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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of decision: 23rd October, 2024**
+ **CONT.CAS(C) 209/2019, CM APPL. 20578/2019, CM APPL. 59370/2023 & CM APPL. 30232/2024**

SURESH CHANDRA GUPTAPetitioner
Through: **Dr. Amit George (Amicus for the petitioner) with Ms. Rupam Jha, Adv. along with petitioner in person.**
versus

UNION OF INDIARespondent
Through: **Mr. Rajesh Gogna, CGSC with Mr. Nipun Jain and Ms. Priya Singh, Advs.**
Mr. Sameer Vashisht, ASC (Civil), GNCTD with Ms. Harshita Nathrani, Adv.
Mr. Jitendra Kumar Singh, Assistant Section Officer for UOI.
Ms. Madhusmita Bora, Mr. Bijoy Kumar Pradhan, Advocates for All India Radio/Prasar Bharati.
Inspector Ashwani Kundu from EOW.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioner initially sought initiation of contempt proceedings against Director General and Supplies and Disposals, Union of India and later on in terms of the directions of this Court



respondent Union of India representing Delhi Police as well as All India Radio have been impleaded as respondent Nos. 2 and 3 respectively.

2. Shorn off unnecessary details, the petitioner seeks initiation of contempt proceeding for the respondents committing willful disobedience of the directions of this Court in Criminal Revision Petition No. 31/2012 titled Union of India v. Suresh Chand Gupta decided by this Court *vide* judgment dated 08.01.2019. Suffice to state that the petitioner faced a long criminal trial for over 19 years arising out of FIR No. 148/1999 under Section 420, 461 and 471 of the IPC with P.S. Tilak Marg, New Delhi. The petitioner was acquitted of all charges *vide* judgment dated 14.12.2009 passed by the then learned Additional Chief Metropolitan Magistrate which was assailed in the aforesaid revision petition by the State/Union of India but the same was dismissed at the same time having regard to the long ordeal of the petitioner of having faced the ignominy of the trial, it was directed that he be paid a compensation of ₹ 1,00,000/-. It was further directed that *“the goods, if any seized by the IO, shall also be released by the IO, to the person entitled under the law, within a period of four weeks”*. The grievance of the petitioner in the present contempt petition is that despite aforesaid directions, the goods worth about three cores of rupees at the time of its seizure on 02.01.1999 in the aforesaid FIR have not been returned to him. During the course of proceeding, an order dated 06.12.2023 was passed by the undersigned which goes as under:-

“1. Learned Amicus Curiae has alluded to the judgement dated



08.01.2019 whereby this Court dismissed the appeal of the petitioner-Union of India assailing judgment/order dated 14.12.2019 passed by the learned ACMM whereby the petitioner, who was an accused in the criminal proceedings had been acquitted of offenses under Sections 420/468/470 of IPC.

2. At the same time, while considering the entire conspectus of the case and considering that the petitioner faced incarceration and also the ignominy of a long trial over 19 years, this Court had directed to ex gratia payment of Rs. 1 lakh, as compensation to the petitioner, which has since been paid. However, the directions to the investigating officer, Delhi Police to release the goods that were seized from the petitioner after his arrest have not been complied with.

3. Learned Amicus Curiae has referred to the seizure memo of the goods in FIR No. 148/1991, PS: Tilak Marg, Delhi, which prima-facie indicates the quantity of electronic materials, cables, micro-phones etc. seized. However, on notice issued to the Delhi Police, it was recorded in the order dated 26.09.2019 that only a sum of Rs. 1400/- were found from the personal jama talashi of the accused-petitioner.

4. It is apparent that the Delhi Police as well as Union of India have failed to account for the whereabouts of the goods that were seized from the petitioner.

5. Considering the plight of the poor petitioner who has now become a senior citizen and considering the value of the goods that were seized at the relevant time, which was stated to be about Rs. 3 crores, and in the peculiar background of the facts and circumstances of the case, this court deems it fit to request the learned ASG to appear in the matter and apprise this Court as to what measures could be taken so as to compensate the petitioner. Let notice be issued to learned ASG with the request to assist this Court in this regard.

6. At this stage, the request of the learned Amicus Curiae is also noted that although All India Radio had been directed vide order dated 17.11.2023 to file a reply in the present matter, the same is yet to be done. Further, none appeared on behalf of the All India Radio when the matter was called.

7. Let notice be issued to the Director General, All India Radio to ensure that some authorised officer through counsel appears in the present matter on the next date of hearing.

8. Re-notify on 11.01.2024.”

3. Subsequently, a learned single Judge of this Court vide order dated 14.02.2024 also made the following observations:-



“5. This Court notes that in FIR No. 148/91 dated 13th August, 1991, certain goods were seized by the Inspector, Crime Branch, Police Station, Tilak Marg. The Seizure Memo dated 02nd January, 1991, which is on record before this Court, clearly shows that certain goods of the petitioner were seized by the Investigating Officer. The Seizure Memo issued by the Police Station, Tilak Marg under the signatures of the Inspector, Crime Branch along with the list of goods seized, reads as under:-

“Case FIR no. 148/91 dated 13.8.91 U/s 420/468/491 IPC Police Station Tilak Marg, New Delhi.

SEIZURE MEMO

In the presence of signatories to this memo to showing the details of stores received at the store at P-6, godown, AIR and Doodarshan 6, Probyan Road, Kingsway Camp, Delhi against A/T no. E17/210/099/21-1-86/87/CELL/066/COAD/1214 dated 4-11-88 have been taken into possession through the memo which has been provided by Shri A.K. Dikshit, deputy director (store)

(A.K. DIKSHIT)
DEPUTY DIRECTOR (STORE)
6. PROBYAN ROAD
DELHI

INSPECTOR
SUKHRAM (2-1-91)
INSPECTOR
CRIME BRANCH
PHO MS
VILLAS 190, NEW

DELHI”

S.No.	Details of equipment	Qty. Recd.	Remarks
1.	2. Condenser type H-100	67 Nos. PAYMENT [11 Nos. without SA 40/1 Adaptors]	Since 1/Note have not been received hence question of their release does not arise.
2.	300 Condenser H-100, stand with C-101 & Pre-amplifier with adaptor and also screen.	10 Nos. PAYMENT of Microphones C-101 with stand adaptors and SA 40.	All the materials are of AIR, surplus stock. Stores not accepted.
3.	10 m. cable with one end XLR connector and the other end free.	645 Nos.	
4.	200 D-100 2 Mike a. Mike, cable and adaptors b. Mike, cable.	Nil	
5.	Empty cartons (without adaptors): i. with microphone and cable ii. with microphone only. iii. empty paper cartons.	Nil	
6.	Other small items	Nil	
TOTAL PURCHASED BY S. K. RAM			

THIS PURCHASE BY
P. 9931/412/70
M. K. A. 16/12/91



MATERIAL RECEIVED AS BELOW.

1. On 21.7.89 3 Gunny bags vide Chalan No. 232/89-90 dt. 21.7.89.
2. On 23.11.89 RPP Nos.
24.11.89 2540 —
29.11.89 2541 — 10 kg each - 45 kg.
2542 —
2530 —
2534 —
630 — } 20/11/89
631 — }
2496
3. On 9.3.90 RPP Nos.
5040 — } 50 per.
5041 — }
5042 — }
5043 — } 2nd 2nd - 75
5044 — }

THE MATERIAL CHECKED AS BELOW.

1. Mike type AKG D-222 56 Nos. made in Austria with stand adaptor AKG SA41/1. 67 Nos. (Sixty Seven Nos.)
2. Mike type AKG D-222 11 Nos. made in Austria with out stand adaptor AKG SA41/1. Shortage of the adaptors 11 Nos.
3. Mike type AKG D45 10 with stand adaptor AKG SA40. 10 Nos. The cables are not in 10 M exact length but they are :
10.1 M.
10.3 M.
08.6 M. etc.
4. 10 M Cable of Microphone with connector on one end (On some of the connectors marked TSP as sticker) need 3000 in 3 Gunny bags. 104
+ 107
+ 109
320 Nos.
5. 10 M cables of Microphone with connector on one end (without any mark) (received on 9.3.90 RPP Nos. 5040 to 5044) 25 x 5 = 125 Nos. (75+50)

THIS
AD 222
WHIC
COST
20,000

(NARESH KUMAR)

Asstt. Director (Engineering)
D-6 Godown.



6. Perusal of the aforesaid Seizure Memo shows that substantive quantity of goods were seized from the petitioner by the IO that were duly received by the IO from the store in the godown of the All India Radio and Doordarshan situated at 6, Probyan Road, Delhi.

7. This Court further notes that in order dated 26th September, 2019, a statement has been made on behalf of learned Standing Counsel for GNCTD/Delhi Police that only Rs. 1400/- was seized by the Investigation Officer. Order dated 26th September, 2019 passed by this Court reads as under:-

“CM APPL. 20578/2019

During the course of hearing, Mr. Mehra, ld. Standing Counsel for GNCTD/Delhi Police submits that only Rs.1,400/- was seized by the IO. Mr. Mehra also stated that the necessary instructions for the release of the said amount have already been issued. Petitioner appearing in person however seeks to agitate the issue as regards certain goods, which he allegedly sent/consigned and have been the subject matter of the criminal proceedings which gave rise to CrI.Rev.P 31/2012, in which the order dated 08.01.2019 came to be passed.

Ld. counsel appearing for the Union of India on his part points out that vis-a-vis the inter se disputes as regards the claim of consignment of goods and others, arbitral proceedings are pending and are listed for today only at 4.00 p.m. before the Arbitral Tribunal and that the petitioner is at liberty to rake up the issue of release of any goods before the Arbitral Tribunal.

Petitioner appearing in person may engage an advocate of his own choice and on account of an inability, he may approach the Legal Aid Cell. Suffice to say, the goods, which he seeks to be released, may be part of the arbitral proceedings or any claim thereunder and cannot be gone into in the manner, he is seeking to agitate.

List on 03.02.2020.”

8. Thus, it has come to fore that though the Seizure Memo shows that substantial goods of the petitioner were seized, however, the same seem to be untraceable.



9. It is further to be noted that since a peculiar situation has arisen in the present case, this Court had by a previous order, requested Mr. Chetan Sharma, learned Additional Solicitor General of India (“ASG”) to appear in the present matter.

10. Learned ASG has appeared before this Court and has suggested that the Director General of All India Radio may be involved in the matter so that appropriate inquiry in this regard may be conducted at his end.

11. However, Ms. Madhusmita Bora, learned counsel appearing for All India Radio submits that the issue in the present case is with respect to the goods that were seized by the Delhi Police and that All India Radio has nothing to do with the present matter. She further submits that the petitioner has already been paid all the amounts due and payable to him for the goods supplied by the petitioner to the All India Radio.

12. Considering the aforesaid facts and circumstances of the present case, this Court is of the view that valuable goods of the petitioner cannot simply disappear, once they have been seized by the Delhi Police at the time of taking the petitioner into custody. The Seizure Memo, which is before this Court, is very categorical to the effect that the goods seized have been taken into custody by the Delhi Police from the store of the All India Radio, situated at 6, Probyan Road, Kingsway Camp, Delhi.

13. Therefore, in order to reach to the crux of the matter, it is deemed expedient to issue notice to the Commissioner of Police, who shall direct the concerned officials to investigate and inquire into the matter as regards the goods of the petitioner, that were seized by the Delhi Police in FIR No. 148/1991 dated 13th August, 1991, vide Seizure Memo dated 02nd January, 1991.

14. The Commissioner of Police shall depute a Senior Officer, who shall supervise the investigation/inquiry by the concerned officials. The said Officer deputed by the Commissioner of Police shall file an affidavit before this Court detailing the status of the goods of the petitioner that were seized by the concerned IO.

15. Let the necessary affidavit be filed by the Delhi Police within a period of eight weeks from today, after due investigation/inquiry into the matter.

16. Mr. Gogna, learned Standing Counsel is requested to be present in the Court. In case the presence of learned ASG is required, request shall be made to Mr. Gogna in that regard.

17. A copy of this order be sent to the Commissioner of Police by the Registry of this Court forthwith.”

4. Faced with the aforesaid orders, learned standing counsel for



the Union of India representing Delhi Police alluded to the reply-cum-affidavit filed by Mr. Arnesh Roy, Deputy Commissioner of Police, Economic Offences Wing dated 15.07.2024 whereby *inter alia vide* paragraphs (8) (9) & (10) the following depositions are made:-

“8. That in order to comply with the directions passed vide order dated 14.02.2024, it is submitted that the Record Registers maintained by the Malkhana Incharge [Moharar Head Constable (Malkhana), [MHC (M)] of the Police Station Tilak Marg, New Delhi, were got inspected but no goods/articles were found to be deposited during the course of investigation in case FIR No. 148/ 1991, PS- Tilak Marg, except an amount of Rs. 1400/- recovered from the personal search of present petitioner, Mr. S.C. Gupta, deposited on 16/01/1992. Further the said amount of Rs. 1400/- was sent/deposited to the District Nazir vide Road Certificate No. 89 /21 dated 13.11.1992. The copy of the Register No. 19 and copy of Road Certificate No. 89/21 are enclosed as Annexure A & B.

9. Further, from the examination of the trial proceedings records, it came out that, in the Trial Court order sheet dated 07.09.2000, it is categorically recorded on the basis of submissions made by the Defence Counsel as well as the Ld. SPP, that the Investigating Officer had not seized any kind of goods during investigation. In fact, the Ld. Counsel for the accused had filed an application in the year 1995 on his behalf, to direct the Investigating Officer to seize the goods (disputed microphones). In the order sheet, the SPP's submissions have been recorded which mention that since the investigation was document based, hence no goods were seized. Certified Copy of the order sheet of Ld. Trial Court is enclosed as Annexure-C.

10. That the main IO of the Case FIR No. 148/91 Sh. Sukh Ram (now retired as ACP) was examined, wherein he stated that during the course of investigation, he had only collected the relevant documents from DGS&D, All India Radio, Office of Chief Controller, and from present petitioner, Sh. S.C. Gupta, and same were filed before the Ld. Trial Court with Charge Sheet. He further stated that during the course of investigation, no goods/articles were seized by him. The Investigating Officer, during his cross examination in the trial proceedings, on dated 08.08.2008, had stated that “It is correct that during my investigation, I had not seized any of the material”. Certified



Copy of the order sheet of Ld. Trial Court is enclosed as Annexure-D.”

5. In short, learned counsel for respondent/Union of India representing Delhi Police urged that although a seizure memo dated 02.01.1991 was indeed prepared by Inspector Sukh Ram, however, the goods were not physically seized and were allowed to be retained at the godown of the All India Radio. The said aspect has been denied by learned counsel for the respondent No.3, All India Radio appearing today. Learned counsel for respondent, Union of India representing Delhi Police also referred to Criminal Revision Petition 31/2022 which was finally disposed of vide order dated 09.08.2023 by a learned Single Judge of this Court whereby an application moved by the respondent no.1, that is, the petitioner in the present contempt petition for release of goods in terms of previous order dated 03.01.2019 accepted the version of the Delhi Police that no goods had been seized during the investigation in FIR No. 148/1999 except for amount of Rs.1400/- that were recovered from the personal search of the respondent No.1/petitioner.

6. Having heard the learned counsel for the parties and on perusal of the record, unhesitatingly the plea advanced by learned counsel for Union of India (Delhi Police) that no physical goods were seized vide seizure memo 02.01.1991 is not fathomable and is belied on a bare perusal of the aforesaid seizure memo which clearly shows the items/articles that were seized by the IO. Learned counsel for the respondent, Union of India, representing Delhi Police acknowledges that there were certain goods which had not been inspected by the



DGSND or for that matter staff of All India Radio which were lying in the godown of the petitioner.

7. In view of the aforesaid discussion, the position that emerges is that certain goods and articles were evidently seized by the investigating officer during the course of investigation in the aforesaid FIR No. 148/1999 vide seizure memo dated 02.01.1991 and the respondent, Union of India, i.e. Delhi Police, is yet to account for the same. All said and done, unfortunate as it may appear, no relief can be granted to the petitioner in the instant contempt proceedings where the only issue is whether or not there has been a willful, deliberate or contumacious disobedience or non-compliance on the part of the respondents in complying with the directions of this Court. The order dated 03.01.2019 *per se* does not speak about anything.

8. During the course of arguments, it was pointed out that arbitration proceedings are pending between the petitioner and All India Radio with regard to recovery of amount to be payable by the latter in respect of delivery of goods made by petitioner to them, which goods were inspected and found to be in order and kept in the godown of the All India Radio. The misconduct or omission to account for the goods/articles that were seized during investigation vide serial number 02.01.1991 is an act or omission which falls in the realm of Criminal Law inviting action for criminal misappropriation and/or damages in civil law. The real issue before this Court is how to verify if the goods or articles that were seized during the investigation were worth Rs.3 crores. It is in such backdrop that this court finds itself unable to persuade to give any relief to the petitioner. The



petitioner may institute appropriate legal proceedings against the State and/or its instrumentalities so as to seek appropriate legal action including award of damages in accordance with law.

9. In view of the foregoing discussion, the present contempt petition is dismissed without prejudice. The petitioner shall be at liberty to initiate appropriate legal proceedings against the respondent/Union of India, in accordance with law.

10. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

OCTOBER 23, 2024/pkv