

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No.M-7387 of 2015 (O&M)
Date of Decision: September 26, 2018**

Amresh Jain

...Petitioner

VERSUS

Central Bureau of Investigation

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Hemant Bassi, Advocate
for the petitioner.

Mr.Samir Rathaur, Advocate for
Mr.Sumeet Goel, Standing Counsel
for respondent-CBI

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 482 Cr.P.C. for quashing of order dated 24.02.2015 passed by learned Special Judge, CBI, Patiala and application dated 23.02.2015 may kindly be allowed and officials mentioned in the application may kindly be ordered to be summoned along with relevant record mentioned therein to enable the petitioner to effectively cross-examine the Investigation Officers namely Sh.H.R.Chopra and Sh.Surinder Paul.

Notice of motion was issued. Learned counsel for the respondent-CBI appeared and contested the petition.

I have heard learned counsel for the parties and have gone

through the record.

From the record, I find that an application was filed by the petitioner-accused at the time of examination-in-chief of PW-8 H.R.Chopra, Investigating Officer, to summon official record etc., for his cross-examination as well as cross-examination of another witness Surinder Paul, who is yet to be examined. It is written in the application that Sh.H.R.Chopra and Sh.Surinder Paul have been summoned for evidence and it is stated that for effective cross-examination of the aforesaid PWs, accused wants to summon below mentioned witnesses along with record as under:-

“2. It is submitted in the application that the defence needs to summon concerned officials alongwith records mentioned in sub para 3(a) to 3(q) for carrying out effective cross examination of both the aforesaid prosecution witnesses. The defence has sought to summon/prove following witnesses/documents for effectively carrying out the cross examination of aforesaid witnesses.

a) Official concerned of IPS-IV section, Room No. 220, North Block, Ministry of Home Affairs, GOI, along with complete record of (DAF, Executive Records (ER) Sheet and other recruitment records of Dr. R.K.Garg, son of Shri Het Ram Garg, IPS, 1986, MP Cadre).

b) Official concerned of office of the Sub Registrar, Chandigarh estate office building, Sector 17, Chandigarh along with complete record of (GPA executed by Shri Het Ram Garg registered at S.No. 3692, Book No.4, Volume No. 247, Page No. 41 on 27.9.2002 wrt. House No. 1506, Gali No.2, Naibasti, Bhatinda.

c) Official concerned of Police Station, Sector 26, Chandigarh along with complete record of registration, investigation and result of (FIR No. 207 dated 5.10.2001 registered by Sh. Satish Goel son of Shri Chaman Lal, businessman, M/s Industrial equipment Company SCO No. 58 Sector 26, Madhya Marg, Sector 26, Chandigarh.

d). Official concerned of the Court of Civil Judge, Senior Division, Chandigarh along with complete record of filing, proceedings and disposal of Civil Suit No. 13/2002 dated 9.1.2002 filed by M/s Indusrial equipment Company, 183,

Industrial Area, Phase-II, Chandigarh).

e). Official concerned of the office of Superintendent of Police, CBI, Sector 30A Chandigarh along with complete record of registration of (FIRs RC Nos.j 08 and 09 both dated 21.2.2002 by SP, DSPE, CBI,. Chandigarh).

f) Official concerned of the office of Superintendent of Police, CBI, Sector 30A, Chandigarh along with complete record of (PE(Preliminary Enquiry) Registration along with Register and Report submitted as per CBI Manual before registration of FIRs RC Nos. 08 and 09 both dated 21.2.2002 by SP, DSPE, CBI, Chandigarh.

g) Official concerned of the office of Superintendent of Police, CBI, Sector 30A, Chandigarh along with complete record of (all records by Sh. H.R.Chopra DSP, CBI, Sector 30A, Chandigarh made under section 165(1) Cr.P.C on 21.2.2002 at 7.00 PM for dispatch to the magistrate or the Special Judge, regarding FIRs RC Nos. 08 and 09 both dated 21.2.2002 by SP, DSPE, CBI, Chandigarh.

h) Official concerned of the office of income tax department, SCO 132-33, Sector 34A, Chandigarh along with complete record of (valuation report F. No.VO/CHD/MISC/02-03/571 dated 28.11.2002; reference— Con/CBI/CHD/02-03/145 dated 14.5.2002. prepared by Valuation officer OM PARKASH and forwarded to Sh. H.R.Chpra, DSP, CBI, Sector 30A by letter dated 28.11.2002).

I). Official concerned of the office of the Assistant Commissioner of Income Tax Circle 1(1), Chandigarh along with complete record of (Assessment Order dated 10.11.2004 passed under section 143(3) of IT Act by Sh. Pradeep Kumar Meel, ACIT against M/s Gopal Engineering 183, Industrial Area-II, Chandigarh; PAN; AAAFG7016N).

J) Official concerned of the Court of Special Judge, CBI, Chandigarh, along with complete record of (Order dated 19.1.2004 passed by Special Judge in case No. 106 instituted on 21.2.2002 in case of CBI Vs. Arun Kumar Singhal son of Manoj Kumar).

k). Official concerned of the office of DIG of Police, CBI, Sector 30A, Chandigarh along with complete record of (Representation dated 25.10.2004 received by PA to DIG on 26.10.2004, Representation dated 25.10.2004 received by O/o Director CBI, CGO Complex, Lodhi Road, New Delhi on 27.10.2004 and Representation dated 6.12.2004 received by O/o DIG, Chandigarh).

l) Official concerned of the office of DIG of Police, CBI, Sector 30A, Chandigarh along with complete record of (letter No. DPCHG2004/8630/RCCHG2002A0008 dated 20.10.2004 of DIG CBI Chandigarh sent to DG(Vigilance), CBEC, 4th floor, Jeevan Deep Building, parliament Street, New Delhi along with enclosures).

m). Official concerned of National Academy of Customs Excise and Narcotics along with complete record (F.No.VI/RTI/Estt./35/20/2011/14184 dated 18.10.2011 and F.No.(7) 5/2011-NACEN/14174 dated 18.10.2011).

n) Official concerned of Office of the Income Tax Officer 1(i) Indore "Aayakar Bhawan (Annexure)" Room No. 202, 2 nd floor, Residency Area, Opp. White Church, Indore along with complete record (F.No. ITO-1(1)/Ind/RTI/08-09 dated 20.6.2008).

o) Official concerned of Office of the ITAT (Income Tax Appellate Tribunal) Indore, First Floor, CGO Bhawan, Shivajichoraha, AB Road, Indore 452001 along with complete record (ITA No. 307/IND/2004; AY: 2000-01 and ITAT order dated 22.11.2007).

p) Official concerned of office of the Divisional Deputy Commissioner Commercial Tax, Division, 3 Indore 452001 along with complete record (Revision Order No. 59/07 dated 20.12.2007 passed by MP Chowrasia DC in the case of URD HUF MOTILAL BIMAL Chand Jain).

q) Official concerned of office of the Additional Commercial Tax Officer, Circle0- 9, Indore 452001 along with complete record (Assessment order No. 179/2005 dated 26.5.2007 passed by UPS Chauhan Addl. CTO in the case of URD HUF MOTILAL BIMAL Chand Jain)."

It is further stated in the application that summoning of aforesaid officials along with complete record is very much necessary for just and effective cross-examination and for just decision of the case. Learned trial court, vide detailed impugned order dated 24.02.2015, by discussing each and every fact, dismissed the application.

I have gone through the record, especially the impugned order passed by learned Special Judge, CBI, Patiala. The order passed by learned

trial Court is correct and as per law. In no way, this order can be held as illegal or against the law. Nothing has been mentioned in the application filed by the accused-petitioner that what is the relevancy of the record and witnesses, which he wants to summon in this case. Secondly, nothing has been mentioned with which statement or document, the accused wants to contradict the witnesses or cross-examine them. No certified copies of the documents have been obtained with which the accused-petitioner wants to contradict the witnesses. The application is totally vague and it looks that it has been filed only with the purpose of delaying the trial against the accused-petitioner.

From the perusal of the impugned order, I find that charge in this case was framed in the year 2006 and 20 witnesses are still be examined. Learned trial Court has rightly held that accused can produce the defence evidence at the relevant time to prove his defence. Nothing is mentioned as to why this record is relevant and which document, the accused wanted to put to the witnesses nor certified copies of all these documents have been obtained.

In view of the above discussion, I find that the application filed by the accused-petitioner is vague and has only been filed to delay the trial. The impugned order dated 24.02.2015 passed by learned Special Judge, CBI, Patiala, is correct, as per law and does not require any interference from this Court and the same is upheld.

Therefore, finding no merit in the present petition, the same is dismissed.

It is, however, observed that as the trial is pending and charge

has been framed in this case in the year 2006, therefore, learned trial Court

is directed to expedite the trial and cross-examination be got completed without giving any further adjournments to the defence counsel and by adjourning the case on day-to-day basis. If any other application is filed by the accused, the same may be decided by conducting day-to-day proceedings, as per law.

September 26, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No