

**IN THE COURT OF SH. M. K. NAGPAL
ADDITIONAL SESSIONS JUDGE/SPECIAL JUDGE
(PC ACT) CBI-09 (MPs/MLAs CASES)
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**State Vs. Sajjan Kumar
SC No. 04/2022
CNR No. DLCT11-000578-2022**

**FIR No. 227/92, PS Janakpuri
U/Ss : 147/148/149/295/302/307/395/436 IPC
&
FIR No. 264/92, PS Vikaspuri
U/Ss : 147/148/149/302/307 IPC**

**ORDER ON APPLICATION DATED 12.12.2022 MOVED
ON BEHALF OF ACCUSED FOR CONSIDERING
UNRELIED UPON DOCUMENTS AT CHARGE**

20.01.2023

1. By this order, I shall dispose of an application dated 12.12.2022 filed on behalf of the accused seeking consideration of some unrelieved upon documents of the prosecution at the stage of charge in this case.

2. The contents of application, as well as of the reply dated 07.01.2023 filed thereto on behalf of prosecution, along with record of the case, have been perused and the arguments advanced by Sh. Anil Sharma and Sh. S. A. Hashmi, Ld. Counsels, assisted by Sh. C. M. Sangwan, Sh. Apoorav Kumar

Sharma and Sh. Anuj Sharma Advocates, representing the accused and Sh. Manish Rawat, Ld. Additional PP appearing on behalf of the State, assisted by Sh. Gaurav Singh, Ld. Additional PP, appearing for Special Investigation Team (SIT), have been heard and considered.

3. Brief facts of the case leading to filing of the present application are that the prosecution has filed this consolidated chargesheet in the matter before the court of Ld. CMM, Rouse Avenue District Court, New Delhi on 08.07.2022 and it has been filed in two cases registered vide different FIRs at two different police stations, i.e. FIR No. 227/92 registered on 17.04.1992 at PS Janakpuri and FIR No. 264/92 registered on 25.06.1992 at PS Vikaspuri, both falling in the Police District, West Delhi. FIR No. 227/92 of PS Janakpuri was registered for the offences U/S 147/148/149/295/302/307/395/436 IPC and the other FIR No. 264/92 of PS Vikaspuri was registered for the offences U/S 147/148/149/302/307 IPC.

4. Both these cases/FIRs were registered in respect to incidents of arson, looting and murder etc., which took place on 01.11.1984 and 02.11.1984 in West Delhi after assassination of the Late Prime Minister Mrs. Indira Gandhi by her two security guards on 31.10.1984.

5. The facts leading to registration of the above two cases,

briefly stated, are that in the year 1985, the Government of India had constituted a Commission of Inquiry led by the Hon'ble Mr. Justice Ranganath Mishra to look into the incidents of organized violence that took place in Delhi following the assassination of Smt. Indira Gandhi and to recommend measures, which could be adopted for prevention of recurrence of such incidents. The complainant of this case namely Sh. Harvinder Singh, a resident of Gulab Bagh, Nawada, Najafgarh, Delhi, had tendered one affidavit dated 08.09.1985 before the said Commission narrating some incidents of large scale violence by an unruly mob, that took place on 01.11.1984 and 02.11.1984 in their area, and showing how his father and brother-in-law lost their lives in the said incidents and also how he and some other members of his family sustained injuries in the said incidents. He further stated in the said affidavit about an attack by the mob at the house of their neighbour Sh. Nath Singh, burning of truck of Sh. Nath Singh and also throwing of son of Sh. Nath Singh alive into the burning truck by members of the mob.

6. Thereafter, in the year 1990, the Delhi Administration had also constituted a Committee comprising of Hon'ble Mr. Justice J. D. Jain and Hon'ble Mr. Justice D. K. Agarwal to examine the cases relating to 1984 riots in Delhi and the above affidavit dated 08.09.1985 of the complainant was considered by this Committee and the Committee had then recommended for registration of two fresh cases vide their letter dated 07.02.1992 written to the

Administrator, Union Territory of Delhi, as it was of the view that incidents narrated by the complainant in the said affidavit, which took place on 01.11.1984 and 02.11.1984, had neither been investigated nor linked with any of the cases registered at the concerned PS Najafgarh vide other FIRs No. 256/84, 257/84 and 285/84 during the period of October – November, 1984 riots. It is then these two cases vide FIRs No. 227/92 and 264/92 came to be registered at PS Janakpuri and PS Vikaspuri respectively under the above said Sections of IPC, as recommended by the Committee.

7. The investigation in these two cases/FIRs was undertaken by the Riots Cell of Delhi Police separately and on conclusion of investigation, final reports were filed by the investigating agency in the court of concerned Ld. Metropolitan Magistrates (MMs) and the same were even accepted by the courts concerned and the cases were permitted to be sent as untraced. It was so because on the basis of oral and documentary evidence collected during the course of investigation in these cases, which included the statements given by the complainant, his other family members and also the statements of the above Sh. Nath Singh and some of his family members or other related persons, no trace of the offenders involved in commission of the alleged offences could be found. It is necessary to mention here that since the complainant Sh. Harvinder Singh was not satisfied with the final report submitted by the Riots Cell in court on 17.04.1993 in the

case/FIR No. 227/92 PS Janakpuri, the Ld. MM concerned had also directed for conduction of some further investigation in the matter vide order dated 30.10.1993. However, despite this, no progress in the case could be made by the investigating agency and a supplementary report of closure was again filed before the court on 22.01.1994, which was finally accepted by the court concerned on 16.02.1996 as per records and the complainant failed to file any objections or protest petition to the same despite having being granted an opportunity for this purpose and rather, he did not turn up in the court subsequently. However, the orders or proceedings conducted with regard to the final report submitted in the other case/FIR No. 264/92 are stated to be not available, though, it has been stated by the Ld. Additional PP that the untrace report in said case was accepted by the Ld. MM concerned on 27.08.1994.

8. Much after thereto, i.e. in December 2014, the Ministry of Home Affairs, Government of India had constituted another Committee comprising of Hon'ble Mr. Justice G. P. Mathur and Hon'ble Mr. Justice J. P. Agarwal with the given terms of reference and with the mandate of looking into the grievances related to 1984 riots in Delhi, to oversee the implementation of payment of additional/enhanced compensation or the requirement of any other assistance for the riot victims. The recommendations of this Committee were accepted by the Government of India and vide order dated 12.02.2015, a SIT was constituted to investigate

or re-investigate appropriately serious criminal cases filed in the National Capital Territory of Delhi (NCTD) in connection with the said riots, which stood already closed. For this purpose, the SIT was notified as a police station for the whole of NCTD and it was empowered to call for records of such cases from the concerned police stations and to examine such records and also the files of the previous Committee of Hon'ble Mr. Justice J. D. Jain and Hon'ble Mr. Justice D. K. Agarwal and to take all the measures, which were required under the law for thorough investigation of such criminal cases. The SIT was also empowered to file chargesheets against the accused in appropriate courts, where sufficient evidence was found against them after investigation of the cases.

9. Thereafter, both these cases/FIRs were further or re-investigated by the SIT and on conclusion of investigations, a consolidated chargesheet has been presented in these cases, which has ultimately been assigned to this court for trial as it is one of the designated courts for trial of cases of Members of Parliament/Members of Legislative Assembly (MPs/MLAs) and the only accused chargesheeted in these cases/FIRs namely Sajjan Kumar was an MP of the concerned parliamentary constituency at the time of commission of alleged offences.

10. During the course of compliance of provisions of Section 207 Cr.P.C., an application dated 25.07.2022 was filed on behalf

of the accused seeking directions to the prosecution to provide a list of all the documents and material in their possession to the accused, which were not being relied upon by it. This application was filed in terms of the directions/guidelines dated 20.04.2021 given/laid down by the Hon'ble Supreme Court in the case **Suo Moto W.P.(CRL) No. 1/2017 titled 'In re: To issue certain guidelines regarding inadequacies and deficiencies in criminal trial Vs. State of Andhra Pradesh & Ors.'** and alongwith reply to this application of accused, the IO of SIT had also filed on record and supplied to the accused a list of unrelieved upon documents of this chargesheet and bearing serial no. 1 to 27. The documents at serial no. 1 to 26 of the said list are the statements or supplementary statements of the witnesses of these cases/FIRs and the document appearing at serial no. 27 is a CFSL report dated 06.06.2018 regarding polygraph examination of the accused.

11. Thereafter, another application dated 16.08.2022 came to be filed on behalf of the accused seeking supply of some deficient, legible and missing documents etc. and also the documents mentioned at serial no. 1 to 27 of the above said list of unrelieved upon documents and copies of these documents were also supplied to the accused during the course of proceedings conducted on the said application.

12. It is the contention of Ld. Counsel representing the

accused that all the above unrelieved upon documents of the cases, except the polygraph test report at serial no. 27 of the list, are either the supplementary statements of the witnesses of these cases or the statements of some other persons connected with investigation of the cases and all such statements should have been filed on record by the prosecution as they relied upon documents and the prosecution has no right to withhold such statements or to put these statements in the category of unrelieved upon documents as the investigating agency as well as the prosecution are bound to conduct a fair investigation and to provide a fair trial to the accused. It is also his contention that since these statements at serial no. 1 to 26 of the list were earlier a part of the above final untrace reports presented in the courts of Ld. MMs concerned, the prosecution was even otherwise duty bound to file these statements again on record as a part of their relied upon documents filed in support of this consolidated chargesheet presented after the investigation conducted by SIT as these statements form an integral part of the investigations conducted in these cases and this consolidated chargesheet filed by the SIT has to be taken or considered in continuity of the final untrace reports earlier presented by the Riots Cell of Delhi Police in these cases, which were even considered and accepted by the courts. It is, thus, his submission that since the investigation conducted by SIT in terms of the mandate given by recommendations of the Committee comprising of Hon'ble Mr. Justice G. P. Mathur and Hon'ble Mr. Justice J. P. Agrawal is

being claimed to be a further investigation into these matters as per the consolidated chargesheet, this consolidated chargesheet has to be considered as a supplementary report to the above primary untrace reports and all the documents and materials, which were earlier forwarded to the courts along with the final untrace reports and were considered by the courts, are again required to be considered by this court for deciding the question of charges, if any, to be framed against the accused on the basis of evidence collected during the course of investigation conducted by the SIT.

13. Ld. Counsel for the accused has also referred to and placed reliance upon the judgment of Hon'ble Supreme Court in case **Vinay Tyagi Vs. Irshad Ali @ Deepak & Ors. 2012 Legal Eagle (SC) 669** in support of his above submissions.

14. Further, it has also been argued by the Ld. Defence Counsel that these statements are very material for defence of the accused as the same go to unfold the truth and help in reaching to root of the case and thus, these statements constitute an evidence of sterling quality and are required to be considered by this court for the purposes of charge as after considering these statements, this court may be of the view that the accused has been roped in the present cases falsely and because of some political reasons. It is also his submission that the very object of above guidelines dated 20.04.2021 laid down by the Hon'ble Supreme Court was

to ensure a fair trial to the accused and it may never be possible if the above statements of the witnesses, which are exculpatory in nature against the accused and which strengthen his defence, are not considered by this court for deciding the question of charges.

15. Regarding the polygraphy test report of the accused at serial no. 27 of the list, it is the contention of the Ld. Defence Counsel that this test was conducted on an application moved by the SIT itself and the accused consented for conduction of said test as he wanted to prove his innocence through the said test and now when the report thereof is not favouring the prosecution case, the accused is entitled to get considered the said report at the stage of charge itself as the same will go a long way in showing that the accused was not even present in the area at the relevant time of commission of the alleged offences, what to say of participation in or abetment or instigation of the said offences. It is also his submission that once the SIT had got conducted the said test, it cannot now withhold the report thereof and put it in the category of unrelayed upon documents as it is an important piece of evidence that has surfaced during the course of investigation to show the innocence of accused and the accused has a constitutional right to a fair trial in these matters and for consideration of the said report at the stage of charge as well as during the course of trial, if any, to be conducted in case he is not discharged of the alleged offences.

16. Per contra, Ld. Additional PP representing the State has

argued that all the above documents are admittedly unrelieved upon documents of the present consolidated chargesheet filed by the SIT in these two cases and hence, as per the settled legal propositions, the accused has no right to seek consideration of these documents at the stage of charge. It is also argued by him that if any of such documents is required to be proved or any witness is required to be summoned by the accused for proving his defence or innocence, it can be done only during the course of trial because even as per the above guidelines dated 20.04.2021 laid down by the Hon'ble Supreme Court and being relied upon by Ld. Defence Counsels, the accused was only entitled to a list of such unrelieved upon documents or materials so that he could seek appropriate orders from the court for their production or proof during the course of trial, though the prosecution has been fair enough in this case to even supply copies of the said documents to the accused during the course of proceedings conducted U/S 207 Cr.P.C.

17. It has further been submitted by Ld. Additional PP that only a list of such documents or materials was meant to be supplied to the accused at the commencement of trial is very much clear from the submissions made by accused in his above applications itself and also from the language used in para 11 of the above order or guidelines of the Hon'ble Supreme Court. Hence, it is the submission of Ld. Additional PP that even though the said list of unrelieved upon documents and also the documents stand already supplied to the accused, he has no right for

consideration of these documents at the stage of charge and he can only prove the said documents or summon the concerned witnesses during the course of trial, when he will be called upon to lead his defence evidence or during the course of cross examination of the prosecution witnesses. It is further his submission that keeping the above fact in mind, the accused in his application dated 16.08.2022 had also sought a direction from the court to the SIT for preserving the said documents and the Ld. CMM had also considered the said request of accused and had passed appropriate order dated 02.09.2022 thereon. Further, it is also the contention of Ld. Additional PP that none of the unrelayed upon documents of prosecution constitutes or forms an evidence of sterling quality and hence, none of these documents is liable to be considered at the stage of charge in view of propositions of law laid down in full bench decision of the Hon'ble Supreme Court in case **State of Orissa Vs. Debendra Nath Padhi, (2005) 1 SCC 568** and also the other legal pronouncements on the subject.

18. Regarding the polygraph test report of the accused, it is the submission of Ld. Additional PP that in view of decision of the Hon'ble Supreme Court in case **Selvi & Ors. Vs. State of Karnataka & Anr., (2010) 7 SCC 263**, the said report is not an admissible piece of evidence and hence, the same should not be considered by this court, either at the stage of charge or even during the course of trial.

19. As stated above, the documents appearing at serial no. 1 to 26 of the above list of unrelieved upon documents are the statements or supplementary statements of the witnesses connected with incidents of the above two cases and these statements were admittedly part of the earlier final reports presented by the Riot Cell of Delhi Police in courts and the same were even considered by the courts before acceptance of the said final reports. Hence, Ld. Defence Counsel is right in making a submission that this consolidated chargesheet filed by the SIT in these two cases is liable to be considered to be a supplementary report filed in continuity of the above preliminary reports submitted by the Riots Cell of Delhi Police and any documents which were part of the earlier final reports submitted by the investigating agency should also be seen and considered by this court for the purposes of charge and further proceedings in these cases as this consolidated report has been submitted by SIT after conduction of further investigation in the matter, under whatsoever name the same might have been conducted by them. Some of the relevant observations made by their Lordships in para no. 15 of the judgment in case of **Vinay Tyagi (Supra)** being relied upon by Ld. Defence Counsels on this issue are also being reproduced herein below :-

“15. ‘Further investigation’ is where the Investigating Officer obtains further oral or documentary evidence after the final report has been filed before the Court in terms of [Section 173\(8\)](#). This power is vested with the

Executive. It is the continuation of a previous investigation and, therefore, is understood and described as a ‘further investigation’. Scope of such investigation is restricted to the discovery of further oral and documentary evidence. Its purpose is to bring the true facts before the Court even if they are discovered at a subsequent stage to the primary investigation. It is commonly described as ‘supplementary report’. ‘Supplementary report’ would be the correct expression as the subsequent investigation is meant and intended to supplement the primary investigation conducted by the empowered police officer. Another significant feature of further investigation is that it does not have the effect of wiping out directly or impliedly the initial investigation conducted by the investigating agency. This is a kind of continuation of the previous investigation. The basis is discovery of fresh evidence and in continuation of the same offence and chain of events relating to the same occurrence incidental thereto. In other words, it has to be understood in complete contradistinction to a ‘reinvestigation’, ‘fresh’ or ‘de novo’ investigation.”

20. Thus, it is clear from the above factual discussion and legal propositions that this consolidated chargesheet presented by the SIT on conclusion of investigation conducted by them has to be treated as a supplementary report filed by them in the above said two cases and it has to be taken in continuity to the above said two previous untraced final reports submitted by the Riots Cell. Hence, whatever documents or materials were earlier relied upon by the investigating agency and filed on record in support of the above final reports have to be treated as part of records of investigation conducted in these two cases/FIRs and even if the SIT in this subsequent consolidated chargesheet filed in these cases had not included the above documents or statements

appearing at serial no. 1 to 26 in the list of their relied upon documents and did not file the same on record and had rather, put these statements or documents in the category of unrelieved upon documents, the said statements are still liable to be considered by this court as relied upon documents of the prosecution case and can be looked into and seen for the purposes of framing of charges, irrespective of and leaving apart the question as to whether the same fall in the category of sterling quality of documents or not.

21. Again, there is also one other reason as to why the prosecution is stopped or precluded from putting these documents or statements in the category of unrelieved upon documents and it is that these documents were already submitted by them for judicial scrutiny before the court for consideration of the above said untrace reports and for all intents and purposes such documents should be taken as constituting the judicial or court records and it was only as per practice that the original final reports, along with the documents, were returned back to the investigating agency for the purposes of keeping all the records of these cases in safe custody of the Malkhanas of concerned police stations. Hence, the above documents and statements appearing at serial no. 1 to 26 of the above list of unrelieved upon documents are held to be an integral part of the documents or relied upon documents of the investigating agency in the present cases and thus, the same have to be considered by this court for

deciding the question of charges, if any, to be framed against the accused, along with the other documents and materials presented with this consolidated chargesheet and included in the list of relied upon documents.

22. Now, coming to the polygraphy test report of the accused appearing at serial no. 27 of the above list of unrelayed upon documents and the submissions made by Ld. Additional PP, it is observed that in the case of **Selvi (Supra)**, the Hon'ble Supreme Court came to consider the legality of involuntary administration of certain scientific techniques, namely Narco analysis, polygraph examination and brain electrical activation profile (BEAP) test for the purpose of improving investigation efforts in criminal cases, with reference to the rights of an accused guaranteed by Article 21 and Article 20(3) of the Constitution of India and other Acts and it also considered the admissibility of reports of such tests for the purposes of criminal trial. The conclusions which were drawn by their Lordships in the said case were that the compulsory administration of the impugned techniques violated the rights of accused against self incrimination. The conclusions drawn by their Lordships in the said case, after a detailed discussion of the laws in India and abroad and also the existing judgments on subject, are being reproduced herein below :-

“221. In our considered opinion, the compulsory administration of the impugned techniques violates the ‘right against self- incrimination’. This is because the

underlying rationale of the said right is to ensure the reliability as well as voluntariness of statements that are admitted as evidence. This Court has recognised that the protective scope of [Article 20\(3\)](#) extends to the investigative stage in criminal cases and when read with [Section 161\(2\)](#) of the Code of Criminal Procedure, 1973 it protects accused persons, suspects as well as witnesses who are examined during an investigation. The test results cannot be admitted in evidence if they have been obtained through the use of compulsion. [Article 20\(3\)](#) protects an individual's choice between speaking and remaining silent, irrespective of whether the subsequent testimony proves to be inculpatory or exculpatory. [Article 20\(3\)](#) aims to prevent the forcible 'conveyance of personal knowledge that is relevant to the facts in issue'. The results obtained from each of the impugned tests bear a 'testimonial' character and they cannot be categorised as material evidence.

222. We are also of the view that forcing an individual to undergo any of the impugned techniques violates the standard of 'substantive due process' which is required for restraining personal liberty. Such a violation will occur irrespective of whether these techniques are forcibly administered during the course of an investigation or for any other purpose since the test results could also expose a person to adverse consequences of a non-penal nature. The impugned techniques cannot be read into the statutory provisions which enable medical examination during investigation in criminal cases, i.e. the Explanation to [Sections 53, 53-A and 54](#) of the Code of Criminal Procedure, 1973. Such an expansive interpretation is not feasible in light of the rule of 'ejusdem generis' and the considerations which govern the interpretation of statutes in relation to scientific advancements. We have also elaborated how the compulsory administration of any of these techniques is an unjustified intrusion into the mental privacy of an individual. It would also amount to 'cruel, inhuman or degrading treatment' with regard to the language of evolving international human rights norms. Furthermore, placing reliance on the results gathered from these techniques comes into conflict

with the 'right to fair trial'. Invocations of a compelling public interest cannot justify the dilution of constitutional rights such as the 'right against self-incrimination'.

223. In light of these conclusions, we hold that no individual should be forcibly subjected to any of the techniques in question, whether in the context of investigation in criminal cases or otherwise. Doing so would amount to an unwarranted intrusion into personal liberty. However, we do leave room for the voluntary administration of the impugned techniques in the context of criminal justice, provided that certain safeguards are in place. Even when the subject has given consent to undergo any of these tests, the test results by themselves cannot be admitted as evidence because the subject does not exercise conscious control over the responses during the administration of the test. However, any information or material that is subsequently discovered with the help of voluntary administered test results can be admitted, in accordance with [Section 27](#) of the Evidence Act, 1872. The National Human Rights Commission had published 'Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused' in 2000. These guidelines should be strictly adhered to and similar safeguards should be adopted for conducting the 'Narcoanalysis technique' and the 'Brain Electrical Activation Profile' test. The text of these guidelines has been reproduced below:

- (i) No Lie Detector Tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.
- (ii) If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer and the physical, emotional and legal implication of such a test should be explained to him by the police and his lawyer.
- (ii) The consent should be recorded before a Judicial Magistrate.
- (iv) During the hearing before the Magistrate, the person alleged to have agreed should be duly

represented by a lawyer.

(v) At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a 'confessional' statement to the Magistrate but will have the status of a statement made to the police.

(vi) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.

(vii) The actual recording of the Lie Detector Test shall be done by an independent agency (such as a hospital) and conducted in the presence of a lawyer.

(viii) A full medical and factual narration of the manner of the information received must be taken on record. ”

23. Thus, it is clear from the above that though involuntary or forcible administration of the above techniques was held as unconstitutional and violative of the rights of an accused, but their Lordships had left a room and permitted for voluntary administration of the impugned techniques in the context of criminal justice, provided certain safeguards have been put in force while conducting the said tests. It further follows from the above that since the discoveries or disclosures made by the accused in unconscious state during the course of such tests were held to be self incriminatory and violative of the legal and constitutional rights of the accused guaranteed by Article 21 and 20(3) etc., it is for this reason that their Lordships had observed that even if the subject had given consent to undergo any of these tests, the test results themselves cannot be admitted as evidence because the subject did not exercise conscious control over the

responses during the administration of these tests.

24. However, it has been observed that it was nowhere held by their Lordships in the above said case that the subject or accused cannot use or rely upon the report of such voluntary tests or examinations if the result thereof comes in his favour or negates his participation in commission of the alleged offences. It cannot be ignored that despite the fact that such scientific techniques are considered as inhuman or violative of the life and liberty of an individual and may also result in some self incriminating discoveries, the accused herein had consented for undergoing a polygraph test for helping the investigation agency in arriving at some reasonable conclusion regarding his participation in commission of the alleged offences and hence, he has also a right to place reliance upon the report of such test, if the same in any manner substantiates or strengthens his defence or help in establishing his innocence in the case. Their Lordships in the case of **Selvi (Supra)** had placed such report at par with a statement made to a police officer and held it to be inadmissible in evidence, unless any new fact is discovered as a consequence thereof in terms of Section 27 of the Evidence Act, only from the angle of using it against the accused and keeping in mind the provisions of Sections 24 to 26 of the Evidence Act which prohibit use or proof of confessional statements of accused against him.

25. Therefore, in light of the above discussion, it is held that though the prosecution cannot use the above polygraph test report of the accused in evidence against him in view of the decision in case of **Selvi (Supra)**, but the said report can certainly be used by the accused in his defence. However, in considered opinion of this court, since the above report by itself cannot absolve the accused from alleged offences in these cases in view of the specific oral evidence which has come on record against him during the course of investigation conducted by the SIT, this report cannot be termed as a document of sterling quality and hence, it cannot be used by the accused at the stage of charge and thus, the accused is only being given liberty to rely upon and to prove the said report in his defence during the course of the trial.

26. With above observations, the present application moved on behalf of accused stands disposed off.

**Announced in the open court
on 20.01.2023**

**(M.K. Nagpal)
ASJ/Special Judge (PC Act)
CBI-09 (MPs/MLAs Cases)
RADC, New Delhi.**