

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6053 of 2024

Arising Out of PS. Case No.-8 Year-2014 Thana- E.C.I.R (GOVERNMENT OFFICIAL)
District- Patna

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1. Anil Kumar Alias Anil Singh S/O Late Chathoo Choudhary R/O 301/306, Maharaja Kameshwar Complex Frazer Road, 800001
 2. M/S Patliputra Builders Limited Through Its Managing Director Shri Anil Kumar @ Anil Singh R/O 301/306, Maharaja Kameshwar Complex Frazer Road, 800001

... .. Petitioner/s

Versus

1. The Union Of India, Bihar
2. Enforcement Directorate Government Of India, Bank Road, Chandpura Place, Patna-800001

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Anshuman Sinha, Advocate Mr.Vinay Prakash, Advocate Mr. Anuranjan Patel, Advocate Mr. Vinay Prakash, Advocate
For the Opposite Party/s :		Mr.K.N.Singh (A.D.S.G) Mr.Manoj Kumar Singh, Spl. PP Mr.Ankit Kumar, Advocate Mr.Anjiv Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 7 02-08-2024 1. The issue involved in the instant criminal miscellaneous case is as to whether the accused/petitioner is entitled to get copies of unrelied documents collected by the investigating officer during investigation in compliance of Section 208 of the Cr.P.C. or not.
2. It is pertinent to mention that the petitioner and one company, namely, Patliputra Builders Ltd. have been prosecuted under Section 45 of the Prevention of Money Laundering



(herein after referred to as the “PMLA”). The case is now pending before the learned Special Judge, PMLA, Patna, having been registered as Special Trial (PMLA) Case No. 7 of 2021.

3. It is contended by the learned Advocate for the petitioner that the law regarding the right of the accused to receive copies of documents not relied upon by the investigating officer in order to submit the charge-sheet/complaint, but collected during investigation is no longer *res integra* ***in Re: To Issue Certain Guidelines Regarding Inadequacies And Deficiencies In Criminal Trials Vs. The State of Andhra Pradesh and Ors.***, reported in ***2021 (10) SCC 598***. A Three Judges Bench of the Hon’ble Supreme Court clearly held in paragraph no. 4 which runs as hereunder:-

“4. Supply of documents under Sections 173, 207 and 208 CrPC.—(i) Every accused shall be supplied with statements of witness recorded under Sections 161 and 164 CrPC and a list of documents, material objects and exhibits seized during investigation and relied upon by the investigating officer (IO) in accordance with Sections 207 and 208 CrPC.

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.”

4. The ratio laid down in the above-mentioned reported decision was further clarified by the Hon’ble Supreme



Court in the case of *Manoj & Ors. v. State of M.P.*, reported in *(2023) 2 SCC 353* wherein it is held by the Hon'ble Supreme Court that the issue regarding the right of the accused to get the copies of the documents not relied upon by the investigating officer in compliance of Section 173 and/or 207 and/or 208 of the Cr.P.C. has been highlighted in the decision mentioned above. Section 173, 207 and 208 of the Cr.P.C. lay down that every accused shall 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 (IO) in accordance with Sections 207 and 208 Cr.P.C.

5. It was clearly explained that 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. Therefore, the Hon'ble Supreme Court clearly held that the prosecution, in the interests of fairness, should, as a matter of rule, in all criminal trials, comply with the above rule, and furnish the list of statements, documents, material objects and exhibits which are not relied upon by the investigating officer. The presiding officers of courts in criminal trials shall ensure compliance with such rules.



6. Learned Advocate for the petitioner also refers to a decision of the Punjab & Haryana High Court in the case of ***Ashok Solomon & Ors. Vs. Directorate of Enforcement*** reported in ***MANU/PH/2431/2022*** wherein it is decided that the unrelayed documents collected by the investigating officer during investigation of a case ought to be supplied to the accused at the initial stage of compliance of the provision under Section 173 of the Cr.P.C.

7. The above guidelines of the Hon'ble Supreme Court was made due to the reason that the prosecution must demonstrate its fairness during trial. It may be a fact that number of witnesses are examined in a trial, some of whom may not support the prosecution case. The investigating officer has no right to suppress those documents from the notice of the accused person and obstructing the accused from taking advantage of such statement and document that might support the defence.

8. The learned Special Judge, Patna City in Special Trial (PMLA) Case No. 7 of 2021 was failed to appreciate the above aspect of the matter and the law laid down by the Hon'ble Supreme Court in the aforementioned decisions.

9. It is submitted by the learned Advocate for the



opposite party/prosecution that after rejection of the petitioner's application, charge has already been framed on 9th of February, 2024. Therefore, the said documents are not necessary at this stage.

10. I am not in a position to accept such contention made by the learned Advocate for the opposite party/prosecution because of the fact that the accused can also use the unrelieved documents by the investigating officer in order to formulate his defence. The witnesses whose statements are not relied upon by the prosecution may be cited and examined as defence witnesses. The documents not relied upon by the investigation may form the core issue of defence. Therefore, no document can be suppressed from being looked into by the defence.

11. In other words, the copy of the entire case diary/ case file now are required to be supplied to the accused/petitioner in view of the decisions of the Hon'ble Supreme Court in *Inadequacies And Deficiencies In Criminal Trials* (Supra) and *Manoj* (Supra).

12. For the reasons stated above, this Court is of the view that the order, dated 20th of December, 2023, passed by the learned Special Judge, Patna City in Special Trial (PMLA) Case No. 7 of 2021 cannot be sustained and accordingly is set aside.



13. The learned Special Judge is directed to direct the opposite party/prosecution to supply all the unrelayed statements, documents and case file by the investigating officer to the learned Advocate for the accused/petitioner who is appearing in the Trial Court within three weeks from the date of receipt / communication of a copy of this order.

14. The instant criminal miscellaneous case is, accordingly, disposed of.

(Bibek Chaudhuri, J)

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