

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

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

**Crl.M.P.No.989/2015 in C.C.No.06/2012**

**Petitioner/Accused No.3:** M/s.Sreebala Hotels Pvt.Ltd. represented by its  
Managing Director Narayanankutty Kondakushiyil  
**By Adv. M/s.Binoy Vasudevan & P.G.Babitha**

**Respondent/Complainant:** The Central Bureau of Investigation Cochin  
**By Public Prosecutor CBI**

This petition coming on for hearing before me on 13.05.2019 and the Court on 21.05.2019 passed the following:

**ORDER**

1. The third accused has filed this petition for a direction to return the final report in RC 31(A)/2011/CBI/ACB/Cochin to the respondent on the ground that three documents produced along with the final report are incomplete.

2. The petitioner along with the co-accused persons 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 petitioner alleges 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 a few pages containing call details from 28.09.2011 to 01.10.2011. These details are in respect of call entry Nos.2110 to 2307, which is relied on by the prosecution against the accused persons. It is alleged that the respondent has removed the remaining call records from the original documents, that it will vitiate trial and therefore he 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 cannot be provided to him because the original documents were produced before this court along with the final report.

5. Heard both sides.

6. The learned counsel for the petitioner submitted that the final report is incomplete as the entire documents received from the BSNL is not produced. The

learned counsel further submitted that the investigating officer has not requested this court to exclude any portion of the document supplied to the accused and thus 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 these documents in the list of documents will give an impression that the entire original documents received from the BSNL were submitted. What was produced as D27, D28 and D29 was only a copy of the covering letters dated 10.01.2012 and two letters dated 12.01.2012 and also copies of a few pages of these documents, which are relied on by the respondent against the accused persons. The entire documents which runs into pages were not produced. In fact 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.

8. The position is that the respondent has only produced a portion of the documents mentioned above, though it is mentioned in the list of documents that copies of entire documents received from BSNL was produced. The said omission can very well be supplied by giving the prosecution an opportunity to

produce certified copy of those documents. 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 as 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 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 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 obtain certified copies of D27 to D29 from the original documents produced in C.C.No.4/2012 of this court and produce the same in this case within a month. A copy shall be given 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 21<sup>st</sup> day of May, 2019.

Sd/-

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

Appendix: Nil

Id/-

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

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Sheristadar

Typed by: Sindhu.S.T

Comp.by:

Copy of Order in  
CrI.M.P.No.989/2015  
in  
C.C.No.06/2012  
Dated: 21.05.2019