IN THE COURT OF SPECIAL JUDGE:
PC ACT (CBI) - 04, ROUSE AVENUE COURTS, DELHI.
IA-3/2024
CC No. 371/2019
RC No. 15(A)/2014-DLI
CBI/ACB/ND
U/s 13 (2) r/w 13 (1) (e) of PC Act & 109 IPC

CBI Vs. Dr. Laxmi Chand Gupta & Anr.

O R D E R

19.04.2024

1. This order will dispose off an application preferred by accused no.1/applicant (Laxmi Chand Gupta) under Section 91 Cr.PC seeking necessary directions to Branch Manager, Bank of Baroda, Saket, New Delhi, to bring the documents as mentioned in the application in prayer clause.

2. It is, inter alia, stated in the application that during the cross-examination of Kailash Sahu (PW-33), it transpired that he was making false statement on Oath. In order to discredit the said witness as well as to prove the manipulation/falsity of the case of CBI, the following documents are required to be summoned in order to confront the same to I.O:

> (a) Direction/letter received from Bank of Baroda, Branch Saket pursuant to which statement of accounts of A-1 (applicant herein), his wife Manju Gupta (A-2) and their son Swapnil Aeron was generated n 29.04.2014 and was handed over to CBI alongwith statement of account of said bank accounts in which the bank charged Rs.1461 for generation of statement of account and the same was duly debited from account of A-1(applicant herein).

The details of bank account in respect of which, the said statements were generated and handed over to CBI are as under:

1. Laxmi Chand Gupta, Saving Bank Account No. 29190100002365.
2. Manju Gupta, Saving A/c No. 29190100002366.
3. Swapnil Aeron, Saving A/c No. 29190100007831
4. Statement of account of the aforementioned bank accounts for a period of 20.04.2014 to 30.04.2014.
5. Voucher through which amount of Rs.1461/- was deducted from account of A-1.
6. Receipt of CBI through which CBI conveyed that that they had received the statement of accounts of aforesaid bank accounts.

2.1 It is also stated that since Kailash Sahu (PW-33) conspired against the accused persons and implicated them in the present false case, the said documents are required to be summoned and confronted to PW-33. Hence, the application

3. Reply to the aforesaid application has been filed by the CBI. It is pleaded on behalf of CBI that cross-examination of Kailash Sahu (PW-33) is already done at length and now it is upon the court whether to accept or reject the said testimony of PW-33. By way of present application, the accused/applicant herein is trying to identify the source of information received by the CBI. In this regard, reliance has been placed by CBI on the judgment of Hon'ble Supreme Court in case titled **State of Orissa V. DN Padhi, AIR 2005 SC 359.** Lastly, it is submitted

that accused/applicant is trying to prolong the on-going trial and also trying to get the identity of source revealed from CBI. Hence, prayer is made for dismissal of the present application.

4. It is argued by Ld. Counsel for the accused/applicant that PW-33 Dy. S.P Kailash Sahu made a false statement in the cross-examination with respect to the origin of the present case. It is the case of the CBI that the present RC was registered on source information with no Preliminary Enquiry (PE) being conducted. But the cross-examination of PW-33 reflects it otherwise.

4.1 Further, there was deduction of Rs.1461/- by his bank i.e Bank of Baroda, Saket, New Delhi, charged by the bank for statement of accounts provided to CBI on 29.04.2014. He wishes to confront the said documents to the Investigating Officer (I.O) who is yet to be examined.

5. Per contra, Ld. Sr.P.P for the CBI has opposed the present application stating that the documents can come on record during the defence evidence stage.

6. **Heard and considered.**

7. The Investigating Officer (I.O) Inspector Alok Kumar Singh is the only witness now left to be examined. The documents sought to be summoned are to be put to the IO and not to PW-33 as is pleaded. The question to be seen herein is as to whether the said documents sought to be summoned under

Section 91 Cr.P.C by the applicant are required for his cross-examination or not.

7.1 The ground pleaded by the applicant is that as per case of the prosecution present FIR/RC was registered on a source based information on 21st May 2014. PW-33 Dy. S.P Kailash Sahu too claimed that he participated in the investigation consequent to the registration of the R.C. As far as the prior inquiry is concerned, his responses in the cross-examination have been evasive. He denied having visited various places concerning assets of the accused persons prior to the registration of the R.C. Therefore, in the said backdrop, the plea taken by the applicant/accused for confronting the witness/I.O who is yet to be examined with respect to the inquiry conducted by them is an essential fact which needs to come on record for coming to the just conclusion of the present case and as to basis of FIR. In no way the identity of the source is being sought.

The judgment in **D.N. Padhi (supra) case** is not applicable as matter is now under trial and documents sought are required for cross-examination of the I.O.

8. In view of the above said reasons, the application under Section 91 Cr.P.C moved on behalf of accused/applicant is allowed with respect to prayers as pleaded in the application. The accused persons to take appropriate steps for summoning the said documents.

Announced in the open Court
on 19.04.2024

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