

THE HIGH COURT OF MADHYA PRADESH**CRR-5185-2019**

(Central Bureau of Investigation vs Abhishek Sachan @ Abhishek Singh)

Jabalpur, Dated : 02-11-2019.

Shri Jitendra Kumar Jain, learned counsel for petitioner-CBI.

Heard on admission.

Central Bureau of Investigation takes exception to an order-dated 05.09.2019 passed by Special Court (Vyapam), Jabalpur in Case No.RC2172015S0098, whereby the prosecution i.e. the petitioner-CBI has been directed to supply hard copy of charge-sheet and other relevant documents to the accused. The relevant order is extracted below :

“यद्यपि सभी अभियुक्तगण के संबंध में प्रस्तुत दस्तावेजों की हार्ड प्रति सभी अभियुक्तगण को दिलाई जाना व्यवहारिक रूप से कठिन होकर प्रत्येक अभियुक्त को सभी अभियुक्तगण को अभियोग पत्र के साथ प्रस्तुत संपूर्ण दस्तावेजों की हार्ड प्रति दिलाई जाना आवश्यक प्रकट नहीं होता परंतु सभी अभियुक्तगण को अभियोग पत्र तथा प्रत्येक अभियुक्त को उसके विरुद्ध प्रस्तुत दस्तावेज एवं प्रस्तावित साक्ष्य के दस्तावेजों की प्रतिलिपि हार्ड प्रति के रूप में दिलाई जाना न्यायहित में उचित होगा।

अतः अभियुक्तगण के आवेदन पत्र आंशिक रूप से स्वीकार कर अभियोजक सीबीआई को आदेशित किया जाता है कि वह प्रत्येक अभियुक्त को अभियोग पत्र एवं उसके संबंध में प्रस्तुत दस्तावेज की हार्ड प्रति उसे आंशिक रूप से उपलब्ध कराये।”

Evidently, the order has been passed in purported exercise of the powers under Section 207 of the Code of Criminal Procedure, 1973 which mandates :

“207. Supply to the accused of copy of police report and other documents. - In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of post, a copy of each of the following:-

- (i) the police report;
- (ii) the first information report recorded under section 154;
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for exclusion has been made by the police officer under sub-section (6) of section 173;
- (iv) the confessions and statements, if any, recorded under section 164;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173 :

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused :

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.”

When the impugned order is tested on the anvil of the stipulations contained under Section 207(iii) of CrPC, the same cannot

be faulted with. Reliance placed by learned counsel for the petitioner on the second proviso to Section 207 of CrPC that it was incumbent upon the Court to have rejected the application and permitted the accused to inspect the record, is taken note of and rejected at the outset, as trite it is that the accused is entitled for fair trial. And, supplying the hard copy of the documents relied upon by prosecution to the accused ensures fair trial.

In view whereof, no indulgence is caused.

The revision fails and is **dismissed**.

(Sanjay Yadav)
Acting Chief Justice

(Vijay Kumar Shukla)
Judge

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