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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 29th OF OCTOBER, 2025

MISC. CRIMINAL CASE No. 24035 of 2022

SMT. INDU JAIN

Versus

CENTRAL BUREAU OF INVESTIGATION

Appearance:

*Shri Vishal Baheti - Senior Advocate with Shri Kaushal Sisodiya -
Advocate for the petitioner.*

Shri Manoj Dwivedi – Advocate for the respondent/CBI.

ORDER

1] They are heard and perused the record.

2] This petition has been filed by the petitioner under Section 482 of Cr.P.C. against the order dated 22.04.2022 passed by the Special Judicial Magistrate (C.B.I.) & Economical Offences, Indore in Criminal Case No.03 of 2004, whereby the application filed by the petitioner, purportedly without mentioning the provisions of law, for strict compliance of the orders passed by this Court in M.Cr.C. Nos.5102/2016 and 26498/2017 has been rejected holding that, in respect of the documents, which the respondents have not been able to produce in the Court, adverse inference can be drawn.



3] In brief, the facts of the case are that the petitioner is facing the aforesaid trial under Sections 419, 420, 467, 468, 471, and 120-B of the Indian Penal Code at the instance of an FIR registered by the CBI, Bhopal, wherein the case is at the stage of recording of the defence witness. At this stage, an application was filed by the petitioner/accused for production of certain documents in his defence, however, the same was rejected by the trial Court on 22.04.2022, with the observations as aforesaid that, in respect of the documents, which the respondents have not been able to produce in the Court, adverse inference can be drawn. Thus, being aggrieved, the present petition has been filed.

4] Further facts of the case are that it has a long history, earlier, the petitioner's right to lead defence evidence was closed by the trial Court vide its order dated 08.05.2014, against which, a petition u/s.482 of Cr.P.C. (M.Cr.C. No.3787 of 2014) was filed before this Court, which was allowed on 07.12.2025, and the petitioner was granted opportunity to examine three defence witnesses, and thereafter on 15.12.2015, the petitioner also moved an application for summoning the defence witnesses along with the necessary documents, and thus, the defence witness was summoned but he did not bring any original document along with him but only the photocopies, and out of 33 documents sought by the petitioner, 24 documents were not brought by him, and the documents, which he brought, were also the photocopies of the original, and when the witness was asked about the original documents, he informed that the documents have already been handed over to the CBI. Thus, the petitioner again moved an application for issuance of direction to the witness for bringing the original documents, however, the same



was dismissed by the trial Court on 20.01.2016, against which a petition under Section 482 of Cr.P.C. (M.Cr.C. No.5102 of 2016) was filed, which was allowed by this Court vide its order dated 07.11.2016, specifically directing the trial Court to call for the original documents from wherever they are available, either from the bank or from the prosecution, and also from any other body, if it is informed to the Court that the original documents were handed over to the said body, and after calling the original documents, to allow the petitioner to examine the witness.

5] A copy of the said order dated 07.11.2016 was also submitted to the trial Court along with the list of documents which were to be summoned from the prosecution, and thus, the trial Court, vide its order dated 16.11.2016 again directed the prosecution to produce the original documents as per the list. On 06.12.2016, adjournment was sought by the prosecution to produce documents, and also prayed for summoning of the documents from the concerned bank, and thus, the trial Court issued a letter to the UCO bank and also to the S.P., CBI was also directed to produce the documents, and on 09.01.2017, the Senior Manager, UCO bank informed the court that the documents have to be called from the headquarter, whereas S.P., CBI replied that none of the documents mentioned in the list are available with the CBI. Some documents were indeed submitted by the UCO bank, however, the trial Court was of the opinion that the order passed by this Court in M.Cr.C. No.5102 of 2016, dated 07.11.2016 was not complied with in its true letter and spirit, hence, again directed the UCO bank vide its order dated 14.02.2017, to furnish the original documents as per the list, for which, again time was sought



by the UCO bank, and on 20.03.2017 the Senior Manager of UCO bank furnished a list of documents, contained in five pages, and the petitioner was also granted time to address on the list submitted by the UCO bank, and subsequently , the order was passed by the trial court on 28.04.2017, holding that the documents sought by the petitioner were fictitious and imaginary, and also ruled out the possibility of drawing adverse inference against the prosecution in case of non-production of the documents.

6] The aforesaid order was again challenged by the petitioner in criminal revision under Section 397 of Cr.P.C. before the Sessions Court, which was decided on 04.12.2017, and the order passed by the trial Court was upheld, and the said order dated 04.12.2017 was again challenged by the petitioner in a petition under Section 482 of Cr.P.C. in M.Cr.C. No.26498 of 2017, which was decided by this Court on 07.08.2018, with a direction to the trial Court to comply with the earlier order dated 07.11.2016, passed by this Court in its true letter and spirit, and thus, the petitioner again preferred an application before the trial Court for appropriate compliance and for passing a speaking order in strict compliance of the order passed by this Court in M.Cr.C. Nos.5102 of 2016 and 26948 of 2017. The aforesaid application was opposed by the respondent/prosecution, however, the bank filed an affidavit contending that all the documents pertaining to the matter are handed over to the CBI, whereas affidavit filed by the CBI disclosed that they do not have any other documents except what is on record. Copies of the affidavits filed by the CBI and the UCO bank have also been filed on record. The learned Judge of the trial Court, on 01.03.2019, directed the petitioner to declare the whereabouts of the documents, however, as the petitioner was



unable to trace whereabouts of the documents, finally the trial Court rejected the application vide impugned order dated 22.04.2022, holding that a few of the documents mentioned in the list has already been exhibited in the course of examination-in-chief, and for the rest of the documents, prosecution and the bank have already filed their affidavits that they are not in possession of the same, and if the documents are deliberately not produced by the bank or the investigating agency, then an adverse inference may be drawn against them.

7] Shri Vishal Baheti, learned senior counsel for the petitioner has submitted that the aforesaid finding is of no avail to the petitioner in light of the orders passed by this Court as aforesaid, and the entire purpose of filing the applications to produce the documents is lost. Senior counsel has also submitted that the documents are lying either with the bank or with the CBI, and non-production of the same cannot be claimed by both these agencies. Thus, it is submitted that the respondent may be directed to produce the documents as sought by the petitioner, and which have also been accepted by the bank to have been handed over to the CBI.

8] On the other hand, Shri Manoj Dwivedi, learned counsel for the respondent/CBI, has vehemently opposed the prayer, and it is submitted that no case for interference is made out, as the CBI as also the bank have already filed their affidavits in the trial Court regarding the availability or non-availability of the documents, and even otherwise, the learned Judge of the trial Court has already held that if it is found that the documents have been deliberately not produced by the bank or the CBI, then adverse inference may be drawn against them, and the prosecution agency is also aware of the legal position and is ready to face the consequences. Thus, it



is submitted that in such circumstances, no case for interference is made out.

9] Shri Dwivedi has also submitted that the case is pending since 2022, and a stay order has been passed by this Court on 19.05.2022, and thus, the trial has also been stayed because of the pendency of this petition.

10] Heard counsel for the parties and perused the record.

11] From the record, it is apparent that the dispute between the parties is in respect of the documents, which the petitioner claims, to be in possession of the prosecution agency CBI, whereas the CBI as also the UCO bank, from where the documents were generated, have filed their affidavits in the trial Court that they do not have any other documents, except the documents, which have already been filed on record, and the trial Court, in such circumstances, has made the following observations:-

“पूर्व के पीठासीन अधिकारी द्वारा पारित किये गये आदेश एवं प्रकरण के अवलोकन करने से यह दर्शित है कि माननीय म.प्र. उच्च न्यायालय द्वारा पारित आदेश एमसीआरसी क्रमांक 5102/2016 का शब्दशः पालन न्यायालय द्वारा सुनिश्चित किया गया है तथा माननीय उच्च न्यायालय के आदेश एमसीआरसी क्रमांक 26498/2017 के अनुसार अभियोजन एवं अन्य निकाये को भी दस्तावेज प्रस्तुत करने हेतु निर्देशित किया गया था। उक्त आदेश के पालन में अभियोजन, यूको बैंक एवं अभियुक्त से भी उक्त जानकारी मांगी गयी थी। अभियोजन सी.बी.आई तथा यूको बैंक द्वारा शपथ पत्र प्रकट किया है कि उनके पास दस्तावेज नहीं हैं तथा अभियुक्त को निर्देशित किये जाने पर अभियुक्त द्वारा यांचित दस्तावेजों की जानकारी उपलब्ध नहीं करायी है। इस प्रकार माननीय उच्च न्यायालय के उपरोक्त आदेशों का पूर्ण रूप से पालन न्यायालय द्वारा किया गया है। यदि उसके बाबजूद सी.बी.आई अथवा बैंक द्वारा जानबूझकर कोई दस्तावेज उनसे छिपाया



गया है तो ऐसे दस्तावेज के प्रस्तुत न करने के संबंध में उपधारणा की जा सकती है। वर्तमान आवेदन पत्र प्रकरण में लंबान कारित किये जाने हेतु प्रस्तुत किया गया होना दर्शित है। प्रकरण वर्ष 2004 से लंबित है।

अतः आरोपी इंदू जैन की ओर से प्रस्तुत आवेदन पत्र दिनांकित 1.02.2019 एवं दिनांक 03.09.2019 निरस्त किया जाता है।”

(Emphasis Supplied)

12] A perusal of the aforesaid order would clearly reveal that the trial Court has categorically held that if it is found that these documents have been deliberately suppressed by the prosecution or the bank, then an adverse inference shall be drawn against them, which in the considered opinion of this Court, is in line with the provisions of Section 114(g) of the Evidence Act, which provides for an adverse inference, relevant excerpt of the same, reads as under:-

“114. **Court may presume existence of certain facts.** The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

The Court may presume –

Xxxxxxxx

(g) That evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;”

(Emphasis supplied)

13] In such circumstances, this Court is of the considered opinion that no prejudice would be caused to the petitioner if the documents claimed to be in possession of the respondent are not produced by them, as the trial Court is legally equipped to draw an adverse inference against the prosecution on account of the non-production of such documents, which would ultimately benefit the petitioner and would certainly be in



line with his defence and it cannot be said that any prejudice would be caused to the petitioner/accused.

14] In view of the same, no case for interference is made out, and the petition is hereby ***dismissed***, and as a natural corollary, the stay order passed by this Court on 19.05.2022 is hereby vacated.

15] The learned Judge of the trial Court is directed to expedite the matter and conclude the same as expeditiously as possible considering its long pendency of around 21 years.

16] Accordingly, the petition stands ***dismissed*** with the aforesaid observations.

(SUBODH ABHYANKAR)
JUDGE

Pankaj