

The present matter has been taken up via CISCO Webex platform / video conferencing hosted by Sh. Narender Kumar, Reader of this Court in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dtd. 16.05.2020, 16/DHC/2020 dtd. 13.06.2020, 22/DHC/2020 dtd. 29.06.2020, 24/DHC/2020 dtd. 13.07.2020 and 26/DHC/2020 dtd. 30.07.2020 in the presence (on screen) of Sh. V. K. Pathak, Ld. PP for CBI along with Sh. Avnish Kumar, Pairvi Officer for CBI.

07.08.2020 (At around 12:40 PM)

Present : Sh. V. K. Pathak, Ld. PP for CBI along with Sh. Avnish Kumar,
Pairvi Officer for CBI.

The present FIR or RC is taken up today in view of the judgment cited as *Sakiri Vasu Vs. State of U.P. AIR 2008 SC 907*, in which the Hon'ble Supreme Court has held as under :

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156(3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation.

18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or

employ such means as are essentially necessary to its execution.

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24. In view of the above mentioned legal position, we are of the view that although Section 156(3) is very briefly worded, there is an implied power in the Magistrate under Section 156(3) Cr.P.C. to order registration of a criminal offence and /or to direct the officer in charge of the concerned police station to hold a proper investigation and take all such necessary steps that may be necessary for ensuring a proper investigation including monitoring the same. Even though these powers have not been expressly mentioned in Section 156(3) Cr.P.C., we are of the opinion that they are implied in the above provision.

Since the Prevention of Corruption Act is an Act of Parliament enacted to combat corruption in government agencies and public sector businesses in India, it follows as a corollary to the same, that for eradication of this malady, investigations have to be done with utmost promptitude.

The present FIR or RC bearing No. RC 224 2017 A0001/CBI/ AC-VI/SIT was registered against Sh. Moin Akhtar Qureshi, Sh. Pradeep Koneru, Sh. A. P. Singh, Former Director, CBI & Others on 16.02.2017 u/S. 120B IPC, 8, 9, 13(2) r/w 13(1) d of PC Act, 1988 wherein allegations amongst others was that 'Shri Qureshi has been indulging as a middleman for certain Public Servants', the complainant in the said RC was Assistant Director, Directorate of Enforcement, Delhi Zonal Office, New Delhi, whereafter period of almost 3½ years has already elapsed, yet the same has not reached its logical end. It appears to be moving at snails pace, whereas the offshoot of the said RC i.e. RC 13(A) 2018 CBI/AC-III (which is incidently listed for today).

The investigations therein have already been concluded and charge sheet has been filed in February 2020 itself, and is pending before this Court.

Therefore, such open ended investigations which keep on gathering dust for years together may seriously erode the credibility / faith of public at large in premier investigating agency of India i.e. CBI, which is deleterious to rule of law, more so, when one of the accused in the above RC is Sh. A. P. Singh, Ex. CZAR or Ex. Director of CBI.

In these peculiar circumstances, interest of justice demands, let a status report be called from Worthy Director CBI regarding the investigations carried out in the present RC i.e. 224 2017 A0001/CBI/AC-VI/SIT, till date in view of Para 24 of above judgment of Hon'ble Supreme Court, *Sakiri Vasu (Supra)*.

The said status report be positively filed on or before 26.08.2020, without fail.

Put up for further proceedings / consideration on 26.08.2020.

The e-mail copy / signed scanned copy of this order be sent to the Computer Branch, RADC by the Reader for uploading on the official website.

This signed order sheet be retained on the record to be put on the judicial file as and when the normal court working stand resumed.

The present order has been dictated to Sh. Amit Makhija, Sr. PA attached with the undersigned.



(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/07.08.2020

The present matter has been taken up via CISCO Webex platform / video conferencing hosted by Sh. Narender Kumar, Reader of this Court in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dtd. 16.05.2020, 16/DHC/2020 dtd. 13.06.2020, 22/DHC/2020 dtd. 29.06.2020, 24/DHC/2020 dtd. 13.07.2020 and 26/DHC/2020 dtd. 30.07.2020 in the presence (on screen) of Sh. V. K. Pathak, Ld. PP for CBI along with IO Sh. Satish Dagar, (SP), Inspector Sanjay Jha and Sh. Avnish Kumar, Pairvi Officer for CBI and Sh. Rakesh K. Khanna, Senior Advocate along with Sh. Ajit K. Singh and Ms. Seema Seth, Ld. Counsel(s) for A-1 and A-2 and Sh. Sunil Sethi, Ld. Counsel for A-3.

07.08.2020 (At 12:00 PM)

Present : Sh. V. K. Pathak, Ld. PP for CBI along with IO Sh. Satish Dagar (SP), Inspector Sanjay Jha and Sh. Avnish Kumar, Pairvi Officer for CBI.

Sh. Rakesh K. Khanna, Senior Advocate along with Sh. Ajit K. Singh and Ms. Seema Seth, Ld. Counsel(s) for A-1 and A-2.
Sh. Sunil Sethi, Ld. Counsel for A-3.

Accused Manoj Prasad (A-1), Someshwar Srivastav @ Somesh Prasad (A-2) and Sunil Mittal (A-3) are present.

The matter was proceeding at the stage of further proceedings / summoning of the accused persons.

An application through e-mail has been moved on behalf of A-1 for modification of the bail order dated 01.06.2019. However, Ld. PP for CBI submits that he has not received copy of the same. Let the same be supplied to him by Ld. Counsel for A-1 through e-mail / hard copy.

Ld. Counsel for A-2 submits that he has also moved an application through e-mail on behalf of Someshwar Srivastav @ Somesh

Prasad for grant of bail. However, Ld. PP for CBI submits that he has not received copy of the same. Let the same be supplied to him by Ld. Counsel for A-2 through e-mail / hard copy.

Ld. Counsel for A-3 also submits that he had also moved bail application on behalf of A-3, however it is stated by the Reader of this Court that no such bail application has been received either in the court or through E-mail. Ld. Counsel for A-3 is directed to refile the same, as per rules and copy thereof be supplied to the Ld. PP for CBI.

At request of Ld. Counsel(s) for the accused persons, the IO is directed to supply the soft copy / CD of the charge sheet. For this purpose, as per consent of all the parties, the date for supply of charge sheet has been fixed as 14.08.2020 at 12:00 PM in the Court.

In the meantime, the accused Manoj Prasad (A-1) is directed to mark his attendance with the IO by making video call / video conferencing till the decision of his application seeking modification of the bail order dated 01.06.2019.

Reader / Ahlmad are directed to take proper measures for sanitization of the court room / ahlmad room and to maintain social distancing on the said date.

Prosecution / IO is also directed to file replies to the above application(s) on the NDOH with advance copy to the concerned accused persons / their Ld. Counsel(s) through e-mail / hard copy.

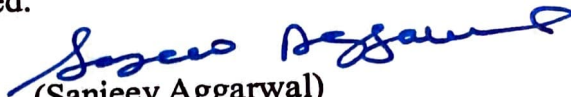
Put up for the purpose aforementioned on 20.08.2020 at 12:00 PM, through video conferencing.

The e-mail copy / signed scanned copy of this order be sent to the Computer Branch, RADC by the Reader for uploading on the official website.

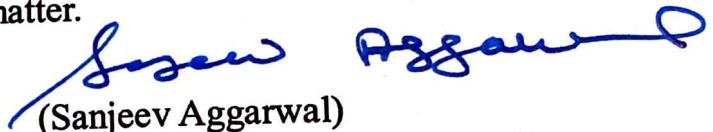
This signed order sheet be retained on the record to be put on the judicial file as an when the normal court work resumes.



The present order has been dictated to Sh. Amit Makhija, Sr. PA attached with the undersigned.


(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/07.08.2020 .

At this stage, it has been informed by the Reader that Ld. Senior Advocate Sh. Hariharan had also joined the video conferencing on behalf of A-3, after the undersigned had left the meeting on conclusion of the proceedings in the present matter.


(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/07.08.2020