 SCC 416, with the specific reliance on observations in para 35 of the said verdict which are to the effect

““We therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention till legal provisions are made in that behalf as preventive measures :

(1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness. who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest. (3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up,

shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee. (4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.

(5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon he is put under arrest or is detained.

(6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestee is.

(7) The arrestee should, where he so requests, be also examined at the time of his arrest and major

and minor injuries, if any present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.

(8) The arrestee should be subjected to medical examination by trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory. Director, Health Services should prepare such a panel for all Tehsils and Districts as well.

(9) Copies of all the documents including the memo of arrest, referred to above, should be sent to the illaka Magistrate for his record.

(10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.

(11) A police control room should be provided at all district and state headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice

board.”,

whereby vide paragraph 35 Sub Clauses 7,8 and 9 thereof, it has been specifically directed, that copies of all the documents including the memo of arrest, referred to above including the medical examination as per para 35 of the said verdict should be sent to the Ilaka Magistrate for his record.

Thus, it is apparent that the said records of medical examination of the accused have essentially to be preserved and copies thereof have to be sent to the Ilaka Magistrate.

In terms of Section 54(3) of Cr.PC, 1973, the accused arrested is entitled to copies of all records of medical examination conducted on his person and thus it is apparent that the petitioner is entitled to the copies of the medical records of all the medical examinations conducted on his person whilst he has been in police custody from 07.08.2014 to 12.08.2014. Thus, the CBI is directed to supply the copies of the said medical record in the Court of Special Judge, PC Act (CBI)-05 within a period of 5 days from today and the Special Judge, PC Act (CBI)-05 is hereby directed to supply the certified copies thereof to the petitioner on an application to that effect being filed by the applicant/petitioner. The petition is disposed of accordingly.

A copy of the order be given *Dasti*.

ANU MALHOTRA, J

NOVEMBER 15, 2017

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