

CC No. 39/2020

CBI VERSUS M/s Meroz Trading Pvt Ltd

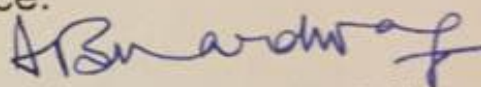
25.09.2020

Present:- Shri B. K. Singh learned Sr. P.P. for CBI.

List tomorrow i.e. 26.09.2020 at 11 a.m. for considering the submissions of the learned Sr PP for CBI on the point of cognizance.

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(ARUN BHARDWAJ)

Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/25.09.2020

Present:- Shri B.K. Singh learned Senior PP for CBI.

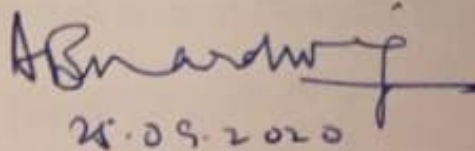
All the Accused (Accused No. 2 Shri Suresh Nanda from U.A.E.) with their learned counsels.

Today, Shri P.K. Dubey, learned counsel for Shri Ashutosh Verma read from the cross examination of Shri Suresh Nanda, PW-22.

The witness was shown statement under section 161 of CrPC of this witness recorded on 7th July 2008 by the Investigating Officer of this case and the same was exhibited as Exhibit PW-22/D1. The witness responded that some of the facts stated in the statement are correct but some of them are not correct. Learned counsel submitted that this witness, like PW-26 Shri Amit Saxena is trying to wriggle out of his earlier statement by partly accepting and partly denying.

With regard to his 2nd statement under section 16 CrPC recorded on 20th September 2010, Exhibit PW-22/D2, the witness responded that the same is correct except two facts, one, the witness having no knowledge about purchase of house by Shri Ashutosh Verma in Goa and 2nd the witness never having heard about M/s. Nitya Resorts and Whitening Private Ltd.

In the earlier submissions, it is already noted that one Dinesh from the office of Shri Nikhil Nanda had deposited bank drafts in the account of M/s. Nitya resorts. However, the witness denied remembering any such employee on the plea that he has 50 to 60 employees and he does not remember name of everyone.


25.09.2020

(1)

When witness was confronted with his 3rd statement under section 161 CrPC recorded on 10th November 2010, Exhibit PW-22/D3, the witness responded that it is a contorted statement where the facts stated by him have been mixed with some statements which he could not have known. He deposed that he was never given his statements recorded by CBI for reading and no statement was ever read over to him.

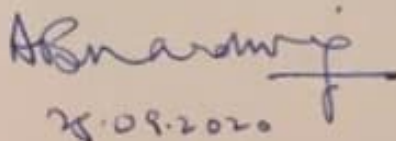
With regard to statement of this witness recorded on 3 / 04.04.2012, Exhibit PW-22/D4, the witness responded that facts stated in the statement are such that he might have given this statement to the Investigating Officer.

With regard to the statement of this witness that while he was in USA, he had received a telephone call from Shri Ashutosh Verma for receiving the money and allowing it to be picked up as per his directions, the witness deposed that he had not told the Investigating Officer the date or time at which he had received such call allegedly from Shri Ashutosh Verma and he had not shown any such call being reflected in any document such as his telephone bill etc.

The witness also deposed that he had not demanded or claimed or issued a notice to Shri Ashutosh Verma for Rs. 25,000 which he had to pay for survey of Goa property.

Learned counsel submitted that this witness is not trustworthy or a truthful person and he's deposing contrary to independent witnesses vis-à-vis survey of property at Goa.

Learned counsel pointed out that this witness has deposed contrary to the deposition of Shri Deepak Chawla and Sh. Ajay


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(2)

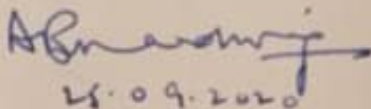
Gupta. The witness deposed that Shri Deepak Chawla, known to him for 28 to 29 years and Shri Ujjwal Anand, cousin of this witness, were appointed as directors in Whitening Expressions Laboratories Ltd. Learned counsel submitted that it shows Sh. Nikhil nanda was controlling this company exclusively.

The witness deposed that he does not know Shri Ravindra Aggarwal. Learned counsel submitted that Shri Ravindra Kumar Aggarwal has deposed that he was in touch with Shri Nikhil Nanda.

Learned counsel submitted that the testimony of this witness is evasive and wherever he was cornered he admitted evasively contrary to the evidence of Shri Ajay Gupta and Shri Ravindra Kumar Aggarwal. Learned counsel submitted that this witness has deposed contrary to independent witnesses and his testimony is not reliable. Learned counsel submitted that there is no legally admissible evidence which connects Shri Ashutosh Verma to the Goa property.

Next, the learned counsel read the evidence of Investigating Officer vis-à-vis evidence of Shri Nikhil Nanda.

The witness deposed that he had recorded the statement of Shri Nikhil Nanda on 7th July 2008, 20th September 2010 and 10th November 2010. He deposed that he had written whatever the witness had told him and he had not made any addition or alteration in the statements made by Shri Nikhil Nanda. The Investigating Officer stated the final statement of Shri Nikhil Nanda was recorded on 03 / 04.04.2012 and Shri Nikhil Nanda had told him that it is his correct statement covering entire and


26.09.2020

(3)

true facts and he also conveyed him that his earlier statements were not his complete and true statements and this is the reason his earlier statements were not filed along with the chargesheet. Learned counsel submitted that here the Investigating Officer is disowning his own witness and raising doubts on the creditworthiness of his own witness. Learned counsel submitted that it shows that the evidence of Shri Nikhil Nanda cannot be relied on and no reasons have been given why the earlier statements were not correct. Learned counsel submitted that all the statements were sought to be concealed in the chargesheet.

The witness also deposed that he has not recorded in the chargesheet or in the case diary that the earlier statements of Shri Nikhil Nanda were not complete and true statements. It is also not recorded in the statement of Shri Nikhil Nanda recorded on 03 /04.04.2012 that the witness had made earlier statements on 3 occasions also.

Further, the witness showed case diary to the court at No. 296 dated 03.04.2012 where it is mentioned that Shri Nikhil Nanda had stated that he had not disclosed the true facts during his earlier examination by CBI because he was under pressure of Ashutosh Verma. Learned counsel submitted that had there been any truth in the same, the Investigating Officer would have taken steps for cancellation of bail of Shri Ashutosh Verma. However he also mentioned that Shri Nikhil Nanda has not mentioned this fact, as recorded in the case diary, in his statement recorded on 03/04.04.2012. He deposed that he did not initiate any legal process against Shri Nikhil Nanda regarding making false statements before him.

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(4)

The witness deposed that he does not remember if he had sent the earlier statements of Shri Nikhil Nanda to the sanctioning authority of Shri Ashutosh Verma.

The witness also deposed that the statement of Shri Deepak Chawla recorded on 27th September 2010 was recorded correctly and this statement was not sent to the sanctioning authority. However, the witness again sought to explain that Deepak Chawla had stated that his previous statements were not correct and true disclosure of facts due to pressure of Shri Ashutosh Verma. Learned counsel submitted that a false person cannot be believed.

Similarly, the witness also admitted that he had recorded the statement of Sh. Ajay Gupta correctly but the same was not sent to the sanctioning authority.

Same was the response with regard to statement of Shri Pradeep Sahni dated 29.9.2010. This statement was also not sent to the sanctioning authority.

The witness also stated that he had recovered Exhibit PW-26/1 and PW-22/1 from the premises of Shri Nikhil Nanda.

Learned counsel submitted that the illegal gratification is not identified. There is no demand or acceptance. The prosecution tried its best to connect Shri Ashutosh Verma to the Goa property but remained unsuccessful. Even assuming for the sake of arguments that the property at Goa is of Shri Ashutosh Verma, there is no evidence to show that same was purchased from the money received from Shri Suresh Nanda.

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28.09.2020

(5)

Next, learned counsel referred to sanction order D-65 and read its para 10 where the signatory has mentioned "before me" and "I am satisfied", the signatory also mentions that he is according sanction. Learned counsel submitted that there is no ambiguity that though the order is in the name of Hon'ble President of India however the sanction has been accorded by undersecretary who was 2 ranks below Shri Ashutosh Verma and as per Article 311 of the Constitution of India a subordinate person cannot accord sanction for prosecution of a person of superior rank.

Learned counsel submitted that there is no sanction under section 19 of the Prevention of Corruption Act. So far as the allegations of conspiracy under section 120B of IPC are concerned, the allegations are of dilution of appraisal report and is therefore connected with official duties of Shri Ashutosh Verma and therefore sanction under Section 197 of CrPC was mandatory.

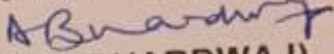
Learned counsel submitted that the earlier statements of witnesses recorded under section 161 CrPC were not placed before the sanctioning authority, sale deed of the property was not placed before the sanctioning authority and the appraisal report was also not placed before the sanctioning authority which has caused miscarriage of justice and prejudice to the accused.

Learned counsel submitted that on the next date he shall read the evidence wrt sanction and shall refer judgements on sanction.

List for further arguments now on Wednesday i.e. 30th September 2020 at 0215 PM.

Abhinav
25.09.2020 (c)

Let a copy of this order be sent by WhatsApp to all the accused and their learned counsels as also to learned Senior PP for CBI.


(ARUN BHARDWAJ)

Special Judge (P.C. Act)(CBI-05)

Rouse Avenue District Court,

New Delhi/25.09.2020

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C.Case No.168/2019

CBI Vs D.K.Goel & Anr.

25.09.2020

Present: Sh.B.K.Singh, Ld.Sr.PP for CBI.

Both the convicts in person with Ld.counsel Sh.Jaspreet Rai Singh.

(Through VC using Cisco WebEx app.)

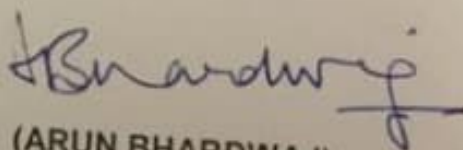
Ld. Counsel for the convicts had yesterday sent order dated 14.09.2020 passed by the Hon'ble Delhi High Court in CrI.A.436/2020 through the Whatsapp of the Reader of the Court vide which the Hon'ble High Court has suspended the execution of sentence of the convicts till the pendency of the appeal on the same terms and conditions as imposed vide order dated 22.07.2020 (of the Trial Court).

Ld. Counsel for the convicts submitted that he will file the bail bonds of the convicts during the course of the day.

Reply has not been filed by Ld.Sr.PP for CBI to the application filed by the convicts seeking release of documents which were sealed on the directions of the Court. He requested for some time to file the reply as he could not contact the IO of the case.

Heard. Allowed.

List on 19.10.2020 at 10.00 A.M.

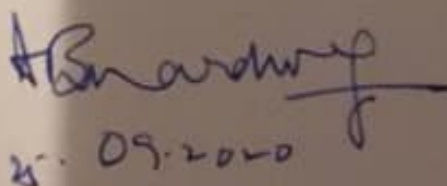


(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 25.09.2020

At this stage, in compliance of order dated 14.09.2020 passed by the Hon'ble Delhi High Court, bail bonds have been furnished by both the convicts alongwith the photocopy of their IDs and FDRs that are already on record.

C.Case No. 168/2019

CBI Vs D.K.Goel & Anr.



25.09.2020

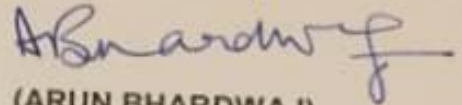
Reply has also been filed on behalf of the CBI to the application filed by the convicts seeking release of documents.

The date already fixed i.e. 19.10.2020 stands cancelled. Now the matter shall be listed on 28.09.2020 at 10.00 A.M.

Let a copy of this order be sent by WhatsApp to Ld. Sr.PP for CBI, to the convicts and their Ld. counsel.

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 25.09.2020

C.Case No. 168/2019

CBI Vs D.K.Goel & Anr.