



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 16th October, 2025

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CRL.M.C. 3004/2021, CRL.M.A. 18809/2021

CENTRAL BUREAU OF INVESTIGATION

Through Supdt. Of Police
Banking Securities Fraud Branch
Plot No.5B, A Wing, 5th Floor,
CGO Complex, Lodhi Road, New Delhi.Petitioner

Through: Mr. Anupam S. Sharma (SPP-CBI),
Ms. Harpreet Kalsi, Mr. Ripudaman
Sharma, Mr. Vashisht Rao, Ms. Riya
Sachdeva, Advocates.

versus

ASHOK KUMAR RAHEJA
S/o Sh. Ram Chand Raheja
R/o 103, Parth Apartment, Sector 55,
Gurugram, Haryana-122011.Respondent

Through: Mr. Prem Chhetri, Mr. A.K. Bhatia
and Mr. Shailender Sharma,
Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Petition filed under Section 482 of the Code of Criminal Procedure, has been filed on behalf of the **Petitioner CBI** seeking setting aside of Order dated 09.04.2021 of the learned Special Judge (PC Act) (CBI) – 02 Delhi, whereby the Petitioner/CBI had been directed to provide a copy of the *Request Letter issued to the Complainant Bank seeking sanction for prosecution of the Respondent and also to provide draft Sanction Letter* if



supplied by CBI to the Complainant Bank, while seeking sanction to prosecute *the Respondent (accused)*.

2. *Briefly stated*, case RCBD12015E0006/CBI/BS&FC/DLI was registered against Respondent on 19.05.2015, on the basis of written ***Complaint dated 27.04.2015 received from Mr. D.C. Kar***, Regional Manager, Indian Overseas Bank, Regional Office, Chandigarh. As per the allegations in the Complaint, during the period 2008 onwards, M/s Green Valley Plywood Ltd., Mr. Jagmohan Kejriwal, Chairman & Managing Director, Mrs. Anju Kejriwal, the then Director, M/s G.R. Bansal & Co. through its Partner Mr. G.R. Bansal, and other unknown public servants of Bhiwani Stand, Rohtak Branch and Connaught Place Branch of Indian Overseas Bank, and others, cheated the Complainant Bank to the tune of Rs.71.79 crores on the basis of forged 86 LCs worth Rs 70.49 crores, which were got opened by M/s Green Valley Plywood Ltd. and other forged supporting documents; through fraudulent transactions and by furnishing fake Invoices purportedly in the name of supplier Firms. ***The borrowers defrauded the Bank with dishonest intention to siphon off the public fund for the purpose other than for which it was sanctioned***. The Company indulged in fraud and fabrication of proforma Invoices of various non-genuine Suppliers. The LCs were got issued by the borrower on the basis of forged documents which were subsequently not paid, which caused wrongful loss to the complainant Bank to the tune of Rs.71.79 Crores and corresponding wrongful gain to themselves.

3. *The allegations against the Respondent Ashok Kumar Raheja*, the then Chief Manager and Branch Head of Indian Overseas Bank, Rohtak Branch, was that during the period from September, 2010 to February 2012,



he deliberately did not perform his duties diligently. Being the Branch Head, it was imperative on his part to ensure that the officials in the Credit Department adhered to the Policy of the Bank while issuing the Letters of credit, on the request of M/s Green Valley Plywood Ltd. During the relevant period, LCs worth Rs.66,84,39,913.00 (Rs.67 crores approx), were issued by the Branch which got devolved and caused wrongful loss to the Bank and consequent wrongful gain to the co-accused persons. Respondent deliberately failed to ensure the adherence of prescribed rules/procedures/terms and conditions of the sanction before issuing acceptance of LC documents to the negotiating Bank and thereby, facilitated the accused to defraud the Bank.

4. The Respondent by abusing his official position, deliberately did not highlight discrepancies including sale Invoices being ante-dated to the date of credit, pre-accepted Bill of Exchanges etc. despite being the Branch Head. Had he performed his duties diligently and in accordance with the terms of sanction and conditions of the Bank, certainly the forgery of documents would have been detected and wrongful loss of the Bank funds would not have occurred.

5. Upon completion of investigations, Report under Section 173 Cr.P.C. was filed in the Court on 04.07.2017, by Petitioner-CBI against the Respondent **Ashok Kumar Raheja** and other accused, for the commission of offences punishable u/s 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 and substantive offence thereof.

6. Thereafter, on receipt of Sanction Order dated 21.08.2017 from the Competent Authority of the Indian Overseas Bank for prosecution of



Respondent Ashok Kumar Raheja, *Report u/s 173(8) Cr.P.C.* was filed by Petitioner/CBI.

7. Ld. Special Judge, CBI, Rouse Avenue District Court, New Delhi, *vide* Order dated 13.01.2020, took cognizance of the offences mentioned in the Chargesheets and summoned the accused persons including the Respondent.

8. An Application u/s 91 Cr.P.C. was filed by the Respondent seeking the following documents from Petitioner/CBI:

- I. *Sanction file containing correspondence in respect of sanction of prosecution of accused no. 12 Shri Ashok Kumar Raheja, the then Chief Manager, Indian Overseas Bank;*
- II. *Request Letter of CBI sent to the complainant Bank seeking sanction for prosecution of accused No.12 Shri Ashok Kumar Raheja;*
- III. *Internal office memorandum of Indian Overseas Bank/ complainant containing the opinion/views of disciplinary authority for giving sanction for prosecution;*
- IV. *Draft sanction supplied by CBI to complainant Bank; and*
- V. *Relevant pages of Schedule to the Indian Overseas Bank Officer Employee's (Discipline and Appeal) Regulations-1976 wherein it is provided for Scale IV officers (Chief Manager), General Manager is the Disciplinary Authority.*

9. Ld. Special Judge, *vide* impugned Order dated 09.04.2021, partly allowed the Application of Respondent and directed Petitioner to provide the copy of **Request letter of CBI** to the Complainant Bank seeking sanction for prosecution of the Respondent and **the draft Sanction Order**, if supplied by Petitioner, to the Complainant Bank.



10. The impugned Order dated 09.04.2021 is challenged by the CBI on the ***ground*** that the said Request letter was never seized during investigation and not relied upon by the Petitioner and the Petitioner is not obliged to supply its copy to the Respondent herein; that too at the preliminary stage of Charge.

11. The provisions of Cr.P.C. provide precepts which govern the right of the accused to claim copies of documents which the prosecution has collected during investigation and upon which they rely, as indicated in the Charge Sheet, to give him a chance of fair defence.

12. Petitioner has already filed a ***List of documents*** along with the documents it has relied upon along with the Charge-Sheet, and has supplied copies thereof, to the Respondent. The documents now being directed to be supplied to the Respondent, *vide* impugned Order dated 09.04.2021, do not find mention in the ***List of Documents*** nor are they relied upon by the Petitioner, to prove its case against Respondent and co-accused. The learned Special Judge erred in directing Petitioner to provide the documents, irrespective of the fact that they were never relied upon by Petitioner.

13. Reliance is placed on the case of *Nitya Dharmananda alias K. Lenin & Anr. vs. Sri Gopal Sheelum Reddy*, AIR 2017 Supreme Court 5846 wherein it was observed that though a Division Bench of the Apex Court has held that the Court is not debarred to exercise its power to summon or rely upon any such document, if it was of a sterling quality and has a crucial bearing on the issue of framing of charge, this does not mean that the defence has a right to invoke Section 91 Cr.P.C. *de hors* the satisfaction of the Court, at the stage of Charge.



14. The learned Special Judge could not have ordered supply of the above-mentioned documents to the Respondent *at the stage of framing of charge, without* indicating that the said documents had a crucial bearing on the issue of framing of charge. The learned Special Judge erred in observing that non-supply of Request Letter, would cause prejudice to the accused and was necessary for the Respondent for preparing his effective defence, irrespective of whether the same were relied upon by Petitioner. The Court cannot assist the accused in search of a plausible defence, which is against all principles of fair trial and due process of law, especially when it is not the case of the Respondent that the Sanction was bad in law.

15. Even assuming though denied, that the Respondent was to question the validity of Sanction, the same could only be raised and decided during trial. Further, it is also not the case of the Respondent that the present case is the one which involves the absence of Sanction. The question of validity of Sanction is open for consideration during the trial and not at the inquiry or pre-trial stage. The Court cannot direct the Petitioner to furnish copies of documents other than those on which it has relied or which have already been sent to the Court during investigation, at the stage of Charge. The stage at which the accused can seek production of unrelied material, is at the stage of recording of defence evidence under Section 233 or 243 Cr.P.C.

16. The Supreme Court in Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors., AIR 2017 SC 4161 observed that prevention and investigation of crime and protection of the revenue, are amongst the legitimate aims of the State.



17. The Ld. Special Judge erred in directing Petitioner-CBI to provide a copy of the aforesaid un-relied documents to Respondent, at the pre-charge stage.

18. *Therefore, prayer is made that the Impugned Order dated 09.04.2021 be set aside.*

19. **A brief synopsis has been filed on behalf of the Respondent Ashok Kumar Raheja** to the Petition.

20. It is submitted that as per the Sanction Letter and the Covering Letter supplied by the Petitioner, it is evident that the Petitioner had requested the Complainant Bank for the sanction to prosecute the Respondent *vide* their Letter bearing No. 2582/RC-BD1/2015/E/0006/CBI/BS&FC/ND dated 28.06.2017. However, the said Letter dated 28.06.2017, draft sanction letter and other documents sent by the Petitioner to the Complainant Bank, have not been brought on record.

21. There is no fair and proper Order of sanction for prosecution of Respondent with free mind, which is clear from the facts that Sanctioning Authority Mr. J. Suryanarayana, General Manager/Disciplinary Authority was under undue pressure from the Petitioner and CVC and did not consider the statement of *PW37/Shri R. Ganesamoorthi*, who stated during the investigation, that he did not observe any *mala fide* intention, collusion, undue favour by any official, conspiracy, etc.

22. The **sanction for prosecution** should be fair and proper, without any undue influence and coercion. It is a basic requirement of the Cr.P.C. and the PC Act, 1988 that all correspondence by the prosecution to the Sanctioning Authority should also be supplied to the Respondent. However, the same has not been done in the present case, which makes it a clear case



of unfair practice adopted by the Petitioner in obtaining the sanction to implicate the Respondent in the present case. Moreover, these documents are required to be considered by the learned Court at the stage of framing of charges to ascertain whether the Sanction *prima facie*, is proper, fair and without any coercion. These documents are relevant to ascertain the validity of sanction by the Sanctioning Authority.

23. The *draft sanction along with Letter* and other documents are necessary at the stage of framing of charge. It is mandatory under *Para No.19.16(j) CBI Manual 2005* for the Petitioner to *prepare Draft Sanction* along with Report of SP, in case they want sanction for prosecution and the same has to be sent to the Competent Authority along with all documents.

24. As per *Paragraph 19.16(e) and (j) of the CBI Manual 2005*, it is clear that the defence pleas advanced by the accused persons, are to be mentioned in full and not briefly, and the explanation of the accused should be taken into consideration on all the points alleged against him. Further, when the Sanction for prosecution is required, a *draft sanction Order* should be enclosed with the Report, which should be prepared carefully by the Law Officers in light of Circular No.21/33/98-PD dated 01.12.1998. Hence, those documents are crucial at the time of framing of charges, to show that the Sanction is neither proper nor fair. In case it is found that undue influence has been exercised by the CBI/CVC while taking Sanction, then the Accused is entitled to be discharged.

25. The Apex Court has held in several judgments that the Court can consider documents submitted by the accused, in rare and exceptional cases. Reliance has been placed on *Rukmini Narvekar vs. Vjaya Satardekar & Ors.*, AIR 2009 SC 1013, wherein it has been held that ordinarily, defence



material cannot be looked into by the Court while framing of charge, although there may be some rare exceptions.

26. The Court has ample power under Section 91 Cr.P.C. to summon all those sterling documents *which are in custody the prosecution*, which is crucial on the issue of framing of charge. Reliance has been placed on Nitya Dharmananda (supra) wherein it has been held that the Court is not debarred from exercising its power where it is satisfied that the material available with the investigator, though not made part of the Chargesheet, has crucial bearing on the framing of charge.

27. It is the case of the Respondent that Shri J. Suryanarayana, General Manager/ Disciplinary Authority who granted Sanction *vide* Sanction Order dated 21.08.2017 for prosecution of the Accused, is not fair and proper and same has been given under pressure. He was also not authorised person to grant sanction and this fact is relevant, at the time of framing of charges.

28. Reliance has been placed on State of Karnataka through CBI vs. C. Nagarajaswamy (2005) 8 SCC 370, wherein the Apex Court held that *the grant of proper sanction by a competent authority is a sine qua non for taking cognizance of the offence. It is desirable that the question as regard to the sanction, may be determined at an early stage.*

29. At the stage of consideration of framing of charge, *every document which is seized or acquired by the prosecution*, is required to be produced before the Court and supply the copy of the same to the accused. Reliance has been placed on Suo Moto, W.P. (Crl) 01/2017, wherein the Apex Court has held that while furnishing documents and material objections under Section 207& Section 208 Cr.P.C., the Magistrate should also ensure that a



List of other materials, is furnished to the accused so that he/she may seek appropriate Orders if necessary, in the interest of justice.

30. Therefore, the Petitioner cannot be permitted to be selective in supply of documents and is bound to supply all relied upon documents collected and seized by the Petitioner during investigation. The Petitioner cannot be allowed to keep the Respondent in the dark and selectively keep away documents which are exculpatory in nature or absolve or help the accused. Hence, they should supply all documents collected during investigation whether relied or not relied.

31. Reliance is placed on CBI vs. M/s INX Media Pvt. Ltd. & Ors. passed by Co-ordinate Bench of this Court, wherein it has been held that at the time of framing of charge, an accused can bring to the notice of the court that an un-relied document recovered during the course of investigation and kept by the investigating agency, is relevant and has a bearing on the prosecution case, only if the accused is aware of the said documents.

32. Reliance has further been placed on Ashutosh Verma vs. CBI, 2014 SCC OnLine Del 6931, wherein it was held that even at the stage of scrutiny of documents under Section 207 Cr.P.C., the Court is required to supply all documents to the accused, even if the same are not relied upon by the prosecution.

33. A conjoint reading of Sections 207 and 208 read with Section 173 Cr.P.C. clarifies that even those documents which have been forwarded to the Magistrate during investigation are to be supplied to an accused person, in addition to the documents relied upon by the prosecution.

34. It is settled principle of law that in case the judge considers that there is no sufficient ground for proceeding against the accused or that the charge



is groundless, he shall discharge the accused and record his reasons for doing so. The prosecution has not submitted what prejudice would be caused to them in complying with Order dated 09.04.2021. The documents are of sterling quality, originating from the Petitioner itself and have much bearing on the case, as they are the foundation based on which the sanction for prosecution, was granted. The Respondent would be able to prove even before the framing of charges, that the Sanction was bad in law and was not fair, and was granted under pressure.

35. The learned Trial Court cannot pass proper and effective Order without going through these documents at the subsequent stage of argument on Charge under Section 227 and 229 Cr.P.C. Hence, the Order dated 09.04.2021 is fair and proper.

36. *Therefore, it is prayed that the Petition be dismissed.*

Submissions heard and record perused.

37. The first objection taken by the CBI is that Section 91 Cr.P.C cannot be invoked at the stage of framing of Charge. In the case of Om Prakash Sharma vs. CBI, AIR 2000 SC 2335, it was observed that the language of Section 91 itself indicates the width of the power to be unlimited, but an inbuilt limitation inherent therein, takes its colour and shape from the *stage or point of time of its exercise*, commensurately with the nature of proceedings as also the compulsion of necessity and desirability to fulfill the task or to achieve the object. It was further observed that at the stage of framing of Charge, the accused could produce any reliable material which might totally affect even the very sustainability of the case. Refusal to even look into the material so produced, may result in injustice apart from



averting an exercise in futility, at the expense of valuable judicial/public time.

38. The Three Judge Bench in the case of *State of Orissa vs. Debendranath Padhi*, (2005) 1 SCC 568, agreed about the scope and ambit of Section 91 Cr.P.C as envisaged in the case of *Om Prakash Sharma* (Supra), but disagreed that the Accused had a right to produce any material at the stage of framing of Charge. **It was held** that any document or any other thing as envisaged under Section 91 Cr.P.C, can be ordered to be produced *on the finding that the same is “necessary or desirable” for the purpose of investigation, enquiry, trial or other proceedings under the Code*. The document, therefore, must be “necessary or desirable”. If such document is necessary or desirable for the *Accused to prove his defence*, the question of invoking Section 91 at the initial stage of framing of Charge, would not arise since the defence of the Accused is not relevant at that stage. The entitlement of the Accused to seek documents under Section 91 Cr.P.C., would ordinarily not come till the stage of defence.

39. The **next aspect** is that at the stage of Section 227, what is *necessary and relevant*, is only the record produced in terms of Section 173 Cr.P.C.; the Accused cannot at that stage invoke Section 91 Cr.P.C. to seek production of any document to show his innocence. Section 91 Cr.P.C. does not confer any right on the Accused to produce a document in his possession to prove his defence.

40. The issue whether a document of impeccable character, can be produced by the accused at the stage of framing of Charge, was considered by the Hon’ble Supreme Court of India in *Rukmini Narvekar* (Supra), wherein it was held that though ordinarily defence material cannot be looked



into by the Court while framing of the Charge, but in view of Debendernath Padhi's case, there may be some rare and exceptional cases where some defence material when shown to the Trial Court, could convincingly demonstrate that the Prosecution version was totally absurd or preposterous and in such cases, the Court may then consider the defence material at the time of framing of the Charge or taking cognizance. There is no absolute proposition that under no circumstances can the Court not look into the material produced by the defence at the stage of framing of Charge, though it should be a rare case.

41. It was further clarified in the case of Rukmani Narvekar (Supra), that while right to claim documents under Section 91 Cr.P.C generally arises at the time when the Accused leads his defence, but there may be situations where the nature of the document is such that he can confront the Prosecution witnesses, Complainant with the said document, in which case he would be well within his right to claim those documents under Section 91 Cr.P.C.

42. A word of caution was sounded in Debendranath Padhi (Supra) that though Section 91 Cr.P.C., can be invoked if the *necessity and the desirability* is seen by the Court, but the law does not permit any roving or fishing enquiry.

43. It thus, emerges that essentially Section 91 Cr.P.C can be invoked by the Accused at the stage of trial, if the document is considered necessary and desirable for confronting the Prosecution witnesses or at the stage of defence to be led by the Accused. Essentially, at the stage of framing of Charge the only documents, which form part of the Chargesheet are material and can be looked into while considering the Application under Section 91 Cr.P.C.



44. *The core issue, therefore, for the Court to determine is whether the documents sought by the Petitioner are necessary and desirable in reference to the stage i.e. framing of charge, the documents, which are sought, can be provided.*

45. The Respondent had contended that the Sanction itself was bad in law as it had been given by the Sanctioning Authority in response to a *Letter dated 28.06.2017 written by the CBI* to the Sanctioning Authority for grant of Sanction as well as *the Draft Sanction supplied by the CBI* to the Complainant.

46. In this context it would be pertinent to refer to Para 19.16(e) and (j) CBI Manual 2005:

“(e). The defence pleas advanced by the suspected or accused persons or firms are to be mentioned in full and not briefly or in a concise manner. The accused’s explanation should be taken into consideration on all the points alleged against him. It is also necessary to indicate clearly how the defence pleas can be rebutted and explained. While both the prosecution and the defence evidence has to be stated, it is to be presented, analyzed and discussed in this report in such a way as to support the course of action suggested.

...

(j). When sanction for prosecution is required, a draft sanction order should be enclosed with the report. The draft sanction order should be prepared carefully by the Law Officers in the light of Circular No. 21/33/98-PD, dated 1.12.1998.”

47. Therefore, the Letter for requesting Sanction as well as the Draft Sanction Letter, had been forwarded to the Sanctioning Authority in accordance with the procedures detailed in CBI Manual. Merely because the



CBI complied with the procedures of investigations as envisaged in CBI Manual, there cannot be any conclusion at this stage that the Sanction granted by the Sanctioning Authority, was not valid.

48. It is also pertinent to note that it is the Letter and the alleged Draft Sanction Letter which was sent by CBI to the Sanctioning Authority. *The documents are with the Sanctioning Authority* and not the CBI and at the stage, it cannot be directed to furnish the same. Essentially, these documents can be sought only from the witness who appears to prove the Sanction.

49. It is also significant to note that even if it is assumed that a Draft Sanction Order had been sent by CBI, but at this stage it cannot be a necessary inference that the Sanction has been granted without independent application of mind, which is a matter of trial.

50. In the case of *CBI vs. Pramila Virendra Kumar Agarwal and Anr.* (2020) 17 SCC 664 it was observed that the issue relating to validity of the Sanction for Prosecution, could be considered *only during trial* and in case there is any defective Sanction, the Sanctioning Authority has to be provided with an opportunity for explanation which can emerge only during the trial. *The defect, if any, in the Sanctioning Order is a subject matter of trial.*

51. In the case of *Dinesh Kumar vs. Airport Authority of India* (2012) 1 SCC 532, the Apex Court explained the distinction between *absence of Sanction* and alleged *invalidity on account of non-application of mind*. **The absence of Sanction, no doubt, can be agitated at the threshold, but the invalidity of the Sanction can be questioned only during the trial.** It was held that admittedly there was a Sanction granted, in which the Accused has sought to pick holes about the manner the Sanction had been granted and to claim that the same was defective, but it was a matter of trial.



52. In the light of the aforesaid discussion, it emerges that the Sanction Order had been granted by the Competent Authority for Prosecution of the Respondent by way of the two documents i.e. the Letter of Request and the alleged Draft Sanction Letter. The Respondent is trying to invalidate the Sanction Order by showing that it has been given at the behest of CBI without independent application of mind. However, the Request Letter and Draft Sanction, if sent, was in compliance of CBI Manual. These aspects of the Sanction having been given under the influence and consequently, not being valid, can only be proved during the trial and are not relevant at the stage of framing of Charge. It is not a case of absence of Sanction. Learned Special Judge, therefore, fell in error in directing the CBI for production of these two documents, which cannot be considered at the stage of framing of Charge.

53. The impugned Order is, therefore, **set aside**. However, the Respondent shall be at liberty to seek these documents at the appropriate stage which may be considered by the learned Special Judge, in accordance with law.

54. The Petition is **allowed** and stands disposed of accordingly. Pending Applications are disposed of, accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 05, 2026/VA