



CRM-M-29014 of 2024 (O&M)and other connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA

204AT CHANDIGARH

CRM-M-29014 of 2024 (O&M)

Date of decision : 05.12.2024

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents

CRM-M-29040 of 2024 (O&M)

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents

CRM-M-29046 of 2024 (O&M)

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents

CRM-M-29087 of 2024 (O&M)

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents

CRM-M-29166 of 2024 (O&M)

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents



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CRM-M-29195 of 2024 (O&M)

Central Bureau of Investigation

..... Petitioner

Versus

Amit and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Ravi Kamal Gupta, Advocate
for the petitioner-CBI.

Mr. Amarinder Singh, Advocate
for respondent Nos. 1 to 3 in CRM-M-29014-2024.

KULDEEP TIWARI, J (Oral)

1. In all the six petitions, as filed by the Central Bureau of Investigation (CBI), challenge has been thrown to the order passed by the trial court concerned, whereby, the applications under Section 91 Cr.P.C., to provide copies of the unrelied documents as seized during investigation the said application as moved on behalf of one of the accused was allowed, and CBI was directed to produce the unrelied documents as mentioned in the respective applications, to produce the said documents.
2. Learned counsel for the petitioner-CBI, in an attempt to throw challenge to the impugned orders, submits that the said order is totally against the settled principles, as set up by the

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Supreme Court in case titled as **P. Pannusamy Vs. The State of Tamil Nadu, 2023 (1) RCR (Criminal) 307** and in **State of Orissa Vs. Debendra Nath Padhi reported in 2005 (1) RCR (Criminal) 297.**

3. He further submits that, this Court at an earlier occasion, has already, after considering the said issues has passed the guidelines, whereby, the application under Section 91 Cr.P.C., can only be preferred after framing of the chargesheet. Otherwise also the learned trial court concerned was required to evaluate the essentiality of those documents which were ordered to be produced prior to passing of the such order. This Court earlier while passing a detailed judgment dated 16.10.2024 passed in **CRM-M-37547-2021(O&M) M/s Commandar Realtors Pvt. Ltd. Vs. Central Bureau of Investigation** has already culled down the manner in which the application seeking unrelieved documents required to be disposed of. The relevant extract of the judgment is reproduced here as under:-

“5. This Court has heard the submissions made by the learned counsels for the contesting litigants and also perused the record. Before evincing any opinion upon the merits/de-merits of the instant petition, it is deemed imperative to, at this juncture, advert to some significant judicial precedent(s).

*6. The Hon’ble Supreme Court has, in the **Suo Moto Writ (supra)**, observed that, while furnishing the list of*

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statements, documents and material objects under Sections 207/208 of the Cr.P.C., 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. The relevant paragraph of this verdict is reproduced hereinafter:-

“11. The amici 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....”

7. Moreover, in the Suo Moto Writ (supra), High Courts were also directed to incorporate the Draft Rules of Criminal Practice, 2021, as became finalized in terms of the discussion made therein, as part of the rules governing criminal trials. Accordingly, the relevant incorporation was

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made in the “Procedure in Enquiries and Trails by Magistrates”, relevant portion whereof is reproduced hereunder:-

“(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.”

8. Furthermore, by placing reliance upon the observations recorded in **Suo Moto Writ (supra)**, the Hon’ble Supreme Court has, in its verdict rendered in “**Manoj and ors. V/s State of Madhya Pradesh**”, Criminal Appeal Nos.248-250 of 2015,

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Decided on: 20.05.2022, directed that, in all criminal trials, the prosecution should furnish the list of statements, documents, material objects and exhibits, which are not relied upon by the investigating officer and the presiding officers shall ensure compliance with such rules. The relevant paragraph of this verdict is reproduced hereinafter:-

“179. In view of the above discussion, this court holds that the prosecution, in the interest 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.”

9. The import of the judicial pronouncements (supra) gets further expounded in the verdict rendered by the Hon’ble Supreme Court in case titled as “**P. Ponnusamy V/s. The State of Tamil Nadu**”, **2023(1) R.C.R. (Criminal) 307**, relevant paragraphs whereof are reproduced hereunder:-

“14. The framework that emerges (by reading Section 173, 207, 208 and Draft Rule 4) is that based on the list of statements, documents, etc. received at the commencement of the trial, the accused can seek appropriate orders under Section 91 of the CrPC, 1973 wherein the magistrate on application of judicial mind, may decide on whether it ought to be called for. Additionally, by virtue of Section 391 of the CrPC, the appellate court, if it deems necessary, may take further evidence (or direct it be taken by a magistrate or court of

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sessions) upon recording reasoning. This safeguards the right of the accused in a situation where concern has been raised regarding evidence or material in possession of the prosecution, that had not been furnished, but was material to the trial and disposal of the case.....

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17. As stated earlier, the requirement of disclosure elaborated on in Manoj, not only was premised on the formulation of draft rules, but normatively premised on the ratio of the three-judge bench decision in Manu Sharma (supra). In these circumstances, the proper and suitable interpretation of the disclosure requirement in Manoj (supra) would be that:

(a) It applies at the trial stage, after the charges are framed.

(b) The court is required to give one opportunity of disclosure, and the accused may choose to avail of the facility at that stage.

(c) In case documents are sought, the trial court should exercise its discretion, having regard to the rule of relevance in the context of the accused's right of defence. If the document or material is relevant and does not merely have remote bearing to the defence, its production may be directed. This opportunity cannot be sought repeatedly – the trial court can decline to issue orders, if it feels that the attempt is to delay.

(d) At the appellate stage, the rights of the accused are to be worked out within the parameters of Section 391 CrPC, 1973.”



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10. The gist of the hereinabove alluded to judicial precedents can be extracted in the following manner:-

- (i) the prosecution is required to furnish only the list of statements, documents, material objects and exhibits, which are not relied upon by the investigating officer;
- (ii) the court is required to, after the charges become framed, give only one opportunity of disclosure and the accused may choose to avail this facility, but, only once;
- (iii) in case documents are sought to be produced, the trial court should, after considering the relevancy of the said documents and not merely because it has remote bearing to the defence, direct production thereof. The trial court is at liberty to decline such production, in case it feels that it is a dilatory tactic;”

4. Learned counsel for the respondent has not disputed the legal proposition as discussed above.
5. In view of the above, all the orders required interference, therefore the instant petitions are **allowed**. The impugned orders dated 02.04.2024 in all the petitions are **set aside**. The case is remanded back to the trial court concerned and in case the such application filed at the stage of the trial as per the guidelines (supra), the trial court in view of the above guidelines shall dispose of the applications.
6. A photocopy of this order be placed on file of other connected case.

(KULDEEP TIWARI)
JUDGE

December 05, 2024
archana

Whether speaking/reasoned	Yes
Whether Reportable :	No