

CRL.MP.No.4799/2019

IN

CRL.RC.NO.457/2018

A.D.JAGADISH CHANDIRA, J.,

The above petition has been filed by the petitioner seeking for a direction to the respondent herein to return the documents seized by them on 03.07.2018 as per the list drawn on 03.0.2018 at Indian Overseas Bank, Sowcarpet Branch, Chennai.

2 The petitioner, in the affidavit filed in support of the above miscellaneous petition, would aver that the respondent/CBI, conducted searches on 15.12.2010 in the premises of the petitioner, on account of the investigation relating to the 2G Spectrum case vide Search-cum-Seizure Memo dated 15.12.2010 and during such search, the respondent seized Key No.454 relating to the Bank Locker No.456, maintained in the Indian Overseas Bank, Sowcarpet Branch, Chennai. It is further averred by the petitioner that he had filed an application in CC.No.1/2011 before the Court of Special Judge for CBI [2G Spectrum] Cases, Patiala House Courts, New Delhi, on 26.09.2016 for the release of the locker and for the return of the locker key. The learned Judge, vide order dated 18.10.2016, disposed of the application by holding that the same is not

maintainable on the ground that an application has been filed by the CBI, Chennai, seeking transfer of papers relating to the seizure of the locker of the petitioner to CBI as no investigation is pending in connection with the locker relating to 2G Spectrum and that the investigation relates to some other case pending at Chennai, in connection with the same locker and further held that the said Court has not jurisdiction relating to the release of papers of the locker in question as the same does not relates to the trial of the 2G Spectrum Case.

3 The petitioner would state that he had filed an application in CrI.MP.No.1469/2017 u/s.457 Cr.P.C., for the release of the locker in question before the learned VIII Additional Principal Judge, CBI Court, Chennai. However, the learned Judge, vide order dated 31.072017, had dismissed the petition on the ground that the investigation was under progress and that no Final Report has been filed and the release of the locker will affect the just and proper investigation of the case and held that the petitioner is not entitled for the return of the locker key. Challenging the said order, the petitioner filed CrI.RC.No.457/2018 before this Court and this Court, after hearing both parties, had disposed of the revision on 16.04.2018, by issuing directions, viz., that the locker No.456 at the Indian Overseas Bank, Sowcarpet Branch, Chennai, in the name of

the petitioner shall be opened in the presence of the petitioner, an officer of CBI and the Bank's representative and that the inventory shall be drawn thereof and the documents or materials which are required for investigation shall be retained by CBI and that the remaining documents/materials shall be returned to the petitioner along with the key of the said locker. A further direction was issued to the petitioner to use the said locker for his legal purposes. It is further averred that pursuant to several representations, the locker was opened on 03.07.2018 and that inventory of the documents were taken bearing Sl.Nos.1 to 102. The gold jewels were taken inventory under Sl.Nos.1 to 95. Though the respondent returned all the gold jeweleries, failed to return the documents. The grievance of the petitioner is that the documents retained by CBI relate to his family properties, LIC Policies, Tax Savings Bonds etc., and the documents are in no way connected with the investigation being conducted by the respondent in connection with the case in Regular Case Rc MA1 2015 A 0037, which was registered u/s.13[2] read with 13[1][e] of the Prevention of Corruption Act, 1988, and u/s.109 IPC r/w. 13[2] r/w 13[1][3] of the Prevention of Corruption Act, 1988. The further grievance of the petitioner is that retaining the documents by the respondent which are irrelevant to the investigation in the above said crime number, is totally contrary to the orders passed by

this Court in Crl.RC.No.457/2018 dated 16.04.2018. Therefore, the petitioner has approached this Court by filing the present miscellaneous petition, seeking for the return of documents seized by the respondent on 03.07.2018.

4 The respondent, *inter alia*, had filed a counter affidavit dated 30.04.2019 refuting the averments/allegations made by the petitioner. It is stated in the counter that pursuant to the application filed by the respondent, the papers/documents seized from the locker in question in connection with 2G Spectrum Case, was transferred to the file of the respondent/CBI and this Court, vide order dated 16.04.2018, in Crl.RC.No.457/2018 had ordered for the return of materials/documents which are irrelevant to the investigation pertaining to case in RC.37[A]/2015, CBI, ACB, Chennai, the respondent had returned the material properties to the petitioner, thereby retaining the documents seized. Though the petitioner had made a representation on 12.07.2018 to the respondent, seeking for the return of documents, the respondent vide reply dated 29.08.2018 had declined to return the same stating that the said documents are required for investigation and the same will not be returned until the completion of the investigation. It is further stated in the counter that the investigation in the 2G Spectrum case is in the

final stage and if the documents of the petitioner are not required, the same will be returned to him on completion of the investigation.

5 When the matter came up before this Court on 03.06.2019, on the basis of the submission made by the learned Special Public Prosecutor [CBI] that the investigation is under progress and that if the investigating Officer finds that if some of the documents are not required for investigation, the same would be returned to the petitioner and sought for two weeks time to get instructions. Accordingly, the matter was adjourned to 02.07.2019. On 02.07.2019, the learned Special Public Prosecutor made a submission that the documents were segregated according to their relevancy and that the documents relating to the properties purchased prior to the check period have also been segregated and the Report has been forwarded to the higher official for approval. Based on such submission, the matter was posted to 17.07.2019 for furnishing the list of documents prior to the check period.

6 When the matter is called today [18.07.2019], the learned Special Public Prosecutor furnished the communication of the respondent dated 16.07.2019, enclosing the list of 36 documents to be returned to the petitioner. The same is extracted here under:-

S.No	Name of the Documents	In the name of	Year of Acquisition
1	Original Document No.485/98 for the property 157 cents of agricultural lands at Thiruporur, Chengalpet, worth Rs.1,62,900/- [63 sheets]	Smt. Surajbhai	1998
2	Original Document No.559/96 for the property half share in the house at Plot No.8, Door No.129, A.K.Samy Nagar, Temple Road, Kilpauk, Chennai-10, for Rs.14,25,500/- [179 sheets]	Gulab Jain	1996
3	Box file containing original document No.560/96 for the property half share in the house at Plot NO.8, Door No.129, A.K.Samy Nagar, Temple Road, Kilpauk, Chennai-10, for Rs.14,25,500/- [55 sheets]	Rajesh Jain	1996
4	Document No.P297/92 for the property house bearing old No.50, New No.33, situated at Krishnapan Naikan Tank Street, bearing Old Survey No.7623, 1 ground and 439 sq.ft. and undivided share of 400 sq.ft., for Rs.1,08,000/- [118 sheets]	Doulat Jain	1992
5	Document No.963/92 for the property, 2 grounds and 1689 sq.ft. Door No.130, Old No.184 to 186 NSC Bose Road, Chennai-79 for Rs.55,900/- [134 sheets]	Gulab Jain	1992
6	Document No.350/98 for the property, 1 ground 877 sq.ft. at Door No.29, New No.83 for a consideration of Rs.1,00,000/- [82 sheets]	Mahesh Jain	1998
7	Document No.3062/92 for property 34 sq.yard, 1 room, pvt. No.5, Galihohiwali, Chowri Bazar, Delhi for Rs.40,000/- [5 sheets]	Rajesh Jain	1992
8	Lease Agreement between Sh.Mahesh Jain and Sh.S.S.Malik leasing property at MCI Cooperative House building Society limited, Pushpanjali Enclave, Pitampuram,	Mahes Jain	1995

S.No	Name of the Documents	In the name of	Year of Acquisition
	New Delhi 105 sq.m for Rs.10,383/- [16 sheets]		
9	Document No.5317/62 for property ground with house at No.24, Old Survey No.3553 and 3554, resurvey No.7024, measuring about 1 ground and 177 sq.ft., for Rs.40,000/- [159 sheets]	Sardarmal	1962
10	Original Document No.343/92 for the flat measuring 1625 sq.ft., along with undivided share of 524/10000 equivalent to 450 sq.ft., bearing No.RS.711/1, 711/2 for Rs.4,51,000/- [96 sheets] and One Register captioned as "Shanthi Sagar Apartments" containing Sale Deed dated 27.07.1983 vide Doc.No.1019 of 1983 [12 sheets] and one Register captioned "Santhi Sagar Apartments" containing Agreement dated--- 1983 [8 sheets]	Suchitha Vardhan	1992
11	LIC Policy No.712118492 for sum assurance of Rs.10,00,000/- [1 sheet]	Mahesh Jain, Proprietor, Rajyog Impex	28.03.1994
12	LIC Policy No.711708553 for sum assurance of Rs.2,50,000/- [3 sheets]	Mahesh Jain, Proprietor, Rajyog Impex C/o.J.G.Products	28.03.1993
13	LIC Policy No.711431587 for sum assurance of Rs.50,000/- [1 sheet]	-do-	28.03.1991
14	LIC Policy No.710003889 for Rs.50,000/- [2 sheets]	-do-	20.10.1997
15	LIC Policy No.715516050 for Rs.3,00,000/- [9 sheets]	-do- Rajyog Impex	15.07.1994
16	LIC Policy No.715860818 for Rs.5,00,000/- [4 sheets]	Smt. Sangeetha Jain, Rajyog Papers Pvt Ltd	28.03.1999
17	LIC Policy No.715854545 for Rs.1,00,000/- [7 sheets]	Sangeetha Jain	26.03.1998

S.No	Name of the Documents	In the name of	Year of Acquisition
18	LIC Policy No.715857939 Rs.10,00,000/- [1 sheet]	-do- Rajyog Papers Pvt Ltd	28.09.1998
19	LIC Policy No.710009022 Rs.50,000/- [1 sheet]	Gulab C/o.DRN Industries	06.01.1989
20	LIC Policy No.715516229 Rs.3,00,000/- [1 sheet]	Smt.Gulab Jain, Proprietor, DRN Industries	28.08.1994
21	LIC Policy No.712118494 Rs.1,00,000/- [1 sheet]	Smt.Gulab Jain, Prop., DRN Industries	28.03.1994
22	LIC Policy No.715516055 Rs.3,00,000/- [1 sheet]	Sh.Doulat Jain, J.G. Impex Ltd	28.07.1994
23	LIC Policy No.711707665 Rs.1,00,000/- [1 sheet]	Sh.Doulat Jain, J.G.Products	25.07.1992
24	LIC Policy No.710002144 Rs.50,000/- [1 sheet]	Sh.Doulat Jain, J.G. Products	15.08.1986
25	LIC Policy No.711708552 Rs.2,50,000/- [1 sheet]	Sh.Doulat Jain, J.G.products	28.03.1993
26	LIC Policy No.711703105 Rs.50,000/- [1 sheet]	-do-	28.03.1992
27	LIC Policy No.712119127 Rs.50,000/- [1 sheet]	Miss.Rini Jain	28.03.1994
28	LIC Policy No.712383913 Rs.10,00,000/- [1 sheet]	Smt Bhagyashree Jain	28.12.1995
29	LIC Policy No.712118682 Rs.50,000/- [1 sheet]	Smt. Bhagyashree Jain	28.03.1994
30	LIC Policy No.715516245 Rs.3,00,000/- [1 sheet]	Smt. Ghagyashree Jain	28.08.1994
31	LIC Policy No.715519502 Rs.50,000/- [1 sheet]	Smt. Bhagyashree Jain	28.03.1995
32	LIC Policy No.711703088 Rs.10,00,000/- [5 sheets]	Smt Bhagyashree Jain	28.03.1992

S.No	Name of the Documents	In the name of	Year of Acquisition
33	LIC Policy No.712119126 Rs.50,000/- [3 sheets]	Kranti Jain	28.03.1994
34	LIC Policy No.711703102 Rs.10,00,000/- [1 sheet]	Sh.Rajesh Jain	28.03.1992
35	LIC Policy No.715857939 Rs.10,00,000/- [1 sheet]	Sh.Rajesh Jain	30.03.1993
36	LIC Policy No.715516083 Rs.10,00,000/- [1 sheet]	Sh. Rajesh Jain	28.08.1994

7 The learned counsel for the petitioner would reiterate and submit that the above cited documents would serve no useful purpose with regard to the investigation in Regular Case RC MA1 2015 A 0037, as the same pertain to LIC Policies and Land Documents standing in the name of the petitioner and his family members and that, he would pray for the return of the documents [cited supra].

8 *Per contra*, the learned Special Public Prosecutor would submit that the check period in this case, relates to the period between 13.10.1999 and 13.09.2010 and that the respondent has sent a communication dated 16.07.2019, enclosing the list of 36 documents which are prior to the check period. However, he would submit that the documents in Serial Nos.1 and 6 are relating to the year 1998, which year is close to the check period and there is a possibility that those

documents may be required for the case and in respect of the other documents, the learned Special Public Prosecutor would submit that some of them pertain to the year 1962 and the documents listed in Sl.Nos.11 to 36 are LIC Policies and that most of the Policies have got matured. He would also admit that from the list, it is seen that LIC Policies do not fall within the check period and most of the policies are pertaining to the family members of the petitioner. It is his further submission that this Court, while disposing of CrI.RC.No.457/2018, had directed the respondent to retain the documents which are required for investigation and that, remaining documents shall be returned to the petitioner herein along with the key of the locker, enabling the petitioner to use the said locker for legal purpose. He would submit that pursuant to the said order, the locker key have been handed over to the petitioner and jeweleries found in the locker were also handed over to the petitioner. Learned Special Public Prosecutor would submit that the investigation is at the stage of filing the Final Report and that, once the Final Report is filed, the respondent will be able to return the documents which are not necessary for the investigation.

9 At this juncture, the learned counsel for the petitioner would submit that no purpose would be served for the respondent in keeping

the documents which pertain to the period much ahead of the check period and have no relevance or bearing to the case on hand. He would submit that the above documents have been unnecessarily retained by the respondent, causing much hardship to the petitioner and that the petitioner is prepared to give an undertaking that he will not dispose the properties pertaining to the year 1998 and that he will also furnish, duly self-attested true copies of the documents to the respondent.

10 This Court has carefully and anxiously considered the submissions made on either side and also perused the materials placed before it.

11 From the perusal of the materials including the orders passed by this Court in CrI.RC.No.457/2018 dated 16.04.2018 as well as the Trial Court dated 31.07.2017 made in CrI.MP.No.1469/2017, this Court is of the opinion that there is no purpose in holding the documents pertaining to the period prior to the check period. However, the objection of the learned Special Public Prosecutor [CBI] with regard to the documents in Sl.Nos.1 and 6, is noted.

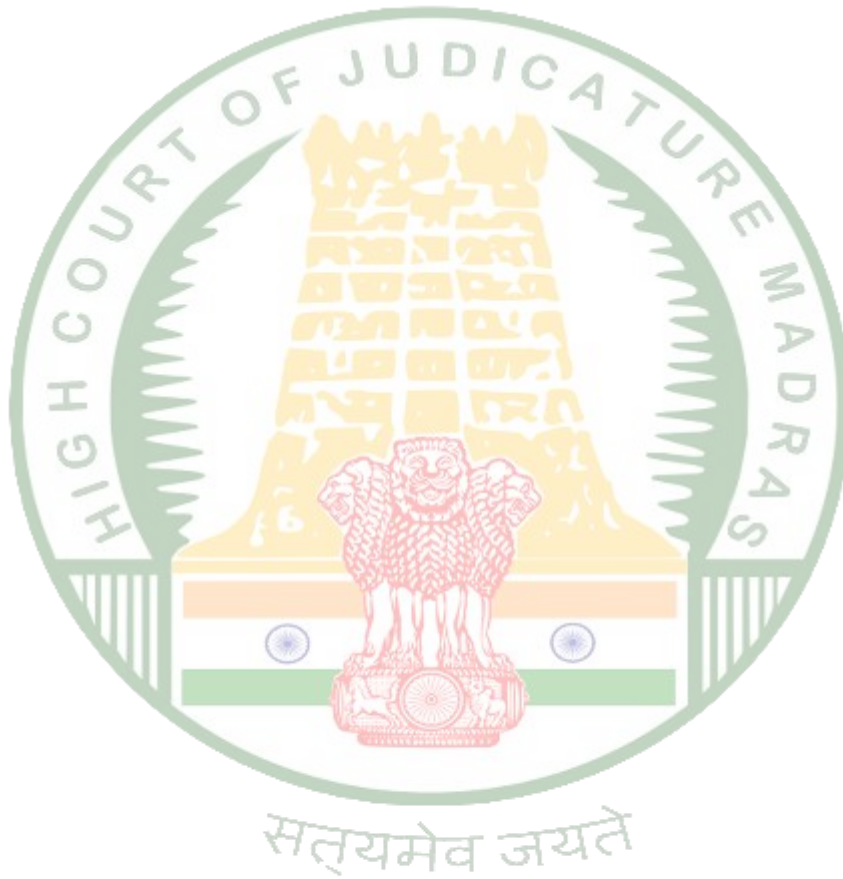
12 Taking into consideration the submission made by the learned counsel for the petitioner that the petitioner is ready and willing to give an undertaking to the effect that he will not dispose of the properties mentioned in Sl.Nos.1 and 6 of the list of documents [cited supra] and that they will get appropriate permission from the respondent at the relevant stage for disposing the said properties, the following order is passed:-

"The petitioner shall approach the Investigating Officer with an Affidavit of Undertaking, stating that he will not dispose of the properties mentioned in Sl.Nos.1 and 6, viz.,Sl.No.1 - Original Document No.485/98 for the property 157 cents of agricultural lands at Thiruporur, Chengalpet, worth Rs.1,62,900/- standing in the name of Smt.Surajbhai and Sl.No.6 - Document No.350/98 for the property, 1 ground 877 sq.ft. at Door No.29, New No.83 for a consideration of Rs.1,00,000/- standing in the name of Mahesh Jain, without obtaining permission from the respondent at the relevant stage, within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall also furnish self attested copies of all the 36 documents to the respondent and on such approach, the respondent shall return the above cited 36 documents within a period of two working days thereafter."

13 The miscellaneous petition stands disposed of accordingly.

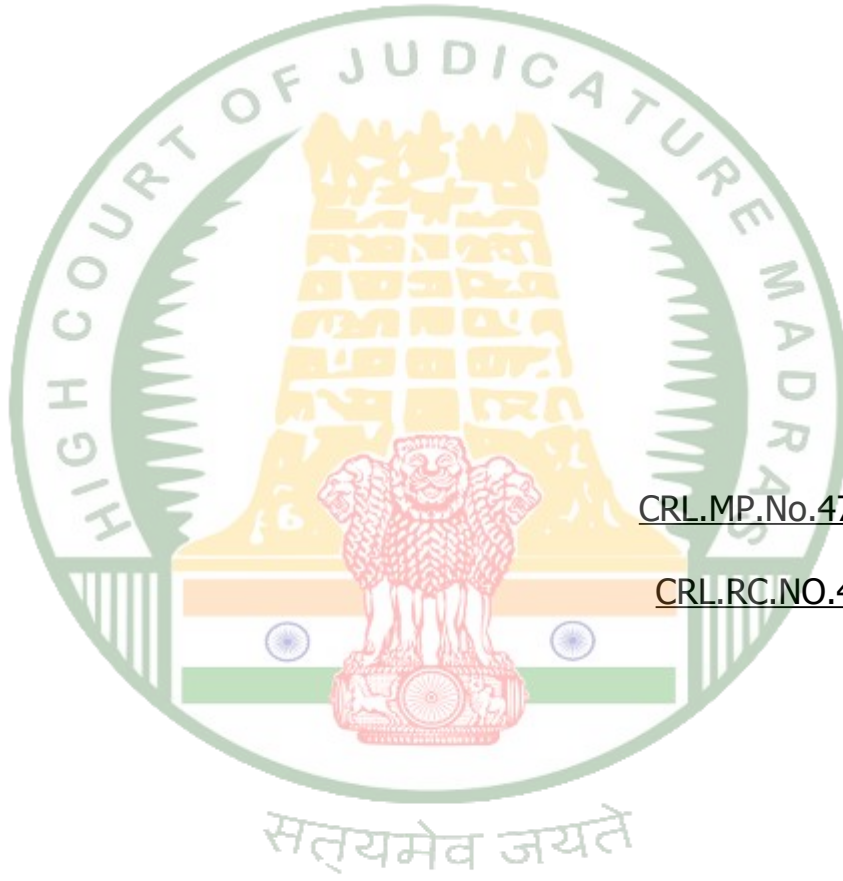
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