



2026:AHC:128113

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 30892 of 2025

Ashok Kumar Tomar

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s) : Atharva Dixit, Bhuvaneshwar Singh,
Rajiv Lochan Shukla, Ramesh Chandra
Tiwari, Siddharth Shukla

Counsel for Opposite Party(s) : Vishnu Prakash, G.A., Suresh Kumar

Court No. - 46

HON'BLE GARIMA PRASHAD, J.

1. Heard Shri Manish Tiwary, Senior Advocate, assisted by Shri Ramesh Chandra Tiwari, learned counsel for the applicant, Shri Deepak Kapoor, learned A.G.A for State and Shri Vishnu Prakash, learned counsel for opposite party no.2 and perused the record.

2. The principal contention raised by the learned Senior Counsel for the applicant is that there has been complete non-compliance of the judgment and order dated 28.02.2025 passed by this Court in Application U/S 482 No. 33118 of 2024, the operative portion whereof is extracted hereinbelow:-

"24. Considering the seriousness of the matter, the learned Government Advocate, Mr. A.K. Sand was requested to address the Court. Certain affidavits were also filed by the learned Government Advocate in opposition to the present application, wherein it has been stated that copy of pen drive has already been supplied to the applicant. As such, prayer made by means of application dated 14.03.2024 (paper no. 44-B) is wholly misconceived. It is further submitted by the learned A.G.A. that since the prosecution is not in possession of DVR and copy of contents of same is being demanded by accused, therefore, no direction can be issued to the prosecution to supply the same. He, therefore, submits that no interference is warranted by this Court in present application.

25. Mr. P.C. Srivastava, the learned counsel representing first informant/opposite party-2 on the other hand, submits that the trial is at an advance stage. As per the charge sheet, there are 27

prosecution witnesses nominated therein. Up to this stage, the depositions of three prosecution witnesses i.e. PW-1 Sharad Gupta, PW-2 Rishabh Gupta and PW-3 Ashok Kumar (Watchman) have been recorded. The statement of PW-4 is under progress. The application (paper no. 44-B) was thus engineered only to delay the progress of trial. However, he submits that he has no objection to supply the copy of the said DVR to the accused applicant.

26. In view of above, admission made by Mr. P.C. Srivastava, the learned counsel for opposite party-2 who is also in possession of Original DVR, from which the pen drive of the CCTV footage was prepared, this Court is now not required to consider the merits of the order dated 26.7.2024.

27. In view of above, the present application is allowed.

28. The order dated 26.7.2024 is, hereby, set aside. Accused applicant shall be entitled to the copy of the DVR in respect of the cameras installed at the place of occurrence, without any addition or subtraction. The said exercise shall be undertaken by prosecution including the first informant as early as possible. Court below shall thereafter pass an order recording therein that the document i.e. copy of DVR having been supplied to applicant shall fix the date for trial of the accused applicant.

29. In the facts and circumstances of the case, the cost is made easy.
"

3. It is submitted that pursuant to the aforesaid direction of this Court, an application was filed on 10.04.2025 by the accused-applicant before the Trial Court seeking copy of the DVR in compliance of the order passed by this Court. It is submitted that despite specific directions of this Court, the learned Trial Court has rejected the application vide the impugned order dated 17.07.2025. It is accordingly submitted that the said impugned order deserved to be set aside and a copy of DVR be handed over to the accused-applicant in compliance of the orders passed by this Court.

4. Learned A.G.A. submits that even in the judgment and order dated 28.02.2025, this Court had recorded the statement of the then learned A.G.A. in paragraph 24 to the effect that the prosecution was not in possession of the original DVR and, therefore, no direction could be issued to the prosecution to supply a copy thereof to the accused-

applicant.

5. Learned A.G.A. further submits that even as on date, the prosecution is not in possession of the original DVR and, therefore, is not in a position to furnish a copy thereof to the accused-applicant. It is further submitted that the said DVR neither forms part of the case diary nor was it filed along with the charge-sheet.

6. Learned counsel for the informant/opposite party no.2 submits that he continues to have no objection to supply of a copy of the DVR to the accused-applicant, as was recorded by this Court in its judgment and order dated 28.02.2025. He further submits that opposite party no.2 remains in possession of the original DVR from which the pen drive containing the CCTV footage was prepared and which footage forms part of the material accompanying the charge-sheet.

7. Learned counsel for opposite party no.2, on instructions, submits that opposite party no.2 is ready and willing to produce the original DVR before the learned Trial Court and has no objection if cloned copies thereof are prepared and supplied to the accused-applicant as well as the prosecution.

8. Having considered the submissions advanced by learned counsel for the parties and upon perusal of the judgment and order dated 28.02.2025 passed by this Court, this Court finds that in paragraph 26 thereof, this Court had recorded the statement of learned counsel for opposite party no.2 that he was in possession of the original DVR from which the pen drive containing the CCTV footage had been prepared. The direction contained in paragraph 28 of the said judgment was issued on the basis of the aforesaid statement.

9. Accordingly, for the purposes of compliance of the judgment and order dated 28.02.2025, the DVR produced by opposite party no.2 in terms of the statement recorded in paragraph 26 thereof shall be treated as the

DVR contemplated by the said judgment. Opposite party no.2 shall produce the same before the learned Trial Court on 24.06.2026 and cloned copies thereof shall be prepared under the supervision of the learned Trial Court and supplied to the State, the accused-applicant and opposite party no.2.

10. Learned Senior Counsel for the accused-applicant, on instructions, states that the aforesaid shall be accepted as sufficient compliance of the judgment and order dated 28.02.2025 and that no further dispute shall be raised regarding the identity of the DVR or the supply thereof.

11. The impugned order dated 17.07.2025 is modified in terms of the directions contained hereinabove. The present application stands disposed of accordingly.

12. Upon compliance of the aforesaid directions, the learned Trial Court shall proceed with the trial expeditiously and in accordance with law.

June 18, 2026
VS

(Garima Prashad,J.)