

**State Vs. Raj Kumar Jain**

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**Court :** Delhi

**Decided On :** Jan-24-1992

**Reported in :** 47(1992)DLT106

**Judge :** R.C. Gupta, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 156(3)

**Appeal No. :** Criminal Revision Appeal No. 171 of 1991

**Appellant :** State

**Respondent :** Raj Kumar Jain

**Advocate for Pet/Ap. :** S. Lal, Adv

**Judgement :**

**R.L. Gupta, J.**

(1) This Criminal revision has been filed by the Central Bureau of Investigation against an order dated 19 3.1991 of the learned SpecialJudge, Delhi by which it was directed that further investigation should be conducted and in the first instance the prosecution/Investigating officer must approach the concerned sanctioning Authority before coming to the Court to find out if it would grant or refuse sanction to prosecute the respondent. Infact the closure report under Section 173 of the Code of Criminal Procedure(Code for short) was filed by the

Cbi in respect of four criminal case Nos. 57 to 60 of 1991 against four different sets of accused persons.

(2) So far as the respondent is concerned, the case was registered against him on 11.5.1988 on the allegations that while posted as Junior Engineer, Mcd, New Delhi, he amassed assets disproportionate to known sources of his income. The case was mainly based on the recovery of special bearer bonds of Rs. 5 lakhs during search of his house while investigation was going on in another case against his father-in-law.

(3) I have heard arguments advanced by learned Counsel for the petitioner. In the case of Abhinandan Jha and Others appellants v. Dinesh Misra and Roopchand Lal and another v. State of Bihar and Another, Criminal Appeal Nos. 218 and 238 of 1966 : 1968 CriLJ97 , the Supreme Court came to the conclusion that though the Magistrate has no jurisdiction to direct the police to submit a charge sheet, he certainly has ample jurisdiction to give direction to the police under Section 156(3) of the Code to make a further investigation. If after considering the final report, the Magistrate feels that the investigation is unsatisfactory or incomplete or that there is scope for further investigation, it will be open to him to decline to accept the final report and direct the police to make further investigation.

(4) In the present case the learned Special Judge is of the view that in the first instance the investigating officer should conduct further investigation and thereafter approach the sanctioning authority before coming to the Court whether it is inclined to grant sanction to prosecute or withhold the same.

(5) After having given my careful consideration. I am of the view that the directions given by the learned Special Judge at this point of time do not seem to be contrary to law laid down by the Supreme Court. As already pointed out the Special Judge is competent to give direction to the Investigating officer to hold further investigation. After further investigation, it may be possible that the investigating officer is able to collect sufficient evidence against the respondent. In case he is still not able to find sufficient evidence, in the special circumstances of the case, it appears necessary that the Investigating officer should lay the evidence collected by him before the sanctioning Authority for its perusal and independent conclusion.

The special circumstances in this case are that the Cbi has no grievance against the order of the Special Judge so far as three other criminal cases Nos. 57 to 59 1991 against other accused are concerned. thereforee, it is not possible for me to understand why the Cbi has chosen to file this revision only in a case registered against the respondent specially when there was recovery of special bearer bonds of Rs. 5 lakhs during search from his house which would prima facie go to show assets with the respondent disproportionate to the known sources of his income.

(6) I, thereforee, do not find any illegality or impropriety in the order of the learned Special Judge and dismiss the petition.

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