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

+ **CRL.M.C. 1412/2015**

**SOCIAL ENGINEERING THROUGH EDUCATION AND
RESEARCH TRUST**

..... Petitioner

Through: Mr. Harsh K Sharma, Ms. Vaibhavi
Sharma, Mr. Rohit Gaur, Mr. Vivek
Punia and Mr. Pulkit Jain, Advocates

versus

THE CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Narender Mann, SPP with Mr.
Manoj Pant, Advocate
Insp. Sandeep Tiwari, AC-II/CBI

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **28.08.2018**

During the course of investigation, into the case RC No.2(A)/2005-ACU.V/CBI/NEW DELHI involving offences u/s. 109 IPC r/w. 13(20 r/w. 13(1)(e) of PC Act, 1988 and Section 120-B r/w. 467, 471 IPC, the Central Bureau of Investigation (CBI), through its Investigating Officer, had carried out search of house of one Akhand Pratap Singh in House No. 1/9 and 1/10, Gaumati Nagar, Lucknow (UP) on 21.03.2005 and seized, besides other incriminating material, three brief cases which were found to contain cash collectively of the value of Rs. 20,48,950/- in addition to a laptop.

The investigation into the said FIR has since been completed and charge sheet filed in due course in the Court of Special Judge,

New Delhi seeking trial of the said Akhand Pratap Singh on the charge primarily of he having acquired assets disproportionate to his known sources of income, for the offences under Section 13(2) read with Section 13 (1)(e) of the Prevention of Corruption Act, 1988 and Sections 109/128/467/471 of IPC, 1860. It appears that the trial against Akhand Pratap Singh is presently pending charge having been framed against him, the prosecution in the midst of adducing its evidence.

While the case against Akhand Pratap Singh was still at the stage of consideration of charge, the present petitioner had moved an application before the Special Judge in August, 2009 seeking release, *inter alia*, of the laptop and the aforementioned cash amount besides de-freezing of certain accounts. The prayer for de-freezing the accounts is stated to have been suitably dealt with by a separate order of the Special Judge. On the question of release of the cash amount, the Special Judge declined to pass any orders disposing the application to that effect by order dated 30.09.2014, which has been assailed here.

It appears that the Special Judge had reasons to suspect that the application on behalf of the trust has been engineered by the accused (Akhand Pratap Singh), there being some commonality between the counsel representing each of them.

At the hearing, the learned counsel representing the CBI fairly conceded that neither the abovementioned laptop nor the cash amount as aforesaid, are “case property” or evidence relied upon in any

ongoing trial against any individual. The learned counsel further submitted that the CBI is ready and willing to restore the possession of the aforementioned property to the rightful owner provided an appropriate application is moved in that regard, the claim, if any of Akhand Pratap Singh, from whose possession the seizure was made, also to be considered at the time of consideration of such request. The reference in this context is made to the provision contained under Section 457 of the Code of Criminal Procedure, 1973 (Cr.P.C).

The counsel for the petitioner submitted that he may be permitted to withdraw the present petition and he may instead be given liberty to move an application under Section 457 Cr.P.C. inasmuch as it has been conceded that the aforementioned properties have not been relied upon as evidence or as case property in any criminal case.

The petitioner will have the liberty to move such an application as aforesaid. In the event of such application being moved, the concerned criminal Court will be obliged to hear not only the CBI, but also take the response of the person from whose custody and control the said properties are shown to have been recovered.

The petition is dismissed as withdrawn.

Dasti, as prayed.

R.K.GAUBA, J.

AUGUST 28, 2018

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