



2026:DHC:36



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

%

*Reserved on: 21st August, 2025
Pronounced on: 05th January, 2026*

+ **CRL.M.C. 5230/2025, CRL.M.A. 22609/2025 & 22610/2025**

SHAMBHU PRASAD SINGH

S/o Late Sh. Anant Prasad Singh,
R/O H-17, 2nd Floor, Kailash Colony,
New Delhi-110048

.....Petitioner

Through: Mr. Pramod Kumar Dubey, Senior
Advocate with Mr. Sulalit Singh
Sisodia, Ms. Pallavi Garg, Mr. Joy
Banerjee, Mr. Prince and Mr. Satyam
Sharma, Advocates.

versus

CBI

Thr: Its Director,
New Delhi

.....Respondent

Through: Mr. Anupam S. Sharma, SPP with
Ms. Harpreet Kalsi and Mr. Vashisht
Rao, Advocates with Inspector Ram
Kumar.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition has been filed under **Section 528** of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) read with **Section 482** of the Code of Criminal Procedure, 1973 (Cr.P.C), by the Petitioner/Accused No. 2 Shambhu Prasad Singh for the quashing and setting aside of the common



Order dated **14.05.2025**, of the Ld. Additional Sessions Judge (ASJ), in Misc. CrI. Nos. 532/2025 and 533/2025, vide which the Ld. ASJ has dismissed the said Applications under S.91 Cr.P.C.

2. ***Briefly stated***, the Petitioner was a Director of *M/s Dynamic Shells (India) Pvt. Ltd. (DSIPL)*/Accused No. 1, which was incorporated in 2007-2008 and was engaged in manufacturing weather-proof PVC shelters. DSIPL initially banked with Syndicate Bank and approached Punjab National Bank (PNB) on 25.11.2009 to take over the existing credit limits. PNB subsequently sanctioned various credit facilities *via* Letter dated 18.02.2010.

3. DSIPL, through the Petitioner, applied for a temporary enhancement of the Cash Credit facilities from Rs. 650 lakhs to Rs. 1800 lakhs on **25.11.2010**, which was approved by PNB *vide* letter dated **12.01.2011**.

4. Thereafter, DSIPL was declared a Non-Performing Asset (NPA) by PNB on **31.12.2011**. A Notice under Section 13(2) SARFAESI Act, 2002, was issued on **03.02.2012**. Subsequently, PNB filed two Recovery Applications O.A. No. 84/2013 and O.A. No. 102/2013, before the Debt Recovery Tribunal (DRT), New Delhi. The Bank and the accused Company were also negotiating for a one-time settlement (OTS) from 2013 to 2014.

5. CBI lodged *an FIR bearing RC/BD1/2014/E/0003*, on **21.01.2014**, based on a written Complaint dated **17.01.2014** filed by Sh. Rajeev Azad, the then Chief Manager of PNB. The Charge Sheet was filed in the Court, in 2015.

6. The Petitioner received scanned copies of **un-relied documents** on **30.01.2025**. From these documents, the Petitioner came to know for the first time about a **prior Complaint dated 07.03.2013** filed by Sh. Yogesh



Bochiwal, the then Chief Manager of PNB to the DIG, CBI, on the same issue against the same accused persons. The CBI's outcome or Preliminary Enquiry Report (PE) on this 2013 Complaint was not disclosed.

7. The Petitioner moved an Application bearing *Misc. Crl. No. 532/2025* on **08.05.2025** under Section 91 CrPC (94 BNSS) before the Ld. ASJ to summon the original Records of O.A. 102/2013 and O.A. 84/2013 pending before DRT-II, Delhi. The Ld. ASJ observed that “*since the proceedings before the present Court and the DRT are different in nature,*” the documents sought are “*not required for just decision of the present matter*”. Moreover, the copies of un-relied documents had already been provided to the accused persons by the CBI, which contained “*some of the proceedings before DRT.*”

8. Application bearing *Misc. Crl. No. 533/2025* was filed under Section 91 CrPC to seek the original Complaint dated **07.03.2013** along with Annexures and its outcome/PE Report, submitted by the CBI.

9. The **Respondent/CBI, contested the two Applications** filed by the petitioner before the Ld. ASJ on the grounds that all the **relied-upon documents**, along with statements of witnesses, have already been supplied to the accused persons. The Application for summoning the original record of DRT-II, Delhi, regarding O.A. 84/2013 and O.A. 102/2013, is distinct in nature and has no bearing upon the present proceedings.

10. The CBI argued that all documents in its possession have been supplied. The **soft copy of un-relied documents** has also been supplied to the accused. The original un-relied documents have been filed with the Court and **there are no other documents** available with the CBI in the present matter.



11. The original Complaint dated 07.03.2013 was received by the CBI, and a **preliminary inquiry** was conducted. Due to discrepancies in the Complaint, the Complainant bank was verbally requested to rectify the same and file a fresh Complaint. Upon filing of the subsequent Complaint dated 17.01.2014, the present RC/FIR was registered and investigation was conducted. The CBI also stated that the first Complaint dated 07.03.2013 was kept pending, but investigation commenced only on filing of the Complaint dated 17.01.2014. Even otherwise, the initial Complaint dated 07.03.2013 has already been supplied to the accused persons, along with the un-relied documents.

12. Both the Applications under Section 91 CrPC were dismissed by the Ld. ASJ, by the common Order dated **14.05.2025**, by **referring to** the reply of the CBI, which stated that the initial Complaint dated 07.03.2013 *“has already been supplied to accused persons with unrelieved documents”*. The Applications seeking summoning of further record was held to be *not required for just decision of the present matter* and the Applications were *dismissed accordingly*.

13. The Petitioner has **challenged the common Order dated 14.05.2025** primarily **on the ground** that it violates his fundamental right to a fair trial and defence, as guaranteed under Article 21 of the Constitution. The dismissal of the Applications is manifestly illegal and causes great prejudice to the Petitioner’s right to a fair trial and defence.

14. Some papers related to the O.A. Nos. were seized by the CBI as reflected in the seizure memo, thus establishing their crucial nature, despite which they were filed only as un-relied documents. The records of the recovery proceedings vide O.A. 84/2013 and O.A. 102/2013 are crucial as



they pertain to the same subject matter and transactions, making them necessary for the proper adjudication of the present case.

15. The Petitioner has *next contended* that the present criminal dispute is entirely of a civil nature, and the criminal prosecution was invoked subsequent to the initiation of Recovery proceedings before the DRT in early 2012.

16. The Petitioner has further asserted that the earlier Complaint dated 07.03.2013 against him filed by Sh. Yogesh Bochiwal of PNB, was the *first Complaint* regarding the same subject matter against the same accused persons, received a year before the FIR was registered. The Petitioner has a right to know the status and outcome of this first Complaint, whether it was closed after a preliminary enquiry or PE report, before the subsequent identical Complaint was entertained. The CBI/Respondent intentionally and deliberately did not whisper or file this original Complaint, its annexures, or its outcome/Report along with the chargesheet.

17. The CBI's admission before the Trial Court that the Complaint was kept pending due to "discrepancies" and a verbal request was made to file a "fresh Complaint," makes the prior Complaint and the details of the so-called "discrepancies" extremely relevant and potentially exculpatory. The denial of this document at the crucial stage of cross-examination of the IO, directly and severely prejudices the Petitioner's defence.

18. This first Complaint is vital to demonstrate that the subsequent FIR dated 21.01.2014 (filed after negotiations for One-Time Settlement (OTS) failed), was the product of malice or to put pressure on the Petitioner, especially if the CBI had found no *prima facie* case in the first Complaint. An earlier Complaint that led to no action, followed by an almost identical



Complaint leading to the FIR, clearly falls into the category of a document crucial for the defence.

19. The IO/PW-46 is allegedly “*totally evasive and avoiding the answer*” in his cross-examination that he is unaware of the Complaint dated the 07.03.2013, thereby depriving the Petitioner of his right to a fair defence.

20. The Petitioner asserts that the matter is at a crucial stage of the cross-examination of the last prosecution witness i.e. PW-46, the Investigating Officer and the documents are vital for conducting an effective cross-examination. Without the original copies, especially of the DRT records, they cannot be duly exhibited and read as evidence at a later stage, which would harm the Petitioner’s defence. The IO is evasive about the 07.03.2013 Complaint. The outcome/PE report of the first Complaint is **necessary and desirable** for confronting the IO and to test the veracity of the later FIR.

21. The Apex Court explicitly mandates that a Court is not debarred from summoning or relying upon material of sterling quality which has been withheld by the investigator/prosecutor. Therefore, the dismissal of Misc. Crl. No. 533/2025 on the ground of the matter being at a final stage and the documents being supplied in the un-relied list, is plainly against the established principles of law ensuring a fair trial.

22. Reliance is placed on the observation of the Apex Court in Manish Sisodia v. The Enforcement Directorate (2024), which held that documents procured by prosecution agency, even if **un-relied**, must be made available to the accused as a **matter of right**, to ensure a fair trial.

23. **CBI has asserted** that the present Applications for seeking the original Complaint and the DRT records, had been filed at the final stage with only one or two prosecution witnesses remaining, with the intention to



delay the trial which is pending since the year 2014. There is no merit in the present Petitions, which are liable to be dismissed.

Submissions Heard and Record Perused.

24. The Applications before the Trial Court were filed under Section 91 CrPC/Section 94 BNSS, which empowers the Court to issue a summons to produce any document or other thing if it is considered necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding.

25. To ensure a fair trial, the prosecution is obligated to furnish a list of statements, documents, and material objects seized but *not relied upon* by the investigating officer. This ensures the accused has knowledge of such materials and can apply under Section 91 to summon them at the appropriate stage. This procedural safeguard was emphasized in Criminal Trials Guidelines Regarding Inadequacies & Deficiencies, In re (2021) 10 SCC 598 and reiterated in Manoj v. State of M.P Criminal Appeal No. 248-250 of 2015 decided on 20.05.2022.

26. The law regarding Section 91 Cr.P.C. creates a shield for the accused against the State and also acts as a sword for the accused to ensure a fair defence.

27. The accused is entitled to invoke Section 91 Cr.P.C to compel the production of documents; especially those withheld or not relied upon by the prosecution, to establish their innocence, typically at the stage of defense, but potentially earlier in stringent statutes like the PMLA.



28. The law on the right of an **accused** to seek production of documents, particularly those **not relied upon** by the prosecution, has been clarified and expanded by the Apex Court in several landmark cases.

29. *The Petitioner vide Misc. Crl. No. 532/2025 Application* has sought the original court records of O.A. 84/2013 and O.A. 102/2013 filed by PNB before the DRT-II, Delhi.

30. The sole reason given by the Petitioner to seek original Court Records of the aforesaid proceedings before DRT was that unless the original documents are provided to him by the Complainant, he would not be able to get them properly exhibited during cross-examination of the I.O. However, law in regard to supplying the un-relied documents, is well settled that the prosecution is under a boundary obligation to supply, not only the Chargesheet and all the documents filed therein, but also the list of un-relied documents.

31. In the present case, Petitioner has admitted that the copies of the records of the proceedings in DRT have already been made available to him, as part of un-relied documents, which is due compliance of Section 91 Cr.P.C. If he needs original documents of Recovery proceedings of DRT for the purpose of exhibiting, he is at liberty to seek the same from the concerned DRT. The objective of making available the un-relied documents is to make him aware of the evidence, whether relied or un-relied, that exist in relation to the subject matter of the prosecution's case. Once the Petitioner is well-aware of these proceedings and the copies of the proceedings have already been provided along with un-relied documents, he is at liberty to seek original documents from the concerned DRT. It is pertinent to note that the original documents have been sought, not from the



CBI but from the Complainant, which reflects the frivolity of the assertions made by the Petitioner.

32. *The Petitioner vide Misc. CrI. No. 533/2025 Application* sought the original Complaint dated 07.03.2013, its annexures and the outcome of its PE Report.

33. Again, it has been explained by CBI that this Complaint *was kept pending* till the second Complaint dated 07.01.2014 was received, on which the present FIR got registered. The copy of the first Complaint has already been provided along with the list of un-relied documents. Once according to the CBI, there was only an oral communication made to get a second Complaint, there is no other document available with CBI to provide to the Petitioner.

Order:

34. In view of aforesaid discussion, it is hereby, held that there is no infirmity in the impugned common Order dated 14.05.2025 of Ld. ASJ dismissing the two Applications seeking documents under S.91 Cr.P.C.

35. There is **no merit** in the present **Petition**, which is hereby **dismissed**.

36. Pending Application(s), if any, also stand disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 05, 2026/R