

**IN THE COURT OF SH.SHAILENDER MALIK, SPECIAL JUDGE
(CBI) (P.C. ACT)-22, ROUSE AVENUE COURT COMPLEX,
NEW DELHI**

CBI v. Sanjeev Sharma & ors.
CC No. 10/2020

O R D E R

1. An application has been moved on behalf of accused no. 4 Virender Kumar Sharma, for supplying copy of certain documents, stated to be relied upon by the prosecution. It is stated in the application that this matter is listed for consideration on charge however this application has been moved seeking for giving directions to the CBI for supplying copies of certain relied upon documents of prosecution. It is stated in para 2 of the application that (a) worksheet including ouditory and spectrographic sheet, prepared by voice expert of CFSL; (b) memory card of Sh. Virender Kumar Sharma (S2 i.e. accused no. 4). It is stated that above stated documents may be supplied to accused no. 4 as same has not been supplied to him till now. It is stated that above mentioned documents required for seeking the opinion of expert for defence side.

2. The present case is pending for consideration on charge. Perusal of the record shows that after filing of the charge sheet by the CBI for offence u/s 7, 7A & 8 of P.C. Act, 1988 r/w 120-B IPC against the accused persons. Copy of the charge sheet was supplied to the accused persons. However, there was a request made earlier that soft copy of the recorded conversation of the accused persons as relied upon by the prosecution with the charge sheet, was not supplied to accused persons.

Accordingly, directions were given earlier in the month of March and later when proceeding in this case was taken up through video conferencing to get the soft copy/DVD of such recorded conversation prepared by CFSL and to be supplied to accused persons. Today, learned PP for CBI has submitted that such DVD has been got prepared for supply of the same to the accused persons as per section 207 Cr.P.C. Directions in this regard has been given for providing the copy of DVD to each of the accused persons.

3. However, this application has been moved separately. Reply to this application has been filed on behalf of CBI wherein it is stated that in terms of section 207 Cr.P.C. copy of the documents as relied upon in the charge sheet have been supplied to accused persons including DVD of recorded conversation and the memory card S-1 to S-5, containing specimen voices of the accused persons prepared during the investigation. It is however stated that worksheet of the expert i.e. auditory and spectrographic sheets is neither made part of the charge sheet nor given with the report of the expert, therefore, same is not available with the prosecution for providing it to the accused persons.

4. I have heard Sh. Mahender Kumar, learned counsel for accused no. 4 as well as learned PP for CBI.

5. Under section 207, Cr. P. C the court concerned is required to furnish to the accused copies of the following documents: **(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 there from any part in regard to which a request for such

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.

6. While the first proviso to Section 207 empowers the court to exclude from the copies to be furnished to the accused such portions as may be covered by Section 173(6), the second proviso to Section 207 empowers the court to provide to the accused an inspection of the documents instead of copies thereof, if, in the opinion of the court it is not practicable to furnish to the accused the copies of the documents because of the voluminous content thereof.

7. Above stated provision is with object to ensure fair trial for accused. Accused is entitled to get all those documents which prosecution proposes to rely upon for proving its case against accused and is made part of charge sheet filed in the court. In this context it is also important to note that during the investigation, investigating agency/ police is bound to collect all documents which are relevant, be it favourable to prosecution or to accused. Because ultimate object of investigation as well as of judicial adjudication is to reach to the truth of the matter. Therefore in this process if during investigation certain documents collected by investigating officer, which may favour accused, if withheld by prosecution and is not made part of charge sheet, same can still be provided to accused by directions under this provision. However it be noted that such direction can be given only when, such document is seized by investigating agency and so pointed out by accused. (See: **V. K.**

**Sasikala v. State Rep. by Superintendent of Police AIR 2013
SUPREME COURT 613)**

8. In the present case the documents which have been sought by accused are neither part of charge sheet nor collected during investigation. Voice expert might have prepared rough documents, worksheet like auditory and spectrographic sheets, at the time of analyzing the voice and preparing his report. But same is not part of expert's report nor provided to CBI. If a document which might have been prepared by the expert for his convenience, not part of his report, directions for supply of any such document to accused, to my mind cannot be given under this provision at this stage.

9. Consequently, application stands declined with regard to supply of auditory and spectrographic sheets. However, it is needless to mention that all the accused persons would be provided all their recorded conversation as well as sample voice of accused persons (S-1 to S-5) which is part of charge sheet. With such directions application stands disposed off.

Announced on 18.08.2020

(Shailender Malik)
Special Judge (PC Act) CBI
Rouse Avenue Courts, New Delhi
18.08.2020