

**IN THE COURT OF SH. AMITABH RAWAT
ADDITIONAL SESSIONS JUDGE-03
(SHAHDARA), KARKARDOOMA COURT, DELHI**

I.A. No. 84-2021 (Devangana Kalita)

SC No. 163-2020 (RIOTS CASE)

FIR No. 59/2020

PS- Crime Branch, Delhi (Investigated by Special Cell)

U/S. 13/16/17/18 UA (P)Act, 120B r/w 109/114/124-

A/147/148/149/153A/186/201/212/295/302/307/341/353/395/419/420/427/435/43
6/452/454/468/471/34 IPC & Section 3 & 4 Prevention of Damage to Public

Property Act, 1984 and Section 25/27 Arms Act

State Vs. Tahir Hussain & Others

05.08.2023

ORDER ON COMPLIANCE UNDER SECTION 207 CR.P.C.

1 Vide this order, I shall dispose off the aspect of compliance of Section 207 Cr.PC qua applicant/accused Devangana Kalita. Initially, counsel for accused has moved the first application u/s.207 Cr.P.C on 08.04.2021. Reply to the said application was also filed.

2. Most of the documents asked for, were supplied by the prosecution to all the accused persons including accused Devangana Kalita during the entire process of scrutiny u/s. 207 Cr.P.C. In fact, vide order dated 05.04.2023, the aspect of Section 207 Cr.P.C of all other 17 charge-sheeted accused persons was decided. The said order passed, in detail, contained various directions for supply of various documents like Whatsapp group of DPSG, JCC group, MSJ, CAB etc. and the same were ordered to be supplied to all the accused persons including applicant/accused Devangana Kalita. In pursuance to the said order, the compliance has also been done.

3. Lastly, vide order dated 03.08.2023, documents like AAZMI documents etc. kept in sealed cover were also supplied to all accused persons including the applicant/accused Devangana Kalita, in the court itself. In fact, on 03.08.2023, the entire compliance of Section 207 Cr.PC qua all other accused persons except the applicant/accused Devangana Kalita was completed.

4. **4.1** Lastly, after the entire scrutiny, on 03.08.2023, Ld. counsel for applicant/accused Devangana Kalita had filed final three list of documents marked as Mark-A, B and C, remained to be supplied by prosecution. The said list was supplied to the IO.

4.2 Investigating Officer alongwith Ld. Special Public Prosecutor and Ld. concerned counsel has sat across the table.

4.3 After discussion, it is informed that in the list Mark-A, all documents 1 to 14, 17 to 24 and 29 to 44 except 43 have been supplied. The documents mentioned at Sl. No.15, 16, 25, 43 were not pressed by the Ld. counsel for the applicant/accused as mentioned in Mark-A.

In the list Mark 'B', all documents except at Sl. No. 3 & 4 were supplied. Documents mentioned Sl. No.3 & 4 were not seized, hence cannot be supplied.

All documents in Mark 'C' have been supplied except mentioned at Sl. No. 10,11 and 12 A.

4.4 Ld. Special Public Prosecutor had submitted that in the list of documents titled as Mark A & C, documents which are not supplied are CCTV footages, which are relevant for investigation of other cases of riots of North East, Delhi, and where investigation/further investigation is still going on and accused are still being apprehended. Therefore, copies of those footage cannot be supplied to the accused/applicant. It is stated by Ld. Special Public Prosecutor that the relevant CCTV footage have already been filed alongwith charge-sheet and supplied to the accused persons.

4.5 Ld. counsel for the accused had submitted that they must be supplied with all the footages.

4.6 The present case is one of the conspiracy and UAPA, as regards the riots that occurred in North-East, Delhi, and for those individual offences of riots, separate cases of rioting have been registered in North East Delhi and certain footages exist and used in those cases.

Ld. Prosecutor had submitted that relevant footages were filed and supplied to the accused persons but all the footages sought for is under investigation in all other individual cases of riots of North-East and those cannot be supplied.

Considering the nature of present case and the fact that investigation is going on in other individual cases of riots, I agree with the submission of Ld. Special Public Prosecutor that the entire footage for North-East Delhi, which are relevant for individual cases and used and supplied to accused therein, need not be supplied to the accused/applicant in this case.

5. 5.1 On legal aspect, Ld. Counsel for accused had also argued that list of unrelieved documents must also be supplied in compliance of Section 207 Cr.P.C. He has referred to the following judgments :-

- i) Central Bureau of Investigation V. Ram Swaroop Chandel, Crl. Rev. P. 1100/2019 decided on 30.09.2020;
- ii) Arvind Kejriwal V. State of NCT of Delhi, Crl. MC 1867/2020 decided on 21.10.2020;
- iii) P. Gopalkrishnan @ Dileep V. State of Kerala & Anr., Criminal Appeal No. 1794/2019 (arising out of Special Leave petition (Crl.) No. 10189/2018) decided on 29.11.2019;
- iv) Nitya Dharmananda & Ors. V. Gopal Sheelum Reddy & Ors., State, Crl. Appeal No. 2114 of 2017 decided on 07.12.2017;
- v) Tarunjit Tejpal vs. State of Goa, Crl. MP 15012/2015, Special Leave to Appeal (Crl.) No.(S) 66/2015 decided on 12.10.2015;
- vi) P. Ponnusamy vs. State of Tamil Nadu, 2022 SCC Online SC 1543;
- vii) CBI vs. M/s. INX Media Private Limited and Ors., 2021 SCC OnLine Del 4932;
- viii) Muktaben M. Mashru vs. State of NCT of Delhi & Another, 2019 SCC OnLine Del 11509;

5.2 Ld. Special Public Prosecutor for the State had argued that only a list of unrelieved documents have to be filed but not at this stage.

5.3 It is seen that there have been several judgments on the issue of unrelieved documents and the latest, in the series of judgments, is ***P. Ponnusamy vs. State of Tamil Nadu, 2022 SCC Online SC 1543*** which has crystallized the law that this is not the stage for filing of list of unrelieved statements & documents and the same would be filed after the charges are framed at trial stage.

6. 6.1 Ld. counsel for the accused had also argued that he has been

supplied with Whatsapp group chat of other groups but complete Whatsapp chat of official police group has not been supplied.

6.2 Ld. Special Public Prosecutor submitted that relevant chats pertaining to this case were supplied but other communication/information/chats of police operation group official police Whatsapp group (not relevant/relied on) were not shared and which may contain other sensitive information/privileged communication, cannot be disclosed.

6.3 This court had earlier ordered that supply of the complete chats of entire WhatsApp group to all accused persons but on the aspect of official/police WhatsApp group chats, it contains information about police officials and their activities and the relevant chats/relied upon have been filed and supplied.

In my view, supply of the entire chats of the said group is not required under Section 207 Cr.P.C. The same would hold for other police WhatsApp groups.

7. In view of the above discussion, the aspect of compliance under Section 207 Cr.P.C of accused Devangana Kalita stands disposed off.

(Amitabh Rawat)
Addl. Sessions Judge-03
Shahdara District, Karkardooma Courts,
Dated: 05.08.2023