

I.A No. 4/2023

CBI No. 55/2023

CBI Vs. Ashutosh Kumar & Anr.

RC DAI-2016-A-0020

U/s 109 IPC R/w Section 13 (2) R/W 13(1) (e) of PC Act.

07.12.2023

Present : Sh. Shree Prakash Sinha & Sh. Nawalendra Kr.
 Ld. Counsels for the applicant.

Sh. Atul Tripathi, Ld. Spl PP for E.D.

1. Arguments are heard on the application dated 20.11.2023 preferred on behalf of M/s Ashutosh Kumar (HUF) seeking direction to E.D for bringing on record ECIR No. DLZ00-01/30/2023 dated 22.03.2023 registered against it.

2. It is pleaded in the application that applicant/ M/s Ashutosh Kumar (HUF) filed an application dated 12.05.2023 in the main DA case registered by the CBI against its Karta seeking removal of the condition of maintaining minimum balance in the bank accounts as mandated in order dated 02.12.2016 as well as return of documents. In the FIR registered by the CBI, the check period for purpose of D.A was alleged to be from 01.01.2008 to 30.04.2016. But after the investigation, the check period has been shifted to 01.01.1997 to 31.12.2008 and the alleged D.A amount is 7,92,17,783/-.

2.1 It is further pleaded that the CBI in its reply to the aforesaid application (dated 20.11.2023) contended that the documents sought to be returned by the said application are required by the E.D who have registered ECIR No. DLZ00-01/30/2023 against Ashutosh Kumar on 22.03.2023. Even the

E.D moved an application dated 11.10.2023 wherein they had raised the objection qua release/return of the documents seized by the CBI. It is further stated that E.D cannot travel beyond the predicate of offence and therefore, required to set its case within the check period of 01.1.1997 to 31.12.2008. During the said period, even the PMLA Act 2002 was not in force. Therefore, prayer has been made seeking directions to E.D to bring on record ECIR No. DLZ00-01/30/2023 so that court can appreciate the allegations.

3. In reply to the said application, E.D has opposed the said application by placing reliance upon the law laid down by the Hon'ble Supreme Court in landmark case titled **Vijay Madanlal Chaudhary V. Union of India, SLP (Criminal) No. 4634 of 2014 dated 22.07.2022.** It is further stated that the applicant/accused has no right to get the copy of the ECIR. Unlike Section 154 of Code of Criminal Procedure (Cr.P.C), as the ECIR is an internal document of Directorate of Enforcement (E.D).

4. Heard and considered.

5. The present application has been preferred by the applicant /M/s Ashutosh Kumar (HUF) in the main D.A Case filed against Ashutosh Kumar Singh and his wife namely Monika Sahay. At present, no proceedings of Directorate of Enforcement (E.D) in the said predicate offence are pending before this Court.

5.1 As far as the right of the accused to seek copy of the FIR, the said issue is no longer *res integra* in view of the

pronouncement of the law by the Hon'ble Supreme in Vijay Madanlal Chaudhary (supra) case.

5.2 The question of requirement by the Court for the said ECIR is also not relevant at this stage as no such proceedings of Directorate of Enforcement (E.D) are pending herein. **Accordingly, the present application in hand stands dismissed.**

Announced in the open Court
07.12.2023

(GAGANDEEP SINGH)
Special Judge, PC Act, CBI-04
Rouse Avenue Courts, New Delhi