

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 645 of 2018

Rabindra Kumar Bhalotia .. Applicant
 Versus
 The Central Bureau of Investigation and .. Respondents
 Anr

...

Mr.Hrishikesh U. Ambre for the applicant.
 Mr. S.S. Holke, APP for the State.
 Mr.H.S. Venegaonkar for respondent no.1.

CORAM: BHARATI DANGRE, J.
DATED : 21st AUGUST, 2023

P.C:-

1 Present Criminal Application with the following reliefs, is pending since the year 2018

“(a) This Hon’ble Court be pleased to quash the order/roznama dated 08/05/2018 passed by Ld. Special Judge/Additional Sessions Judge in case number :SPL.CASE CBI/0100075 of 2015 and/or set aside and declare inoperative the order dated 08/05/2018 passed by Ld. Special Judge/Additional Sessions Judge, Greater Mumbai at Mumbai in case number : SPL.CASE CBI/0100075 of 2015 and appropriate directions in the interest of justice be passed

(b) Pending the hearing and final disposal of the present application, this Hon’ble Court by way of an ad-interim ex-parte order be pleased to call for the records of case number : SPL.CASE CBI/0100075 OF 2015 pending on the file of Ld.

Special Judge/Additional Sessions Judge, C.R.No. 52 Greater Mumbai at Mumbai.”

2 With the assistance of the learned counsel for the applicant and Mr.Venegaonkar for the CBI, I have perused the impugned order dated 8/5/2018.

The order reflect that on the said date, the prosecution filed an application for production of CD and copy of the same was forwarded to the counsel for accused nos.2 and 3.

The learned Judge directed that the matter shall be listed for framing of charge.

3 Learned counsel Mr.Venegaonkar has placed before me a report from the Principal Scientific Officer, CSFL addressed to the Superintendent of Police, CBI, Kolkatta dated 5/3/2020.

The said report is in respect of Parcel-1, Parcel-2 and Parcel-3. The report is about the examination of the two mobile phones contained in parcel-2 and parcel 3 and one memory card marked as S-8 contained in parcel-1.

The report has analysed the data found in the memory card as well as in the sim cards of the two mobile phones and the result of examination and its analysis is highlighted in the said report.

Mr.Venegaonkar has also placed before me a sealed envelope which is referred to Annexure-I in the said report, which

contain the data extracted from the mobile phone M1 and sim card S1/M2, which was transferred in form of soft copy in one CD.

4 With this, the compliance on part of the CFSL, as regards the analysis of Parcel-1 and Parcel-2 and Parcel-3 is complete.

Mr.Venegaonkar make a specific statement that the report along with the sealed envelope was attempted to be tendered before the Addl. Sessions Judge but he refused to take the same on record by relying upon an unsigned order passed by the Kolkatta, CBI Designated Special Court.

Another reason for which the learned Judge refused to accept the report from CSFL is, that they were not the original documents, but are true copies submitted, under the signature of the Investigating Agency.

I find the Court to be justified in doing so.

However, Mr.Venegaonkar state that since the investigation is carried out by SP, CBI, Kolkatta in a connected crime, the original report from CSFL has been forwarded to SP CBI, Kolkatta and after tendering it before the Special Court in Kolkatta, on cognizance being taken, the document is returned to the SP CBI, Kolkatta.

5 In such a scenario, it is possible for the prosecution to bring the original document before the Addl. Sessions Judge, seized of the matter and after taking cognizance of the same, the learned Judge may permit filing of a true copy on record. If the document is also required in some other case, subject to an undertaking that at the time of recording of evidence, the original shall be produced.

 If this course is adopted, I do not see any difficulty in the Court proceeding ahead with framing of charge.

6 No doubt, the accused persons are entitled for copies of these documents as they form part of the charge-sheet. The prosecution shall be conscious that it is the accused's right to have all the documents being supplied, on which the prosecution is going to rely during the course of trial.

7 With this aforesaid clarification and liberty being conferred, the sealed envelope as well as the report of the CSFL is permitted to be produced before the Court with copies being served to the accused persons.

 There is no propriety in keeping the Criminal Application pending which deserve to be disposed off.

(SMT. BHARATI DANGRE, J.)