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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.REV.P. 746/2024

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Mr. Anupam S. Sharrma, SPP with
Mr. Prakarsh Airan, Ms. Harpreet Kalsi,
Mr. Abhishek Batra, Mr. Ripudaman Sharma,
Mr. Vashisht Rao and Mr. Syamantak Modgill,
Advocates with SI Yogesh Shakya, AC-II, for
CBI.

versus

RAMJEE SINGH & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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30.05.2024

CRL.M.A. 17482/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

CRL.REV.P. 746/2024 and CRL.M.A. 17481/2024 (stay)

3. This petition has been filed on behalf of the Petitioner under Section 397 read with Sections 401 and 402 Cr.P.C. laying a challenge to order dated 02.02.2024, whereby the learned Special Judge (PC Act), CBI-03, Rouse Avenue District Courts, New Delhi, has partly allowed the applications of the accused persons seeking inspection of original hard drives containing intercepted phone conversation with certain conditions as mentioned in the order.
4. Mr. Anupam S. Sharrma, learned SPP appearing for the CBI submits



that present case was registered against several accused persons under Section 120B IPC read with Sections 7, 12 and 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 (PC Act). After registration of the case FIR/RC, a trap team was constituted by CBI and in the presence of two independent witnesses, accused No. 2 was caught with cash of Rs.20 lacs which he had collected on instruction of Respondent No. 1 from Samkit Shah and the amount was to be delivered to Respondent No. 1. Respondent No. 2 was proposing to establish a homeopathic institute at Rajkot and Rs.20 lacs was to be transferred allegedly through *hawala* to Respondent No. 1. CBI conducted searches at different places and further amounts were recovered. During investigation, telephonic conversations between accused persons revealed some important and crucial facts which point to the culpability of the accused persons. Investigation is complete and report under Section 173 Cr.P.C. has been filed. Cognisance of the offences has been taken by the learned Special Judge on 07.07.2017.

5. During the pendency of the proceedings, Respondents No. 1 to 4 herein filed applications under Section 207 Cr.P.C. seeking inspection of the original hard drive. Affidavit claiming privilege was filed on behalf of the CBI under Sections 123 and 124 of the Indian Evidence Act, 1872, however, by the impugned order Court permitted the Respondents to inspect the original recording of voice conversations relied upon by the CBI in the charge sheet, which cannot be permitted.

6. Arguing in support of the challenge to the impugned order, Mr. Sharma *inter alia* urges that the learned Special Judge failed to appreciate that the server containing the intercepted calls is placed in a secret room of the Surveillance Unit (SU) having limited access. SU is a most sensitive



place and deals with very confidential information/documents and the manner in which the surveillance is conducted is also highly confidential and its exposure can lead to the criminals being forewarned of the methods adopted by SU in keeping tap on their criminal activities. Keeping in mind, the confidentiality, even senior officials of the CBI are not allowed and only the staff specifically deputed for interception duty is allowed to enter in the server room. Further, interception in server room is a continuous process and inspection by the Respondents will certainly create hindrance in the working of SU besides there being high risk of leakage of secret information, if Respondents with their counsels are permitted to enter the SU for inspection of the hard drives installed there.

7. Issue notice to the Respondents, through all permissible modes, returnable on 03.09.2024.

8. In my considered view, there is *prima facie* merit in the submission made by Mr. Sharrma. Accordingly, operation of the impugned order dated 02.02.2024 is stayed, till the next date of hearing.

JYOTI SINGH, J

MAY 30, 2024

B.S. Rohella/shivam