



CRM-M-37547-2021 (O&M)

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

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CRM-M-37547-2021 (O&M)

Date of Decision : October 16, 2024

M/S COMMANDER REALTORS PVT LTD

-PETITIONER

V/S

CENTRAL BUREAU OF INVESTIGATION

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Raktim Gagoi, Advocate (Through V.C.)
for the petitioner.

Mr. Ravi Kamal Gupta, Advocate
for the respondent-C.B.I.

Mr. Vinod Ghai, Sr. Advocate with
Mr. Arnav Ghai, Advocate
for the complainant.

KULDEEP TIWARI, J. (ORAL)

1. The instant petition cast under Section 482 of the Cr.P.C. aims at securing the hereinafter extracted relief(s):-

“(i) Set aside the order dated 04.08.2021 (Annexures P-1), whereby, the learned Special Judge under PML Act, Haryana at Panchkula, has dismissed the petitioner’s application, filed in Case No. PC/01/2021 (IA-3/21), thereby seeking inspection of documents, which became seized by the C.B.I., but neither became relied upon nor placed on record before the Court concerned;

(ii) Set aside the order dated 04.08.2021 (Annexure P-2), whereby, the learned Special Judge (C.B.I.), Haryana at Panchkula, has dismissed the petitioner’s application under Section 207 of the Cr.P.C., filed in Case No. PC/01/2021 (IA-04/2021), thereby praying for him being supplied the deficient copies of documents.”



SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

2. The principal argument of the learned counsel for the petitioner is embedded in the notion that, the documents, which although became seized by the C.B.I. during the course of investigation, however, did not become relied upon or placed on record, carry dire significance for the petitioner to prove his innocence, besides them being essential for a proper and just trial. He argues that the prosecution agency is duty bound to furnish all the relied/non-relied upon documents, so that the accused can effectively defend himself/herself. To garner strength to this argument, he makes dependence upon the verdict drawn by the Hon'ble Supreme Court in *Suo Moto Writ (Crl.) No.1 of 2017*, Decided on: 20.04.2021, titled as "*In Re: To Issue Certain Guidelines Regarding Inadequacies and Deficiencies in Criminal Trials V/s The State of Andhra Pradesh & Ors.*".

3. Another argument framed by the learned counsel for the petitioner ensues from the indefeasible right of the petitioner to a fair trial becoming infringed, on account of non compliance of the mandate enclosed in Section 207 of the Cr.P.C, inasmuch as, Section 207 endows a right to the accused to have access to all the documents, which constitute a part of the final report. Consequently, he argues that, at the time of making compliance of Section 207, the learned Special Judge erred in declining to supply deficient copies of documents to the petitioner, which he was/is otherwise entitled to.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT, AND, LEARNED SENIOR COUNSEL FOR THE COM-

**PLAINANT**

4. *Per contra*, the learned counsels representing the respondent and the complainant defend the reasons banked upon by the learned Special Judge concerned while drawing the impugned orders. They argues that, the documents, which did not become relied upon against the petitioner, do not hold any significance in the present case and production thereof is totally irrelevant.

ANALYSIS OF JUDICIAL PRECEDENT(S) GERMANE TO DISPOSAL OF THE INSTANT PETITION

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 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 materi-



als, (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 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*, 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 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.”*

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;

FINAL ORDER

11. To the considered mind of this Court, the impugned order dated 04.08.2021 (Annexure P-2) does not suffer from any illegality or perversity therein, inasmuch as, while declining petitioner's application under Section 207 of the Cr.P.C. for supply of deficient documents, the learned Special Judge concerned has categorically observed that the entire documents, which are part of the Final Report *qua* the petitioner, have already been supplied to the petitioner/accused, whereupon, the latter suffered his statement in this regard. The relevant observations in this regard, as recorded in the impugned order dated 04.08.2021 (Annexure P-2), are reproduced hereunder:-

"...It is pertinent to mention that copies of all the relied upon statements/documents have already been provided to the accused-company and accused himself has suffered his statement in this regard. It is further pertinent to mention that articles i.e. 4 DVDs (MR-448/19) contained scanned copies of the original licence files related to 27 licece/LOI cases as mentioned in the FIR and only the scanned of the concerned licence files related to applicant are relevant and relied upon and the soft copy of the scanning of the original licence files related to the applicant has already been provided to the accused-company as document Marked-D51 to D-66 of the charge-sheet. The other licence files in the said DVD are not related to the applicant-accused company. Hence, these are unrelid documents as the four DVDs contained scanned copies of the 27 licence files including the licence file of applicant-accused company and it is, therefore, the said DVDs were shown in the list of articles. Even the learned counsel for the applicant-accused company has not objected the receiving of the relied upon documents from this Court except the unrelid documents mentioned/referred in the statements of witnesses...."



12. Since the above reproduced observations have not been rebutted by the petitioner by leading any cogent evidence before this Court, therefore, the same do not require any interference.

13. Now, insofar as the order dated 04.08.2021 (Annexures P-1) is concerned, although the learned counsel for the petitioner made an endeavour to assail the validity thereof, however, he failed to do so and consequently, he seeks liberty to, in view of the proposition of law expounded by this Court in *CRM-M-26474-2023, titled as “Central Bureau of Investigation V/S Surinder Pal Singh”, Decided on : August 28, 2024*, approach the learned trial Court concerned.

14. Since the above made prayer of the learned counsel for the petitioner is not opposed by the learned counsel representing the respondent-C.B.I., therefore, the instant petition is disposed of in terms of the order dated 28.08.2024 rendered by this Court in CRM-M-26474-2023.

15. In case, the petitioner files any application seeking supply of unrelayed upon documents, the learned Judge concerned shall decide the same, while keeping in view the verdict rendered by this Court in CRM-M-26474-2023.

16. The instant petition is disposed of accordingly.

17. Pending application(s), if any, also stand disposed of accordingly.

October 16, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No