

IN THE COURT OF THE SPECIAL JUDGE, (SPE/CBI)-I, ERNAKULAM

Present:- Sri. K. Sathyan, Special Judge, Ernakulam
Tuesday the 21st day of May, 2019/31st Vaisakha, 1941

CrI.M.P.No.987/2015 & CrI.M.P.No.988/2015 in C.C.No.05/2012

CrI.M.P.No.987/2015

Petitioner/Accused No.4: V.M.Radhakrishnan, S/o.P.Velayudhan, Nineethitha,
DPO Road, Palakkad, Kerala.

By Adv. Sri. Devaprasanth.P.J.

Respondent/Complainant: The Central Bureau of Investigation Cochin

By Public Prosecutor CBI

CrI.M.P.No.988/2015

Petitioner/Accused No.3: M/s.Malappuram Hotels Pvt.Ltd. represented by its
Managing Director K.P.Haridas

By Adv. M/s.Binoy Vasudevan & P.G.Babitha

Respondent/Complainant: The Central Bureau of Investigation Cochin

By Public Prosecutor CBI

These petitions coming on for hearing before me on 13.05.2019 and the Court on 21.05.2019 passed the following:

COMMON ORDER

1. These petitions were filed by the fourth and the third accused

respectively for a direction to return the final report in RC 31(A)/2011/CBI/ACB/Cochin to the respondent on the ground that a few documents produced along with the final report are incomplete.

2. The petitioners and other accused are prosecuted for offences punishable under Sections 120B IPC and Section 7, 12, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

3. The final report was filed on 31.10.2012. The petitioners allege that document Nos.27, 28 and 29, the call records issued by BSNL for the period from 01.07.2011 to 02.10.2011, are incomplete as the respondent has produced only copy of pages containing call details from 28.09.2011 to 01.10.2011. These details are in respect of call entry Nos.2110 to 2307 and relied on by the prosecution against the accused persons. It is alleged that the respondent has removed the remaining call records from the original document, that it will vitiate trial and therefore has prayed for return of final report.

4. The respondent has filed a counter statement narrating facts of the case and in the last paragraph it is mentioned that the document now sought by A3 and A4 cannot be provided to them because the original documents were produced before this court along with the final report.

5. Heard both sides.

6. The learned counsel for the petitioners submitted that the final report is incomplete as the entire documents received from the BSNL were not produced. The learned counsel, submitted that the investigating officer has not requested this court to exclude any portion of the document supplied to the accused, that the irregular procedure followed by the respondent will vitiate trial and therefore the final report may be returned to the investigating officer.

7. The documents mentioned were produced as D27, D28 and D29. The description of the documents in the list of documents appended to the final report will give an impression that entire documents were submitted. In fact it is specifically noted by the office of this court in the final report that only a copy of the said documents was produced. In fact what was produced as D27, D28 and D29 was only copies of the covering letters dated 10.01.2012 and two letters dated 12.01.2012 and a few pages as pointed out by the petitioners. The said three documents which runs into pages were not produced. It is seen on verification of records that the original of the documents mentioned as D27 to D29 were produced in C.C.No.4/2012 of this court.

8. This being the position the contention of the petitioner that the final

report may be returned because of the production of incomplete documents does not have any merit at all. The said contention is rejected.

9. When it is mentioned in the list of documents that copy of entire D27 to 29 were produced, the respondent should have produced certified copies of the said documents along with the final report and a copy also be given to the accused persons. This omission will not in any way affect the accused persons or has any impact on the proceedings in this case. It can be corrected.

10. Therefore, the respondent is given an opportunity to produce certified copies of documents mentioned as D27, D28 and D29 from the original documents produced in CC No. 4/2012 of this court and produce them for the purpose of this case. A copy of the full set of documents mentioned as D27 to D29 in the final report shall be furnished to all the accused persons. This shall be done within a month.

In the result, these petitions are disposed of as follows:

- 1) The contention of A3 and A4 that the final report submitted under Section 173(2) Cr.P.C may be returned to the respondent is rejected.
- 2) The respondent is given an opportunity to produce certified copies of documents mentioned as D27, D28 and D29 from the original documents

produced in CC No. 4/2012 of this court within a month. A copy of the full set of documents mentioned as D27 to D29 in the final report shall be furnished to all the accused persons.

Dictated to the Confidential Asst., typewritten by her directly to computer system, corrected and pronounced by me in open court on this the 21st day of May, 2019.

Sd/-

K. Sathyan
Special Judge (SPE/CBI)-I

Appendix: Nil

Id/-

Special Judge (SPE/CBI)-I
(By Order)

//True Copy//

Sheristadar

Typed by: Sindhu.S.T

Comp.by:

Copy of Order in
Crl.M.P.No.987/2015 &
Crl.M.P.No.988/2015
in
C.C.No.05/2012
Dated: 21.05.2019