

**IN THE COURT OF Dr. VISHAL GOGNE:
SPECIAL JUDGE (PC ACT) CBI-24
(MP/MLA CASES), RADC**

**CC No. 59/2022
DLCT 11-000630-2022
CBI Vs. Lalu Prasad Yadav & Ors.
RC No. 2202022E0007 dated 18.05.2022
under Section 120-B
r/w Section 11, 12 of the PC Act, 1988
(as stood before amendment of 2018)
and Section 13 (2) r/w Section 13 (1) (d) of the PC Act, 1988
(as stood before amendment of 2018)
and other substantive offences thereof.**

18.03.2026

ORDER

1. The present common order decides three separate applications moved by A-1 and A-2, A-8 and A-29 seeking certain unrelieved documents under section 91 Cr.PC.
2. It had been submitted at the outset by the ld. Sr. counsel on behalf of A-1 and A-2 that the application of the said accused be treated as being under section 91 Cr. PC.
3. While A-1 and A-2 seek all unrelieved documents (1675 in number), A-8 seeks one unrelieved document while A-29 has sought 23 unrelieved documents.

Allegations in brief

4. The allegations in the present matter are required to be highlighted only in nutshell and for the limited purpose of context.

5. A-1 (Lalu Prasad Yadav) allegedly abused his official position as the then Railway Minister, GOI to ensure appointments of certain persons to Group D posts in the Indian Railways. In an alleged *quid pro quo*, the candidates so appointed or their family members sold or gifted their respective land holdings to the family members of A-1. One such family member is present co-applicant A-2 (Rabri Devi). The then PS to A-1 is also an applicant viz A-8 (R K Mahajan) who allegedly abused his own official position, in conspiracy with A-1 and others to ensure many such appointments by communicating lists of nominees canvassed by A-1 with various General Managers who were the appointing authority. One such General Manager is applicant/accused A-29 namely Maheep Kapoor who allegedly appointed one of the co-accused as a Group D Substitute.

Submissions on behalf of the applicants

6. The Id Sr. counsel on behalf of applicants A-1 and A-2 contended that multiple decisions of the Hon'ble

Supreme Court mandate the provision of all unrelieved documents by the prosecution to the accused at the stage of trial. The following decisions were cited in this regard.

- (i) ***Criminal Trial Guidelines Regarding Inadequacies and Deficiencies, in RE vs State of Andhra Pradesh & Ors (2021) 10 SCC 598.***
- (ii) ***State of Kerala vs Raghvan, 1974 Cri.L.J 1373***
- (iii) ***Sidharth Vashisht vs. State (NCT of Delhi) 2010 (6) SCC 1.***

7. A reference was also made to certain observations from the order on charge pronounced on 09.01.2026 to argue that this court had permitted the accused persons to seek unrelieved documents after the framing of charge.

8. It was also agitated by the Id. Sr. counsel that the preparation of the defence of the accused is constrained by the lack of unrelieved documents and that effective cross examination of the next two prosecution witnesses viz approvers Girish Bhatnagar and V K Manglik (both former General Managers in the Railways) cannot be conducted without an understanding and reliance on the unrelieved documents.

9. In arguments advanced by the Id counsel for A-8, it was contended that since the document sought by him was a file pertaining to a purported previous investigation by the CBI upon allegations similar to the present chargesheet, the said file would be material to the cross

examination of many witnesses including the approvers who were then General Managers in the Railways.

10. The decision in *Criminal Trial Guidelines* was also cited by the Id counsel for A-8.

11. The Id counsel for the third applicant (A-29) reiterated the submissions made on behalf of the other applicants. It was more particularly canvassed in the factual context of his application, that the unrelied documents being sought pertained to the tenure of the successor of A-29 as the General Manager in the Western Central Railways (WCR), Jabalpur. The said successor namely V K Manglik is now an approver. It was the contention of the Id counsel that the documents in question could shed light on the functioning of the WCR, Jabalpur and were therefore material to the cross examination to be conducted on behalf of A-29.

12. Much like the other applicants, the Id counsel for A-29 also relied upon the decision in *Criminal Trial Guidelines*.

Submissions on behalf of the CBI

13. In response to the three applications, the Id ASG/Sr. counsel for the CBI submitted that notwithstanding the passage of almost one year since the list of unrelied documents was provided to the accused, applicants A-1

and A-2 had failed to even identify the proposed documents which are relevant to the defence. It was agitated that the decision in *Criminal Trial Guidelines* and subsequent decisions have not provided for a blanket provision of unrelayed documents to the accused but rather require the accused to justify the summoning of any such document.

14. The Id. Sr. counsel further maintained that the only available provision for the supply of unrelayed documents being section 91 Cr. PC, the accused must not only present cogent grounds for any such documents to be provided to them but that such recourse could be had only at the stage of defence evidence.

15. A reference was made to the following decisions in support of the above submissions.

- (i) *State of Orissa vs Debendra Nath Padhi (2005) 1 SCC 568*
- (ii) *Criminal Trial Guidelines Regarding Inadequacies and Deficiencies, in RE vs State of Andhra Pradesh & Ors (2021) 10 SCC 598.*
- (iii) *P Ponnusamy vs. State of Tamil Nadu 2022 SCC Online SC 1543.*
- (iv) *Dheeraj Wadhawan vs Central Bureau of Investigation 2023 SCC OnLine Del 4870.*
- (v) *Sarla Gupta v. Enforcement Directorate, 2025 INSC 645*
- (vi) *Suninder Sandha vs. State of NCT of Delhi & Anr. Criminal Appeals no.5150-5151 of 2025 dated 02.12.2025.*
- (vii) *B.Sambi Reddy vs. CBI 2024 SCC Online Del. 818.*

Discussion and reasons

16. It is apposite that the decisions of the Apex Court governing unrelieved documents and production of documents at the behest of the accused are considered at the outset.

17. In *Debendra Nath Padhi (Supra)*, the Hon'ble Supreme Court expressed that :

25. Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding that the same is 'necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code'. The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 at the initial stage of framing of a charge would not arise since defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the Court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. In so far as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it whether police or accused. If under Section 227_what is necessary and relevant is only the record produced in terms of Section 173 of the Code, the accused cannot at that stage invoke Section 91 to seek production of any document to show his innocence.

Under Section 91 summons for production of document can be issued by Court and under a written order an officer in charge of police station can also direct production thereof. Section 91 does not confer any right on the accused to produce document in his possession to prove his defence. Section 91 presupposes that when the document is not produced process may be initiated to compel production thereof.

18. Subsequently, the mandate for the accused to be provided with a list of unrelayed documents arose from the decision in ***Criminal Trial Guidelines (Supra)*** wherein it was directed as under:

11.....This Court is of the opinion that while furnishing the list of statements, documents and material objects under Sections 207/208 CrPC, the Magistrate should also ensure that a list of other materials, (such as statements, or objects/documents seized, but not relied on) should be furnished to the accused, This is to ensure that in case the accused is of the view that such materials are necessary to be produced for a proper and just trial, she or he may seek appropriate orders, under CrPC8 for their production during the trial, in the interests of justice.

19. Again, in ***Ponnusamy (Supra)***, the Apex Court recorded that :

14. The framework that emerges (by reading Section 173, 207, 208 and Draft Rule 4) is that based on the list of statements, documents, etc. received at the commencement of the trial, the accused can seek appropriate orders under Section 91 of the CrPC, wherein the magistrate on application of judicial mind, may decide on whether it ought to be called for. Additionally, by virtue of Section 391 of the Cr.PC, the appellate court, if it deems necessary, may take further evidence (or direct it be taken by a magistrate or court of sessions) upon recording reasoning. This safeguards

the right of the accused in a situation where concern has been raised regarding evidence or material in possession of the prosecution, that had not been furnished, but was material to the trial and disposal of the case.

20. The above directions were reiterated in ***Dheeraj Wadhawan (Supra)*** in the following manner:

25. Thus, the discussion made above to the mind of this court makes the following positions clear:

a. That at the stage of Section 207 & 208 Cr.P.C., the list of other material (such as statements, or objects/documents seized, but not relied on) should be furnished to the accused.

b. The accused has a liberty to call for such unrelieved documents at the stage of trial in accordance with the relevant provisions of Cr.P.C. i.e. Section 91 Cr. P.C.

21. The decision in ***Sarla Gupta (Supra)*** has summarised the propositions governing the supply of the list of unrelieved documents and the documents in the following manner:

55. Hence, some of our important conclusions are as under:

(c) We hold that a copy of the list of statements, documents, material objects and exhibits that are not relied upon by the investigating officer must also be furnished to the accused.

As held by this Court, the object is to ensure that the accused has knowledge of the documents, objects, etc. in the custody of the investigating officer which are not relied upon so that at the appropriate stage, the accused can apply by invoking the provisions of Section 91 of the CrPC (Section 94 of the BNSS) for providing copies of the documents which are not relied upon by the prosecution.

(d) At the time of hearing for framing of charge, reliance can be placed only on the documents forming part of the chargesheet. In case of the PMLA, at the time of framing charge, reliance can be placed only on those documents which are produced along with the complaint or supplementary complaints. Though the accused will be entitled to a list of documents, objects, exhibits etc. that are not relied upon by the ED at the stage of framing of charge, in ordinary course, the accused is not entitled to seek copies of the said documents at the stage of framing of charge.

(e) At the stage of entering upon defence, an accused can apply for the issue of process for the production of any document or thing in accordance with Section 233(3) of the CrPC (Section 256(3) of the BNSS). At this stage, he can also apply for the production of a document or a thing that is in the custody of the prosecution but has not been produced. A fair trial is a part of the right guaranteed to an accused under Article 21 of the Constitution. The right to a fair trial of the accused includes the right to defend. The right to defend consists of the right to lead the defence evidence by examining the witnesses and producing the documents. Therefore, the accused is entitled to exercise his right at the stage of entering upon defence by compelling the prosecution or a third party to produce a document or a thing in their possession or custody. The Court can decline the request of the accused for issuing process for the production of documents only on the limited grounds set out in sub-section (3) of section 233 of the CrPC.

(f) When at the stage of defence evidence of the accused, documents are produced on the prayer of the accused and the accused desires to cross-examine any of the prosecution witnesses based on the said documents, it is always open for the accused to apply under Section 311 of the CrPC (Section 348 of the BNSS) to recall a prosecution witness already examined for further cross-examination. The reason is that the right to effectively cross-examine the prosecution witnesses is also a part of the right to have a fair trial. The accused can exercise this right even if evidence of both sides is closed.

22. A recent decision from the Hon'ble Supreme Court, reported as *Suninder Sandha (Supra)*, has again reiterated the position of the law enunciated in *Debendra Nath Padhi* and *Sarla Gupta* in the following manner:

15. Evidently, Section 91 of the Code does not itself prescribe any stage. The core issue remains whether invocation of power under Section 91 of the Code by the Trial Court is as per the manner contemplated/provided for in law. We are mindful that the underlying case in Sarla Gupta (supra)¹ concerned the Prevention of Money- Laundering Act, 2002. It is seen that State of Orissa v Debendra Nath Padhi, (2005) 1 SCC 568, relied upon by the High Court, was considered by a Bench of equal strength in Sarla Gupta (supra). On Debendra Nath Padhi (supra), the Court commented in Sarla Gupta (supra) as under:

44. Thus, this Court observed that the entitlement of the accused to seek an order under Section 91CrPC for the production of the documents that are not relied upon would ordinarily not come till the stage of defence. These observations are in the context of what constitutes "the record of the case" for the purposes of Section 227 CrPC. Even this judgment recognises the right of the accused to seek documents at the time of leading defence evidence by invoking Section 91CrPC. We may note here that what is observed by this Court is that there is no absolute prohibition on an accused making an application under Section 91CrPC, before the stage of entering upon defence. It is held that ordinarily, the entitlement of the accused to apply under Section 91 will not arise till the stage of defence.'

(emphasis supplied)

17. The law is no longer res integra, having been lastly settled by the 3-Judge Bench in Sarla Gupta (supra), which provides clarity as to the relevant stage at which power under Section 91 of the Code may be invoked. In the underlying case in these appeals, such stage has not yet been reached, as defence evidence has not commenced. For clarity, the relevant extracts from Sarla Gupta (supra) read as below:

68. Hence, some of our important conclusions are as under:

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68.3. We hold that a copy of the list of statements, documents, material objects and exhibits that are not relied upon by the investigating officer must also be furnished to the accused. As held by this Court, the object is to ensure that the accused has knowledge of the documents, objects, etc. in the custody of the investigating officer which are not relied upon so that at the appropriate stage, the accused can apply by invoking the provisions of Section 91CrPC (Section 94 BNSS) for providing copies of the documents which are not relied upon by the prosecution.

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68.5. At the stage of entering upon defence, an accused can apply for the issue of process for the production of any document or thing in accordance with Section 233(3)CrPC [Section 256(3) BNSS]. At this stage, he can also apply for the production of a document or a thing that is in the custody of the prosecution but has not been produced. A fair trial is a part of the right guaranteed to an accused under Article 21 of the Constitution. The right to a fair trial of the accused includes the right to defend. The right to defend consists of the right to lead the defence evidence by examining the witnesses and producing the documents. Therefore, the accused is entitled to exercise his right at the stage of entering upon defence by compelling the prosecution or a third party to produce a document

or a thing in their possession or custody. The court can decline the request of the accused for issuing process for the production of documents only on the limited grounds set out in sub-section (3) of Section 233 Cr.PC.

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(emphasis supplied)

23. The court would also refer to a decision of the Hon'ble High Court of Delhi in **B. Sambhi Reddy (Supra)** which relied upon the decision of the Apex Court in **Manoj Vs. State of MP (2023) 2 SCC 353** in the context of section 91 Cr. PC and section 243 Cr.PC as under:

13. A comprehensive analysis of Section 91 Cr.P.C., would reveal the following fundamental ingredients:

I. Section 91 can be invoked for production of documents or other things by way of issuance of summons.

II. Section 91 can be invoked at any stage of investigation, inquiry, trial, or other proceedings under the Cr.P.C.

III. This invocation can take place when the Court or the Police deems the production of documents necessary or desirable for the purpose of investigation, inquiry, trial, or other proceedings under Cr. P.C.

IV. The satisfaction regarding the necessity or desirability of the Court or the Police is essential for invoking this provision.

V. The production of documents or other items is to be carried out before the Court if directed by the Court, or before the officer if directed by a Police Officer.

18. However, this Court notes that in the case of Manoj v. State of M.P., (2023) 2 SCC 353, the Hon'ble Supreme Court has read the provision of Section 91 Cr.

P.C. along with Section 243 of Cr. P.C. and the same is reproduced as under:

205. In this context, a reading of Sections 91 and 243 CrPC as done in Manu Sharma [Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385], is important to refer to : (Manu Sharma case [Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385], SCC p. 85, para 217)

“217. ... Section 91 empowers the court to summon production of any document or thing which the court considers necessary or desirable for the purposes of any investigation, inquiry, trial or another proceeding under the provisions of the Code. Where Section 91 read with Section 243 says that if the accused is called upon to enter his defence and produce his evidence there he has also been given the right to apply to the court for issuance of process for compelling the attendance of any witness for the purpose of examination, cross-examination or the production of any document or other thing for which the court has to pass a reasoned order.”

19. In view of the above, this Court is of the opinion that right of the petitioner to move an appropriate application before the competent court to summon documents be reserved and the documents which the petitioner wishes to rely upon can be summoned at the stage of defence evidence in accordance with law. At this stage, this Court finds no ground to interfere with the impugned order dated 16.11.2019 passed by learned Special Judge, Rouse Avenue Court, New Delhi.

24. The court has considered the submissions arising in the context of all three applications moved by the respective accused in light of the above decisions. The court of trial is required to conduct the recording of evidence with reference to statutory provisions and the

statutory scheme itself of the Cr.P.C. (now the BNSS), the right to a fair trial and expeditious conclusion of proceedings. Yet, seemingly innocuous prayers, citing the interest of best evidence coming on record, do on occasion bely sublime contentions and intent. The present application discloses such a scenario.

25. The court proposes to adjudicate the present three applications in the following structure of discussion and reasons:

- A. Discussions and reasons common to the applications
- B. Discussion and reasons particular to each application

A. **Discussions and reasons common to the applications**

26. Twin issues, common to all three applications, arise for consideration. The court would frame these issues as under:

- (i) Whether unrelied documents are required to be provided (in toto or in part) to the accused as a matter of right or must justify the test of necessity and desirability.
- (ii) The appropriate stage for considering whether unrelied documents (in toto or in part) are required to be provided to the accused.

(i) **Matter of right or test of necessity and desirability**

27. At the outset, the court finds it necessary to record its understanding regarding the very nature of the prayer, by the applicants, for production of the documents in question.

28. To elucidate, the competing arguments on behalf of the accused (especially A-1 and A-2) and the CBI suggest alternate propositions. While the applicants are of the contention that unrelied documents are to be mandatorily provided to the accused, the CBI maintains that an accused must first justify the rare exercise of power by the court in providing such documents. In other words, the submissions from the accused, in essence, project the unrelied documents as an exercise in continuity of the compliance with section 207 Cr.PC while the CBI is of the stance that such course is contrary to the scheme of the Cr.P.C. (and now the BNSS).

29. The court is entirely in disagreement with the connotation placed by the Id. Counsels for the applicants upon unrelied documents. While the respective accused have couched the prayer for production of various unrelied documents as being a part of the exercise of preparing for cross-examination of prosecution witnesses, in effect, they are praying that all or several unrelied documents ought to first be provided before the accused can even contemplate

the preparation of defence. The provision of unrelieved documents is being projected as a condition for the very initiation of cross-examination. While the preparation of cross-examination does certainly entail projection of a defence (by way of questions or suggestions), such exercise cannot be held in abeyance upon the self serving prayer of the accused that they shall be hampered in preparing for cross-examination till they have the unrelieved documents in their possession. The accused cannot be permitted to create a conditionality upon the continuation of judicial proceedings.

30. The prayer for being provided with unrelieved documents at this stage of trial is more specifically untenable for two reasons. Firstly, the mandate regarding unrelieved documents, as emerging from various decisions including *Criminal Trial Guidelines, Ponnusamy, Dheeraj Wadhawan, Sarla Gupta* and *Suninder Sandha* is only for provision of the lists of unrelieved documents. This exercise is then to be followed up by the elective inspection of the unrelieved documents by the accused persons. None of these decisions mandate the provision of all or any of these documents, as a matter of entitlement, to the accused.

31. Moreover, the modality of inspection of unrelieved documents itself permits the accused persons (and their counsels) to gather the perspective which may enrich their cross-examination. Thus, provision of all or any of the

unrelied documents is not a matter of right emanating from the decisions (of the Apex Court) cited above. Consequently, an accused cannot claim prejudice or detriment to his defence if such documents are not provided at the very commencement of trial.

32. Notably, the list of unrelied documents was provided by the CBI about ten months back on 08.05.2025 and collected by the accused persons immediately thereafter. On 27.05.2025, the court noted the submission of the CBI regarding availability of authorised officials, including the IO, at the office of the CBI for permitting inspection of the unrelied documents. On the very next day/date, viz 28.05.2025, the counsel for the CBI provided the email ID of the Id Sr. counsel and co-counsel of the CBI in order that effective communication could be made by the accused for purpose of facilitating the inspection of the unrelied record.

33. Thus, all accused have been accorded adequate opportunity to inspect the documents which are part of the unrelied basket of evidence. It is not asserted by the present applicants/accused that they did not avail this opportunity. The court does not find the accused to be flailing in the dark as they are called upon to prepare for cross examination of prosecution witnesses.

34. Secondly, the court finds the argument in favour of a blanket or even selective provision of unrelied documents before even the commencement of PE and that too as a

matter of right to be an inversion of the scheme of the Cr.P.C. (now the BNSS). The Cr. PC contemplates trial to necessarily be conducted first and foremost upon the evidence cited by the prosecution, which includes relied upon documents. If the contentions of the accused are accepted, the framework of trial, as recognised in the Cr.P.C. (now the BNSS) would transform from a relied upon (documents) template to an unrelieved upon (documents) scenario.

35. The present charge-sheets (five) disclose a total of 421 relied upon documents whereas the list of unrelieved documents reflects 1675 documents. The latent intent or at least effect of an *en bloc* provision of unrelieved documents to the accused would not only place the cart before the horse but also throw the trial proceedings into complete disarray. It would be an ungainly prospect for the relatively small number of relied upon documents to be subsumed, at the very inception of prosecution evidence, into the four fold unrelieved documents. Control of the court over trial, in the statutory perspective, cannot be permitted to be appropriated by the accused under the veneer of cross-examination.

36. The court is therefore unable to accept the underlying argument on behalf of the applicants that the unrelieved documents are required to be provided as an intrinsic and mandatory requirement in order that the

preparation of cross-examination of prosecution witnesses may be aided.

37. Here, the settled practice in trial (rooted in the Cr. PC and the decisions including *Criminal Trial Guidelines*, *Sarla Gupta* and *Suninder Sandha*) may be reiterated. Upon the accused being summoned, they must be provided with relied upon documents under section 207 and section 208 Cr.PC., as the case may be, along with the list of unrelieved documents. The court is then duty bound to decide applications under section 207 Cr.P.C. which typically seek copies of missing or illegible documents. Consequently, in the present case, proceedings which commenced with 103 accused saw this court deciding a multitude of applications under section 207 Cr.P.C., on a day to day basis and with appropriate reasoning as called for.

38. Yet, this modality is not envisaged qua unrelieved documents. The said provisions only contemplate the provision of relied upon documents. Subsequent judicial decisions, as referred in the preceding part of this order, while having created the avenue for provision of the list of unrelieved documents, do not mandate the provision of all or any of such documents at the inception of prosecution evidence. It would therefore, be an overreach of the Cr.P.C. (now BNSS) for all unrelieved documents or even certain unrelieved documents to next be provided as a matter of entitlement of the accused.

39. The court would record the concluding assertion, qua this leg of discussion, that the provision of unrelieved documents is not the unfinished business of section 207 Cr.P.C. It is rather a sparing discretion to be exercised by the court at the appropriate stage of proceedings, under the relevant statutory provision (s), particularly section 91 Cr.P.C. and with reference to the document sought by the accused. Such discretion would be governed by the necessity and desirability for such unrelieved documents to be provided.

40. This brings the court to the second issue in contention. This issue relates to the appropriate stage when the court may consider the provision of unrelieved documents to the accused.

(ii) Stage for considering provision of unrelieved documents

41. In *Criminal Trial Guidelines*, the Hon'ble Supreme Court laid down that the accused may seek appropriate orders for production of unrelieved documents during trial. Subsequent decisions in *Ponnusamy*, *Dheeraj Wadhawan*, *Sarla Gupta* and *Suninder Sandha* recognise that provision of unrelieved documents to the accused is a function of section 91 Cr.P.C. While the justifiability of the prayer for such documents can be decided by the court on a case to

case basis, these decisions from the Apex Court are equally unambiguous in declaring that the appropriate stage for such consideration is the stage of defence evidence.

42. It is certainly to be noted that these decisions, commencing from *Debendra Nath Padhi* and continuing till *Sarla Gupta*, have left a small window open to the accused for seeking such documents even prior to the stage of defence evidence by holding that the entitlement of the accused to seek an order under section 91 Cr. PC would 'ordinarily' not arise till the stage of defence evidence. The zone of positive consideration towards such prayers is therefore to be narrowly construed.

43. In light of the discussion recorded by the court in the previous segment of this order, the mere assertion that such documents are necessary for cross-examination does not create a blanket entitlement for exercising the exception recognised in these decisions when evidence for the prosecution is at the very inception (with only one witness having been examined thus far).

44. The court would, however, still briefly examine, the respective prayers of the three applicants qua various unrelieved documents sought by them.

B. Discussion and reasons particular to each application

Application of A-1(Lalu Prasad Yadav) & A-2 (Rabri Devi)

45. The application of A-1 and A-2 makes the following prayers:

- (i) Pass necessary orders and directions to the CBI to supply all unrelayed documents collected by the investigating officer and all unrelayed statements recorded by the investigating officer during the investigation in the present case;*
- (ii) Pass necessary order and directions to the CBI to provide the list of notices/summons issued either under specific section of the Cr. PC or without any provisions; and/or*
- (iii) Pass necessary orders and directions to make disclosure to the effect that all unrelayed documents collected by the investigating officer and all unrelayed statements recorded during the investigation have been supplied to the applicants; and/or*
- (iv) Pass any further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of the justice and in favour of the applicants.*

46. Apparently, the applicants have made a prayer for provision of the totality of the unrelayed documents, unrelayed statements and notices/summons issued by the CBI. In light of the court having found against any vested right of an accused to receive all or part of the unrelayed

documents (as discussed qua common issue no.(i)), the prayer of A-1 and A-2 for being provided with all unrelayed documents, statements and notices/summons is not maintainable. The application is liable for dismissal on this ground alone.

47. The court would next highlight that the unrelayed documents in the present case are no less than 1675 in number. During the course of submissions, the ld. counsel for A-1 and A-2 had cited, through an informal chart, that as many as 74 unrelayed documents would be required for the cross-examination of two witnesses (approvers). It was further submitted that even this number was only indicative and that an even larger number of unrelayed documents could be used during cross examination of these two witnesses.

48. The court is constrained to observe that if this be the volume, expanse and tempo of the proposed cross-examination, the trial by way of prosecution witnesses would stand hijacked by an unending cross examination pertaining to unrelayed documents. Such cross examination would conceivably be apart from the cross examination on relayed documents. As noticed earlier, the relayed upon documents are only 421 while the unrelayed documents are 1675 in number. The court finds the prayer for being provided with all unrelayed documents to be designed to condemn the trial to a maze at the very outset. And that too

when the accused have not even begun to lay out any particular defence by way of questions, suggestions or a projected defence. The law must guard against unreasonable, impractical and awkward outcomes. Applicants A-1 and A-2 have evidently wagered upon precisely such an unreasonable outcome.

49. The court may consciously observe that it is not really the bulk of unrelieved documents which should deter the court from deciding the plea for production of unrelieved documents. The court would not shy away from engaging in detailed examination of any part of the record. Yet, it is the nature of the proposed exercise which raises concerns with this court.

50. If the court is to rule upon the relevance, necessity or desirability of the production of hundreds, if not thousands of unrelieved documents even before the witnesses have uttered a single statement and even before a single volley has been fired upon them during cross-examination, the court would be drawn into expressing mind upon the relevance of unrelieved documents only to suit the defence. The prayer by A-1 and A-2 for being provided with unrelieved documents even before the commencement of cross-examination seems additionally designed, in the present case, to elicit the mind of the court and use any opinion expressed as a spring board for tossing the cross-examination into the realm of unrelieved documents. This

transformation of the very essence and character of cross-examination cannot be permitted under the guise of preparing the defence.

51. As noted earlier, all accused, including A-1 and A-2 have been permitted to inspect the unrelieved documents and cannot claim ignorance or surprise regarding the contents of such documents.

52. Also, in terms of the decisions of the Hon'ble Supreme Court, referred repeatedly in this order, the accused shall be at liberty to canvass the justification for such production at the stage of defence evidence.

53. The court is also able to sense an underlying intent on part of the applicants to drag proceedings into an exercise akin to section 207 Cr.PC where the provision of 1675 unrelieved documents would conceivably be followed by a plethora of applications akin to section 207 Cr.P.C seeking missing or illegible documents. A court of trial must guard against latent motives of applicants apart from unreasonable outcomes.

54. It bears emphasis that prior to the framing of charge, applicants A-1 and A-2 had moved an application seeking time of four weeks for inspection of unrelieved documents at the CBI *malkhana*. The said application was dismissed by this court vide order dated 02.06.2025 with the following observations:-

32. The court does not find the application to be as innocuous as it appears.

33. It is noted that vide order dated 27.05.2025, the court recorded as under:

5. The Id. Counsel for the CBI has submitted that the authorised officials including the IO are available at the CBI office for permitting inspection of the unrelieved documents.

6. In view of the above submission, the accused persons are at liberty to seek time with the CBI for inspecting the unrelieved documents as per the list of unrelieved documents furnished by the CBI before the court.

34. Subsequently, the court also recorded the following submission of the counsel for the CBI on 28.05.2025 as under:

7. At this stage, the court has noted and deems it fit to record the submission of the Id. Counsel for the CBI that in order to facilitate the inspection of the unrelieved record, if any, by the counsels for the accused, the following email ID may be used by them to communicate officially with the CBI:

i. mishra.manu@hotmail.com

ii. office.dpsingh@gmail.com

35. It is evident that all accused persons have already been permitted to examine the unrelieved record at the CBI office vide previous orders. In fact, the CBI has also provided the email ID for communication. Hence, the court finds the application to be deceptively framed in order to obtain judicially mandated time of four weeks. The intention to delay proceedings cannot be ruled out.

36. The applicants are as much at liberty as other accused persons in inspecting the unrelieved record by relying upon the previous orders of this court.

37. The present application is dismissed.

55. The court is unable to rule out that much like the previous effort to seek the cover of judicial orders for gaining time, the present prayer for being provided with all unrelieved documents is also a similar ruse to trigger countless applications qua unrelieved documents akin to the prayers under section 207 Cr.P.C.

56. During the course of submissions, the Id counsel for A-1 and A-2 had referred to certain observations from this court in order dated 09.01.2026 whereby charge was framed against the accused persons. The Id counsel has agitated that this court had permitted the accused to move applications seeking unrelieved documents post the stage of charge.

57. The above observation of this court is subject to the decisions of the Hon'ble Supreme Court which govern the stage for the accused to be provided with unrelieved documents. The stage, in the clear intent of these decisions, is defence evidence and the applicants have been unable to justify any circumstances other than the ordinary for this court to permit production of any such documents prior to the stage of defence evidence.

58. The application of A-1 and A-2 is liable to be dismissed.

Application of A-8 (R K Mahajan)

59. The plea on behalf of A-8 was for production of file No. MR/813/2007 pertaining to purported previous investigation by the CBI into allegations similar or identical to the present allegations against A-1 as the then Minister of Railways. The Id counsel for A-8 submitted that appointments of persons in Railways in lieu of selling their land in the name of members of the family of A-1 had previously been investigated by the CBI.

60. It was agitated that the CBI had intentionally avoided filing the documents included in file No. MR/813/2007. This file is a part of the unrelieved documents and mentioned as serial no. 1675 of the list of unrelieved documents.

61. A-8 has made the following prayer in the present application under section 91 Cr. PC:

1. Allow this application and summon to produce the S.No.1675 of list of unrelieved documents containing File No. MR/813/2007 mentioning copies of complaint file no. CO 2009/03/ACU-V/AC-II (Volume 1 to Volume VII) (NP-01 to 30 CP-01 to 805) along with other relating documents of investigation of alleged land for job scam conducted by CBI between 2009-2012 and closure reports filed in this regard and provide the copies of the same to the applicant in the interest of justice.

62. The Id. counsel for A-8 maintained that in light of a previous investigation having addressed similar allegations, the file pertaining to such allegations was material to the cross examination of proposed witnesses who may have given statements under sections 161 Cr. PC and 164 Cr. PC.

63. It was also argued that since file no.MR/813/2007 had already been provided to accused persons by the order of the Id. Predecessor of this court dated 21.02.2023 in a connected matter tilted *CBI vs Lalu Prasad Yadav & Ors. CC No.01/2020 (IRCTC case)*, the redacted portion of the said file, which pertained to the present allegations (Land for Job), should similarly be provided to the present accused. Reference was made to the order dated 21.02.2023 having noticed the decision in *CBI vs. M/s INX Media Pvt. Ltd and Ors. dated 10.11.2021* where the Hon'ble High Court of Delhi recognised the role of cross examination of prosecution witnesses in the building of the defence by an accused.

64. While deciding the two common issues of a fundamental character in the present three applications, this court has recorded its assessment that unrelieved documents are not an unqualified entitlement of the accused. The court has also highlighted that such documents can ordinarily be sought by the accused only at the stage of defence evidence.

65. Both findings operate against A-8 too. There is no particular entitlement of A-8 to receive any report regarding purported previous enquiries by the CBI into somewhat similar allegations. Prejudice upon non provision of any unrelieved documents cannot be claimed as a matter of assertion only. When practically none of the prosecution witnesses save one have even deposed in examination in chief and cross examination has not yet commenced, the direction of evidence and trial cannot be diverted towards a defence which is yet to be projected to any witness. It is entirely self serving for A-8 to contend that cross examination would be hampered by non availability of a CBI file which is not even a relieved document.

66. Infact, the very right to cross examine is a safeguard against prejudice. If, however, an accused feigns inability to effectively cross examine a witness only because unrelieved documents are not provided to him, such accused is essentially aiming to avoid cross examination upon relieved documents in the garb of non availability of unrelieved documents. The court would reiterate that the statutory scheme of trial cannot be inverted so that proceedings turn into a trial of unrelieved documents to the detriment of relieved documents.

67. Besides, as noticed in the context of A-1 and A-2, all accused persons were permitted to examine the unrelieved

documents almost a year back and cannot be treated as being unaware of the nature of the unrelieved documents. It is not the case of applicant A-8 either that the cross examination is proposed to be directed solely towards any previous enquiries by the CBI and shall not be addressing the testimony or documents to be tendered by various witnesses. While an accused is entitled to project to a prosecution witness (during cross examination) that he has been wrongly implicated, the entitlement to do so through documents other than relied documents would be adjudicated by the court at the appropriate stage viz defence evidence. The prayer of A-8 for being supplied with the copy of an unrelieved document prior to the stage of defence evidence is a self perceived but non maintainable requirement.

68. The court would also observe that the order of the Id Predecessor of this court dated 21.02.2023 was during the proceedings of a separate matter and in the context of the submissions and circumstances of the said proceedings. This court is not persuaded to pass similar directions only because both matters are before this court. Moreover, unlike the order dated 21.02.2023, which was passed prior to the stage of charge in the said case (IRCTC case), the present proceedings have seen the charge been framed. The court has already recorded a *prima facie* finding of strong suspicion against the accused who have been

charged. Consequently, trial must now follow the scheme of the Cr.PC (now BNSS) wherein the prosecution shall first lead evidence and the accused persons shall be at liberty to seek documents, if required, at the stage of defence evidence (in terms of the decisions in *Debendra Nath Padhi*, *Criminal Trials Guidelines*, *Dheeraj Wadhawan*, *Sarla Gupta* and *Suninder Sandha*).

69. The application of A-8 is also liable to be dismissed.

Application of A-29 (Maheep Kapoor)

70. It was submitted by the ld counsel for A-29 that since one of the next witnesses is V.K Manglik, who was the successor of A-29 (Maheep Kapur) as a General Manager in the Railways at WCR, Jabalpur and is now an approver for the prosecution, the unrelied documents pertaining to the functioning of WCR, Jabalpur ought to be made available to him. The ld counsel contended that these documents are material for purpose of the cross examination of V K Manglik.

71. A-29 seeks documents at S. Nos. 148 to 170 in the list of unrelied documents, being documents pertaining to WCR, Jabalpur, where he was posted as General Manager for the relevant period.

72. The ld counsel for A-29 relied upon the following observations of the Hon'ble High Court of Delhi in *Arun*

***Ramchandran Pillai vs. Central Bureau of Investigation
(Cr. M.C.3192/2024) :***

“17. This Court is also of the view that Section 207 of the Cr. PC protects an accused’s right to a fair trial, and as held by Hon’ble Apex Court in case of Sunita Devi vs. The State of Bihar 2024 INSC 448, the idea behind compliance of Section 207 of Cr. PC i.e. supplying all necessary documents collected by the prosecution to an accused is to enable an accused to face the trial by thoroughly understanding the case stated against him.”

73. The court has considered all three applications at hand in a three fold template. The findings on the first two parameters apply equally to the application of A-29. Firstly, there is no inherent right of A-29 to seek sundry unrelieved documents pertaining to the Indian Railways only because they relate to the zone (WCR) where he previously remained a General Manager. Secondly, the stage of defence evidence is the only appropriate stage when documents can be sought through section 91 Cr. PC. In the absence of any recorded version of the accused (through cross examination or suggestions to any witness) it would be a presumptive leap to several stages ahead in trial for unrelieved documents to be provided summarily to any accused, including A-29.

74. The third facet of consideration is the particular nature of the documents being sought in order that the court may determine whether an exception be made to the rule that documents can ordinarily not be provided to the accused through section 91 Cr. PC prior to the stage of

defence evidence. The court does not find any peculiarity, let alone sterling characteristics in the documents at S. Nos. 148 to 170 which pertain to the tenure of the successor of A-29 as General Manager, WCR, Railways. Such documents cannot be injected into the proceedings so as to virtually become relied documents only because the next proposed witness is an approver (V K Manglik) who was infact the successor of A-29.

75. The circumstance of the accused being at liberty to widely cross examine a witness, even beyond the scope of the examination in chief, is not the equivalent of him being granted a free pass to divert trial away from cited prosecution witnesses and cited (relied) documents. An accused typically begins to bring forth a defence on record firstly through cross examination. It is incumbent upon the accused to cross examine the witnesses firstly on the examination in chief and documents tendered in evidence. In the absence of even a fledgling defence or a minimum projection of his defence, the accused cannot be permitted to introduce wanton documents into trial. The court does not find any prejudice to be caused if the self serving prayer of the applicant is not accepted.

76. The court may note here that the counsels for all three sets of applications had similarly canvassed the provision of unrelieved documents on the submission that the prosecution would not suffer any prejudice only because

unrelied documents were provided to the accused. The court finds this argument to be a submission only of last resort. A thing or an act shall not be done only because it can be done. Unrelied documents cannot be provided as a matter of across the board practice only because these can be provided. Such recourse would run contrary to the long line of decisions emanating from the Hon'ble Supreme Court (and which have been consistently discussed in this order) where it has rather been held that only a list of unrelied documents is to be provided to the accused and such documents can be ordinarily sought only at the stage of defence evidence.

77. The court does not detect any circumstances of non ordinary nature which would justify the supplanting of trial upon relied documents by a trial upon unrelied documents.

78. The application of A-29 is similarly liable to be dismissed.

79. The respective applications of A-1 and A-2, A-8 and A-29 under section 91 Cr.PC are dismissed.

Dr. Vishal Gogne
Special Judge (PC Act) CBI-24
(MP/MLA Cases), RADC
New Delhi/18.03.2026