CNR No. DLCT11-000287-2019
SC No. 03/2019
CBI Vs. Ashok Kumar Chawla etc.

07.09.2022

Present: Sh. Mohd. Shakeel, Sr. PP for CBI.

Proceedings against accused no. 1 Ashok Kumar Chawla already abated.

Accused no. 2 Vijaya Rajgopal in person.

Sh. Kunal Malhotra, Advocate for the accused no. 2.

PW Sh. S.K. Saxena, Insp. Income Tax and PW Sh. Roshan Lal, Insp. Income Tax present.

Notice to the Principal Director, Investigation, Income Tax, Civic Centre, New Delhi served. Copy of the same notice has also been served on PW Sh. Pravin Kumar.

The Ld. Sr. PP states that the copy of the notice has been wrongly served to Sh. Pravin Kumar as he was examined as PW-20 on 05.09.2022 and his cross examination deferred and he was not to appear today. PW Sh. Pravin Kumar is discharged for today.

The Principal Director, Investigation, Income Tax, Civic Centre, New Delhi was ordered to produce the Satisfaction Note, Authorization Warrant and the Panchnama.

Sh. Manmeet Singh, Spl. PP present for the Income Tax Department.

It is submitted by the Ld. Counsel appearing for Income Tax Department that he has already filed a reply on 05.07.2022 on these documents. It is submitted that the question of validity of raids carried out by the Income Tax Department were the subject matter of a number of petitions filed by Ashok Chawla, Vijaya Rajgopal and others and vide judgment dated 11.04.2017, the Division Bench of the High Court of Delhi in para 11 of the Judgment framed various questions of law and one of the question of law which were framed was "Where there is any justification of the search and seizure operations" and on the basis of documents and material as well as file notings which forms the basis of warrants in sealed cover, has held in para 22 of the judgment that the plea that the search was on account of motivated allegations is without any substance.

These findings are binding on the criminal court.

The application u/s 91 Cr.P.C. when heard, this judgment of High court of Delhi was not in the notice of this court and accordingly the court ordered for production of Satisfaction note, Authorization warrant and the Panchnama.

The Ld. Counsel for the accused states that the Judgment of the High Court does not have any bearing on the order of production of documents ordered on his application u/s 91 Cr. P.C.

Further this order allowing the production of these documents has not been challenged by the CBI and this court has no power to review the same.

There is no quarrel in preposition of law that the criminal court does not have the power the review its own order.

However, the order can be modified which has been passed in the absence of certain material brought to the notice of the court.

Since in the judgment dated 11.04.2017, the validity of the search operations has been upheld and through the production of

Satisfaction Note, Authorization Warrant and Panchnama again efforts has been made to reopen the issue which has been settled by the High Court which is not permissible.

In view of the same, I do not feel that there is any need for production of Satisfaction Note, Authorization Warrant and Panchnama or any other document reflecting on the validity of the search operations carried out by the Income Tax Department and to that extent the order dated 02.03.2020 stands modified.

PW Sh. S.K. Saxena examined and partly cross examined as PW-21.

Further cross examination deferred on the request of Ld. Counsel for the accused who states that he has to attend an urgent bail matters.

PW Sh. Roshan Lal examined as PW-22.

His cross-examination is deferred on the request of the counsel for the Accused for the above mentioned reason.

Put up on **06.10.2022, 12.10.2022 and 13.10.2022** for P.E.

PW Roshan Lal be summoned for **06.10.2022.**

PW Pravin Kumar be summoned for **12.10.2022.**

PW S.K. Saxena be summoned for **13.10.2022.**

(Vinay Kumar Gupta)
Principal District & Sessions Judge-
cum-Special Judge (PC Act) (CBI),
Rouse Avenue District Court
New Delhi/07.09.2022