

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**MISCELLANEOUS APPLICATION NOS.1290-1291 OF 2023
(I.A. NO. 103938 OF 2023)**

IN

SPECIAL LEAVE PETITION (CRIMINAL) NOS. 9513-9514 OF 2022

D. SIVA SHANKAR REDDY **... APPELLANT(S)**

VERSUS

**CENTRAL BUREAU OF INVESTIGATION
& ORS.** **... RESPONDENT(S)**

O R D E R

This is an application seeking clarification of the order dated 10.10.2022 passed by this Court in SLP(Criminal) Nos.9513-9514 of 2022.

2. Relevant facts for the purpose of disposal of the clarification application in brief can be summarized as under:-

I. The Applicant herein, one M V Krishna Reddy, was the first informant of an offence committed under section 302 of the IPC, which was registered as Crime No. 84 of 2019.

II. Subsequent to the alleged offence, the wife and the daughter of the deceased, filed writ

petitions being 3944 of 2019 and 1639 of 2020 respectively before the High Court of Andhra Pradesh at Amaravati. Through the said writ petitions, a prayer was sought by the petitioners therein to entrust the investigation to the Central Bureau of Investigation (For short "C.B.I").

III. Vide order dated 11.03.2020, the High Court allowed the prayer of the writ petitioners therein, and transferred the investigation of the said crime to the CBI. In pursuance to the abovementioned order, the CBI took over the investigation of the case, and re-registered the original FIR as FIR No. SCIII/ND 2020 RC-04(S)/2020/SC-III/ND dated 09.07.2020.

IV. During the investigation by the CBI, one of the witnesses therein disclosed the name of four persons involved in the alleged crime, namely, Thumalllapalli Gangireddy (Accused No.1), Yadati Sunil Yadav (Accused No.2), Gajala Uma Shankar Reddy (Accused No.3) and Shaik Dasthagiri (Accused No.4).

V. All the accused were then arrested, and subsequently, the Accused No.4, in his confessional statement, named one Mr. D. Shivashankar Reddy, who is the petitioner in the present SLP, as an accomplice in the alleged crime.

VI. Further, in the confessional statement made by the Accused No.4, he also gave a detailed account of the incident, wherein he stated that the conspiracy to murder the deceased was hatched by Accused No.1, Accused No.2, Accused No. 3 and himself. He also stated that the motive behind the murder of the deceased was for the financial interest of accused No.1 in a disputed property in Bangalore. He further confessed to purchasing the weapon of murder on instructions of Accused no.2, and described how the deceased was killed by the accused persons.

VII. Pursuant to the recording of his statement u/s 164, Accused No.4 filed an application seeking anticipatory bail u/s 438 CrPC. While his bail application was pending adjudication, the Accused no.4 made a further representation before

the CBI for tender of pardon on grounds of complete disclosure of events relating to the alleged crime.

VIII. The bail application of the said accused, after the submission of the abovementioned representation, was not objected by the CBI, on the grounds that the he had cooperated completely during investigation, and his custodial interrogation was no longer required. In light of the abovementioned concession, the said accused was released on anticipatory bail by the Court of Sessions vide order dated 22.10.2021.

IX. The CBI after completing the investigation filed a chargesheet against the accused persons, including the accused No.4, under section 302 r/w section 120-B of the IPC.

X. Whilst naming the Accused No. 4 in the chargesheet as an alleged accused, in the same breath, the CBI also filed an application being CRL. M.P 84 OF 2021 seeking for tender of pardon to accused No. 4 u/s 306 of the Cr.PC on the ground that he had cooperated with the

investigation and had made true disclosure of the whole of the circumstances within his knowledge related to the murder of the deceased.

XI. The accused no. 4 was then tendered pardon u/s 306 of the CRPC by the Ld. CJM, and subsequently, the abovesaid order was then challenged by A3 and A1 respectively before the High Court of Andhra Pradesh at Amaravati.

XII. In the challenge raised by A1 and A3 against the pardon granted to A4, the High court, vide common order and judgment dated 16.04.2022, dismissed the said challenge, and upheld the decision passed by the CJM.

XIII. Aggrieved by the abovementioned common order and judgment of the High Court, the petitioner herein filed the present SLP CrI No.9513-9514 of 2022, seeking to set aside the impugned judgment of the High Court.

3. The abovementioned Special Leave Petition was dismissed by passing the following order :-

"Permission to file the Special Leave

Petition is granted in SLP (Cr1.) D. No. 29297/2022.

Delay condoned.

We have heard Mr. Kapil Sibal and Mr. Guru Krishna Kumar learned Senior Advocates appearing on behalf of the respective petitioners.

In the facts and circumstances of the case, the present Special Leave Petitions, at the instance of the accused, are not entertained.

The Special Leave Petitions stand dismissed.

However, it is observed and made clear that we have not expressed anything on merits on the pardon granted to the Accused No.4 and as and when any appropriate proceedings are initiated by the person competent, the same may be considered in accordance with law and on its own merits.

Pending applications stand disposed of."

4. By means of the present application, the following prayer has been made:-

"(a). To accordingly suitably clarify the scope of the words "any appropriate proceedings" and "the person competent" in the liberty reserved vide ex parte order dated 10.10.2022 passed by this Hon'ble Court in SLP (Cr1.) No. 9513-9514/222 @ D.No. 29297 of 2022 to secure the ends of justice and for expediency; and

(b). Pass any other order(s) as this Hon'ble Court may deem fit and proper."

5. In a turn of events, after the passing of the abovementioned order, the daughter of the deceased, one DR. Suneetha Narreddy has filed an application for impleadment in the proceeding seeking clarification. In the said

application, it has been argued by the applicant therein that the forum of clarification is not akin to a review and since the prayer sought for by way of clarification has the consequence of giving a substantive right to one of the parties, therefore, the present prayer seeking clarification ought to be dismissed.

6. We have heard all the parties in great detail.

7. In the impugned order qua which the clarification is being sought, mainly, two questions arise for our careful consideration, being (i) Whether the first informant herein is a "person competent" as per the original order and (ii) whether a challenge to the anticipatory bail order in favour of the Accused No.4 and a challenge against the order of pardon in favour of the Accused no.4 fall within the ambit of "any appropriate proceeding" as per the original order of this court.

8. It is our opinion that as far as the above framed issues are concerned, which form the crux of the clarification sought, the same are issues of fact and law. Such issues of fact and law, that require detailed consideration on arguments made by the necessary parties, cannot be dealt

with by this court, where the forum it dons is one of clarification.

9. Further, it must also be noted that the present questions of fact and law, that have been raised in the forum of clarification, were never raised by the parties during the original proceedings. Such new arguments, which strike the core of the merits of the case, cannot be decided upon by way of a mere clarification application. Therefore, it is only appropriate for such questions to be answered in the appropriate forum, as and when such questions are posed by the parties.

10. In light of the aforesaid, the present application for clarification is disposed of. Pending application(s), if any, shall also stand disposed of.

.....J.
(KRISHNA MURARI)

.....J.
(SANJAY KUMAR)

NEW DELHI
06th July, 2023.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 1290-1291/2023 in SLP(Cr1) No. 9513-9514/2022

(Arising out of impugned final judgment and order dated 10-10-2022 in SLP(Cr1) No. No. 9513/2022 10-10-2022 in SLP(Cr1) No. No. 9514/2022 passed by the Supreme Court Of India)

D SIVA SHANKAR REDDY

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ORS.

Respondent(s)

(IA No. 103938/2023 - CLARIFICATION/DIRECTION
IA No. 107491/2023 - INTERVENTION/IMPLEADMENT)

Date : 06-07-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MR. JUSTICE SANJAY KUMAR

For Petitioner(s)

Mr. Ananga Bhattacharyya, Adv.
Ms. Devahuti Tamuli, Adv.
M/S. Veritas Legis, AOR

For Respondent(s)

Mr. Tushar Mehta, Solicitor General
Mr. Suryaprakash V Raju, A.S.G.
Mr. Rajat Nair, Adv.
Mr. Annam Venkatesh, Adv.
Mr. Ashutosh Ghadhe, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Vikram Choudhari, Sr. Adv.
Mr. Kaushik Choudhury, AOR
Mr. Saksham Garg, Adv.
Mr. Shaantanu Jain, Adv.

Mr. Sidharth Luthra, Sr. Adv.
Ms. Jesal Wahi, AOR
Mr. Anmol Kheta, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The present application for clarification is disposed
of.

The miscellaneous applications stand disposed of.

Pending application(s), if any, shall also stand
disposed of.

(SONIA GULATI)
SENIOR PERSONAL ASSISTANT

(BEENA JOLLY)
COURT MASTER (NSH)

(Signed order is placed on the file)