



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 5380/2024
CNR: RJHC020707052024 | URN: CRLMP / 11007U / 2024

Amar Singh S/o Shriram Meena, aged about 39 Years, R/o Padli
Khurd, Police Station Todabhim, District Karauli.

-----Accused/Petitioner

Versus

State of Rajasthan, through PP

-----Respondent

For Petitioner(s) : Mr.Rahul Sharma with
Mr.Utkarsh Goyal
Ms.Chanchal &
Mr.Yash Gupta

For Respondent(s) : Mr.Manvendra Singh Shekhawat, PP

JUSTICE ANOOP KUMAR DHAND

Order

18/09/2026

Reportable

1. The instant criminal misc. petition is listed before this Court in pursuance of the directions issued by the Hon'ble Apex Court in the case of **Vijay Kumar and Ors. Vs. State of Rajasthan** (Petition for Special Leave to Appeal (Crl.) No. 773/2026, decided on 15.01.2026), wherein the Hon'ble Apex Court observed that in various matters, interim orders have been passed in criminal revision petitions and petitions filed under Section 482 Cr.P.C., as a result of which trial relating to serious offences such as murder, rape, dacoity, dowry death, etc., could not proceed and remained stalled/held up due to the passage of considerable time.

2. Directions have been issued to this Court and other High Courts to take up such like matters which are pending since long,



on priority and decide the same expeditiously without deferring the hearings to subsequent dates.

3. The instant criminal misc. petition has been preferred by the accused-petitioner against the impugned order dated 31.07.2023, passed by the Additional Sessions Judge No.1, Hindaun City in Criminal Misc. Case No.37/2023, by which the application submitted by the accused-petitioner under section 207 Cr.P.C. for supplying a copy of DVD and pen drive containing the CCTV recording has been rejected.

4. Learned counsel for the petitioner submits that charge-sheet for the offence under sections 147, 148, 149, 323, 341, 336, 365, 308, & 506 IPC was submitted against the accused-petitioner a DVD and pen drive of the CCTV footage. Counsel submits that once above two electronic evidence are parts of the charge-sheet, the same are supposed to be supplied to the accused-petitioner to ensure a fair trial against him. When the above electronic evidence was not supplied to the accused-petitioner, an application under section 207 Cr.P.C. was submitted, which has been erroneously rejected by the Court below vide impugned order on the ground that no such request was made by the accused-petitioner, when copy of the charge-sheet was supplied to him. Counsel further submits that this cannot be a ground for rejection of the application submitted by the accused-petitioner.

5. In support of his contention, counsel for the petitioner has placed reliance upon the judgment passed by the Hon'ble Apex Court in the Case of **P. Gopalkrishnan Vs. State of Kerala & Anr.** reported in **(2020) 9 SCC 161**.



6. *Per contra*, learned Public Prosecutor opposed the prayer raised by counsel for the accused-petitioner.

7. Heard and considered the submissions made at the Bar and perused the material available on the record.

8. Perusal of the record indicates that charge-sheet for the above stated offences was submitted against the accused-petitioner before the concerned Court. It appears that the entire incident has been captured and recorded in a CCTV Footage and the same were collected by the Investigating Officer during the course of trial in a DVD and pen drive, which were submitted along-with the charge-sheet.

9. It appears that when the copy of the charge-sheet was supplied to the accused-petitioner, these two electronic documents, i.e., DVD and pen drive containing CCTV footage were not supplied to him.

10. As per the mandate contained under Section 207 Cr.P.C., the prosecution is supposed to supply each and every document/evidence to the accused-petitioner for conducting fair trial. It appears that the prosecution is going to rely upon the aforesaid electronic evidence against the accused-petitioner, hence, the prosecution as well as the Trial Court is supposed to supply a copy of these electronic evidence to the accused-petitioner for the purpose of conducting fair trial.

11. Until and unless this material evidence in the form of electronic evidence is supplied to the petitioner, he would not be in a position to put his defence in a proper way.

12. For ready reference, the provision contained under Section 207 Cr.P.C. is reproduced as under:-





"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 cost, 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 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:*

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."

Bare perusal of the aforesaid provisions makes it explicitly mandatory on the part of the prosecution to supply all the material evidence to the accused-petitioner upon which the prosecution is going to place reliance.

13. It is the duty of the Magistrate/ Trial Judge, under Section 207 Cr.P.C., to ensure that full compliance of the Section has been made. The Hon'ble Apex Court in the case of **Hardeep Singh Vs. State of Punjab** reported in **(2014) 3 SCC 92** has held in Para No.47, which read as under:-

"47. Since after the filing of the charge-sheet, the court reaches the stage of inquiry and as soon as the court frames the charges, the trial commences, and therefore, the power under Section 319(1) CrPC can be exercised at any time after the charge-sheet is filed and before the 207/208 CrPC, committal, etc. which is only a pre-trial stage, intended to put the process into motion. This stage cannot be said to be a judicial step in the true sense for it only requires an application of mind. At this pre-trial stage, the Magistrate is required to perform acts in the nature of administrative work rather than judicial such as ensuring compliance with Sections 207 and 208 CrPC, and committing the matter if it is exclusively triable by the Sessions Court"

14. Similarly, in the case of **Tarun Tyagi Vs. Central Bureau of Investigation** reported in **(2017) 4 SCC 490**, their Lordships of the Hon'ble Apex Court have considered the purport of Section



207 Cr.P.C. and observed as follows in Para No.8, which reads as under:-

"8. Section 207 puts an obligation on the prosecution to furnish to the accused, free of cost, copies of the documents mentioned therein, without any delay. It includes, documents or the relevant extracts thereof which are forwarded by the police to the Magistrate with its report under Section 173(5) of the Code. Such a compliance has to be made on the first date when the accused appears or is brought before the Magistrate at the commencement of the trial inasmuch as Section 238 of the Code warrants the Magistrate to satisfy himself that provisions of Section 207 have been complied with. Proviso to Section 207 states that if documents are voluminous, instead of furnishing the accused with the copy thereof, the Magistrate can allow the accused to inspect it either personally or through pleader in the Court."

15. Furnishing of documents to the accused under Section 207 of the 1973 Code is a facet of right of the accused to a fair trial enshrined in Article 21 of the Constitution. In **Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1**, this Court expounded thus:

"218. The liberty of an accused cannot be interfered with except under due process of law. The expression "due process of law" shall deem to include fairness in trial. The court (sic Code) gives a right to the accused to receive all documents and statements as well as to move an application for production of any record or witness in support of his case. This constitutional mandate and statutory rights given to the accused place an implied obligation upon the prosecution (prosecution and the Prosecutor) to make fair disclosure. The



concept of fair disclosure would take in its ambit furnishing of a document which the prosecution relies upon whether filed in court or not. That document should essentially be furnished to the accused and even in the cases where during investigation a document is bona fide obtained by the investigating agency and in the opinion of the Prosecutor is relevant and would help in arriving at the truth, that document should also be disclosed to the accused.

219. The role and obligation of the Prosecutor particularly in relation to disclosure cannot be equated under our law to that prevalent under the English system as aforesaid. But at the same time, the demand for a fair trial cannot be ignored. It may be of different consequences where a document which has been obtained suspiciously, fraudulently or by causing undue advantage to the accused during investigation such document could be denied in the discretion of the Prosecutor to the accused whether the prosecution relies or not upon such documents, however in other cases the obligation to disclose would be more certain. As already noticed the provisions of Section 207 have a material bearing on this subject and make an interesting reading. This provision not only require or mandate that the court without delay and free of cost should furnish to the accused copies of the police report, first information report, statements, confessional statements of the persons recorded under Section 161 whom the prosecution wishes to examine as witnesses, of course, excluding any part of a statement or document as contemplated under Section 173(6) of the Code, any other document or relevant extract thereof which has been submitted to the Magistrate by the police under sub-section (5) of Section 173. In contradistinction to the provisions of Section 173, where the legislature has used the expression 'documents on which the prosecution relies' are not used under Section 207 of the Code. Therefore, the provisions of Section 207 of the Code will have to be given liberal and relevant meaning so as to achieve its object. Not only this, the documents submitted to the Magistrate along with the report under Section 173(5) would deem to include the



documents which have to be sent to the Magistrate during the course of investigation as per the requirement of Section 170(2) of the Code.

220. The right of the accused with regard to disclosure of documents is a limited right but is codified and is the very foundation of a fair investigation and trial. On such matters, the accused cannot claim an indefeasible legal right to claim every document of the police file or even the portions which are permitted to be excluded from the documents annexed to the report under Section 173(2) as per orders of the court. But certain rights of the accused flow both from the codified law as well as from equitable concepts of the constitutional jurisdiction, as substantial variation to such procedure would frustrate the very basis of a fair trial. To claim documents within the purview of scope of Sections 207, 243 read with the provisions of Section 173 in its entirety and power of the court under Section 91 of the Code to summon documents signifies and provides precepts which will govern the right of the accused to claim copies of the statement and documents which the prosecution has collected during investigation and upon which they rely.

221. It will be difficult for the court to say that the accused has no right to claim copies of the documents or request the court for production of a document which is part of the general diary subject to satisfying the basic ingredients of law stated therein. A document which has been obtained bona fide and has bearing on the case of the prosecution and in the opinion of the Public Prosecutor, the same should be disclosed to the accused in the interest of justice and fair investigation and trial should be furnished to the accused. Then that document should be disclosed to the accused giving him chance of fair defence, particularly when non-production or disclosure of such a document would affect administration of criminal justice and the defence of the accused prejudicially."

16. It is crystal clear that all documents including "electronic record" produced for the inspection of the Court along-with the





police report and which prosecution proposes to use against the accused must be furnished to the accused as per the mandate of Section 207 of the 1973 Code. The concomitant is that the contents of the DVD/pen drive must be furnished to the accused, which can be done in the form of cloned copy of the DVD /pen-drive. It is cardinal that a person tried for such a serious offence should be furnished with all the material and evidence in advance, on which the prosecution proposes to rely against him during the trial. Any other view would not only impinge upon the statutory mandate contained in the 1973 Code, but also the right of an accused to a fair trial enshrined in Article 21 of the Constitution of India.

17. It is settled proposition of law that when statute is unambiguous, the Court must adopt a plain and natural meaning, irrespective of the consequences as expounded in the case of **Nelson Motis Vs. Union of India** reported in **(1992) 4 SCC 711**.

18. The contents of the DVD/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. But in cases involving the issue of privacy of the complainant/witness/victim/prosecutrix or his/her identity, the Court may be justified in providing the inspection only thereof to the accused and his/her lawyer or expert for presenting the effective evidence during the trial. The Court can issue effective directions to balance the interest of both sides.



19. Considering the proposition of law as laid down by the Hon'ble Apex Court in the above noted cases, this Court is of the considered opinion that the prosecution as well as the Trial Court is bound to supply a cloned copy of the aforesaid electronic evidence to the accused-petitioner for the purpose of conducting fair trial, as fair trial is a fundamental right of an accused, as guaranteed under Article 21 of the Constitution of India. For the reasons stated above, this Court finds that the order impugned dated 31.07.2023 passed by the Trial Court is not sustainable in the eyes of law and is liable to be and the same is hereby quashed and set-aside.

20. Accordingly, the instant petition stands allowed. The Trial Court is directed to supply a cloned copy of the DVD and pen drive containing the CCTV footage to the accused-petitioner forthwith, which has been submitted by the prosecution along-with the charge-sheet against the accused-petitioner.

21. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

14/Aayush Sharma