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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 6809/2022

MEHMOOD PRACHA

..... Petitioner

Through: Mr. RHA Sikander, Mr. Jatin Bhatt,
Mr. Sanawar, Mr. Dhruv Yadav, Mr.
Aayushmaan Aggarwal, Mr. Harshit
Gahlot, Advs.

versus

STATE

..... Respondent

Through: Mr. Amit Prasad, SPP for State with
Mr. Madhukar Pandey, SPP with Mr.
Ayodhya Prasad, Mr. Sulabh Gupta,
Advs. with IO Amit Bhati, PS Special
Cell
Mr. Ripu Daman Bhardwaj, CGSC

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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15.12.2022

CRL.M.A. 26416/2022 & CRL.M.A. 26417/2022

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

CRL.M.C. 6809/2022

This is a petition seeking the following prayers-

- i) quashing of search warrants dated 22.12.2020 issued by learned CMM, New Delhi District, Patiala House Courts in FIR No. 212/2020, PS Special Cell.
- ii) setting aside order dated 02.03.2021 passed by learned CMM, New Delhi District, Patiala House Courts in FIR No. 212/2020, PS Special Cell.

iii) to quash the search warrant dated 04.03.2021 passed by learned CMM, New Delhi District, Patiala House Courts in FIR No. 212/2020, PS Special Cell.

iv) setting aside the order of 25.03.2021 passed by learned CMM, New Delhi District, Patiala House Courts in FIR No. 212/2020, PS Special Cell

v) setting aside the order dated 05.11.2022 passed by learned ASJ,-07, New Delhi District, Patiala House Courts, New Delhi in Crl. Revision No. 159/2021.

It is stated by Mr. Sikander, learned counsel for the petitioner that in the present case, no notice u/s 91 has been served on the petitioner.

He further states that Section 93 Cr.P.C. proceeds on the assumption that Section 91 notice has been given and not complied with and thereafter only Section 93(1)(a) notice is to be issued.

He states that in the present case, the CPU is lying sealed in his premises.

He further states that pursuant to the first search warrant, the respondent has already searched the office premises of the petitioner on 24.12.2020 for more than 10 hours and have taken whatever documents were required by them.

He further states that the petitioner is ready and willing to comply with all documents which are required by the respondent along with 65 B certificates under the Indian Evidence Act.

Mr. Prasad, learned counsel for the respondent states that in the present case, he cannot disclose the course of investigation.

However, he states that the CPU which is lying sealed in the premises

of the petitioner may be sent to the FSL/CFSL and the petitioner may be permitted to be present at the laboratory.

He further states that 65 B will not have any relevance as the moment meta data is changed, 65 B Certificate will lose its relevance.

Lastly, he submits that the fact of searching the premises of the petitioner for 10 hours on 24.12.2020 is also disputed and the search was obstructed and an FIR in that regard has already been lodged.

Issue notice. Mr. Prasad, learned special public prosecutor accepts notice, seeks and is granted 2 weeks to file a response/status report.

CRL.M.A. 26415/2022

This is an application seeking *ex-parte* stay.

Prima facie, I am of the view that the respondent has searched the office premises of the petitioner on 24.12.2020. In addition, there also seems to be no service of notice u/s 91 Cr.P.C.

For the reasons recorded hereinabove, the order dated 02.03.2021, 04.03.2021, 25.03.2021 passed by learned CMM in FIR No. 212/2020 and order dated 05.11.2022 passed by ASJ-07, New Delhi District in Criminal Revision No. 159/2021 and the search warrant dated 04.03.2021 shall remain stayed till the next date of hearing.

The learned counsel for the respondent is at liberty to file his response/status report.

List on 13.01.2023.

JASMEET SINGH, J

DECEMBER 15, 2022/dm

[Click here to check corrigendum, if any](#)