

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE

BEFORE HON.MR. JUSTICE ALOK VERMA, JUDGE

M.Cr.C. No.8815/2015

Ratanlal S/o Bherulal

Vs.

State of Madhya Pradesh

O R D E R

Post for 22.02.2016

**(ALOK VERMA)
JUDGE**

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Vs.

State of Madhya Pradesh

Mr. V.R. Purohit, learned counsel for the applicants.

Mr. Milind Phadke, learned Govt. Advocate for non-applicant/State.

O R D E R

(Passed on this 22nd day of February, 2016)

This application filed under Section 482 Cr.P.C. is directed against the order passed by learned 3rd Additional Sessions Judge, Dewas in Sessions Trial No.64/2011 dated 14.07.2015.

2. The brief facts giving rise to this application are that the present applicant is facing trial before the learned Additional Sessions Judge in the aforementioned sessions trial. He filed an application under section 91 of Cr.P.C. seeking calling of certain documents from the Co-operative Society in respect of which this offence was allegedly committed. The present applicant was senior co-operative Inspector of Co-operative Societies. He was appointed Samnudeshiti by Joint Registrar of Cooperative Societies, Ujjain

vide order dated 27.04.2006. It was alleged that some irregularities were committed by him, and therefore, the offence was registered against him.

3. By way of application under section 91 of Cr.P.C., he sought to call certain documents, which was dismissed by Additional Sessions Judge by the impugned order stating therein that he could obtain copies of these documents under Right to Information Act (in short 'R.T.I. Act') and cross-examine the witnesses. So far as the case-diary is concerned, it was observed by the Additional Sessions Judge that the accused has no right to inspect the case-diary, and therefore, the documents were not necessary to be called for evidence.

4. Counsel for the applicant submits that the documents of the Cooperative Societies cannot be obtained under R.T.I. Act. This apart, all the documents sought by the applicant were not the public documents, and therefore, even if copies are given to him, the same cannot be admitted and proved as evidence.

5. Counsel for non-applicant/State opposed the application.

6. I have gone through the impugned order, the documents sought are of orders passed by Ex-Serviceman and the resolutions of the concerning Cooperative Societies, they all are not public documents, and therefore, the arguments of the counsel for the applicant appears acceptable that even if their copies are obtained under R.T.I. Act, the same cannot be admitted in the evidence unless they are produced in original.

7. In this view of the matter, it appears that the documents sought by the applicants are necessary documents for his defence. So far as the case-diary is concerned, it was only mentioned in the application that the Investigating Officer should bring the case-

diary alongwith him when he appears before the court for recording of his statement. It was not prayed that he should be allowed to inspect the case-diary, and therefore, the observations of learned Additional Sessions Judge in this regard appears erroneous.

8. In this view of the matter, the application is allowed. Accordingly, the impugned order is set-aside. Learned Additional Sessions Judge is directed to call the documents in original and make them available to the present applicant for cross-examination and for the purpose of his defence. The Investigating Officer should also be directed to bring case-diary with him when he is summoned to record his evidence.

With observations and directions, as aforesaid, this application (**M.Cr.C. No.8815/2015**) stands disposed of.

Certified copy, as per rules.

(Alok Verma)
Judge

Chitranjan