



2025:DHC:1307



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 24.02.2025

+ CRL.M.C. 1183/2025 & CRL.M.A. 5292/2025

CENTRAL BUREAU OF INVESTIGATION

THROUGH ITS SUPERINTENDENT OF POLICE

.....Petitioner

Through: Mr.Anupam S. Sharma, SPP, CBI
with Mr.Prakarsh Airan, Ms.Harpreet
Kalsi, Mr.Ripudaman Sharma and
Mr.Vashisht Rao, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)****CRL.M.A. 5293/2025**

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 1183/2025 & CRL.M.A. 5292/2025

1. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') has been preferred on behalf of the petitioner for setting aside orders dated 22.01.2025, 03.02.2025 and 10.02.2025 passed by the learned Special Judge (PC Act), (CBI)-10, Rouse Avenue Courts Complex, New Delhi in CC No.127/2024, titled '*CBI v. M/s CG Power & Industrial Solutions Ltd. & Ors.*', arising out of RC2232021A0006/AC-III(E-AC-V)/ New Delhi under Section 120B IPC read with Sections 406, 420, 467, 468,



471, 477A IPC and Section 13(2) read with Section 13(1)(d) PC Act, 1988.

2. In brief, as per the case of petitioner (CBI), RC2232021A0006/ AC-III(E-AC-V)/New Delhi under Section 120B IPC read with Sections 406, 420, 467, 468, 471, 477A IPC and Section 13(2) read with Section 13(1)(D) PC Act, 1988 was registered on the basis of complaint received from the State Bank of India against M/s CG Power & Industrial Solutions Ltd. and its directors/promoters, alleging that they have committed offences of cheating, criminal conspiracy, criminal misconduct and forgery and have misappropriated public money during the period 2015-2019, thereby causing loss to the tune of ₹2435.00 Crores to the Consortium of Banks.

3. After completion of investigation, a chargesheet dated 30.12.2022 was filed before the learned Special Judge on 02.01.2023, which was initially returned back vide order dated 11.01.2023 with directions to CBI to file the chargesheet after completion of investigation including the role of public servants/bank officials. On completion of further investigation under section 173(8) Cr.P.C, a supplementary chargesheet was thereafter filed by CBI and learned Special Judge vide order dated 22.01.2025 directed investigating officer to produce 'all case diaries and crime files of the case' on the next date of hearing i.e. 01.02.2025.

4. It is further the case of petitioner/CBI that investigating officer produced all case dairies for perusal of the learned Special Judge but an exemption was sought for production of 'crime file' on the ground that it is confidential internal document of CBI containing privileged official communications. However, learned Special Judge directed vide order dated 03.02.2025 to produce the crime file on the next date of hearing i.e.



10.02.2025. Thereafter, time was sought on behalf of CBI to examine the order dated 03.02.2025. However, further directions have been issued by the learned Special Judge to appear alongwith the 'crime file' on 21.02.2025.

5. Aggrieved against the aforesaid directions by the learned Special Judge to produce the 'crime file', the present petition has been preferred on behalf of CBI.

6. Learned SPP for CBI submits that State is only a pro-forma party and the proposed accused have not been arrayed as respondents to the present proceedings, since the case is at the stage of cognizance and accused are yet to be summoned. He further clarifies that crime file consists of four parts. Part-I consists of Note Sheets; Part-II consists of Correspondence File; Part-III consists of Reports including FR-I and FR-II; and Part-IV consists of Case Diary.

Further, placing reliance on *Central Bureau of Investigation v. Vallalore Rangaswamy Natarajan*, CRL. REV. PET. 995/2019 decided on 20.09.2019, learned SPP for CBI argues that FR-I can only be summoned by the Court under exceptional circumstances and the impugned order dated 22.01.2025 passed by the learned Special Judge (PC Act) is bereft of any exceptional reasons for summoning the crime file at the stage of cognizance.

7. Learned SPP for CBI placing reliance upon *Vineet Narain v. Union of India & Anr.* (supra), draws attention to the directions issued in para 59(I)(12) by the Hon'ble Apex Court, wherein it was observed that the CBI Manual based on statutory provisions of the Cr.P.C. provides essential guidelines for the CBI's functioning and it is imperative that the CBI adheres scrupulously to the provisions in the Manual in relation to its investigative



functions, like raids, seizure and arrests.

8. Referring to Para 18.17 of Chapter 18 of the CBI Crime Manual 2020, learned SPP contends that privilege can be claimed by CBI under Section 124 Indian Evidence Act, for production of FR-I, FR-II and CBI Report when called by the Court. It is urged that reference has not been made by learned Special Judge to aforesaid provisions. Permission is stated to have been duly obtained during the course of investigation by CBI from the learned Special Judge for conduct of investigation by an officer of the rank of SI in accordance with rules. Reliance is also placed upon *Sunita Devi v. State of Bihar & Anr.*, 2004 AIR SCW 7116 and *Union of India etc. v. T. Nathamuni*, 2015 AIR SCW 165.

9. Perusal of impugned order dated 22.01.2025 passed by the learned Special Judge (PC Act) reveals that at the stage of cognizance, learned Judge observed that none of the accused persons including the main perpetrators of the crime had been sought to be arrested at any point of time for the reasons best known to the Investigating Agency. Further, investigation had been entrusted upon a Sub-Inspector of CBI, though Section 17 of PC Act, 1988 (as amended in 2018) provided that no Officer below the rank of Inspector of CBI can investigate the offences punishable under PC Act except with the permission of the Court. As such, an inference was drawn that CBI had not taken the further investigation of the case seriously despite the huge magnitude of the amount involved. In the aforesaid background, directions were issued to the IO to produce the case diaries and the crime file for perusal of the Court.

10. At the outset, it may be noticed that during the course of investigation,



an application had been moved on behalf of CBI for permission under Section 17 of PC Act, 1988 for conduct of investigation by Shri Akhil Kumar Yadav, Sub-Inspector, CBI. It was pointed out at aforesaid stage that Branch is facing shortage of officers at Inspector level and the Competent Authority decided to provide support of Shri Akhil Kumar Yadav to assist the IO as an Assistant Investigating Officer. The application was allowed vide order dated 28.10.2022 by the then Special Judge (PC Act), CBI.

In the aforesaid context, it may also be appropriate to notice the observations of the Hon'ble Apex Court in *Union of India v. T. Nathamuni* (supra), wherein it was held that investigation under Delhi Special Police Establishment Act by an officer below the rank of Inspector pursuant to order of learned Special Judge under Section 17 of PC Act, does not suffer from want of jurisdiction. Hence, in the facts of the said case, it was held that the High Court erred in law in interfering with such investigation, moreso when it was already completed. It was also observed that the respondent therein had not made out a case that by reason of investigation conducted by Sub-Inspector, a serious prejudice and miscarriage of justice had been caused. Further, it was observed that invalidity of investigation does not vitiate the result unless a miscarriage of justice has been caused thereby.

11. Reverting to the facts of the present case, it may be difficult to conclude upon generalized observations of the learned Special Judge that there has been any mandatory breach of the provisos relating to investigation. Any breach of the mandatory proviso related to investigation, if spelled out by the learned Special Judge in specific, may not preclude the Court from considering the nature or extent of violation, if revealed on



perusal of FR-I.

12. There is no dispute as to the proposition of law as contended by learned SPP for CBI that supervision notes cannot be made available to any person and confidentiality of the supervision notes is required to be protected and the same cannot be provided to accused under Section 207 Cr.P.C. as held in *Sunita Devi v. State of Bihar* (supra). The question involved in the present case does not relate to supply or perusal of crime file or supervisory notes to accused but the directions have been issued for production of 'crime file' for perusal of learned Special Judge at the stage of cognizance itself.

13. To appreciate the objections raised on behalf of CBI, it may also be appropriate to refer to provisions in Chapter 18 of the CBI Crime Manual, 2020 relied upon by learned SPP for CBI. So far as the production of case diaries is concerned, learned SPP for CBI submits that the same shall be duly produced before learned Special Judge in accordance with law. However, the challenge is to production of crime file by the IO, as directed by the learned Special Judge vide impugned order.

14. The scope of Final Report, CBI report and comments of officers has been dealt in Chapter 18 of Crime Manual, 2020. Para 18.1 of the Crime Manual provides that on completion of enquiry/investigation, every Investigating Officer is required to submit a report called the '**Final Report Part-I: also known as FR-I**', setting out in detail in the prescribed proforma, the result of enquiries/investigations and his recommendation for the type of action to be taken. The Final Report is a confidential document and its primary purpose is to apprise the Superior Officers and Law Officers of the CBI, of the result of the enquiries/investigation, with a view to assess



the merits and demerits of a case and to facilitate the passing of final orders thereon by the Competent Authority. As such, it is contemplated that the Final Report should explain and analyse the available evidence and present a clear, complete and well-connected picture of the case.

15. Para 18.3 of the Manual provides that Final Report Part-I should be prepared, in the prescribed proforma, by the Investigating Officer himself. Further, explanatory notes and instructions under the various heads are given in the proforma. The IO is required to enclose with the Final Report Part-I, 'Calendar of Oral evidence' and 'Calendar of Documentary evidence' listing out the gist of evidence on each allegation and each of the accused/suspect person. He also prepares the 'Evidentiary Details at a Glance' to facilitate senior officers in giving comments or taking a final decision, as the case may be. The information in respect of suspect/accused persons as stipulated therein is also required to be furnished.

16. As per para 18.4, the comments of the Law Officer are given in the format given in Part-II of the proforma, which is referred as **Final Report Part-II (FR-II)**. Further, if any statutory prior sanction for launching prosecution is required or if the cases can be prosecuted only on a complaint by a competent statutory authority, it shall be mentioned in the Final Report Part-II.

17. Apparently, after consideration and examination, the Law Officers bring out the legal issues in the case in their comments. In cases of above Branch level competence, after submission of the Final Reports, the Supervisory officer (SP/HOB) records his comments.

18. Para 18.17 of Chapter 18 of the CBI Crime Manual, 2020, relied by



learned SPP for CBI provides that unless the contents of the CBI Report so demand, it should ordinarily be classified as confidential. Also, a higher security grading viz. 'secret' may be given if the contents satisfy the requirements as prescribed in the rules regarding security grading. The privilege under Section 124 of the Indian Evidence Act can be claimed for production in Court of FR-I, FR-II and the CBI Report, when so called for by the Court.

19. In *Central Bureau of Investigation v. Vellalore Rangaswamy Natarajan*, CRL. REV. PET.995/2019 decided on 20.09.2019 decided by a Coordinate Bench of this Court, an order passed by the learned Special Judge requiring the CBI to produce FR-I/crime file had been challenged. It was held that FR-I could be summoned under exceptional circumstances but the matter was reminded back to the learned Special Judge to pass the orders afresh by giving reasons as to the exceptional circumstances for summoning the FR-I/crime file. The reference therein to an order dated 26.04.2019 passed in CRL. REV. PET. No.729/2018 may be beneficially reproduced:

“4.....This Court has opined in order dated 26.04.2019 in Criminal Revision Petition No. 729/2018, as follows:

Upon hearing and on perusal of the impugned orders, I find that as per the mandate of Section 172 of Cr.P.C., the custody of the diaries has to be with the Investigating Officer. So, direction of the trial cannot be sustained. As regards 'Final Report'-Part 1 is concerned, it is an internal document of CBI to which access in normal course is not to be made.

However, under exceptional circumstances, FR-1 can be summoned by the Court for its exclusive perusal, if necessary but not as a routine. The direction in the impugned orders to deposit the case diary and FR-1 of all



the pending cases before the Pairavi Officer or learned Prosecutor is unjustified and is hereby quashed.

Needless to say that the trial court is empowered to summon the case diaries, as and when required but the case diaries are not required to be retained as a routine.”

20. Thus, even if the Final Report Part-I submitted by the Investigating Officer to the Supervisory Officer may be a confidential document with the primary purpose to apprise the Superior Officer and the Law Officers of the CBI, with a view to assess the merits and demerits of the case and facilitate passing of final order by the competent authority, the production of the same for perusal of the Court at the stage of cognizance cannot be denied if the exceptional circumstances are carved out. The same enables the Court either to direct the summoning of the accused or direct further investigation, in accordance with law, after considering the entire scope of investigation. The privilege in this regard cannot be claimed by CBI for perusal by the learned Special Judge considering the totality of facts and circumstances of the case. Accordingly, FR-I shall be produced for perusal by the learned Special Judge, in a sealed cover, for the purpose of taking cognizance or directing further course of action, in accordance with law. The production of remaining parts of the crime file shall not be insisted upon by the learned Trial Court/Special Judge (PC Act) (CBI). Further, the observations made by the learned Special Judge (PC Act) (CBI) casting aspersions on the Investigating Agency in the impugned order are set aside and shall not prejudice the rights and contentions of the Investigating Agency in any manner.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.



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A copy of this order be forwarded to the learned Trial Court/Special Judge (PC Act) (CBI) for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

FEBRUARY 24, 2025/v/sd