



2024 : DHC : 895 - DB



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

+ **W.P.(C) 1603/2024**

VIVEK KUMAR GAURAV

..... Petitioner

Through: Mr. Rohit Shukla, Mr. Abhay Solanki
and Mr. Muhammed Shawez, Mr.
Kamil Khan, Advocates with
Petitioner in person

versus

UNION OF INDIA

..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Shivam Sachdeva, G.P for R-
1/UOI.

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Date of Decision: 05th February, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMEET PRITAM SINGH ARORA, J : (ORAL)

1. The present public interest litigation ('PIL') has been filed seeking directions to all the District Courts/ Police Stations to supply a copy of the chargesheet/ police report/ final report to the complainant/ victim at free of cost and directions to all the District Courts to issue notice to complainants/victims at the time of taking of cognizance, so as, to enable the victim/complainant to exercise his/her right to be heard and participate in



pre-trial criminal proceedings.

2. The Petitioner, who appears in person is a practicing advocate, submits through his counsel that proviso to Section 372 of the Code of Criminal Procedure, 1973 ('CrPC') specifically, provides that the victim has the right to participate in the criminal proceedings that are initiated upon his/her complaint, however, there is no such provision for a direction to supply chargesheet to the victim.

2.1. He states that the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST Act') categorically provides that the copy of the chargesheet is to be provided to the victim, free of cost, however, there is no such similar provision in CrPC. He states that such a distinction of existence of provisions in a special Act, which mandates the supply of chargesheet to the victim, free of cost and absence of such a similar provision in CrPC is violative of Article 14 of the Constitution of India.

2.2. He states that the judgment passed by the Supreme Court of India in '*Jagjeet Singh v. Ashish Mishra*'¹, recognizes that the victim has a right to be heard and participate in criminal proceedings.

2.3. He states that during the proceedings initiated under CrPC, the Complainant is not informed about the date/time, when the charge-sheet has been filed. He states that this Court may issue a direction to all District Courts to ensure that notice is issued to the victim, informing that the charge-sheet has been filed.

¹ (2022) 9 SCC 321



3. The learned Standing Counsel for the Respondent submits that Section 207 of CrPC mandates that the copy of police report and other documents shall be supplied to the accused at free cost. The Section 207 of CrPC reads 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 therefrom 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.’

(Emphasis Supplied)

3.1. He states that the proviso to Section 372 of the Code was inserted by Code of Criminal Procedure (Amendment) Act, 2008 (‘2008 Amendment Act’) with effect from 31.12.2009. The proviso reads as under: -

‘Provided that the ‘victim’ shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such court.’



(Emphasis Supplied)

He states that by the aforesaid 2008 Amendment, the definition of ‘victim’ was introduced and the word ‘victim’ was inserted at several places in CrPC by the 2008 Amendment Act. However, the word ‘victim’ was not inserted in Section 207 of CrPC and this clearly indicates the intention of the legislature.

3.2. He states that the Section 207 of CrPC is a special provision for the accused and is not applicable to the victim and the reason is that the criminal proceedings (FIR) are initiated by the State.

3.3. With regards to the issue of existence of mandatory provision for supply of charge-sheet to the victims, in the SC/ST Act, he states that offences committed under SC/ST Act are in the nature of personal offence. He states that the legislature was aware of the provisions under SC/ST Act and yet in the year 2008 while amending the CrPC elected not to make any amendments to Section 207 of CrPC. He states that this Court may take judicial notice of the delays caused in trial pending compliance of Section 207 of CrPC. He states any mandatory direction for prior supply of documents to victim will hinder the trial.

4. This Court has considered the submissions of the Petitioner and learned counsel for the Respondent and perused the record.

5. The Petitioner is a practicing advocate and has filed the present petition in view of the order dated 27th September, 2023 passed by the Trial Court in Case No. 519/21, which reads as under:

“At this stage, prosecutrix has appeared alongwith her counsel Sh.



Vivek Kumar Gaurav and Ld. Counsel has moved an application for supply of Supplementary chargesheet to the prosecutrix. Ld. Counsel has relied upon judgment of Hon'ble Apex Court in _Jagjeet Singh and others vs Ashish Mishra and others" in support of application.

Heard. Considered.

There is no provision of law whereby copy of Supplementary chargesheet is to be provided to prosecutrix by trial court. The judgment relied upon by Ld. Counsel, though, recognizes the right of victim to participate in a criminal trial, nowhere lays down any guidelines for providing the same to the prosecutrix by trial court.

In view thereof, application stands dismissed being not maintainable. However, prosecutrix is at liberty to apply for certified copy of the Supplementary chargesheet, as per rules.

Put up on the date already fixed.

Copy of order be given dasti to Ld. Counsel for prosecutrix."

(Emphasis supplied)

6. As is apparent from the said order, the Trial Court has granted liberty to the victim to apply for certified copy of the supplementary charge-sheet. In this regard, it would be relevant to refer to Delhi High Court Rules, Part-F, (Volume-IV, Chapter 17) titled 'Preparation and Supply of Copies' wherein Rule 3, Rule 4 and Rule 5 reads as under:

"3. Persons entitle to obtain copies—*A copy of a record shall be granted in the manner prescribed by these rules to any person who, under the law for the time being in force, or under these rules, is entitled to get it. In particular, copies may be granted as follows :—*

(1) Any party to a civil or criminal case is entitled at any stage of the suit or complaint to obtain copies of the record of the case including documents exhibited and finally accepted by the Court as evidence :—

Explanation—(i) "Complaints" include challans.

(ii) A party to a suit or complaint who has been ordered to file a written statement is not entitled to a copy of the written statement of his opponent until he has first filed his own.

(2) A stranger to a civil or criminal case may, after decree or judgment, obtain copies of the plaint or complaint, written statement, affidavits and petitions filed in the case, as also of the evidence recorded by the Court, and may, for sufficient reasons shown to the satisfaction of the



Court, obtain copies of any documents before the final order is passed. He may also obtain copies of any judgment, decree or order, at any time after the same has been passed or made, but he shall not be granted copies of exhibits put in as evidence except with the consent of the person by whom they were produced or under the orders of the Court.

(3) Official letters shall be treated as privileged documents and copies thereof shall not be ordinarily granted. Should it be necessary to grant a copy of a letter, or of an extract of a letter, received by a subordinate from a superior officer reference shall, in every case, be made to the superior officer for permission to grant copy thereof.

4. Supply of copies free of charge to persons accused or convicted and to public Officers—*Copies shall be supplied free of charge in the following cases:—*

(1) If a person convicted in a summons case is in Jail and requires a copy for purposes of appeal or revision he or his agent shall be allowed a copy of the judgment free of charge.

(2) Copies of judgment and other documents required to be supplied to the accused under Section 371 (see Section 363 of the new Code) of the Code of Criminal Procedure, 1898, shall be prepared by the Court Stenographer and supplied free of charge to the accused, after having been duly attested by the Reader of the Court, in accordance with the provisions of the said Section. In Courts having no Stenographers, such copies shall be prepared and duly attested by the Copyists and supplied free of charge.

(3) Copies of judgements or orders, or English translations of vernacular judgements or orders, convicting, acquitting or discharging Government servants, including a person subject to military law or a civilian in military employ, of criminal offences, shall be supplied free of charge of the Heads of Departments of Offices concerned.

(4) Copies required for official purposes by Public Officers in Punjab shall be supplied free of cost if the application for the supply of copy is endorsed by the Head of the Department concerned.

5. Procedure for submission of application for copy—An application for a copy of any record, including requisition for a free copy may be made personally, or through an agent, or may be sent by post.

Note—The authority of the agent need not be a formal power of attorney.”



7. The aforesaid Rules make it clear that a party to a criminal case is entitled to obtain copies of the record of the case upon filing of an application. A party desirous of obtaining a free copy can also do so under Rule 5 by making an application in this regard.

8. It has come to the attention of this Court that Ministry of Home Affairs, Government of India (Women Safety Division) has already issued direction to all states and UTs vide its office order dated 09th October, 2020 F. No. 15011/190/2020-SC/ST-W for implementation of ‘Standard Operating Procedure (‘SOP’) for Investigation and Prosecution of Rape against Women’ prepared by Bureau of Police Research and Development (‘BPR&D’). The said SOP pertains to sexual offences against women and children. In the said SOP at paragraph 23 with respect to the submission of charge-sheet police has been directed to provide a copy of charge-sheet to the victim/informant without any cost. The said order of Government of India along with the SOP is accessible on the website of Ministry of Home Affairs being <https://www.mha.gov.in/en> (URL: <https://shorturl.at/fstQW>).

9. We are, therefore, of the opinion that in view of the Delhi High Court Rules, as well as, the aforesaid directions issued by Union of India in cases pertaining to sexual offences against women and children there is an adequate statutory mechanism in existence for a victim or complainant to obtain copies/certified copies and no further direction as sought in prayer (a) of the writ is merited. The Petitioner will be at liberty to approach the Trial Court which passed the order dated 27th September, 2023 for modification relying upon the SOP referred to above.



10. With respect to the right of the complainant/victim to be heard at the time of taking cognizance and in pre-trial criminal proceedings has already been recognized by Supreme Court of India in ***Jagjeet Singh v. Ashish Mishra*** (supra). In the said judgment, the Supreme Court of India has already held that wherever the victim comes forward to participate in the criminal proceedings, he/she will be accorded an opportunity of a fair and effective hearing. Therefore, if a victim approaches the Criminal Court for hearing during cognizance and pre-trial, the said Court is bound to hear the victim in view of the aforesaid judgment of the Supreme Court of India. However, the said judgment itself records that the said opportunity of hearing is to be granted to the victims who come forward to participate in the criminal proceeding.

11. There is no mandate in the statute obliging the Criminal Court to issue notice to the complainant/victim at pre-trial stage. We are unable to accept the suggestion of the Petitioner that it should be made mandatory for the Criminal Court to issue a notice to the complainant/victim at every stage of the pre-trial and trial in criminal proceedings. In the opinion of this Court, such a direction is likely to result in avoidable and undesirable delays in trials and is likely to work against the objective of expeditious trials. The suggestion of the Petitioner if accepted would act as '*a treatment worse than the disease*'. Thus, in view of the judgment of the Supreme Court in ***Jagjeet Singh v. Ashish Mishra*** (supra) and the amendments made to CrPC by the 2008 Amendment Act, there are sufficient rights given to the victim/complainant to effectively participate in pre-trial and trial



2024:DHC:895-DB



proceedings if he/she so elects. This Court therefore, finds no ground for issuing directions as sought in prayer (b) of the writ.

12. With the aforesaid directions, the present petition and application stand disposed of.

MANMEET PRITAM SINGH ARORA, J

ACTING CHIEF JUSTICE

FEBRUARY 5, 2024/hp/MG

Click here to check corrigendum, if any