

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CNR No: PHHC011377582026

2026:PHHC:131601



CRM-M-46574-2026 (O&M)

Date of decision : 18.09.2026

Bhagwan Dass Garg and another**...Petitioners****Versus****Central Bureau of Investigation****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Ms. Isha Goyal, Advocate and
Mr. R. P. Saini, Advocate
for the petitioner.

Mr. Akashdeep Singh, Special Public Prosecutor
for the respondent-CBI.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) seeking quashing of order dated 01.08.2026, passed by the Court of learned Special Judge, CBI, SAS Nagar, Mohali, whereby the revision petition filed by the respondent-CBI was allowed and the order dated 14.07.2023 passed by the Court of learned Special Judicial Magistrate, CBI, SAS Nagar, Mohali in case arising out of FIR bearing No. RC0512022S0001 dated 18.05.2022, registered under Sections 409, 420, 465, 467, 468, 421, 471 and 120-B of IPC and Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988, whereby the learned Magistrate had directed the CBI to furnish to the petitioners copies of certain unrelayed documents at the pre-charge stage, had been set aside.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that a written complaint dated 08.04.2020 was submitted by Shri Ashok Nimrani, Deputy Zonal Manager (Recovery), Bank of India, Ludhiana. It was alleged that M/s Balak Automotives Pvt. Ltd. and M/s Balak Autos Pvt. Ltd., along with Bhagwan Dass Garg, Sangeeta Garg, Deepak Sahni and unknown public servants and private persons, had committed fraud in the loan accounts of the aforesaid companies, thereby causing wrongful loss of about Rs.28.99 crores to the Bank. The complaint further alleged that the two companies were closely related and were engaged in the business of automobiles. It was alleged that the companies had availed credit facilities from the Bank and that various security documents, stock statements and other documents were furnished to the Bank in connection with the said facilities. The complaint alleged that the borrowers did not submit proper stock and bank account statements and after the accounts became irregular, the Bank found circumstances indicating diversion of funds and fraudulent transactions. It was further alleged in the complaint that the borrowers had submitted false and fabricated documents and statements to the Bank and had diverted the bank funds through various accounts and entities. The complaint also referred to round-tripping of funds and alleged that the acts had been committed knowingly and deliberately with dishonest intention, causing wrongful loss to the Bank. On these allegations, registration of a criminal case was sought for offences including Sections 409, 420, 421 and 120-B of IPC other offences mentioned in the complaint.

3. Pursuant to the complaint, the aforementioned FIR was registered by the CBI. After completion of investigation, the CBI filed the charge-sheet

against the petitioners and the other accused under Sections 120-B read with Sections 420 and 471 IPC and the substantive offences thereof. The case was pending before the learned Special Judicial Magistrate, CBI, SAS Nagar, Mohali.

4. After filing of the charge-sheet, the petitioners moved an application under Section 91 Cr.P.C. seeking production of certain documents which, according to them, had been collected during investigation but had not been relied upon by the prosecution. Vide order dated 14.07.2023, the learned Special Judicial Magistrate allowed the application and directed the CBI to furnish copies of the documents specified in the order. The documents included stock audit report, loan applications, CIBIL reports, inspection reports, valuation report, sanction letters, an enquiry report and legal opinion.

5. The CBI challenged the aforesaid order by filing Criminal Revision No.117 of 2023. During the pendency of the revision, this Court, vide order dated 27.05.2024 passed in CWP No.34297 of 2019, quashed the FIR and the consequential proceedings. Consequently, the learned trial Court dropped the proceedings, vide order dated 01.08.2024 and the revision petition filed by the CBI was disposed of as having become infructuous vide order dated 27.08.2024.

6. The CBI challenged the order dated 27.05.2024 before the Hon'ble Supreme Court. The Hon'ble Supreme Court, vide order dated 25.04.2025, set aside the order of this Court and directed restoration of the criminal proceedings to their original form. Pursuant thereto, the proceedings before the learned trial Court were restored and resumed against the accused. Thereafter, vide order dated 23.12.2025, the learned trial Court directed the

CBI to comply with its earlier order dated 14.07.2023 regarding supply of the un-relied upon documents. The CBI thereafter filed the revision petition challenging the order dated 14.07.2023. Since the earlier revision petition had already been disposed of after the proceedings in the main case were dropped, the CBI also sought condonation of delay of 942 days. The learned Special Judge, CBI, vide order dated 01.08.2026, condoned the delay. The learned Court thereafter heard the revision on merits and set aside the order dated 14.07.2023. Aggrieved from the same, the petitioners have filed the present petition.

7. It is argued by learned counsel for the petitioners that the impugned order is not sustainable in the eyes of law as while passing the same, learned Special Judge has committed an error in setting aside the well-reasoned order dated 14.07.2023 passed by the learned Magistrate. It is argued that Section 91 Cr.P.C. does not put any absolute restriction on the stage at which the Court can call for documents and that the provision can be invoked even at the stage of framing of charge. Learned counsel further argued that the documents sought by the petitioners were not the documents created by the accused for setting up a defence but were documents collected during investigation and were in the possession of the CBI. It is argued that some of these documents are of sterling quality and have a direct bearing upon the question whether charges are required to be framed against the petitioners. Learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in *Nitya Dharmananda alias K. Lenin and another v. Sri Gopal Sheelum Reddy, 2018 (1) RCR (Criminal) 774* to argue that the Court is not completely barred from summoning an un-relied upon document where

the document is of sterling quality and has a crucial bearing on the question of framing of charge. Reliance has also been placed upon the judgment in ***Kalyani Singh v. Central Bureau of Investigation, 2023 (3) RCR (Criminal) 535*** to submit that withholding material collected during investigation may cause prejudice to an accused at the stage of consideration of charge.

8. It is further argued that the learned Special Judge has not properly considered the reasons recorded by the learned Magistrate for directing supply of the documents. The impugned order has resulted in serious prejudice to the petitioners and amounts to a miscarriage of justice. It is, therefore, urged that the petition deserves to be allowed, the order dated 01.08.2026 is liable to be set aside and the order dated 14.07.2023 deserves to be restored.

9. Reply has been filed on behalf of the respondent-State. Learned Special Public Prosecutor has argued that there is no infirmity or illegality in the impugned order. It is argued that the charge-sheet and the relied upon documents have already been supplied to the accused and the list of un-relied documents has also been furnished to them. The documents now sought are un-relied and the petitioners cannot claim copies of such documents as a matter of right before framing of charge. Learned counsel for the CBI further argued that the judgment in ***Nitya Dharmananda's case (supra)*** is an exception and applies only where the accused establishes that the document was seized during investigation, is in the custody of the investigating agency, has been withheld and is of sterling quality having a crucial bearing on the question of framing of charge. It is argued that the petitioners cannot use Section 91 Cr.P.C. to undertake a fishing or roving enquiry or to place their

defence before the Court at the stage of framing of charge. Prior to framing of charge, an accused is not entitled to copies of un-relied upon documents and, at that stage, only the list of such documents is required to be supplied. Reliance in this regard is placed upon ***Sarla Gupta and another v. Directorate of Enforcement, 2025 INSC 645***. With these broad submissions, it is urged that the petition is liable to be dismissed.

10. This Court has heard the rival submissions of learned counsel for the parties.

11. The question which arises for consideration is whether, in view of the law now laid down by the Hon'ble Supreme Court, an accused can claim copies of un-relied upon documents as a matter of right at the stage of framing of charge, and if not, whether the documents sought by the petitioners fall within the limited exception carved out by the Hon'ble Supreme Court. The starting point for examining this issue would be Section 91 Cr.P.C. The provision gives power to the Court to summon a document or other thing if its production is necessary or desirable for the purposes of investigation, inquiry, trial or other proceedings. The power is discretionary. The question whether a document is necessary or desirable cannot be decided in isolation but has to be considered with reference to the stage of the proceedings and the purpose for which the document is sought. The Hon'ble Supreme Court in ***State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*** held that at the stage of framing of charge, the accused cannot invoke Section 91 Cr.P.C. for the purpose of producing material in his defence. It was explained that at that stage, the Court has to examine the material placed by the prosecution and the accused cannot ordinarily seek to introduce material in order to establish his innocence. At the

same time, the said judgment did not mean that the power under Section 91 is completely unavailable in every situation before the stage of defence. The necessity and desirability of the document has to be examined in the context of the stage and purpose of the proceedings. The position was subsequently considered by the Hon'ble Supreme Court in *Nitya Dharmananda's case (supra)*, wherein a limited exception to the general rule was recognised. It was held that ordinarily the Court proceeds on the basis of the material produced along with the chargesheet while considering the question of charge. However, if the Court is satisfied that some material of sterling quality has been withheld by the investigating agency and that such material has a crucial bearing on the question of framing of charge, the Court is not completely debarred from summoning or looking into such material. The expression "sterling quality", therefore, cannot be understood to mean every document which, according to the accused, may be useful for his defence. The exception contemplated in *Nitya Dharmananda's case (supra)* is a narrow one. The accused must first lay the necessary foundation by showing that the document was collected or seized during investigation, that it is in the custody of the investigating agency, that it has been withheld from the chargesheet and, most importantly, that it is of such quality and has such a crucial bearing that its consideration may materially affect the question of framing of charge. The provision cannot be used to permit a fishing or roving inquiry. The same principle has also been noticed by the learned Special Judge in the impugned order.

12. The petitioners have placed considerable reliance upon the judgment of this Court in *Kalyani Singh's case (supra)*. In that case, this

Court took the view that an accused could seek copies of un-relied documents and that such documents could be furnished even before framing of charge. The reasoning proceeded, inter alia, on the consideration that an un-relied document may contain material which could assist the accused in establishing his innocence and that withholding such material may cause prejudice at the stage of consideration of charge. There is no doubt that the judgment in ***Kalyani Singh's case (supra)*** recognised a wider right in favour of the accused. However, the said judgment has to be understood in the light of the subsequent judgment of the Hon'ble Supreme Court in ***Sarla Gupta's case (supra)***. The subsequent pronouncement of the Hon'ble Supreme Court has now clearly explained the stage at which an accused can ordinarily seek production of un-relied documents and has also considered the earlier judgments on the subject. In ***Sarla Gupta's case (supra)***, the Hon'ble Supreme Court considered, in detail, the right of an accused in relation to documents which are not relied upon by the prosecution. While considering its earlier pronouncements on the subject, the Hon'ble Supreme Court noticed that the entitlement of an accused to invoke Section 91 for production of documents not relied upon by the prosecution would ordinarily arise at the stage of defence. It was also clarified that there is no absolute prohibition against an accused invoking Section 91 before entering upon defence but ordinarily such entitlement does not arise at the stage of framing of charge. The Hon'ble Supreme Court thereafter specifically referred to ***Nitya Dharmananda's case (supra)*** and observed that, at the stage of framing of charge, the Court can ordinarily look only at the material forming part of the chargesheet. Thus, ***Nitya Dharmananda's case (supra)*** does not lay down a general right in

favour of an accused to obtain every un-relied document before charge. Rather, it recognises a limited exception in an appropriate case where the withheld material is of 'sterling quality' and has a crucial bearing on the question of charge.

13. The importance of the subsequent judgment in *Sarla Gupta and another v. Directorate of Enforcement, 2025 INSC 645 : 2025 SCC OnLine SC 1063* is that the Hon'ble Supreme Court has not treated the right of the accused to obtain documents as an absolute or unrestricted right at every stage. Rather, a clear distinction has been drawn between the right to know about the existence of un-relied material and the right to obtain copies of such material at the stage of framing of charge. It was held that the list of statements, documents, material objects and exhibits which are not relied upon by the investigating officer is required to be furnished to the accused. The object is to ensure that the accused knows what material is in the custody of the investigating agency and can seek its production at the appropriate stage.

14. The aforesaid distinction is important in the present case. The CBI has already supplied the relied upon documents and the list of un-relied documents to the petitioners. This position is also recorded in the order passed by the learned Special Magistrate. Thus, the petitioners are not being kept unaware of the existence of the un-relied material. What they seek at this stage is copies of those documents so that they may use them while opposing the framing of charge. The documents sought by the petitioners are undoubtedly documents collected during investigation and are stated to be in

the custody of the CBI. But that by itself does not satisfy the exception carved out in *Nitya Dharmananda's case (supra)*. The petitioners have to further demonstrate that each of the documents sought is of sterling quality and has a crucial bearing upon the question whether the charge is to be framed. The petitioners have not been able to demonstrate this requirement. The documents sought include loan applications, CIBIL reports, inspection reports, valuation reports, sanction letters, enquiry report and legal opinion. The mere fact that these documents may have some relevance to the allegations or may be useful to the defence cannot by itself bring them within the exceptional category contemplated in *Nitya Dharmananda's case (supra)*. The expression "sterling quality" has to be given its proper meaning. It cannot become a substitute for a general right to examine the entire investigative material before charge.

15. There is another aspect which cannot be lost sight of. The petitioners seek to rely upon the documents for establishing their innocence. That is essentially a defence exercise. The learned Special Judge has not permanently denied the petitioners access to these documents. The impugned order specifically preserves their right to summon the documents during the trial, including during examination of prosecution witnesses, for the purpose of cross-examination or at the stage of defence evidence. Thus, the impugned order does not result in denial of a fair trial. It only regulates the stage at which the petitioners can seek and use the un-relied material. The distinction is material. A right to use a document in defence is not synonymous with a right to insist upon its production at the stage of framing of charge. In my considered view, the judgment in *Kalyani Singh's case (supra)* cannot be

read as laying down an absolute proposition that an accused is entitled, as a matter of right, to copies of all un-relied documents before framing of charge. Such a broad reading would not be consistent with the subsequent authoritative pronouncement of the Hon'ble Supreme Court in ***Sarla Gupta's case (supra)***.

16. In view of the discussion made above, it is held that the learned Special Judge has rightly applied the subsequent law laid down by the Hon'ble Supreme Court and has rightly set aside the order dated 14.07.2023. therefore, the impugned order does not suffer from any patent illegality or perversity warranting interference by this Court in exercise of its jurisdiction. Accordingly, the present petition is dismissed.

17. However, it is clarified that dismissal of the present petition shall not come in the way of the petitioners seeking production or summoning of the documents in question at the appropriate stage of trial, in accordance with law. The observations made herein are confined to the prayer for supply of copies of the un-relied documents at the stage of framing of charge and the same shall have no bearing on the merits of the case.

18.09.2026

Wassem R. Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No