

**CBI Vs. M/s. Green Valley Plywood Ltd.  
CC No. 278/2019  
RC No. 6(E)/2015/BD1/CBI/BS&FC/ND  
CNR No. DLCT11-001108-2019**

**09.04.2021**

**ORDER**

1. Vide this common order, I shall dispose off the following two separate application(s) moved on behalf of accused persons i.e. Sukhdev Raj Khinchi (A-11) and Ashok Kumar Raheja (A-12) :

**a) Application u/S. 91 CrPC filed by the applicant / accused Sukhdev Raj Khinchi (A-11) seeking summons to investigating agency (CBI) to produce all documents / correspondence with Indian Overseas Bank Authorities and CVC relating to sanction dated 13.09.2019 u/S. 19(1) (3) of PC Act for prosecution of applicant.**

**b) Application u/S. 91 CrPC filed by applicant / accused Ashok Kumar Raheja (A-12) to produce certain documents mentioned in the application.**

2. Brief facts of the case are :

**“That the instant case RC BD1/2015/E/0006/CBI/BS&FC/Delhi was registered on 19.05.2015 on the basis of written complaint dated 27.04.2015 received from Shri D. C. Kar, Chief Regional Manager, Indian Overseas Bank (IOB), Regional Office, Chandigarh against M/s. Green Valley Plywood Ltd. (Accused No. 1), Mr. Jagmohan Kejriwal, Chairman and Managing Director (Accused No. 2), Mr. Anju Kejriwal, the then Director (Accused No. 3), M/s. G.R. Bansal & Co. through its partner Sh. G. R. Bansal and other unknown public servants of Bhiwani Stand, Rohtak Branch and Connaught Place Branch of IOB & others for cheating the**

**Bank to the tune of Rs. 71.79 crores on the basis of forged LCs and other forged supporting documents u/S. 120 B r/w. 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences thereof.**

**That it was alleged in the FIR that during the period 2008 onwards, the company i.e. M/s. GVPL and its directors namely Mr. Jagmohan Kejriwal, Mrs. Anju Kejriwal w/o. Mr. Jagmohan Kejriwal, M/s. G.R. Bansal & Co., Chartered Accountant, in conspiracy with unknown public servant and others, cheated the Bank to the tune of Rs. 71,79 crores through development of letter of credit opened by M/s. GVPL through fraudulent transactions and by furnishing fake invoices purportedly in the name of supplier firms. The borrowers defrauded the bank with dishonest intention to siphon off the public fund for the purpose other than for which it was sanctioned.**

**The company indulged in fraud and fabrication of proforma invoices of various non genuine suppliers. The LCs were got issued by the borrower on the basis of forged documents which were subsequently devolved and not paid which caused wrongful loss to the bank to the tune of Rs. 71.79 crores and corresponding wrongful gain to the borrowers.**

**That during investigation it revealed that Directors of M/s. GVPL entered into criminal conspiracy with the accused bank officials to cheat the bank in furtherance of criminal conspiracy got issued total number of 86 ILCs worth Rs. 70.49 by M/s. Green Valley Plywood Ltd. which were later on devolved and thereby caused wrongful loss to the bank.**

**The investigations revealed that the public servant Sukhdev Raj Khinchi (A-11) was posted as Chief Manager / Branch Head of IOB, Rohtak Branch during the period**

**30.05.2008 to 12.09.2010. During that period various LCs worth 4,40,30,914/- were opened which were devolved on due date thereby due to non payment by the borrower, thereby caused wrongful loss to the bank.**

**It was alleged that there was further loss of Rs. 1,96,53,959/- due to the illegal action / omission on behalf of the accused.**

**The investigations also reveal that A-11 with the conspiracy of Directors of M/s. GVPL and others in furtherance of criminal conspiracy, deliberately abused his official position as a public servant and did not carry out any due diligence which was required to safeguard the bank's interest, as was evident from the LC opening date and bill discounting letter, which he approved on the basis of forged and fabricated proforma invoices without obtaining the credit report, ultimately LCs devolved and caused loss to the bank.**

**Regarding the accused A-12, it is stated that he was the Chief Manager and Branch Head of the above branch of IOB during the period September 2010 to February 2012 and as per the charge sheet, the LCs worth Rs. 668439913/- (SI No. 6 to 86, as mentioned in the chargesheet at para 5, page no. 19 to 21) were issued by the branch, which got devolved and caused loss to the bank with conspiracy of M/s. GVPL and while he failed to ensure the adherence of the prescribed rules / procedure / terms and conditions of the sanction before issuing acceptance of LC documents to the negotiating bank and thereby allowed M/s GVPL to defraud the bank and various other allegations mentioned in the charge sheet.**

**There are allegations of conspiracy and defrauding the bank, as mentioned in the charge sheet against M/s. GVPL and other persons arrayed as accused in this case.**

3. With regard to the application filed by A-11 u/S. 91 CrPC, it is stated that he has been summoned and arrayed as an accused in the present case on the basis of sanction dated 13.09.2019 u/S. 19(1)(c) of PC Act, purportedly granted by Mr. K. Parthasarthy, General Manager & Disciplinary Authority, Indian Overseas Bank, Central Office, Anna Salai, Chennai.

The applicant has been working as Chief Manager in Indian Overseas Bank and had superannuated from service on 30.06.2012. The FIR in the present case was registered on 19.05.2015. The final report in this case was filed on 04.07.2017. The sanction for prosecution of the accused was obtained vide order dated 13.09.2019 without any jurisdiction or authority, which is false on the face of record. The applicant has already filed an application u/S. 311 CrPC for summoning the sanction authority as witness and therefore, it is essential that all the documents / correspondence between Indian Overseas Bank and CVC relating to sanction dated 13.09.2019 be summoned and placed on the record.

In the prayer clause of the application, the accused in prayer 'A' has prayed as under :

**A. Order issue of summons to the Investigating Agency (CBI) through Investigating officer to produce / file before this Hon'ble Court all documents / correspondence with Indian Overseas Bank authorities and CVC relating to sanction dated 13.09.2019 u/s. 19(1)(1)(c) for prosecution of applicant Mr. Sukhdev Raj Khinchi (A-11).**

4. Reply has been filed by the CBI, in which the allegations made in the above application of accused have been denied and it is stated that sanction order dated 13.09.2019 has been accorded in proper and

reasonable manner after due application of mind and it is stated that at the time of framing of charge or taking cognizance, the accused has no right to produce any material or seek aid of section 91 of CrPC and this section is not available to the accused to seek production of documents at the stage of framing of charge, therefore, the application is liable to be dismissed.

5. With regard to the application of A-12, it is stated that the accused no. 12 was Branch Head of Rohtak Branch of the complainant Bank from 02.09.2010 to 06.02.2012 and he has extended all the help to the CBI with regard to the investigations of this case. It is stated that as per the charge sheet, the CBI had requested the bank for sanction to prosecute the accused vide letter dated 28.06.2017, however, the disciplinary authority granted sanction vide order dated 21.08.2017.

It is stated that the bank had also conducted internal investigation through PW37 Sh. R. Ganesamoorthi and he held that there are procedural lapses, however, the applicant was not involved in any crime. After receiving the request to prosecute this accused vide letter dated 28.06.2017, the disciplinary authority accorded the sanction on 21.08.2017.

It is stated that the letter of sanction along with all the correspondence is always filed along with the charge sheet to prosecute the accused, which has not been done in the present case, which is not fair practice adopted by the CBI and the said correspondence is relevant to disclose the true facts regarding the delay in giving sanction to prosecute the applicant and the fact that the sanction has not been accorded in proper manner and it is stated that the sanction has not been granted by the sanctioning authority in free and fair manner, but under pressure by CBI and CVC, which is evident from the statement of PW37 Sh. R. Ganesamoorthi.

Therefore, it is stated that since the CBI has not filed the

sanction file containing correspondence in respect to sanction of prosecution of accused no. 12 as well as the copy of internal correspondence of Indian Overseas Bank / complainant containing the opinion / views of disciplinary authority for giving sanction for prosecution, the same be supplied to him and also the CBI has not filed relevant pages of Schedule to the IOB Officer Employees (Discipline and Appeal) Regulations-1976, wherein it is provided for Scale IV Officers (Chief Manager), General Manager is the Disciplinary Authority, the same are absolutely necessary and non supply of the same would cause grave prejudice to the accused.

6. In the prayer clause of the application, the accused has prayed as under :

**“1. Sanction File containing correspondence in respect to sanction of prosecution of accused no. 12;**

**2. Request Letter of CBI sent to the complainant Bank seeking sanction for prosecution of accused No. 12;**

**3. Internal office memorandum of Indian Overseas Bank / Complainant containing the opinion / views of disciplinary authority for giving sanction for prosecution.**

**4. Draft sanction supplied by CBI to complainant bank.**

**5. Relevant pages of Schedule to the IOB Officer Employees (Discipline and Appeal) Regulations-1976 wherein it is provided for Scale IV officers (chief Manager), General Manager is the Disciplinary Authority. ....”**

7. Reply has been filed by the CBI, in which the allegations made in the above application of accused have been denied and it is stated that there was sufficient material on the record to initiate criminal proceedings

against the applicant and it is denied that the sanction order dated 21.08.2017 is illegal.

It is stated that the sanctioning authority has granted sanction in true and proper manner after examining the entire record and due application of mind and the sanction order is comprehensive in nature, which shows due application of mind and as per the judgment of Hon'ble Supreme Court in ***State of Orissa Vs. Debendranath Padhi 2005 (1) RCR (Criminal) 297***, wherein it is held that at the time of framing of charge or taking cognizance, the accused has no right to produce any material or seek aid of Section 91 of CrPC. This section is not available to accused to seek production of documents at the stage of framing of charge, therefore, it is stated that the application is liable to be dismissed.

8. I have heard arguments as addressed by Sh. V. K. Pathak, Ld. PP for CBI, Sh. Sewa Ram, Ld. Counsel for (A-11) and Sh. Prem Chhetri, Ld. Counsel for (A-12). I have also gone through the written submissions filed on behalf of (A-11).

9. In the judgment cited as ***Dinesh Puri Vs. State (Govt. of NCT of Delhi) in CRL.REV.P. 351/2016 & Crl. MA. 7747/2016 decided on 23.09.2016***, the Hon'ble Delhi High Court has held as under:

***11. In the present case the issue that arises is whether the accused is entitled to receive a document collected during the course of investigation but not relied upon by the investigating agency and not forming the part of the documents with the chargesheet.***

***12. Fair trial is a sine qua non for proper administration of justice and thus documents which favour the accused though collected but on the volition of the investigating agency not relied upon, are required to be given to the accused though not under [Section 207](#) Cr.P.C. but under [Section 91](#), [233](#) and [243](#) Cr.P.C. The accused is entitled to receive these documents not only at the time of leading defence evidence but also while confronting prosecution witnesses. As noted above, in the present case though the report of internal enquiry was collected during the course of investigation but not filed with the charge sheet thus, the same cannot be given under [Section 207](#) Cr.P.C. however the petitioner is entitled to the said document under [Sections 91](#), [233](#) and [243](#) Cr.P.C. Sections 233 and 243 [Cr.P.C.](#) provide that the Court shall issue process compelling attendance of a witness or production of any document or thing unless the***

Court finds that the application has been made for the purpose of vexation or delay or for defeating the ends of justice. Though the power under [Sections 233 and 243](#) Cr.P.C. can be exercised only when the accused enters his defence, however no such limitation is prescribed under [Section 91](#) Cr.P.C. which mandates the Court to direct production of any document or thing necessary or desirable for the purposes of investigation, inquiry, trial or other proceedings under [the Code](#).

13. Dealing with the scope of [Section 91](#) Cr.P.C. the Supreme Court in its decision reported as AIR 2000 sc 2335 Om Prakash Sharma Vs Central Bureau of Investigation, Delhi held that the language of the Section itself indicates the width of the powers to be unlimited but the in-built limitation inherent therein takes its colour and shape from the stage or point of time of its exercise, commensurately with the nature of proceedings as also the compulsions of necessity and desirability, to fulfill the task or achieve the object. The Court further noted that at the stage of framing of charge, the accused could produce any reliable material which might totally affect even the very sustainability of the case, a refusal to even look into the materials so produced may result in injustice, apart from averting an exercise in futility at the expenses of valuable judicial/public time. The three Judge Bench of the Supreme Court in the decision reported as (2005) 1 SCC 568 State of Orissa Vs. Debendra Nath Padhi though agreed with the scope and ambit of [Section 91](#) of Cr.P.C. as envisaged in Om Prakash Sharma (supra) however disagreed that the accused had a right to produce any material at the stage of framing of charge. Reiterating the law laid down under [Section 91](#) Cr.P.C. the Supreme Court in Debendra Nath Padhi (supra) held-

“24. On behalf of the accused a contention about production of documents relying upon [Section 91](#) of the Code has also been made. [Section 91](#) of the Code reads as under:

"91. Summons to produce document or other thing.--(1) Whenever any court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such court or officer, such court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2)-(3) \* \* \*

25. Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding that the same is "necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under [the Code](#)". The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused,

*the question of invoking [Section 91](#) at the initial stage of framing of a charge would not arise since defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. Insofar as the accused is concerned, his entitlement to seek order under [Section 91](#) would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused. If under [Section 227](#), what is necessary and relevant is only the record produced in terms of [Section 173](#) of the Code, the accused cannot at that stage invoke [Section 91](#) to seek production of any document to show his innocence. Under [Section 91](#) summons for production of document can be issued by court and under a written order an officer in charge of a police station can also direct production thereof. [Section 91](#) does not confer any right on the accused to produce document in his possession to prove his defence. [Section 91](#) presupposes that when the document is not produced process may be initiated to compel production thereof.*

*14. The issue whether a document of impeccable character can be produced by the accused at the stage of framing of charge was later considered by the Supreme Court in the decision reported as (2008) 14 SCC 1 Rukmini Narvekar Vs. Vijaya Satardekar & Ors. wherein the Court held that while it is true that ordinarily defence material cannot be looked into by the Court while framing of the charge in view of Debendra Nath Padhi's case, there may be some very rare and exceptional cases where some defence material when shown to the trial court would convincingly demonstrate that the prosecution version was totally absurd or preposterous, and in such very rare cases the defence material can be looked into by the court at the time of framing of the charges or taking cognizance. It was held that it cannot be said to be an absolute proposition that under no circumstances can the court look into the material produced by the defence at the stage of framing of the charge, though this should be done in very rare cases i.e. where the defence produces some material which convincingly demonstrates that the whole prosecution case is totally absurd or totally concocted.*

*15. Thus the law on [Section 91](#) Cr.P.C. is clear that the Court or officer in charge of a police station shall exercise the power to ensure production of any document or other things "necessary or desirable" for the purpose of any investigation, inquiry, trial or other proceedings under [the Code](#). Further the necessity and desirability of production of the document has to be seen also keeping in mind the stage at which the power is required to be exercised.*

However, it would be contrary to the frame work of [Cr.P.C.](#) and [Indian Evidence Act](#) that a document which favours the accused is only required to be produced at the stage when he leads defence evidence. It is trite law that the accused can probabilize his defence even by cross-examining the witnesses by confronting them with documents which impeach their creditworthiness. Thus, in all cases it cannot be held that a document which is in favour of the accused will be supplied only at the stage of defence evidence. If the nature of the document is such that the accused can confront the prosecution witnesses/complainant witnesses with the said document, he would be within his right to claim those documents under [Section 91](#) Cr.P.C. even when prosecution evidence is being led for a fair and just trial as mandated by [Article 21](#) of the Constitution of India.

16. In the present case, the petitioner seeks document which is a report of internal enquiry wherein statement of witnesses were recorded. The petitioner would have a right to cross-examine the witnesses by confronting them with their previous statements so recorded. Thus, the limitation imposed by the learned Trial Court by order dated 11th April, 2016 that the documents sought by the petitioner can only be obtained at the stage of defence is incorrect as the said documents can also be used for confronting the prosecution witnesses in case the same include previous statements of the witnesses to be examined. Thus finding no error in the order dated 22 nd March, 2016 framing charge for offences punishable under [Sections 354A/354D](#) IPC and 10/12 POCSO Act and the order dated 11th April, 2016 rejecting the application of the petitioner filed under [Section 207](#) Cr.P.C., it is directed that if an application under [Section 91](#) Cr.P.C. is filed considering the necessity and desirability of the documents and the stage of trial which could also include confronting the witnesses with their earlier statement, the Court will allow the same by directing production of the said documents to the petitioner.

Further it has been held by the Hon'ble Supreme Court in the judgment *State of Orissa Vs. Debendra Nath Padhi Appeal (crl.) 497 of 2001* decided on 29.11.2004 as under :

*“We are of the view that jurisdiction under [Section 91](#) of the Code when invoked by accused the necessity and desirability would have to be seen by the Court in the context of the purpose investigation, inquiry, trial or other proceedings under [the Code](#). It would also have to be borne in mind that law does not permit a roving or fishing inquiry. Regarding the argument of accused having to face the trial despite being in a position to produce material of unimpeachable character of sterling quality, the width of the powers of the High Court under [Section 482](#) of the Code and [Article 226](#) of Constitution of India is unlimited whereunder in the interests of justice the High Court can make such orders as may be necessary to prevent abuse of the process of any Court or otherwise to secure the ends of justice within the parameters laid down in Bhajan Lal's case.”*

10. Applying the ratio of the judgment(s) above, all the relied upon documents by the prosecution have already been supplied to the accused. Further, with regard to the application in question of A-11, he has made prayer (A), as above in his application u/S. 91 CrPC dated 26.09.2020, firstly the prayer made by the accused directing prosecution agency to give all the documents / correspondence between the Indian Overseas Bank and CVC related to the sanction dated 13.09.2019 qua A-11, as per prayer 'A' is most vague in nature, as the applicant has nowhere stated in his application that which were the said documents, which were collected by the prosecution agency during the investigations and the same were not handed over to him for preparing the effective defence.

11. In any case, this accused had also moved an application u/S. 311 CrPC for permission to examine Sh. K. Parthasarathy, sanctioning authority vide his application dated 21.09.2020 and vide separate statement of Ld. Counsel recorded on 25.03.2021, he had stated after taking instructions from his client i.e. A-11 that his above application seeking permission to summon the above witness Sh. K. Parthasarathy be kept in abeyance to be taken up after framing of charges.

12. Therefore, in the aforesaid circumstances, it appears that the applicant himself is not aware what documents he wants to summon from the sanctioning authority. Rather, it appears that he is indulging in fishing or roving inquiry in this regard, as he has not given any specific particulars and therefore the said documents are not necessary for preparing the effective defence of the accused. Since the prayer sought for by the present applicant is most vague in nature and for the reasons discussed above, the present application has no merit, hence dismissed.

13. With regard to the another application on behalf of A-12 u/S. 91 CrPC dated 12.01.2021, the sanction for prosecution qua this accused from the competent authority has already been supplied. The relief sought for by this accused for giving entire file containing correspondence in respect of sanction of prosecution of this accused is most vague and is in the nature of fishing inquiry. In any case, the said documents cannot be said to be necessary for preparing the effective defence of the accused, as during the course of arguments Ld. PP for CBI had stated that the said sanction file would be lying with the concerned bank and had not been seized by the prosecuting agency during the investigations, therefore, in these circumstances and for the reasons stated above, the above relief sought cannot be countenanced.

14. With regard to the second prayer for request letter of CBI sent to the complainant bank seeking sanction for prosecution of accused no. 12, it is nowhere stated by the CBI in its reply that the said document has not been collected during the investigations, however during the course of arguments Ld PP for CBI stated that the same was never seized during the investigations. However, in any case the same would be necessary for preparing the effective defence by the accused and non supply of the same may cause prejudice to him. Therefore, the CBI is directed to provide copy of the request letter of CBI sent to the complainant bank seeking sanction for prosecution of this accused to him.

15. Regarding the prayer 3 in the above application, the CBI in its reply has not either admitted or denied that whether they had collected the said internal memorandum, as asked for by this applicant. However, during the course of arguments, Ld. PP for CBI stated that it is the internal administrative matter of the concerned bank qua this accused and the same was not collected during the investigations, as the same was not having relevance to the present case.

In any case, the applicant has nowhere clarified the date thereof and all the other relevant details like memorandum number from which it can be discerned as to which specific memorandum is required by the accused. Therefore, the prayer in this regard is totally vague in nature and without giving the exact particulars, the said plea cannot be considered and it is in the nature of roving inquiry. Therefore, the said relief cannot be granted, as asked for by A-12 and his above prayer cannot be allowed for the reasons mentioned above.

16. With regard to the draft sanction, as per prayer clause 4, again in the reply the CBI had not clarified whether they had supplied any draft sanction to the sanctioning authority or not nor they have denied that they have done so. However, if the CBI had supplied the draft sanction to the complainant bank, then the same may be necessary for preparing the effective defence of the accused and non supply of the same may cause prejudice.

In these circumstances, the CBI is directed to provide draft sanction letter to the accused, if supplied by the CBI to the complainant bank before sanction to prosecute this accused.

17. With regard to the relevant pages of IOB Officer Employees' (Discipline and Appeal) Regulations 1976, sought in prayer clause 5, the CBI in its reply has not stated that they had collected the said documents or not, but during the course of arguments, it so transpired that without prejudice to the rights and contentions of the prosecution, one of the accused A-11 had already filed the said rules and the prosecution has also not denied the authenticity of the same. Consequently, copy thereof may also be supplied to this accused, as filed by A-11 without prejudice to the rights and contentions of the prosecution. However, the relevance of the same will be seen at the appropriate stage.

18. Therefore, in view of the above discussion, the application moved by A-11 stands dismissed, whereas the application moved by A-12 is partly allowed to the extent mentioned above.

19. With the above observations, both the application(s) stand disposed off, as above.

**Nothing expressed hereinabove shall have any bearing on the merits of the case.**

**Announced in the open Court on this 09<sup>th</sup> Day of April, 2021 through Video Conferencing.**

**(Sanjeev Aggarwal)  
Special Judge (PC Act)(CBI)-02  
Rouse Avenue District Court  
New Delhi/09.04.2021**