

Court No.
39
Item 7
tbsr

CRR 1444 of 2022

In the matter of:- Kapil Raj

29.04.
2022

Mr. S.V. Raju, Ld. ASG
Mr. Phiroze Edulji
Mr. Anshuman Singh
Mr. Ankit Bhatia
Mr. Arpit Goel
Mr. Harsh Paul Singh
Mr. Samrat Goswami
.....for the petitioner

Mr. Saswata Gopal Mukherjee, Ld. P.P.
Mr. Ranabir Ray Chowdhury
Mr. Sandip Chakraborty
.....for the State

This is a application challenging an order dated 28.03.2022 passed by the learned Chief Judicial Magistrate, Alipore, South 24 Parganas and orders dated 29.03.2022 and 01.04.2022 passed by the learned Judicial Magistrate, 9th Court, Alipore, South 24 Parganas in connection with G.R. Case No. CGR 1030 of 2021.

Learned Additional Solicitor General, representing the petitioner, submits as follows. The petitioner, a Joint Director of the Enforcement Directorate, is investigating into charges under the Prevention of Money Laundering Act pertaining to the alleged coal mining scam involving huge amounts of money. Names of several influential political persons have surfaced in the said case. As a countermeasure, the impugned proceeding has been initiated only to harass the officials of the Enforcement Directorate. Earlier, directions were passed on them to

appear before the investigating agency of the present case. Such directions were stayed by the Delhi High Court on two occasions. By suppressing all these, an application was made before the learned Chief Judicial Magistrate for taking voice sample of the ED Official. Apparently, the learned Magistrate passed a direction that voice sample of the concerned ED Official could be taken subject to consent given by such officer. This should be evident from a certified copy of the relevant order. But, the investigating agency sent a notice to the said ED Official with a forged copy of the said order. From the forged copy it would appear that the learned Magistrate had directed collection of voice sample of the ED Official without there being any mention about the requirement of any consent of the said official. In any event, there is no case made out for collection of voice sample of the ED Official in connection with the present case.

Learned counsel appearing on behalf of the State submits that a copy of the application may be served upon them.

A perusal of the application for collection of voice sample of the ED Official renders it necessary to determine whether a case was made out for allowing such a prayer. Besides, a serious allegation has been leveled by the petitioner that an order passed by the

learned Magistrate was forged.

Therefore, the matter needs to be heard at length.

Let the petitioner serve a copy of this application upon the State through the learned Public Prosecutor and upon the opposite party no. 2 by speed post with acknowledgment due, within a week. An affidavit of service to that effect shall be filed on the next date.

Let this matter appear as a “Contested Application” one week after the ensuing summer vacation.

The operation of the impugned orders, so far as they relate to the direction to collect voice sample of the ED Official, shall remain stayed till three weeks after the ensuing summer vacation.

The order sheet of the relevant date, i.e. 28.03.2022 shall be kept in a sealed cover in custody of the learned trial court.

The parties shall be at liberty to pray for extension or modification or vacating of the interim order upon notice to other side.

The State shall produce the case diary on the next date.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)

