

Best copy.

22.04.2019

In view of order No. 12/DHC/Gaz./G-7/VI.E.2(a)/2019 dated 26th March, 2019, file received by way of transfer from Ld. CMM, New Delhi District, Patiala House Courts, New Delhi. It be checked and registered.

Present : Sh. Amit Jindal, Ld. PP for CBI (Special Crime Branch, SC-I).

IO is not present today.

Mr. Manas Kumar Mandal on behalf of Mr. Vishal
Deputy SP.

Counsel Sh. Harsh Bora for complainant Smt. Fatima
Nafees.

1. Part submissions in detail heard on the application dated 11.02.2019 filed by the applicant / complainant Smt. Fatima Nafees.
2. A cancellation report / closure report is filed by CBI in this matter and alongwith such closure report they have given list of 543 witnesses as annexure-A. Further, they have given list of documents as Annexure B, which mentions as many as 201 documents but statement of witnesses recorded if any u/s 161 CrPC is not supplied to the complainant. Further, none of such documents out of such 201 documents are supplied to the complainant so far.
3. It is argued by Ld. PP for CBI that in CrPC there is no provision of protest petition and consequently for supply of documents. It is further submitted that as per case law only, the complainant is given opportunity to file "protest petition".

On the other hand, Counsel for the complainant has relied upon
judgment in **Jakia Nasim Ahesan and Ors vs. State of Gujarat and Ors.**
Cr. App. No. 1765 of 2011 of Hon'ble Supreme Court of India, apart from
arguing orally.

5. I have heard both the sides and gone through the record.

6. The law is settled that in case of closure / cancellation report, complainant is to be given opportunity to file protest petition, if so desired, by the complainant. In present case, it is clear that the complainant wants to file a protest petition.

7. Further, there cannot be a half hearted approach. In fact, an effective opportunity be given to the complainant to file protest petition. As such, whole of the cancellation report alongwith the statement of witnesses and documents which are part and parcel of the present cancellation report, have to be supplied to the complainant side. Accordingly, CBI is directed to supply to the complainant all such statement of witnesses as well as documents as mentioned alongwith such closure report, Annexure A and B respectively.

8. Further, at this stage it is stated by Counsel for complainant that he has no objection, in fact it will be more convenient to him if such voluminous record is supplied to him in electronic mode of C.D. / pen drive etc.

9. As such, CBI is at liberty to supply all the statements / documents to the complainant within two weeks in physical form or electronic form. IO is directed to appear in person on next date of hearing for compliance.

10. At request, dasti copy of this order be given to both the sides.

11. Put up for further appropriate proceedings / orders on 07.05.2019.

(Naveen Kumar Kashyap)
CMM/Rouse Avenue Court Complex
22.04.2019

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Notes: Stamps are not available so far.