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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 9th August, 2018

+ CRL.M.C. 4798/2015

MAUSUMI BHATTACHARJEE Petitioner
Through: Mr. C. Rajaram & Ms. Shashi
Panwar, Advs.
versus

STATE Respondent
Through: Mr. Mukesh Kumar, APP for
the State.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing proceedings in a criminal case arising out of FIR No. 41/2000 of police station Punjabi Bagh involving offences punishable under Sections 406/420/120 B of the Indian Penal Code, 1860 (IPC) registered on the basis of charge-sheet which was submitted upon conclusion of investigation. The case is at the stage of consideration of charge. She had moved an application under Section 91 of the Code of Criminal Procedure, 1973 (Cr.P.C) seeking direction to the investigating agency to bring on record certain documents which she claimed had been seized from her possession, her contention, *inter alia*, being that she had resigned from the Ram Charitable Trust, Jaipur in whose name certain memorandum of undertaking (MOU) had been entered upon by the complainant with one Anand Prakash Khandelwal later on 01.11.1994. The investigating

agency submitted a reply upon consideration of which the Metropolitan Magistrate made certain further inquiries in the course of which Mr. Ajit Singh, Assistant Commissioner of Police (ACP) submitted a report dated 01.12.2014. According to the said report, the notice under Section 91 Cr.P.C. pursuant to which documents had been handed over, had been issued by the then investigating officer Inspector Virender Singh. ACP Ajit Singh thus informed the Metropolitan Magistrate that it is the said investigating officer who would have to submit a reply in such regard. The Metropolitan Magistrate did not hold any further inquiry and, instead, by order dated 21.09.2015, rejected the prayer of the petitioner on the grounds that there was no plausible explanation offered as to why the request to above effect had been moved thirteen years after the documents had been handed over.

2. Aggrieved by the short-shrifting of her prayer, the present petition has been filed under Article 227 of the Constitution of India read with Section 482 Cr.P.C. for necessary directions.

3. The State, in answer to the petition at hand, has submitted a reply dated 08.09.2016 under the signatures of the ACP Vikram Singh Rana. In the said reply, it takes a position that inquiries have been made in the course of which Inspector Virender Singh, the then Investigating Officer, has testified that no such documents were handed over to him by the petitioner and only certain photocopies were made available and seized vide memo dated 02.05.2001. The documents thus seized pertain to income-tax return of the petitioner

for the assessment year 1995-96, auditor's report with balance-sheet as on 31.03.1995 and copy of the bank statement of account no. SB-8457 of Vijay Bank, Bhikhaji Cama Place.

4. The reply to the petition is based on an internal probe by the investigating agency. The fact remains that in answer to the application moved by the petitioner, a very vague position was taken by ACP Ajit Singh, he having informed the Court that it was Inspector Virender Singh who would be in a position to throw light on the matter. Instead of calling the then investigating officer, Inspector Virender Singh, the Metropolitan Magistrate chose to dismiss the application simply on account of delay which was not correct or proper.

5. In the foregoing facts and circumstances, it is directed that the Metropolitan Magistrate shall summon Inspector Virender Singh (now ACP) and all the relevant records and hold an inquiry to return clear findings as to what documents were handed over or seized by the investigating agency pursuant to the notice under Section 91 Cr.P.C. dated 17.04.2001. If any documents, other than the ones referred to the above, were also seized, the person in custody will be held accountable and called upon to produce the same.

6. With these observations and directions, the petition is disposed of.

R.K.GAUBA, J.

AUGUST 09, 2018/nk