



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 08th August, 2025

Pronounced on: 10th December, 2025

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CRL.M.C. 579/2024 & CRL.M.A. 2371/2024

SHANTANU PRAKASH

S/o Jagdish Prakash

aged about 58 years

Res: F-5/2, DLF City Phase-I

Sikanderpur, Ghosi (68)

Gurugram, Haryana - 122002

.....Petitioner

Through: Mr. Arshdeep Singh Khurana,
Ms. Neena Nagpal, Mr. Malak Bhatt,
Mr. Vishvendra Tomar, Mr. Tannavi
Sharma, Mr. Rashvendra Tomar and
Ms. Nishtha Juneja, Advocates

Versus

1. CBI

Through its Director

6th Floor, Lodhi Road, Plot No. 5-B

Jawaharlal Nehru Stadium Marg,

CGO Complex, New Delhi-110003

...Respondent No. 1

2. M/S EDUCOMP INFRASTRUCTURE AND SCHOOL MANAGEMENT LIMITED

Through Mr. Paramjit Gandhi, Director

M /s Jasrati Education Solutions Limited

Formerly known as,

Educomp Infrastructure & School Management Ltd.

202, 2nd floor, Qutub Plaza,

DLF Phase-1, Gurugram-122002

...Respondent No. 2

3. AXIS BANK LTD.

Through Mr. Amitabh Chaudhary

MD and CEO Axis Bank Limited,

C-2 Wadia International Centre,

Pandurang Budhkar Marg, Worli,



Mumbai-400025

...Respondent No. 3

4. BANK OF INDIA

Through Branch Manager,
New Delhi Large Corporate Branch, Bank of India,
10th Floor, Chanderlok Building
Opp. Imperial Hotel
36, Janpath, New Delhi-110001
Through Standing Counsel
Email: advskrout@yahoo.com

...Respondent No. 4

5. YES BANK

Through Branch Manager
Yes Bank 4d, 48, Nyaya Marg,
Chanakyapuri,
New Delhi - 110021
Through its Counsel
email@ashwinichawla.net.in

...Respondent No. 5

6. UNION BANK

Through Mr. Rajat Agarwal
Union Bank of India
603B, Konnectus Towers,
Bhavbhuti Marg, New Delhi – 110001
Through Standing Counsel
Email: opgaggar@gmail.com

...Respondent No. 6

7. STATE BANK OF INDIA

Through Shri Mukesh Kumar Dhingra
Deputy General Manager
State Bank of India
Stressed Assets Management Branch-I.
11th Floor, STC Building, 1-Tolstoy Marg
Janpath, New Delhi – 110001
Through Standing Counsel
Email: rajiv@rpkapur.com

...Respondent No. 7



8. PUNJAB NATIONAL BANK

Through Branch Manager, Punjab National Bank
No.16-49, 4th Floor, Zonal SASTRA Centre,
PNB Towers, Royapettah,
Chennai, Tamil Nadu – 600014
Through Standing Counsel
Email: advskrout@yahoo.com

...Respondent No. 8

9. KARNATAKA BANK LIMITED

Through the Chief Manager
Karnataka Bank Limited
Corporate Finance Branch
G-12, Marina Arcade
Connaught Place, New Delhi – 110001
Email: info@ktkbank.com

...Respondent No. 9

Through: Mr. Anupam S. Sharrma, SPP with
Ms. Harpreet Kalsi, Mr. Vashisht
Rao, Mr. Ripudaman Sharma,
Mr. Vishesh Jain, Ms. Riya Sachdeva
and Mr. Anant Mishra, Advocates
Mr. Chatanya Sharma, Mr. Shitij
Chakravarty and Mr. Udhav Hari
Agarwal, Advocates for R-2/J&K
Bank (through VC)
Mr. O.P. Gaggar and Mr. Sachindra
Karn, Advocates for R-6/Union Bank
Mr. Sanjay Kapur, AOR with
Mr. Surya prakash and Ms. Akanksha
Bhatia, Advocates for R-7 (through
VC)

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. The present Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (*Cr.P.C.*) to challenge the *Impugned Order* dated 20.12.2023 of the Ld. Special Judge (PC Act) (CBI) in Misc. DJ ASJ No. 279/2023, dismissing its Application under S.91 Cr.P.C. for production of Documents by Central Bureau of Investigation (*CBI*) and the Respondent Banks.
2. The Petitioner/Shantanu Prakash had filed an Application under Section 91 Cr.P.C. seeking directions to the respondents, to produce certain documents which the Petitioner claimed were necessary for him to participate in the investigations effectively.
3. ***The factual matrix*** is that the Petitioner, Shantanu Prakash, was a Director on the Board of *M/s Educomp Infrastructure and School Management Limited (EISML)* between 02.09.2006 and 15.02.2018. EISML availed Term Loans and financial assistance from a consortium of Banks, between 2009 and 2013. However, due to adverse business conditions, EISML faced a financial crunch. Consequently, EISML filed an Application under *Section 10 Insolvency and Bankruptcy Code, 2016 ("IBC")*, which was admitted by the NCLT, Chandigarh vide Order dated **25.04.2018**.
4. Upon admission into CIRP, the Board of Directors of EISML was suspended and the Interim Resolution Professional ("**IRP**") (later Resolution Professional) took over the management and custody of all documents, books of accounts, and statutory records of the Company. The Petitioner asserted that since that date, the relevant records are not in his possession.



5. The CIRP concluded on **14.12.2020** when the NCLT approved the Resolution Plan submitted by Mr. Paramjit Gandhi (*M/s Jasrati Education Solutions Limited*), who then took over the Company.
6. Based on a Complaint dated 27.05.2021 by the State Bank of India, the CBI registered **FIR No. RC 2232021A0007** on **29.06.2021** against EISML (Accused No. 1) and the Petitioner/Shantanu Prakash (Accused No. 2) for offences under Sections 120B r/w 406/420 IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. The investigation is currently ongoing.
7. The CBI issued **Summon No. 1482-N dated 11.09.2023** to the Petitioner, seeking answers to queries pertaining to transactions by EISML from the years **2007-2010**. The Petitioner contends that it is impossible for him to answer these queries regarding 13–15-year old transactions without access to the Company's records, which had been handed over to the Resolution Professional, in 2018.
8. To assist the investigation, the Petitioner sent letters on **28.09.2023** to the Consortium Banks and the CBI, requesting the necessary documents. The Banks either refused or did not reply, and the CBI did not respond. On **10.10.2023**, the Petitioner also wrote to Mr. Paramjit Gandhi, the new management of EISML seeking the records, but this request was also declined.
9. Aggrieved by the non-supply of documents, the Petitioner filed an Application under **Section 91 Cr.P.C.** dated **22.11.2023** before the **Ld. Special Judge, New Delhi**, seeking directions to the CBI and the Banks to produce the relevant documents.



10. The Ld. Special Judge dismissed the Application by the **Impugned Order dated** 20.12.2023, holding that the Application was premature and that the accused cannot dictate the course of investigation or demand documents to answer queries at this stage.

11. *The Petitioner challenges the Impugned Order on the grounds* that the Ld. ASJ failed to appreciate that EISML was admitted to the Corporate Insolvency Resolution Process (CIRP) vide Order dated 25.04.2018, leading to the suspension of its Board of Directors. Consequently, the management and custody of all assets, including business records and books of accounts, vested with the Resolution Professional (RP), under Section 17 of the IBC. The Petitioner contends that he is not in possession of the relevant documents due to factors beyond his control and the statutory scheme of the IBC. Therefore, requiring him to answer queries regarding transactions from 2007-2010 without access to these records, is an impossibility.

12. Section 91 Cr.P.C. is an enabling provision, designed to ensure the production of documents “*necessary or desirable*” for the investigation. The Petitioner asserts that the Ld. ASJ erred by applying an incorrect test, specifically by holding that the Petitioner failed to show bias or prejudice on the part of the Investigating Officer (IO). It is submitted that the *Test of bias* is completely alien to Section 91 Cr.P.C. Once the necessity and desirability of the documents was established for the purpose of the Petitioner’s defence and explanation, the Application ought to have been allowed regardless of whether the IO was biased or not.

13. It is urged that a *fair investigation* is a facet of Article 21 of the Constitution of India. The Petitioner is severely handicapped in cooperating with the investigation and to bring the correct factual position to the IO’s



knowledge in the absence of the documents, which are fundamental to the case. The Petitioner contends that the *Final Report* filed without affording him a meaningful opportunity to explain the circumstances on the basis of these documents, would result in a biased and one-sided investigation.

14. The Petitioner challenges the Ld. ASJ's finding that the Application was premature. It is submitted that the power under Section 91 Cr.P.C. can be invoked at any stage, including the stage of investigation. Relying on the Supreme Court's decision in Om Prakash Sharma v. CBI, (2000) 5 SCC 679 the Petitioner contends that if reliable material can be produced to affect the very sustainability of the case, a refusal to look into such material results in injustice. The prejudice is being caused *in praesenti* as he is being summoned to answer questions that he cannot answer without records; he cannot be compelled to wait for the filing of a Chargesheet to agitate his cause.

15. The documents relate to Loan approvals, Consortium Meetings, and valuations, which are 13 to 15 years old and are essential for the Petitioner to answer specific queries raised in the enquiry. The Petitioner provided a specific tabulation linking the IO's queries to the documents required.

16. Furthermore, it is submitted that no prejudice would be caused to the CBI or the Banks by producing these documents, as they are not classified or secret. On the contrary, their production would aid in the discovery of truth.

17. *The CBI has opposed the petition*, maintaining the stance that the investigation is ongoing. The stage for the supply of documents to the accused, arises only after the filing of the Police Report (Charge Sheet) under Section 173 Cr.P.C., in compliance with Section 207 Cr.P.C.



18. It is submitted that the investigations relate to a serious financial fraud involving a wrongful loss of approximately **Rs. 806.07 Crores** to the consortium of Banks. The Petitioner, who was the Chairman and Managing Director of the Educomp Group, is alleged to have diverted loan funds to personal accounts of related parties and subsidiaries, rather than utilizing them for the sanctioned purposes. The investigation is currently underway.

19. The Respondent contends that the Application under Section 91 Cr.P.C. is not maintainable at this stage as the relevant documents cannot be handed over to the accused while the investigation is ongoing.

20. The Respondent refutes the claim that the Petitioner is handicapped in answering queries. It is submitted that during the examination, the Petitioner was shown the relevant documents and was given proper opportunity to peruse them, before his statements were recorded. The Petitioner has already answered questions based on his memory and the perusal of these documents.

21. Relying on the judgment of the Apex Court in State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568, the Respondent contends that the law does not permit a “*roving or fishing inquiry*” by the accused. The jurisdiction under Section 91 Cr.P.C., when invoked by an accused, must be viewed in the context of the *necessity and desirability* for the proceedings, which does not accrue at the stage of investigation.

22. The investigation has revealed that the Petitioner, in connivance with others, utilized term loans for purposes other than intended, such as repayment of loans of group Companies and adjustment of overdrafts, thereby cheated the lender banks.



23. The Respondents No. 3 to 9 Banks (Axis Bank, SBI, Bank of India, etc.), being the Complainants and members of the Consortium, support the investigation. As noted in the Petitioner's own submissions, Banks like Axis Bank and Bank of India had previously declined the Petitioner's direct request for documents on the grounds that the documents were classified/confidential and have already been forwarded to the CBI for investigation purposes.

Submissions Heard and Record Perused.

24. Present Petition raises an interesting question of scope of Section 91 of Cr.P.C. and whether an accused can invoke Section 91 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to compel the production of documents from the Prosecution or third parties (Respondent Banks) during the pendency of an investigation, specifically to facilitate his answers to the Investigating Officer.

25. To first understand the scope of Section 91 Cr.P.C., it may be reproduced as under:

“91. Summons to produce document or other thing:

(1)Whenever any Court or any officer-in-charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.”



26. From bare perusal of Section 91 Cr.P.C., it emerges that this power of issuing summons to *produce documents or other things* can be exercised either by the *Court or any Officer in-charge* of the Police Station, which is considered *necessary or desirable* for the purpose of any *investigation, enquiry, trial or other proceedings*. Section 91 Cr.P.C. is therefore, not limited to the summoning of documents or things, only after the filing of Chargesheet, but can be exercised even at the stage of enquiry or investigations.

27. The *next question* which emerges, is what are the circumstance in which the Court of any Officer in-charge seek production of documents.

28. The *first and foremost requirement* for production of document under Section 91 Cr.P.C. is that it can be invoked at the stage of enquiry as well as the trial. The second requirement is that it should be *necessary or desirable* for that purpose of investigation. The *third aspect* which emerges is that such necessity or desirability has to be considered with *reference to the stage*, when the prayer is made for the production.

29. It is therefore, pertinent to consider whether the documents sought by the Petitioner were required at the stage of investigations by the Police, before filing of the Chargesheet. The case of the Petitioner may be considered on the aforesaid parameters.

30. The Petitioner essentially contends that he cannot effectively participate in the investigations because the documents pertaining to the transactions by EISML from the year 2007-2010, for which period the Petitioner is being interrogated by the I.O., are no longer in his possession due to the IBC proceedings. He seeks these documents to refresh his



memory and answer the IO's questions regarding old transactions. He argues that this violates his right to a fair investigation under Article 21.

31. It is evident from his own submission that the documents, which he is seeking, are of his own Company, which he submitted in the insolvency proceedings against his company. It cannot be said that the documents of the nature, which he cannot procure independently. *Second fact*, which emerges, is that I.O. has already got these documents from the concerned Authority.

32. The *third aspect* of significant is that the only ground of seeking production and giving these documents to the Petitioner is that he is unable to answer the question appropriately, when he is confronted with these documents by the I.O.

33. The purpose of interrogation is to elicit the truth based on the personal knowledge of the accused. If the Petitioner does not remember details due to the passage of time or lack of records, he is entitled to state the same to the Investigating Officer. The law does not compel an accused to answer questions that are factually impossible for him to answer; it merely requires him to cooperate with the investigation.

34. It is therefore, evident that the documents are already available with the I.O. and he has been interrogating the Petitioner by confronting him with them. This Application is an oblique way to procure the documents, which he can do independently. He is seeking documents on the pretext that he would be able to assist in investigation. However, as per his own submission, he is being confronted with the documents, thereby implying that he can very well look into the documents and answer appropriately.



This cannot be a ground for him to seek documents with which he is being confronted by the I.O. during investigation.

35. As submitted by the CBI, accepting the Petitioner's contention would amount to conducting a "*mini-trial*" at the stage of investigation. The Supreme Court in P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24 cautioned against such a course, noting that if the accused were to be confronted with every document collected by the Agency, it would defeat the purpose of investigation and potentially allow tampering with evidence.

36. Investigation is the exclusive prerogative of the police/investigating agency. The accused cannot guide the investigation or demand that specific documents be collected and supplied to him to facilitate his answers. If the Petitioner does not remember facts due to the passage of time or lack of documents, he is entitled to state so to the Investigating Officer. The law does not compel an accused to answer questions that are impossible to answer without records; it merely requires him to join the investigation.

37. The fairness of the investigations is not being questioned by the Petitioner. Section 91 Cr.P.C. does not include a situation, where the query is being put by the I.O. to the accused, who is unable to answer the queries in an appropriate way. The Final Report is yet to be filed. The Petitioner is seeking documents essentially for his defence, which he may seek after the filing of the Charge Sheet.

38. Learned ASJ has rightly observed that the investigation needs to be fair and can be supervised by the Court before filing of Chargesheet, though the area of supervision is limited and is to be exercised only when there is some allegation of bias against the Investigating Agency, thereby impinging on the fairness of the investigations. The necessity and desirability of the



documents under Section 91 Cr.P.C. must be judged from the perspective of the investigation's progress, not the convenience of the accused in answering questions.

39. Learned counsel for the Petitioner has placed reliance on Om Parkash Sharma (supra), Satish Mehra (supra) and Nitya Dharmananda v. Gopal Sheelum Reddy, AIR 2017 SC 5846.

40. However, all these aforesaid Judgments pertain to the stage after Chargesheet has been filed and the documents were sought either to seek discharge or at the time of charge. Under Section 207 Cr.P.C., the accused is entitled to copies of the police report and all documents relied upon by the prosecution *after the investigation is complete and the charge sheet is filed*. Therefore, these judgments are distinguishable and not applicable to the factual situation under consideration.

41. The the Application is premature. The scheme of the Cr.P.C. provides specific checks and balances.

Conclusion:

42. The power under Section 91 Cr.P.C. is discretionary and must be exercised only when the Court considers the production "*necessary or desirable*." The Ld. Special Judge has exercised this discretion judiciously, noting that the investigation is at an initial stage and the accused cannot seek the documents with which he is being confronted, merely on the ground that he is not able to answer queries appropriately.

43. However, it need not be emphasized that where Petitioner is being confronted with voluminous or old documents, the I.O. shall give sufficient time to the Petitioner to go through the documents to be able to give



complete and informed answers, to ensure effective and meaningful investigations and in the process, ensure fairness of the entire procedure. The Petitioner may inform the Investigating Officer of his inability to answer specific questions and seek time to go through the documents.

44. Accordingly, this Court finds no illegality, perversity, or jurisdictional error in the Impugned Order dated 20.12.2023.

Order:

45. **The Petition is dismissed** and the Impugned Order dated 20.12.2023 is upheld.

46. The pending Applications, if any, are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 10, 2025
R