



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

CRIMINAL APPEAL NOS. OF 2026
(Arising out of SLP (Crl.) No.19493-19494 of 2025)

V.K. SINGH

... APPELLANT

VERSUS

**CENTRAL BUREAU
OF INVESTIGATION & ANR.**

... RESPONDENTS

ORDER

1. Leave granted.
2. Present appeals have been preferred assailing the judgment delivered by High Court of Delhi (*hereinafter*, '**High Court**') dated 19.09.2025 in Crl. M.C No. 360 of 2010 and Crl. M.A No. 1255 of 2010, whereby order of Chief Metropolitan Magistrate, Tis Hazari Court, Delhi (*hereinafter*, '**Trial Court**') dated 12.12.2009 in RC 5(S)/2007/SCU.V CBI/ACU.IX was modified.
3. Shorn of unnecessary details, the facts of the present appeals are that the Appellant is being tried for Section 3/5 of the Official Secrets Act, 1923 (*hereinafter*, '**OSA**') and Sections 409/120B of the Indian

Penal Code, 1860 (*hereinafter*, '**IPC**') in connection with FIR No. RC 5(S)/2007/SCU.V dated 20.09.2007. It is the case of the prosecution that the Appellant is a retired Major General of Indian Army, who has also worked as a Joint Secretary in Cabinet Secretariat (R&AW) from November 2000 to June 2004. While discharging his above-mentioned duties, he was privy to certain classified information pertaining to R&AW and its functioning. In the year 2007, it is alleged that, the Appellant wrote and published a book titled "India's External Intelligence – Secrets of Research and Analysis Wing (RAW)" wherein he published various classified secret information including the names of various officials and their designations, functions, station codes, various technical projects, functioning of telecom division and signals intelligence, including that of SPGs in complete violation of OSA. It was further alleged that by publishing this book, Appellant has enabled general public, foreigners/foreign countries to know the classified secrets of the State that has endangered security as well as sovereignty of India. For sake of brevity, particulars of the allegations are not discussed. Along with the Appellant, one Sh. Vivek Garg was also arrayed as an accused, being the publisher of the said book.

4. On 11.04.2008, the chargesheet was filed by the prosecution

before the Trial Court with a request to keep all the classified documents forming part of the chargesheet in a sealed cover, which was accepted *vide* order dated 14.04.2008. Trial Court took cognizance of the complaint *vide* order dated 31.01.2009.

5. As per the Appellant, he filed an application under Section 207 of the Code of Criminal Procedure, 1973 (*hereinafter*, '**CrPC**') praying before the Trial Court that prosecution may be directed to supply documents as mentioned in paragraph 1(a) and 1(b) of the said application, which although formed part of the chargesheet, were not supplied to him.

6. The Trial Court, *vide* order dated 12.12.2009, directed the prosecution to supply the copies of those documents mentioned in paragraph 1(a) and 1(b) of the application within one month after moving an appropriate application for de-sealing of the said documents. This direction was subject to the condition that the documents so supplied, shall remain in personal custody of the defence counsel representing the Appellant in the Court and that circulation of these documents was prohibited in any manner whatsoever.

7. Aggrieved, the prosecution challenged the order of the Trial Court

before the High Court by way of Crl. M.C No. 360 of 2010 and Crl. M.A No. 1255 of 2010. The High Court *vide* the impugned order modified the order of the Trial Court with a direction that the Appellant is permitted to inspect the documents lying with the Trial Court in order to enable the Appellant to effectively defend himself in the trial. Aggrieved by the judgment of the High Court, the present appeals have been filed.

8. We have perused the record of the present case and heard the learned Counsels for both the parties.

9. Learned counsel, Mr. Prashant Bhushan, appearing for the Appellant, submitted that the judgment of the High Court ought to be set-aside. It is contended by Mr. Bhushan that High Court failed to consider the intent of Section 207 of CrPC. Further, he relies upon ***Superintendent and Remembrancer of Legal Affairs, West Bengal v. Satyen Bhowmick and Others***¹ to contend that invocation of OSA doesn't take away the right of the accused person to get copies of the documents forming part of the chargesheet.

10. *Per contra*, Mr. DP Singh, learned ASG appearing for the prosecution supports the findings as recorded by the High Court and

¹ (1981) 2 SCC 109

relies upon **C.B.I v. V.K. Jha**² to contend that in a similar factual situation, this Court had passed a direction identical to one passed in the impugned judgment.

11. We have perused the allegations and the averments made in the application filed by the Appellant under Section 207 of the CrPC demanding documents, which are being used against him in a court proceedings, as mentioned in paragraphs 1(a) and 1(b) thereof. In our view, being part of the chargesheet and being used against, the said documents ought to be supplied to the Appellant. While observing so, we are guided by the letter and spirit of Section 207 of the CrPC, which is reproduced as thus:

207. Supply to the accused of copy of police report and other documents.—*In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—*

- (i) the police report;*
- (ii) the first information report recorded under section 154;*
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 173;*
- (iv) the confessions and statements, if any, recorded under section 164;*
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:**

Provided that the Magistrate may, after perusing any such part of a

statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

(emphasis supplied)

12. Section 207 of the CrPC mandates that when criminal proceedings are instituted based on a police report, the Magistrate must, provide the accused, free of charge, with copies of any document or relevant extract thereof including the police report, the FIR, witness statements recorded under Section 161 of CrPC, excluding any portions withheld on reasonable police request, confessions or statements recorded under Section 164 CrPC, and any other documents forwarded along with the charge sheet. Nonetheless, this comes with a caveat that if any such document is voluminous, the accused may be allowed to inspect it in court rather than receiving a physical copy. It is trite law³ that an accused cannot be denied access to documents forming part of the chargesheet, including those from the general diary, if such documents were obtained in good faith, are relevant to the prosecution's case, and their disclosure is considered

³ See, *Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1 (Para 221)

necessary by the Public Prosecutor for the interests of justice and fair trial, It is so because withholding such documents could seriously prejudice the accused's right to a fair trial.

13. In the present appeals, it is not the case of the prosecution that the documents as sought by the Appellant are not relevant for the purpose of trial. Only objection taken by the prosecution is that said documents are highly confidential for the purpose of national security and if copies of such documents are supplied to the Appellant, there are chances that those documents may come out in the public domain. While supporting the impugned order, reliance was placed on **V.K. Jha** (supra), relevant portion whereof is reproduced as thus:

“The direction to hand over the documents to the respondents shall be modified as follows:

The Ministry of Defence (or persons duly authorized by them) shall black out the portions of the case documents which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States. The said copies of the scanned documents with blacked out portions will be provided to the CBI, and these documents shall be available for inspection and perusal of the accused and/or the duly authorized advocate, in both soft copies and hard copies, between 9 a.m. to 9 p.m. on all working days at the notified CBI office. This arrangement shall continue for the next three months, after which the accused and/or their duly authorized advocate shall be allowed to inspect/peruse the documents after giving due notice of 24 hours to the CBI officials. At no time shall the accused and/or their advocates be allowed to make any soft or hard copies of the said documents.

With the aforesaid directions, these appeals stand disposed of.”

(emphasis supplied)

In the factual matrix of the said case, this Court balanced the competing interests of the right to fair trial of the accused and national security & sovereignty in above-quoted manner.

14. Be that as it may, even while balancing these competing interests, we cannot lose sight of the principle emanating from **Satyen Bhowmick** (supra). In this case, the accused’s counsel was allowed only to take notes of statements of the witnesses in order to be able to cross-examine the witnesses in light of Section 14 of the OSA. Subsequently, the Trial Court sought production of such notes to examine whether preparation of these notes would amount to ‘publication’, being contrary to Section 14 of the OSA. When the defence counsel claimed privilege over such notes, the Trial Court proceeded with the trial. Aggrieved, the prosecution filed a revision before the High Court. The High Court held that Section 14 as such bars even preparation of notes in respect to statements of the witnesses by the defence counsel. In appeal, this Court unequivocally took a view that such a reading of Section 14 would make it *ultra vires* to Part III of the Constitution of India. This court further observed:

“20. The question, however, is: Does the first part of Section 14 empower the court to take away the valuable right of an accused of getting copies of the statements recorded by the Magistrate before the court? Even before the amending Act of 1955, under the criminal rules framed by various High Courts, an accused was undoubtedly entitled to have copies of the statements of witnesses recorded by the police. This is a very valuable right because without having the statements recorded by the police in his possession, it would be difficult, if not impossible, for an accused to defend himself effectively. It is well settled that fouler the crime the higher should be the proof. **If an accused is not supplied either the statements recorded by the police or the statements of witnesses recorded at the inquiry or the trial, how can he possibly defend himself and instruct his lawyer to cross-examine the witnesses successfully and effectively so as to disprove the prosecution case. We, therefore, think that Section 14 could never have intended to take away or deprive an accused of this valuable right which has been conferred on him by the criminal law of the land. The legislature when it passed the Act in 1923 was aware of the provisions of the Code of Criminal Procedure which had conferred the valuable right on an accused in order to defend himself.** Indeed, if any of these rights were to be taken away, we should have expected a clearer and more specific language used in Section 14 to connote such an intention. Our reading of Section 14 is merely this: that the first part of the section does not prohibit or exclude giving to an accused copies of the statements of witnesses either during police investigation or in court but is mentioned merely as a motive or reason for holding the proceedings in camera. The entire sentence starting from “application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing” has to be read conjunctively as one composite sentence and there is no warrant for truncating it into two separate parts dealing with different subject-matters. The words “publication of any evidence” on which great stress has been laid by Mr Mukherjee and the High Court do not indicate that the accused should not be allowed access to the evidence recorded by the court. They are merely made to highlight the ground for holding the proceedings in camera because if public are allowed to be present during the hearing the evidence which is recorded in their presence it

will amount to publication and it is in that sense alone that the word “publication” has been used in Section 14.

24. Mr Mukherjee submitted that if the accused is allowed to have access to the statements recorded by the police or is given a copy of the statement recorded by the Magistrate, then it will amount to publication and will endanger the safety and security of the country because the accused or the lawyer who is defending the accused may publish the statements or disclose the same to other persons. This apprehension, in our opinion, is not well founded. The Act itself takes particular care of such a situation because under the provisions of Section 5 of the Act any person who is found in possession or control of any document or information and makes it public would also be deemed to have committed an offence under that Section and would be prosecuted and entitled to a heavy penalty. This, therefore, prohibits even the lawyers from disclosing the evidence outside the court. So far as the arguments and the discussion of the evidence inside the court is concerned, so long as the proceedings are in camera the danger of publication is completely excluded.
(emphasis supplied)

In light of this, we are of firm opinion that supply of documents cannot be denied to the Appellants merely on the ground that provisions of the OSA have been invoked against him.

15. Nonetheless, with a view to balance the interests of the right to fair trial of the accused, which is also an important facet of the fundamental right to life and personal liberty under Article 21 of the Constitution of India, with that of national security and sovereignty, we asked the learned ASG to come up with an equitable proposal.

16. During course of hearing today, learned ASG, present in Court, submits that they shall supply a typed copy of those documents but with a condition that the Appellant may use those documents only for the purpose of court proceedings and the documents shall not be circulated by him in any manner whatsoever, particularly in electronic or print media or through the social media platforms. After supply of those documents, the Appellant himself and/or through his counsel is permitted inspect those documents before the Trial Court during hearing. Learned counsel for the Appellant agreed for this proposed arrangement.

17. In view of the aforesaid, the order passed by the High Court is set aside and the order of the Trial Court stands modified. We direct that the typed copy of the documents as referred in the application filed by the Appellant under Section 207 of CrPC in paragraph nos. 1(a) and 1(b) be provided to the accused for the purpose of his defence within two months. The inspection of those documents, if needed, may be permitted during court proceedings by the Trial Court.

18. We make it clear that the documents as demanded and supplied shall not be made public by way of electronic or print media or any social platform or otherwise in any manner whatsoever. An

undertaking in this regard be filed by the Appellant before the Trial Court within one month.

19. With the aforesaid conditions and observations, the applications filed by the Appellant shall stand allowed and disposed of.

20. Accordingly, the appeals are disposed of. Pending applications, if any, shall also stand disposed of.

.....,J.
[J.K. MAHESHWARI]

.....,J.
[ATUL S. CHANDURKAR]

New Delhi;
May 18, 2026.

ITEM NO.45

COURT NO.3

SECTION II-D

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

Petition(s) for Special Leave to Appeal (Crl.) No(s).19493-19494/2025

[Arising out of impugned final judgment and order dated 19-09-2025 in CRLMC No. 360/2010 19-09-2025 in CRLMA No. 1255/2010 passed by the High Court of Delhi at New Delhi]

V.K. SINGH

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANR.

Respondent(s)

Date : 18-05-2026 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
 HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Petitioner(s) : Mr. Prashant Bhushan, AOR
 Ms. Suroor Mander, Adv.
 Ms. Sehrish Jafri, Adv.

For Respondent(s) : Mr. Davinder Pal Singh, A.S.G.
 Mr. Mukesh Kumar Maroria, AOR
 Mr. Rajan Kumar Chourasia, Adv

Mr. Arkaj Kumar, Adv.
 Mr. S.N. Terdal, Adv.

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

1. Leave granted.
2. The appeals are disposed of in terms of the signed reportable order. Pending applications, if any, shall also stand disposed of.

(GULSHAN KUMAR ARORA)
 DEPUTY REGISTRAR

(NAND KISHOR)
 ASSISTANT REGISTRAR

(Signed order is placed on the file)