



\$~62

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 158/2025**

DR AAKASH VARSHNEY

.....Petitioner

Through: **Mr. Shubhayu Roy and Mr. Tavish B. Prasad, Advcoates.**

versus

M/S. MAHARASHTRA FEEDS PRIVATE LIMITED & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **27.01.2025**

CM APPL. 4753/2025 & CM APPL. 4754/2025 (exemption)

Allowed, subject to all just exceptions.

The applications stand disposed of.

CM(M) 158/2025 & CM APPL. 4755/2025 STAY

1. This is a petition under Article 227 of the Constitution of India, seeking to set aside the order dated 09.01.2025, passed by the learned District Judge in CS DJ/343/2019, titled “Dr. Aakash Varshney Vs. M/s. Maharashtra Feeds Private Limited & Anr.”

2. Vide impugned order dated 09.01.2025, learned District Judge allowed the application filed by SI Akansh Sharma, praying for handing over the original Incentive Scheme filed in the Civil Suit for the purpose of investigation with further directions to ensure that the original Incentive Scheme is returned back within two months.



3. Learned counsel for the petitioner submits that the impugned order is illegal because it compels the petitioner to give evidence and be a witness against himself and is therefore in violation of Article 20(3) of the Constitution of India. It is further submitted that there is no provision under the Code of Civil Procedure, 1908 to handover the document of a party filed by him to a non-party to the suit. It is further submitted that original document is required during the trial and therefore while passing the impugned order, the trial court has exceeded its jurisdiction.

4. The impugned order passed by the trial court reads as under:-

“09.01.2025

Present: Sh. Subhayu Roy, counsel for the plaintiff.
Sh. Raghav Saluja, Counsel for the defendants.
SI Aakash Sharma, PS Mahindra Park in person.
An application has been moved by SI Akash Sharma,
PS Mahindra Park.

It is requested that original incentive scheme filed in present suit, be handed over for investigation purposes. Certified copies of the document has been filed.

SI Akash Sharma further undertakes to return back the original incentive scheme after investigation is complete.

Counsel for the plaintiff opposes the requests of SI Akash Sharma on the ground that firstly Hon'ble Supreme Court of India in case titled as Nandini Satpathy vs. P. L. Dani and Anr., decided on April, 7th, 1978 has held that Article 20 (3) of the Constitution of India is violated if self Incriminatory testimony is allowed.

Secondly, it is argued that order 13 rule 9 CPC provides only for return of documents to the party producing them.

Thirdly, it is argued that original documents is also available with the defendant.

Fourthly, the document in original is required for just adjudication of the present suit.

Counsel for the defendants supports the application moved by SI Akash Sharma.

It is argued that original documents is only available in the file of this suit and not with the defendant.

Heard. File perused.

Request is for providing original incentive scheme



filed in present suit for investigation purposes. Certified copies of the document has been filed.

SI Akash Sharma further undertakes to return back the original incentive scheme after investigation is complete.

The submission by counsel for the plaintiff that firstly Hon'ble Supreme Court of India in case titled as Nandini Satpathy vs. P. L. Dani and Anr., decided on April, 7th, 1978 has held that Article 20 (3) of the Constitution of India is violated if self Incriminatory testimony is allowed so application of SI Akash Sharma be dismissed, is without substance.

There is no dispute with the proposition of law laid down by Hon'ble Supreme Court of India in case titled as Nandini Satpathy vs. P. L. Dani and Anr, decided on April, 7th 1978. However, in the present case, no self incriminating voluntary statement of accused is being recorded. It is duty of the court to assist in fair investigation.

The second submission on behalf of plaintiff that order 13 rule 9 CPC so application of SI Akash Sharma be dismissed, is without substance. It is duty of the court to assist in fair investigation.

The next submission on behalf of the plaintiff that original documents is also available with the defendant, is without substance as counsel for the defendant is denying the same. Original document is available in the coull file. Fair investigation should not be delayed.

The next submission on behalf of the plaintiff that original is required for just adjudication of the present suit, is without substance. Certified copies of the incentive scheme has already been filed by SI Akash Sharma. Further, ends of justice, will be met by directing SI Akash Sharma through the concerned DCP to ensure that the original incentive scheme is returned back within two months from today.

The application moved by SI Akash Sharma, is allowed with directions to SI Akash Sharma through the concerned DCP to ensure that the original incentive scheme is returned back within two months from today.

At joint request of the counsels for the parties, to come up on **18.02.2025** for DE with advance copy thereof to the opposite counsel a week before the next date."

5. In Complaint Case No. 3892/2019, on an application filed under Section 156 (3) Cr. PC, learned ACMM issued directions to the SHO, PS



Mahendra Park to register an FIR. Pursuant to the said order, an FIR bearing No. 364/2024 has been registered under Section 420 IPC at PS Mahendra Park. It is in connection with the registration of the said FIR that an application was filed by SI Akansh Sharma for providing the original Incentive Scheme for the purpose of investigation.

6. Providing such documents to the investigation agency for the purpose of investigation of the FIR, would be rather fair and not amount to any violation of Article 20(3). Such argument is totally misplaced.

7. The order to release the documents is not unconditional, inasmuch as, the order is subject to direction that the original Incentive Scheme shall be returned back within two months. The document would therefore be available during the trial of the case.

8. Since the document has been provided to the Investigating Officer only for the limited purpose of investigation and which shall be returned after two months, in the opinion of the Court, the impugned order does not call for any interference at this stage.

9. There is no merit in the petition. The same is accordingly dismissed.

RAVINDER DUDEJA, J.

JANUARY 27, 2025

RM