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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-32500-2023

Date of decision: 09.08.2023

Simarjeet Singh Bains

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. A.P.S. Deol, Sr. Advocate with
Mr. Himmat Singh Deol, Advocate for the petitioner.

Mr. Ferry Sofat, Addl. A.G. Punjab.

Mr. Ashok Singla, Advocate and
Mr. Aakash Singla, Advocate and
Mr. Ankush Singla, Advocate and
Mr. Tushar Sharma, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

1. This is a petition filed under Section 482 of Cr.P.C. for setting aside the impugned order dated 20.05.2023 (Annexure P-6) whereby an application for supplying the copy of inquiry report of Ms. Ashwani Gutyal, IPS, statement of witness Kamalpreet Singh along with other evidence pertaining to FIR No.180 dated 10.07.2021 under Sections 376, 354, 354-A, 506, 120-B of IPC at Police Station Division No.6, Ludhiana, has been dismissed.

BRIEF FACTS OF THE CASE:-

2. A complaint under Section 156(3) of Cr.P.C. was filed before

the Additional Chief Judicial Magistrate (hereinafter to be referred as “ACJM”), Ludhiana for registration of FIR under Sections 376, 354, 354-A, 506 read with Section 120-B of IPC by the complainant against the petitioner and six others persons. Vide order dated 24.12.2020, the Illaqa Magistrate treated the complaint/application filed under Section 156(3) Cr.P.C. as a complaint case and did not proceed to issue directions for registration of FIR. Against the said order, a revision was filed by the complainant and the Additional Sessions Judge, Ludhiana, vide order dated 07.06.2021, remanded the case back to the Illaqa Magistrate for deciding the same afresh in accordance with law and after remand, the Court of ACJM, Ludhiana vide order dated 07.07.2021, directed the SHO, Police Station Division No.6, Ludhiana, to register an FIR and in pursuance of the same, the FIR in question was registered. The petitioner surrendered before the Illaqa Magistrate on 11.07.2022 and was granted regular bail vide order dated 25.01.2023 passed by the Coordinate Bench of this Court in CRM-M-44422-2022 and thereafter, on 10.11.2021, the State had presented a final report under Section 173(2) Cr.P.C. and further submitted the supplementary report under Section 173(8) Cr.P.C. on 25.09.2022. An application dated 05.04.2023 (Annexure P-3) was filed by the petitioner for supplying the copy of the statement of PW-Kamalpreet Singh and the inquiry report/noting of Ms. Ashwani Gutyal, IPS, the then, ADCP Ludhiana, along with the statement of the witnesses recorded by her and other evidence collected therein. In the said application, it was stated that the statement of Kamalpreet Singh was

recorded by the Investigating Officer during the investigation of the case and Ms. Ashwani Gutyal had recorded the statement of the witnesses and also collected the evidence therein and she came to the conclusion that prima facie the case of the complainant seems to be doubtful. It was further stated that the said vital evidence was not being supplied to the petitioner and thus, a prayer was made for directing the prosecution to provide/supply the documents mentioned in the said application. The State had filed a reply dated 06.05.2023 (Annexure P-4) to the said application. In the said reply, it was stated that the statement of PW-Kamalpreet Singh and inquiry report of the said officer was not a part of the challan and that the applicant could summon the record in his defence at the appropriate stage of trial or can obtain the same through RTI but the same cannot be sought by the petitioner from the trial Court during the course of trial. In para 2 of the reply, it was admitted that the inquiry was conducted by Ms. Ashwani Gutyal, IPS but it was stated that the said inquiry was not a part of the investigation or challan and even the statement of PW-Kamalpreet Singh which although was recorded during the course of the earlier inquiry proceedings was not a part of the investigation. Reply to the abovesaid application was also filed by the complainant. The trial Court, vide order dated 20.05.2023 (Annexure P-6), dismissed the application of the petitioner by observing that at the time of filing of report under Section 173 Cr.P.C., the Investigating Agency is to submit the statements of the witnesses under Section 161 Cr.P.C. as well as the documents on which it relied for the success of its case and

further observed that although, there is a reference to the inquiry report of Ms. Ashwani Gutyal, IPS in the challan and that SHO, Police Station Division No.6, Ludhiana, in its reply had admitted about recording of the statement of Kamalpreet Singh but since, the Investigating Agency had not relied upon the statement of Kamalpreet Singh and the inquiry report, the accused has no right to demand the said document even with the aid of Section 91 of Cr.P.C. and that the accused can summon these documents at an appropriate stage of trial or at the time of their defence evidence, if any. Aggrieved against the same order, the petitioner has filed the present petition.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

3. Learned Senior Counsel for the petitioner contends that the impugned order has been wrongly passed and has submitted that a perusal of paragraphs 1 and 2 of the reply on merits (Annexure P-4) filed by the State to the application for supplying the said documents would show that an admission has been made by the State to the effect that the statement of Kamalpreet Singh was recorded and that Ms. Ashwani Gutyal, IPS i.e., the then ADCP, Ludhiana had conducted an enquiry. It is contended that while presenting the challan dated 10.11.2021 as well as the supplementary challan dated 25.09.2022, the law laid down by the Hon'ble Supreme Court in Suo Motu Writ (Crl.) no.1 of 2017 dated 20.04.2021 in case titled "**In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials vs. The State of Andhra Pradesh & Ors.**" reported as **2021(10) SCC 598**, has not been

taken into consideration inasmuch as neither any column mentioning the details of the documents not relied upon, nor the list of “un-relied” documents has been annexed along with the report under Section 173 of Cr.P.C. or with the supplementary report under Section 173(8) of Cr.P.C.. Learned senior counsel for the petitioner has referred to the above said judgment to point out that the amicus curiae appointed in the said case, had stated that at the time of commencement of trial, the accused persons were being furnished only with a list of the documents and statements which the prosecution relied on and were kept in dark about the other material, which the police or the prosecution had in their possession, which may be exculpatory in nature or might absolve or help the accused. It is further pointed out that the Hon’ble Supreme Court in paragraph 11 of the said judgment had observed that while furnishing the list of statements, documents and material objects under Sections 207 and 208 Cr.P.C., the Magistrate should also ensure that a list of other materials, such as statements or objects/documents seized, but not relied upon, should also be furnished to the accused so as to ensure that in case the accused is of the view that such material is necessary to be produced for a proper and just trial, the said accused may file appropriate applications under the provisions of Cr.P.C. for their production during the trial. Learned senior counsel for the petitioner has further submitted that after taking suggestions from all the High Courts and after hearing all the parties, directions were given by the Hon’ble Supreme Court to bring the Draft Rules of Criminal Practice 2021 (hereinafter to be referred as “the

Draft Rules”) into force and in Rule 4 of the said Draft Rules, which deals with supplying of documents under Sections 173, 207 and 208 Cr.P.C., an explanation was added to the effect that the list of statements, documents, material objects and exhibits should specify the statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer. It is also submitted that although the challan and the supplementary challan in the present case have been filed subsequent to the passing of the said judgment, yet the list of documents/materials not relied upon has not been specified in the same. It is further submitted that all the High Courts, by virtue of the above judgments, were directed to take expeditious steps to incorporate the said Draft Rules as part of the Rules governing criminal trial and in pursuance of the said directions, this Court has made an amendment in the Punjab and Haryana High Court Rules Volume 3, Chapter-I and the amendment to the said effect has been reproduced at page 16 of the present petition and in Rule 6, which deals with Warrant case on police report, an explanation has been added in which it has been specifically mentioned that the list of statements, documents, material objects and exhibits shall specify the statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer. It is contended that in the challan as well as in the supplementary challan which has been presented, there is no column with respect to the list of documents not relied upon which is in violation of the direction issued by the Hon’ble Supreme Court. It is further submitted that after the passing of the abovesaid judgment of the Hon’ble Supreme

Court, it is incumbent upon the respondent-State to specify the documents which have not been relied upon, irrespective of the fact that whether the same are in favour of the accused or not. It is stated that on account of the fact that the same has not been done in the present case, the right of the petitioner to have knowledge of the same stands infringed. It is stated that the impugned order has been passed without taking into consideration the judgment of the Hon'ble Supreme Court in the case of ***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials*** (Supra) and the Draft Rules and thus, deserves to be set aside on the said ground alone.

4. Learned Senior Counsel for the petitioner has relied upon the judgment passed by the Coordinate Bench of this Court in case titled as **Kalyani Singh Vs. Central Bureau of Investigation** reported as **2023(3) RCR (Criminal) 535**, to contend that in the said case, four questions were framed and it had been affirmatively held that the accused is entitled to the copies of 'un-relied' documents/evidence which may have been collected by the Investigating Agency during the course of investigation but the agency does not rely upon the same and thus, are not part of the report under Section 173 Cr.P.C.. It is argued that under question No.3, the Coordinate Bench of this Court had affirmatively held that any evidence collected by the Investigating Agency which was initially investigating the case before the same was transferred to another investigation would very much form a part of the case and the said proceedings can neither be stated to be void nor nonest and that copies of

all such documents collected in evidence by the first Investigating Agency cannot be withheld and are required to be dealt with in the same manner as if they were collected by the second Investigating Agency. Specific paragraphs of the said judgment which have been highlighted are reproduced hereinbelow:-

“11. First Question :

(i) Whether an accused is entitled to copies of ‘un-relied’ documents/evidence which may have been collected by the investigating agency during the course of investigation but does not intend to rely upon the same during the course of trial and are thus, not part of the report under Section 173 Cr.P.C.?

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16. The emphasized portion shows the significant changes made in above substituted Rule 6 which provides for not just copies of documents and statements relied upon by prosecution but also a list of all the documents including documents not proposed to be relied upon by prosecution.

17. The aforesaid judgment and the rules framed thereunder clearly show that while the investigating agency may not furnish all these documents in the first instance to the accused alongwith report under Section 173 Cr.P.C. but it cannot be said that he is dis-entitled for the same. The prosecution is required to file a list on ‘un-relied’ documents along with the report under Section 173 Cr.P.C. and it is then for the accused to decide as to which of those ‘un-relied documents’ are required by him. Once the accused moves an application for supply of such documents, the Magistrate would be obliged to furnish copies of the same to the accused.

It is only in exceptional cases that instead of providing copy of any document, the accused may be permitted to inspection only of such record. The said exception to the general rule shall be discussed while discussing "Question no. 4". The first question stands answered accordingly to the effect that an accused is entitled to ask for supply of 'un-relied' documents and that the Magistrate would be obliged to furnish copies of the same unless specific case for exclusion is made out.

24. Third Question :

(iii) Whether the accused is entitled to be furnished with copies of statements/documents/evidence collected by the first investigating agency i.e. before the investigation is handed over to another investigating agency, towards compliance of section 207 Cr.P.C.?

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31. In view of the discussion made above, this Court has no hesitation in holding that any such evidence collected by the investigating agency which has initially investigated the case before such investigation is transferred to another investigation would very much form part of the case and cannot be segregated. Neither the previous proceedings can be said to have become void or non-est nor such evidence can be said to be alien to the case. It is for the Court to assess the value and reliability of such evidence. The copies of all such documents collected in evidence by the first investigating agency cannot be withheld and are required to be dealt with in the same manner as if the same were collected by the second investigating agency which presented final report under Section 173 Cr.P.C. "

It is submitted that at any rate, since, the directions given in the judgment of the Hon'ble Supreme Court has neither been complied with by the State nor the said judgment has been referred to in the impugned order, thus, the impugned order deserves to be set aside and the matter requires to be reconsidered by the trial Court in the light of the judgment of the Hon'ble Supreme Court and the abovesaid Rules.

ARGUMENTS ON BEHALF OF STATE AS WELL AS THE COMPLAINANT:-

5. Learned State Counsel has referred to the reply dated 24.07.2023, filed by way of an affidavit of Mr. Sandeep Wadehra (PPS), Assistant Commissioner of Police, Industrial Area-B Ludhiana, District Police Commissionerate Ludhiana on behalf of respondent-State to contend that it is the stand of the State that although, the statement of Kamalpreet Singh was recorded during the preliminary inquiry by the Investigating Officer i.e., ADCP (HQ) and the said statement was recorded on 24.11.2020 but the said statement was not recorded under Section 161 Cr.P.C. because at that stage, it could not be established by the Investigating Agency whether the allegations levelled by the complainant disclosed the commission of a cognizable offence or not. It is further submitted that with respect to the inquiry, it has been stated in the said affidavit that preliminary inquiry was left incomplete and no inquiry report was prepared by the ADCP (HQ).

6. Learned State Counsel as well as learned counsel for the complainant have submitted that only the statement which has been

recorded under Sections 161 and 164 of Cr.P.C. during the course of investigation and also the material which is collected during the course of investigation and which has not been relied upon is to be referred to in the column/list of “un-relied” documents. For the said purpose, learned counsel for the complainant has highlighted paragraph 11 of the judgment in the case of *In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials* (Supra) and Rule 4 of the Draft Rules and it has been submitted that as per the said Draft Rules, the accused is to be supplied with the statements of the witnesses recorded under Sections 161 and 164 of Cr.P.C. and list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer in accordance with Sections 207 and 208 of Cr.P.C. It is further submitted that the explanation to the said Draft Rules which uses the words “statements, documents, material objects and exhibits”, have to be read in conjunction with the first part of the said Rule 4 of the Draft Rules and a conjoint reading of the said Rules would show that only the statement under Sections 161 and 164 of Cr.P.C. and the material objects/list of documents and exhibits which have been collected during the course of investigation are to be supplied to the petitioner and since, the statement of Kamalpreet Singh as well as the inquiry proceedings are prior to the investigation, thus, the same are not required to be supplied.

ARGUMENTS ON BEHALF OF THE PETITIONER IN REBUTTAL:-

7. Learned Senior Counsel for the petitioner, in rebuttal, has

submitted that in the present case, an application bearing No.CRM-3542-2020 titled as “Gurdip Kaur Vs. Simarjeet Singh Bains and others” under Section 156(3) Cr.P.C. was filed in the Court of the Chief Judicial Magistrate, Ludhiana and in the said case, status report was called for and the status report dated 22.12.2020 was submitted by Ms. Ashwani Gutyal, Additional Deputy Commissioner of Police, Headquarters, Ludhiana and in the same, it was mentioned that earlier an inquiry in the case was entrusted to Ms. Kanwardeep Kaur, IPS and a report was submitted and then subsequently, after the transfer of the said inquiry officer, the same has been entrusted to her since 21.11.2020 and after entrusting the same to her, both the parties had been called and their statements were recorded. It is submitted that reference to the inquiry by Ms. Ashwani Gutyal, has been made in the status report which forms a part of the proceedings under Section 156(3) of Cr.P.C. and also in the supplementary challan under Section 173(8) Cr.P.C. {Annexure P-2 (at page 92 of the paper book)} and thus, on the said ground also, a copy of the same is required to be supplied to the petitioner.

FINDINGS:-

8. This Court has heard learned counsel for the parties and has perused the paperbook.

9. The Hon’ble Supreme Court in its judgment dated 20.04.2021 passed in the case titled as “***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials***” (Supra), had observed as under:-

“1. This suo motu proceeding under Article 32 was initiated during the course of hearing of a criminal appeal. The Court noticed common deficiencies which occur in the course of criminal trials and certain practices adopted by trial courts in criminal proceedings as well as in the disposal of criminal cases and causes. These related, amongst others, to the manner in which documents (i.e. list of witnesses, list of exhibits, list of material objects) referred to are presented and exhibited in the judgment, and the lack of uniform practices in regard to preparation of injury reports, deposition of witnesses, translation of statements, numbering and nomenclature of witnesses, labeling of material objects, etc. These very often lead to asymmetries and hamper appreciation of evidence, which in turn has a tendency of prolonging proceedings, especially at the appellate stages.

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*11. The Amici Curiae pointed out that at the commencement of trial, accused are only furnished with list of documents and statements which the prosecution relies on and are kept in the dark about other material, which the police or the prosecution may have in their possession, which may be exculpatory in nature, or absolve or help the accused. **This court is of the opinion that while furnishing the list of statements, documents and material objects under Sections 207/208, Cr. PC, the magistrate should also ensure that a list of other materials, (such as statements, or objects/documents seized, but not relied on) should be furnished to the accused. This is to ensure that in case the accused is of the view that such materials are necessary to be produced for a proper and just trial, she or he may seek appropriate orders, under the Cr. PC. for their production***

during the trial, in the interests of justice. It is directed accordingly; the draft rules have been accordingly modified.

[Rule 4(i)]

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19. The court is of the opinion that the Draft Rules of Criminal Practice, 2021, (which are annexed to the present order, and shall be read as part of it) should be hereby finalized in terms of the above discussion. The following directions are hereby issued:

*19.1 All High Courts shall take expeditious steps to incorporate the said Draft Rules, 2021 as part of the rules governing criminal trials, and ensure that the existing rules, notifications, orders and practice directions are suitably modified, and promulgated (wherever necessary through the Official Gazette) within 6 months from today. If the state government's co-operation is necessary in this regard, the approval of the concerned department or departments, **and the formal notification of the said Draft Rules, shall be made within the said period of six months.***

19.2 The state governments, as well as the Union of India (in relation to investigating agencies in its control) shall carry out consequential amendments to their police and other manuals, within six months from today. This direction applies, specifically in respect of Draft Rules 1-3. The appropriate forms and guidelines shall be brought into force, and all agencies instructed accordingly, within six months from today.

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21. The suo motu proceeding is disposed of in terms of the above directions.

DRAFT CRIMINAL RULES ON PRACTICE, 2021**CHAPTER I. INVESTIGATION***XXX XXX**XXX XXX****4. SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 CR.PC***

i. Every Accused shall be supplied with statements of witness recorded under Sections 161 and 164 Cr.PC and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208, Cr. PC. Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.”

10. A perusal of the above judgment would show that in suo motu proceedings under Article 32 of the Constitution of India, after noticing various deficiencies which occur in the course of criminal trials, the Hon’ble Supreme Court had observed that while furnishing the list of statements of witnesses, documents and material objects under Sections 207/208 of Cr.P.C., the Magistrate should also ensure that a list of other materials such as statements of objects/documents seized but not relied on, should be furnished to the accused so that in case, the accused is of the view that the said material is necessary to be produced for a fair trial, then, he may file appropriate applications under the Cr.P.C. for their production. Further perusal would show that Draft Rules were also formulated and were made a part of the said judgment and Rule 4 of the

said Draft Rules, provided that every accused was to be supplied with the statements of the witness recorded under Sections 161 and 164 Cr.P.C and a list of documents, material objects and exhibits seized during investigation and explanation attached to the same requires that the list of statements, documents, material objects and exhibits should specify the statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer. All the High Courts were also directed to take expeditious steps to incorporate the said Draft Rules as a part of the Rules governing criminal trial and ensure that the existing Rules are suitably modified.

11. It is not in dispute that in pursuance of the said judgment, the High Court of Punjab and Haryana carried out necessary changes in the “Punjab and Haryana High Court Rules and Orders, Volume-III” vide Notification No.40/Rules/II.D4 dated 10th December, 2021. The amended Rule 6, Part-D Chapter 1 of Volume III of said Rules is reproduced hereinbelow:-

*“Rule 6, Volume-III Chapter-1 Part-D, Punjab and Haryana High Rules and Orders
(substituted vide C.S. no. 40 Rules/II.D4 dated 10.12.2021.)*

(C) PROCEDURE IN THE TRIAL OF WARRANT CASES INSTITUTED ON POLICE REPORT

“6. Warrant case on Police report – Police to furnish copies to accused before the trial commences:-

In a warrant-case (Chapter XIX of the Code of Criminal Procedure, 1973) the procedure would now depend on

whether the case has been instituted on a police report or otherwise. Section 238 to 243 of Code of Criminal Procedure, 1973 govern the procedure in warrant cases instituted on police reports. When the accused appears or is brought before the magistrate, the magistrate should, at the commencement of the trial, satisfy himself that he has complied with the provisions of Section 207 Cr.P.C. Further, every accused should be supplied with statements of witness recorded under Sections 161 and 164 Cr.P.C and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer in accordance with Sections 207 and 208 Cr.P.C.

Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer .”

12. The substantial part of the said Rule is similar to Rule 4 of the Draft Criminal Rules on Practice 2021, which were a part of the judgment in the case of “***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials***” (Supra). The issue with respect to the list of documents which are to be mentioned in the report under Section 173 Cr.P.C. is to be governed by the abovesaid judgment of the Hon’ble Supreme Court as well as the Rules framed by this Court in pursuance of the same. Even the issue with respect to the supply of the documents and the consideration of the application under Section 91 of Cr.P.C. has to be in light of the judgment of Hon’ble the Supreme Court as well as Rules framed which have been referred to

hereinabove. In the present case, a perusal of the impugned order dated 20.05.2023 would show that neither the said judgment of the Hon'ble Supreme Court nor the Draft Rules or the Rules framed by this High Court have been taken into consideration in spite of the fact that order dated 20.05.2023 has been passed subsequent to the passing of the abovesaid judgment as well as framing of the Draft Rules and also the Rules framed by the High Court which were admittedly framed on 10.12.2021. The observations made by the trial Court in para 9 of the impugned order would further fortify the said fact inasmuch as it had been observed by the trial Court in the said para that at the time of filing of the report under Section 173(2) Cr.P.C., the Investigating Agency is to submit the statements of the witnesses under Section 161 Cr.P.C. as well as the documents on which it relies for the success of its case. The impugned order does not take into consideration the fact that the list of documents not relied upon, are also required to be submitted by the Investigating Agency along with the report under Sections 173(2) and 173(8) Cr.P.C.. Several judgments have been referred to in the impugned order but the judgment of the Hon'ble Supreme Court in the case of "***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials***" (Supra) has not been referred to. It is further not in dispute that neither in the report under Section 173(2) Cr.P.C. dated 10.11.2021 nor in the supplementary challan dated 25.09.2022, any column has been made with respect to the "documents not relied" by the Investigating Agency nor any such "list of documents not relied on" has

been annexed with either of the said two reports. The report dated 10.11.2021 was prepared and submitted subsequent to the judgment passed by the Hon'ble Supreme Court in the case of "***In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials***" (Supra), which is dated 20.04.2021 and also to the Draft Rules which were annexed along with the said judgment. The supplementary report under Section 173(8) dated 25.09.2022 is subsequent to the amendment carried out by the High Court which was admittedly done on 10.12.2021. The said aspect is also apparent from para 6 of the impugned order where the contentions of the Special Public Prosecutor, while opposing the application filed by the petitioner, had been noticed to the effect that it is the prerogative of the prosecution to file the documents along with report under Section 173 Cr.P.C. on which the prosecution wishes to rely upon and the documents which are sought by the applicant can be summoned by them at the time of their defence evidence. Apparently, the judgment of the Hon'ble Supreme Court as well as the Draft Rules and the Amended Rule framed by the High Court had not been brought to the notice of the trial Court and since, the said judgment and the Rules govern the issue, it is incumbent upon the Courts as well as the State to comply with the judgment of the Supreme Court as well as the Amended Rule framed by the High Court, which has not been done in the present case.

13. Keeping in view the above said facts and circumstances the present petition is partly allowed and the order dated 20.05.2023

(Annexure P-6) is set aside and the trial Court is directed to decide the matter afresh keeping in view the law laid down by the Hon'ble Supreme Court in the case of "*In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials*" (Supra) and also the amended Rule framed by the High Court which has been reproduced in para 11 of the present order. The trial Court would decide the matter afresh as expeditiously as possible preferably within a period of two months from 11.08.2023, which is stated to be the next date of hearing.

14. It would be open to the petitioner as well as the respondent-State and the complainant to raise all the pleas which have been raised before this Court on merits of the dispute as well as all the other pleas which are available to them in law and the trial Court would pass a fresh order after taking into consideration the said arguments.

15. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

09.08.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**