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

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Judgment delivered on: 27.07.2018

+ CRL.M.C. 2646/2018

OM PRAKASH CHAUTALA

..... Petitioner

versus

THE CENTRAL BUREAU OF INVESTIGATION Respondent

Advocates who appeared in this case:

For the Petitioners : Mr. Harsh K. Sharma with Ms. Viabhavi Sharma, Mr. Vivek Punia and Mr. Rohit Gaur, Advocates.

For the Respondent: Ms. Rajdipa Behura, Spl.P.P. for CBI with Mr. Philomon K., Ms. Kriti Handa, Ms. Damini K., Ms. Hansika Sahu, Advocates with SI Anil Kapoor.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

27.07.2018

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner impugns order dated 03.05.2018, whereby, the application of the petitioner for summoning of the additional defence documents and witnesses has been declined.

2. Learned counsel for the petitioner submits that the prosecution took nearly seven years for concluding the prosecution evidence. He

submits that the statement in defence of the petitioner under Section 313 Cr.P.C. was recorded on 16.01.2018 and during the course of preparation of the defence evidence, it transpired that these documents and witnesses were necessary for the defence of the petitioner. It is further submitted that no benefit would accrue to the petitioner by delaying the trial as the petitioner is in custody.

3. The Trial Court has rejected the application of the petitioner on the premise that no explanation was rendered as to why such an application was not moved at the earliest opportunity. Trial Court further held that the defence could always produce the certified copies of the documents and did not require any assistance of the Court for production of the said evidence.

4. The additional documents that the petitioner had sought production of are records of case FIR No.34/97, Police Station Sadar Dabwalia and of the consequent proceedings emanating from the said FIR as well as production of officers is connected with the said FIR. The petitioner has further sought production of certain revenue records of village Chautala and some individuals who are to prove certain documents pertaining to the said land as well as the partnership of the petitioner.

5. Perusal of the documents sought by the petitioner and list of witnesses sought to be produced by the petitioner shows that they are the records in custody of public authorities and most of the witnesses

are public officials. The fact that the petitioner can produce certified copies of the record would not suffice as the petitioner, in any case, would be required to summon the original records for proving the certified copies. The petitioner is, admittedly, in custody so no benefit would accrue to the petitioner in case the petitioner is permitted to summon the record as well as the witnesses sought for.

6. Further, it is noticed that the prosecution evidence took approximately seven years and the petitioner had stepped into the witness box only in January 2018 and moved the application in April 2018.

7. I am of the view that no prejudice would be caused to the prosecution in case the petitioner is permitted to summon the record as well as the witnesses.

8. In view of the above, the impugned order dated 03.05.2018, insofar as it relates to the rejection of the application for summoning of the additional defence documents and witnesses, is set aside. The application is allowed. The Trial Court shall summon the record and witnesses sought for in the application.

9. The petition is disposed of in the above terms.

10. Order Dasti under the signatures of the Court Master.

JULY 27, 2018/st

SANJEEV SACHDEVA, J