

IN THE COURT OF SH. CHANDRA SHEKHAR, LD.SPECIAL JUDGE, CBI-19  
(PC ACT), ROUSE AVENUE DISTRICT COURTS, NEW DELHI

FIR NO: RC-DAI-2020-A-0018  
U/s: Sec. 7 of PC Act  
PS: CBI, ACB/NEW DELHI  
CBI v. S. S. CHAHAL etc.

11.08.2020

Presence:

(Through CISCO WEBEX Meetings)

Ld. Counsel Sh. Rakesh Kumar for the applicant Sunil Kumar Vats.

Ld. Counsel Sh. Vijay Bishnoi, for accused Surender Singh Chahal and  
accused Badri Prasad Yadav.

Ld. Public Prosecutor Sh. Amit Kumar for the CBI with IO/Inspector  
Ravinder Kumar Bharti.

ORDER ON APPLICATION OF SH. SUNIL KUMAR VATS  
SEEKING REFUND OF TRAP MONEY

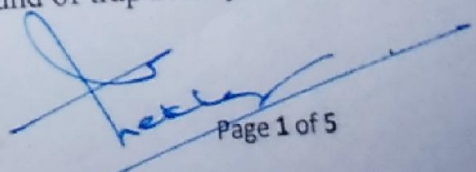
An application u/s 451 Cr.P.C. in e-form, moved by Sh. Sunil Kumar  
Vats, seeking refund of Rs. two lakh, was marked to this court on 23.07.2020 by  
Ld. District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata Kohli,  
Rouse Avenue District Courts, New Delhi, for hearing and disposal of the same.

I have heard the aforesaid application through video conferencing, using  
CISCO WEBEX MEETINGS arranged by Sh. Raj Kumar, Reader in this court,  
due to spread of pandemic COVID-2019, national Lockdown imposed by the  
Govt. to control it and instructions issued by Ld. District Judge to work from  
home to maintain social distance.

A notice of the said application in e-form was given to CBI, accused  
Surender Singh Chahal and accused Badri Prasad Yadav.

The CBI filed reply to the application with a circular no.  
2017/BD/1689 dated 27.06.2017 regarding refund of trap money.



  
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The aforesaid accused persons did not file any reply to the said application.

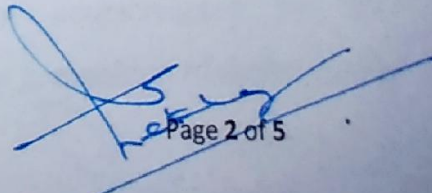
I have heard the submissions of Ld. Counsel Sh. Rakesh Kumar for the applicant, Ld. Public Prosecutor Sh. Amit Kumar and Inspector Ravinder Kumar Bharti for CBI, Ld. Counsel Sh. Vijay Bisnoi for aforesaid accused persons on the application of Sh. Sunil Kumar Vats, seeking refund of trap money of Rs. two lakh and perused the judicial record sent to this court through e-mail by Sh. Raj Kumar, Reader of the court.

Ld. Counsel for the applicant has submitted that on 16.06.2020 a complaint was made by applicant Sh. Sunil Kumar Vats against accused Surender Singh Chahal, (who was then SHO of P.S. Vijay Vihar New Delhi), regarding his illegal demands of bribe of Rs. five lakh from the applicant. On receipt of this complaint, CBI got it verified as per procedure, through their Officers and after confirming the genuineness of the complaint, laid a trap on 17.06.2020 and arrested the accused Badri Prasad Yadav, (who was then Constable in P.S. Vijay Vihar, New Delhi) red handed, while he was accepting Rs. two lakh from applicant Sh. Sunil Kumar Vats on behalf of accused Surender Singh Chahal and seized the same.

The applicant by way of present application, is seeking refund of the said amount on the grounds that investigation in this case has been completed, further possession of the same with CBI is not required. The applicant, in order to arrange the trap money, had borrowed the same on interest from Muthoot Finance Company. The applicant wants to return that amount to the said Finance Company at the earliest to avoid the payment of interest. Therefore, a direction may be given to CBI to refund the said amount to the applicant at the earliest. Applicant is ready to abide by any condition(s) imposed upon him by the court to release the said amount to him.

Ld. Counsel for the accused persons has submitted that accused Surender Singh Chahal is not connected to the money in question; the said money was falsely planted on accused Badri Prasad Yadav and all the accused in this case have been falsely implicated by the CBI.



  
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Ld. Public Prosecutor for the CBI has opposed the application submitting that as per the aforesaid circular of CBI, the trap amount cannot be refunded to the applicant at this stage; however, equivalent amount may be given to the applicant only after recording of his examination-in-chief, cross examination and re-examination, if any during trial of the accused persons in the court. Nonetheless, the trap money i.e currency notes recovered from accused Badri Prasad Yadav is a valuable piece of evidence against accused Badri Prasad Yadav and accused Surender Singh Chahal and the CBI will exhibit the same to prove their guilt during trial. The accused Badri Prasad Yadav was in conspiracy with accused Surender Singh Chahal and he had illegally and purposefully accepted the said amount from the applicant and hence, the request of applicant may not be allowed at this stage and the present application may be dismissed.

I have considered the submissions of the respective parties, perused the judicial record, relevant legal provisions under Cr.P.C and the case law titled as Basavva Kom Dyamangouda Patil v. State of Mysore (1977) 4 SCC 358, Sunder Bhai Amba Lal Desai v. State of Gujarat, (2002) 10 SCC 283, Sunder Bhai Amba Lal Desai v. State of Gujarat, (2002) 10 SCC 290, General Insurance Council v. State of A. P., AIR 2003 Supreme Court 638 and Manjit Singh (2014) SCC online Del. 4652.

A perusal of Section 451 Cr.P.C and the aforesaid case law shows that as per law; after seizure, the investigating officer is required to produce the case property before the concerned court within a week and the court has to expeditiously decide within thirty days from seizure of the property, about further custody of the case property in terms of direction of the Hon'ble Supreme Court and Delhi High Court in the aforesaid judgments.

As per the cited judgments, the currency notes seized by the police may be released to the person who, in the opinion of the court, is lawfully entitled to claim. The currency note may be released after preparing detailed Panchnama of the currency notes with their numbers or denomination; taking photographs of the currency notes; getting the same attested or countersigned by the complainant/applicant and the accused persons and by preparation of memo of the



*[Handwritten signature]*



proceedings signed by the parties and witnesses in the presence of Ld. Magistrate. The production of the currency notes during the course of trial should not be insisted upon and the releasee should be permitted to use the currency.

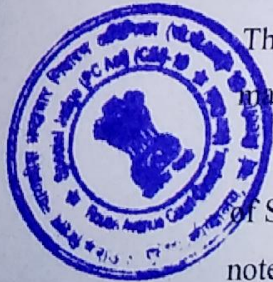
When the property has any evidentiary value, it is to be kept intact and the condition of non-alienation is imposed to ensure its production during the course of evidence for the purpose of exhibiting as a material object. The production of property which has evidentiary value, during evidence is a part of fair trial. With advance technology, it is not necessary that original of the property inevitably has to be preserved for the purpose of evidence in the changed context of time. The reception of secondary evidence is permitted in law.

Irrespective of the fact whether properties have evidentiary value or not, it is not necessary that original of the property has to be kept without alienation. As suggested above, the photography or photocopy of the property can be taken and made a part of the record duly certified by the Magistrate at the time when the interim custody of the property is handed over to the claimant.

In the event of original of the property not produced in evidence, photograph could be used as secondary evidence during the course of evidence.

In view of the above well settled proposition of law, it seems that the aforesaid circular of CBI is not in consonance with the current law of land and needs modification. The submissions of Ld. PP for CBI that the currency notes recovered from accused Badri Prasad Yadav cannot be handed over to the applicant Sunil Kumar Vats at this stage, as CBI during the course of evidence will be required to exhibit such currency notes to prove guilt of the accused persons, are not tenable as it is conspicuously observed in the aforesaid cases that irrespective of the fact whether property have evidentiary value or not, it is not necessary that the original of the property has to be kept intact without alienation. The photocopy of the currency notes can be taken and made part of record and may be proved as secondary evidence.

Therefore, it seems that it is in the interest of justice, if the application of Sh. Sunil Kumar Vats is allowed with the directions to CBI to get the currency notes in question photographed in colour, in presence of applicant and aforesaid accused persons and witnesses if any and in presence of any Magistrate on duty in





Rouse Avenue Courts, New Delhi, get the signatures of applicant and aforesaid accused persons obtained on those photographs, prepare a memo in this regard and thereafter, hand over the case property i.e. recovered currency notes amounting to Rs. two lakh to the applicant within ten working days from passing of this order.

Or in alternative, the CBI may pay an amount of Rs. two lakh to the applicant in different currency (keeping the case property intact), or digitally within ten working days from passing of this order, if it is so permissible as per rules applicable to CBI or it is in administrative discretion of a competent officer of CBI.

The applicant may use the refunded amount of Rs. two lakh as per his will and wishes, whether given in the form of original case property or in different currency or digitally. The aforesaid application of Sh. Sunil Kumar Vats is allowed and disposed of accordingly.

A copy of this order is being sent through Whats App to Sh. Raj Kumar, Reader of this court with a direction to get this order uploaded on the official website of Delhi District Courts at the earliest through Computer Branch, Rouse Avenue Courts Complex, New Delhi. He is also directed to send a Whats App copy of the order to the respective counsel of the parties at the earliest. A signed hard copy of the order shall be placed on record as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.

Dated: 11.08.2020



श्री चन्द्र शेखर  
Sh. Chandra Shekhar  
श्री न्यायाधीश, अदालत न्यायालय, (दिल्ली)  
Special Judge PC Act (CBI)-18  
कमरा नं. 404, चौबी मंजिल  
रौज एवेंयू न्यायालय परिसर  
Rouse Avenue Court Complex  
Special judge, CBI-19 (PC Act)  
Rouse Avenue District Courts, New Delhi

IN THE COURT OF SH. CHANDRA SHEKHAR, LD.SPECIAL  
JUDGE, CBI-19 (PC ACT), ROUSE AVENUE DISTRICT COURTS,  
NEW DELHI

FIR NO: RC2172020A0004

U/s: 120-B & Sec. 7 & 12 of PC Act

PS: CBI, ACU-IV, AC-II/NEW DELHI

CBI v. Mayukh Bhandari & Ors.

11.08.2020

Presence:

(Through CISCO WEBEX Meetings)

Ld. Counsel Sh. Naveen Sharma for applicant Sh. Harish  
Taneja.

Ld. Public Prosecutor Sh. Amit Kumar for the CBI.

Dy. Superintendent of Police Sh. R. R. Tripathi, IO of the  
case.

ORDER ON APPLICATION OF SH. HARISH TANEJA  
SEEKING RETURN OF HARD DISK AND DOCUMENTS  
SEIZED BY CBI DURING INVESTIGATION

An application u/s 451 Cr.P.C., moved by Sh. Harish Taneja,  
the Resolution Professional, appointed by National Company Law  
Tribunal, Principal Bench, New Delhi in C.P. (IB)-694(PB)/2018 seeking  
return of articles/documents of M/s. Zillion Infraprojects Pvt. Ltd. was  
marked to this court on 04.08.2020 by the Ld. District & Sessions Judge-  
cum-Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District  
Courts, New Delhi for hearing and disposal of the same.

I have heard the aforesaid application through video conferencing,  
using CISCO WEBEX MEETINGS arranged by Sh. Raj Kumar, Reader  
in this court, due to spread of pandemic COVID-2019, national  
Lockdown imposed by the Govt. to control it and instructions issued by  
Ld. District Judge to work from home to maintain social distance.





A notice of the said application was given to CBI to file reply and address arguments and the same was fixed for today.

Today, the IO has submitted that CBI is unable to file reply due to some unforeseen inevitable circumstances; however, he is ready to address his oral submissions on the said application.

I have heard the submissions of Ld. Counsel for the applicant, Ld. Public Prosecutor for CBI and the IO on the aforesaid application.

Ld. Counsel for the applicant has submitted that the applicant; Sh. Harish Taneja, the Resolution Professional, appointed by National Company Law Tribunal, Principal Bench, New Delhi in C.P. (IB)-694(PB)/2018 vide order dated 05.02.2020 is under legal obligation to keep the company as a going concern in terms of mandate of Insolvency and Bankruptcy Code 2016, but, he is unable to carry out his statutory functions and affairs of the company, since; some important documents and hard disk of computer server of the company were seized by the CBI on 07.07.2020 during investigation of the aforementioned case. He requests that directions may be given to the IO to supply soft copy of hard disk of computer server and photocopy of the seized documents at the earliest, so that applicant may effectively discharge his legal obligations.

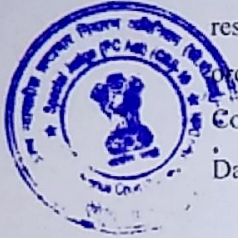
Ld. Public Prosecutor for the CBI and the IO have submitted that CBI may supply photocopy the documents seized by CBI on 07.07.2020 and also supply a copy of hard disk of the server of the company after one week, if applicant supplies a blank hard disk to CBI.

I have considered the submissions of respective parties and perused the application, since; the IO has no objection to provide a soft copy of hard disk of the computer server of the company and photocopy of the seized documents to the applicant, therefore, *the applicant is directed to contacted the IO by making a mobile call to him and supply him a blank hard disk as per direction of the IO. The IO is directed to supply photocopy of the documents in question and a copy of hard disk of the server of M/s. Zillion Infraprojects Pvt. Ltd. to the applicant after*



one week but, within a period of ten days from the date of this order. The application is allowed and disposed of accordingly.

A copy of this order is being sent through Whats App to Sh. Raj Kumar, Reader of this court with a direction to get this order uploaded on the official website of Delhi District Courts at the earliest through Computer Branch, Rouse Avenue Courts Complex, New Delhi. He is also directed to send a Whats App copy of the order to the respective counsel of the parties at the earliest. A signed hard copy of the



order shall be placed on record as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.

Dated 11.08.2020

CHANDRA SHEKHAR

Special judge, CBI-19 (PC Act),  
Rouse Avenue District Courts, New Delhi

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Special Judge PC Act (CBI)-19  
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