



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 192/2026

(Rakesh Kumar S/o. Omprakash Sharma Vs. Central Bureau of Investigation)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. Naidu, Advocate for petitioner.
Mr. P. K. Sathianathan, Advocate for respondent.

CORAM: M. M. NERLIKAR, J.

DATED : 04/05/2026.

Heard.

2. The respondent herein had filed an application under section 311 of the Code of Criminal Procedure ("Cr.P.C.") in the Trial Court to call G. A. Suriya Kumar, Inspector of Police, CBI, ACB Branch, Chennai as a prosecution witness and for issuing summons to him. The said application was allowed by the Special Court, CBI Nagpur observing that, "issue witness summons as prayed". It is this order which is challenged by the petitioner.

3. The learned counsel for the petitioner submits that the petitioner was not present and behind his back, application was filed by the CBI and the order was passed by allowing the application. He submits that it is a gross violation of principle of natural justice which would cause

prejudice to him. He submits that the evidence is already over and after closing of the evidence, the order of issuance of summons was passed, therefore he submits that the order be set aside by remanding back the matter to be heard afresh after giving him an opportunity.

4. On the other hand, Mr. Sathenathan, the learned counsel appearing for the respondent submits that no prejudice would be caused to the petitioner. The power under Section 311 of the Cr.P.C. can be exercised at any stage of the trial. He submits that for making a just decision, the application was moved and it was not moved to fill up the lacuna, therefore the learned counsel submits that the order passed by the Trial Court was in the interest of justice and it is essential to have a just decision in the case, therefore he submits that no interference is required at the hands of this Court.

5. I have heard the learned counsel for the petitioner and the learned counsel for the respondent. I have gone through the application filed by the respondent herein. It appears from the record that neither the say of the petitioner was called by the Court nor there are brief

reasons in the impugned order. Prima facie, it appears to me that unless an opportunity is given to the petitioner, the order could not have been passed. Further, the order is cryptic as no reasons are given for allowing the application. Under such circumstances, I am inclined to allow the petition with a direction to the Trial Court to call the say of the petitioner and after hearing the petitioner, a brief reasoned order be passed.

6. Accordingly, impugned order dated 02/02/2026 passed below Exh. 410 in Special CBI Case No. 2/2016 is quashed and set aside. The petitioner be given opportunity to file say. Say shall be filed within eight days. In case the petitioner fails to file say, the Trial Court is at liberty to proceed further. With these observation the petition is disposed of.

(M. M. NERLIKAR, J.)