

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE**

**HON'BLE SHRI JUSTICE RAVI MALIMATH,  
CHIEF JUSTICE  
&  
HON'BLE SHRI JUSTICE VISHAL MISHRA**

**ON THE 25<sup>th</sup> OF AUGUST, 2022**

**MISCELLANEOUS CRIMINAL CASE No. 20482 of 2021**

**BETWEEN:-**

**PRADEEP RAGHUWANSHI S/O SHRI LATE  
SHYAMLAL RAGHUWANSHI R/O  
H.NO.104, VRINDAVAN PALACE, PIPLIYA  
KUMAR, NEAR METRO WHOLESale,  
VIJAY NAGAR, DISTRICT INDORE (M.P)**

**.....PETITIONER**

**(BY SHRI ANIL KHARE- SENIOR ADVOCATE WITH SHRI  
BHASKER PANDEY AND SHRI SAHIL SHARMA -  
ADVOCATES)**

**AND**

**CENTRAL BUREAU OF INVESTIGATION  
THROUGH INSPECTOR OF POLICE  
CBI/VYAPAM CASES, BHOPAL (M.P)**

**.....RESPONDENT**

**(BY SHRI SUDHIR KUMAR SHARMA - ADVOCATE )**

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*This petition coming on for admission this day, Hon'ble Shri  
Justice Ravi Malimath, Chief Justice passed the following:*

**ORDER**

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking to set aside the order dated 04.02.2021 passed by the learned IX Additional Sessions and Special Judge, CBI (Vyapam Cases), Bhopal in Special Case No.9500003 of 2015 rejecting the application of the petitioner filed under Section 207 read with Section 91 of the Cr.P.C. and further seeking a direction to the Central Bureau of Investigation to supply a copy of all such documents relied upon by the prosecution.

2. The case of prosecution is that an FIR was lodged in Crime No.539 of 2013 pertaining to the Pre-medical Test, 2013 for offences punishable under Section 13(1)(d)(iii) read with 13(2) of the Prevention of Corruption Act, 1988, Sections 120-B read with 201, 420, 467, 468, 471 of the IPC, Section 4 read with Section 3D(1)(2) of the M.P. Recognized Examinations Act, 1937 as well as Sections 65 and 66 of the Information Technology Act, 2000. Various accused have been arrested therein. The investigation has been completed and earlier the charge sheet was filed by the STF. After the order of the Hon'ble Supreme Court, the investigation was taken over by the CBI. Thereafter, the CBI filed a supplementary charge-sheet. In the said charge sheet, the petitioner was also arrayed as one of the accused.

3. The plea of the petitioner herein is that he filed an application in order to obtain the cloned copies of certain documents marked as HDDs S-1 to S-6, C-1, CKM-1 and G-1. It is his plea that these are all the CDs which have been recovered by the prosecution during the course of investigation. Therefore, he requires the cloned copies of all these material that have been seized by the prosecution.

4. The same was objected by the prosecution on the ground that whatever is being produced by them, the copies of the same have already been furnished to the accused. What is ostensibly sought for is the material which is not relevant to the case in hand. Therefore, it is not necessary for the prosecution to submit those material which are not relevant to the accused so far as this case is concerned. The trial Court by the impugned order rejected the application. In doing so it came to the conclusion that all the material that have been relied upon by the prosecution, copies of the same have already been furnished at the time of filling of the charge-sheet. That the CD contains various other material outside the instant case, for example, it contains certain obscene material also. Thereafter, it came to the view that all the material that the prosecution has relied upon have been furnished to the accused. Therefore, the plea of the accused for grant of additional material is beyond what is being relied upon by the prosecution. Hence, the application was rightly rejected.

5. Heard learned counsels.

6. The plea of the petitioner herein is to direct the respondent to furnish the cloned copies of all the hard-disks and other material that have been seized by the prosecution. In support of his case, learned counsel for petitioner relies on the judgment passed by the Hon'ble Supreme Court in the case of P. Gopalkrishnan alias Dileep Vs. State of Kerala and Another reported in (2020) 9 SCC 161 with reference to para 50, which reads as follows:-

*“50 In conclusion, we hold that the contents of the memory card/pen-drive being electronic record must be regarded as a document. If the prosecution is relying on the same, ordinarily, the accused must*

*be given a cloned copy thereof to enable him/her to present an effective defence during the trial. However, in cases involving issues such as of privacy of the complainant/witness or his/her identity, the Court may be justified in providing only inspection thereof to the accused and his/her lawyer or expert for presenting effective defence during the trial. The court may issue suitable directions to balance the interests of both sides.”*

7. In the aforesaid case, the Hon'ble Supreme Court came to the conclusion that if the prosecution is relying on such an electronic record, ordinarily the accused must be given a cloned copy thereof to enable him to present an effective defence during the trial. So far as the instant petition is concerned, the copies of all the electronic evidences have already been furnished to the accused.

8. The second part of the judgment is that where the issues pertaining to privacy of the complainant/witnesses or their identities are concerned, the Court may be justified in providing only inspection thereof to the accused. However, the learned counsel for petitioner herein on being questioned submits that it is not inspection that he wants but he actually wants the cloned copies of the documents. That he is not interested in inspection of the documents. Hence, keeping in mind the aforesaid judgment of the Hon'ble Supreme Court and on application of the same to the facts of the present case, we do not find that the trial Court has committed any error in passing the impugned order.

9. Learned counsel for the petitioner has also placed reliance upon the judgment passed by the Hon'ble Supreme Court in the case of Tarun Tyagi vs Central Bureau of Investigation reported in (2017) 4 SCC 490 with reference to para 10, which reads as follows:-

*“10. It is clear from the above that the CBI had seized some hard disks marked Q-2, 9 and 20 from the premises of the appellant which contained the source code of the data recovery software. Defence of the appellant is that this source code was exclusively prepared by him and was his property. On the other hand, case of the prosecution is that the recovered CDs are in fact same or similar to the software stolen in 2005. In a case like this, at the time of trial, the attempt on the part of the prosecution would be to show that the seized material, which contains the source code, is the property of the complainant. On the other hand, the appellant will try to demonstrate otherwise and his attempt would be to show that the source code contained in those CDs is different from the source code of the complainant and the seized material contained the source code developed by the appellant. It is but obvious that in order to prove his defence, the copies of the seized CDs need to be supplied to the appellant. The right to get these copies is statutorily recognised under Section 207 of the Code, which is the hallmark of a fair trial that every document relied upon by the prosecution has to be supplied to the defence/accused at the time of supply of the chargesheet to enable such an accused to demonstrate that no case is made out against him and also to enable him to prepare his cross-examination and defence strategy. There is no quarrel up to this point even by the prosecution. The only apprehension of the prosecution is that if the documents are supplied at this stage, the appellant may misuse the same.*

We have considered the said judgment. The Hon'ble Supreme Court has reiterated the right of the accused under Section 207 of the Code of Criminal Procedure. It is the hallmark of a fair trial that every document relied upon by the prosecution has to be supplied to the defence/accused at the time of supply of the charge-sheet in order to

enable such an accused to demonstrate that no case is made out against him.

10. We have considered the reasons as well as the factual position. All the material that are relied upon by the prosecution have already been furnished to the accused. Therefore, we find that even so far as para 10 of the aforesaid judgment is concerned, the impugned order of the trial Court is in consonance of the order of the Hon'ble Supreme Court.

11. Under these circumstances, having considered the order of the trial Court, we do not find any ground to interfere. All such material that is being relied upon by the prosecution has already been furnished to the accused. However, what the accused wants is cloned copies of various other material, which according to him, would have a bearing on the case. However, we are of the considered view that the accused is only entitled to that material which the prosecution relies upon in the Court. The accused cannot be entitled to all material or all matter of investigation done by the prosecution which does not have a bearing on the case or is not related to the accused in any manner whatsoever.

12. Hence, we find that there is no error committed by the trial Court in passing the impugned order. Consequently, the petition is dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

**(VISHAL MISHRA)**  
**JUDGE**