

CBI vs. Ramesh Nambiar  
CC No. 303/2019

17.07.2020

Present: Sh. B.K. Singh, Ld. Sr. PP for CBI.  
Sh. Hemant Shah, Ld. Counsel for accused Sh. Ramesh Nambiar.

(Through VC using Cisco WebEx app)

The last date in this case was 02.03.2020 and thereafter, it was adjourned to 03.04.2020 and 18.04.2020 and as per directions of Ld. District & Sessions Judge, cum- Special Judge, CBI, PC Act, Rouse Avenue District Court, New Delhi the case was adjourned to today.

Ld. Counsel for accused submits that accused could not join the hearing through video conferencing due to connectivity issue as his office is in basement.

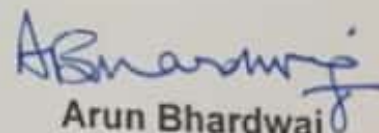
The case is at the stage of arguments on charge.

The Ld. Counsel for the accused had filed two calculations. As per first calculation, the DA is 1% and as per the second calculation, DA is 5%. Let soft copy of the same be provided to the court. Ld. Counsel submits that the same would be provided within five days from today.

Ld. Sr. PP for CBI submits that he had given these calculations to the IO of the case for his response, who would be filing a written response on the next date. Advance copy be given to Ld. Counsel for the accused, online.

List now on 24.07.2020 at 12:30 PM.

Let a copy of this order be sent by WhatsApp to the Ld. Counsels and the accused.



Arun Bhardwaj  
Special Judge (PC Act) (CBI-5)  
Rouse Avenue District Court  
New Delhi/17.07.2020

CBI vs. Sh. Ashutosh Verma & Ors.  
CC No. 192/19

17.07.2020

Present:- Sh. Brijesh Kumar Singh, Ld. Senior P.P for CBI.

Accused No. 1 Sh. Ashutosh Verma in person with Ld. Counsels Sh. P.K. Dubey, Ms. Smriti Sinha, Mr. Shri Singh, Mr. Gautam Khazanchi, Mr. Shiv Chopra, Mr. Anurag Andley, Ms. Harpreet Kalsi, Mr. Gaganjyot Singh, Ms. Smriti Ramchandran, Mr. Nirvikar Singh and Sh. Prince Kumar.

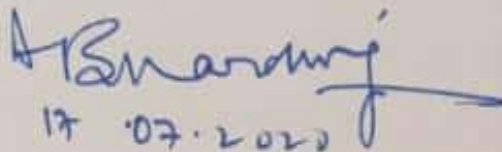
Accused No. 2 Sh. Suresh Nanda in person with Ld. Sr. Counsel Sh. Ramesh Gupta along with Sh. Sandeep Kapoor and Sh. Alok Sharma, Advocates.

Accused No. 3 Sh. Bipin Shah in person with Ld. Counsel Sh. Anindya Malhotra and Sh. Shaurya Lamba.

(Through VC using Cisco Webex App.)

Shri P.K. Dubey learned counsel for accused No. 1 Shri Ashutosh Verma continued his challenge to the sanctity of CD containing 32 calls.

Learned counsel referred to the evidence of PW 59, who was the Investigating Officer of this case, recorded on 31<sup>st</sup> January 2018 who deposed that the pen drive containing few calls out of 32 intercepted calls was provided to him by SP Ramnish saying that these calls were obtained through some source and the original of the calls was available with Special Unit, New Delhi. He deposed that he was directed to send requisition and obtain the CD of relevant calls pertaining to investment by Shri Ashutosh Verma at Goa. The witness deposed that in such circumstances, he had not felt it proper to mention the details of such calls in the case diary. The learned counsel submitted that this shows the recorded calls were already compromised before they were handed over vide Seizure Memos, D-64. Moreover, the learned counsel submitted that even the pen drive obtained through source was not placed on record.

  
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It was submitted that prosecution has not established the chain to rule out tempering.

To the query of the court, whether there was parallel recording by the said source, the learned counsel submitted that if it is so that will be more helpful to the case of accused to prove his defence. Learned counsel however submitted that there is no whisper in this regard in the evidence of PW-59.

The learned counsel submitted that the original call recording was with Special Unit. The fact that the IO of the case got copy of it much before 23<sup>rd</sup> August 2012 when it was handed over by Special Unit to the Investigating Officer shows that the same was compromised.

Learned counsel submitted that the evidence of PW-59 shows that he was given the recorded calls illegally by the SP who directed him to send requisition and obtain the CD from Special Unit to make the availability of recorded calls legal.

The learned counsel submitted that the statement of Shri Nikhil Nanda was recorded under section 161 of CrPC on 10<sup>th</sup> November 2010. The said statement was not filed along with the chargesheet. The learned counsel submitted that they came to know about this statement as it was mentioned in the subsequent statement of this witness which was given to the accused along with the chargesheet that his statement is in continuation to his earlier statement recorded on 10<sup>th</sup> November 2010. This statement was obtained by the accused persons by the orders of the Hon'ble Delhi High Court. The learned counsel submitted that the statement dated 10<sup>th</sup> November 2010 was sought to be concealed by the prosecution as it revealed that the recorded conversations which are part of CD containing 32 calls were played before this witness on 10<sup>th</sup> November 2010 which is contrary to the case of the prosecution that they got the CD of 32 calls from special unit on 23<sup>rd</sup> August 2012.

The learned counsel submitted that the story with regard to SP Ramnish is not part of the chargesheet. The learned counsel submitted that if SP Ramnish had got some of the recorded calls from the source, why letter dated

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this shows the entire chain is not established and link is missing vis-à-vis recording of conversations.

With this, the learned counsel concluded his challenge to the sanctity of CDs containing 134 calls and 32 calls.

Now, the learned counsel addressed arguments with regard to CDRs. The learned counsel submitted that CDRs being maintained electronically should be admissible otherwise the same cannot be looked into. The learned counsel referred to **Harpal Singh versus State of Punjab, 2017 (1) SCC 734** and read from para-56 to submit that in the absence of certificate under Section 65-B of the Evidence Act, the call detail records cannot be looked into.

It was submitted that except for one telephone of Shri Bipin Shah of service provider Vodafone, there is no customer application form so far as other mobile phones are concerned.

The learned counsel submitted that the nodal officer from the service provider had taken time to produce certificate under section 65-B of the Evidence Act but even on the adjourned date no such certificate was produced.

The learned counsel referred to D-17 which is letter dated 8<sup>th</sup> April 2008 from the service provider Airtel to show that the CDRs are not auto generated from the server of service provider. According to the submissions of the learned counsel, the footer of CDRs reveals that they were printed from the hardware of the Investigating Officer. The learned counsel submitted that Microsoft has a feature of switching on/switching off so that the path No. can be reflected/concealed respectively at the time of taking the print from the system.

The learned counsel submitted that the CDRs given to them do not bear the stamp of Airtel which is reflected in the certified copies received by them from the court. The learned counsel submitted that there are irreconcilable differences between the CDRs and Annexure A handed over by special unit along with CDs of recorded conversations. The inward and outward calls are not tallying. The timings of calls are not matching. There are certain calls

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shown in the Annexures which are not shown in the CDRs. The learned counsel submitted that the CDRs are also tempered. The learned counsel showed a chart pointing out these anomalies in the Annexures and in the CDRs.

The learned counsel is at liberty to place the same on record after serving advance copy upon the learned Senior PP for CBI.

Now, further arguments shall be heard on **21<sup>st</sup> July 2020 at 2.15 PM.**

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

As pointed out by learned counsel Shri P.K. Dubey, the date, at page 3 of the order sheet dated 15<sup>th</sup> July 2020, shall be read as 23<sup>rd</sup> August 2012 and not as 23<sup>rd</sup> August 2008. Further, at page 4, para two, first-line, the reference is to D-55 and not D-65. Further, as pointed out by the learned counsel Sh. Anindya Malhotra, the date at page 1, para 2, shall be read as 30<sup>th</sup> May 2008 and not as 31<sup>st</sup> May 2008. The case No. as mentioned in para 2, at page 2 is Civil Appeal No. 20825/2017 and not Criminal Appeal No. 20825/2017.



**(ARUN BHARDWAJ)**  
**Special Judge (P.C. Act)(CBI-05)**  
**Rouse Avenue District Court,**  
**New Delhi/17.07.2020**

17.07.2020

Present: Sh. Atul Tripathi, Ld. Special PP for ED.  
Sh. Hemant Shah, Ld. Counsel for accused Sh. Ramesh Nambiar.

(Through VC using Cisco WebEx app)

The last date in this case was 02.03.2020 and thereafter, it was adjourned to 03.04.2020 and to 18.04.2020, and as per directions of Ld. District & Sessions Judge, cum- Special Judge, CBI, PC Act, Rouse Avenue District Court, New Delhi the case was adjourned for today.

Ld. Counsel for accused submits that the accused could not join the hearing through video conferencing due to connectivity issue as his office is in basement.

The case is at the stage of arguments on charge.

Ld. Special PP for ED submits that he has to file supplementary complaint. He further submits that the same is not in the nature of urgent filing as no urgent orders are sought by ED in that regard. But he wishes to file the same to avoid issue of limitation.

Today, Ld. District & Sessions Judge, cum- Special Judge, CBI, PC Act, Rouse Avenue District Court, New Delhi has issued the following notice:-

*\* Pursuant to Hon'ble High Court's Office Order bearing No.24/DHC/2020 dt. 13.07.2020 and in continuation of this Office Order No. Power/Gaz./RADC/2020/E-6836-6919, it is further directed that physical filing of non-urgent/ordinary matters concerning CBI, ED or other criminal matters, be done only in sealed envelope with all necessary particular like name of parties, FIR/RC number etc. mentioned on the envelop itself. It is further made clear that marking/allocation of such non-urgent/ordinary matters shall be done only upon resumption of normal*


*functioning in the Court and till then sealed envelope filed in non-urgent/ordinary matters shall remain in the custody of filing section under the responsibility of Branch-In-Charge of filing section."*

On the same analogy, since the filing is non urgent in nature, let supplementary complaint be filed in a sealed cover (seal of ED) with the Ahlmad of the court, but the same shall be opened on resumption of court hearings.

Ld. Counsel for the accused objected to the filing of secondary complaint. It is clarified that all issues in this regard are open and the court is yet to apply its mind to the said supplementary complaint. Only its filing is permitted.

The predicate offence has been adjourned to 24.07.2020 at 12:30 PM. Let this complaint be also listed on the same date.

Let a copy of this order be sent by WhatsApp to the Ld. Counsels and the accused.

  
Arun Bhardwaj  
Special Judge (PC Act) (CBI-5)  
Rouse Avenue District Court  
New Delhi/17.07. 2020

17.07.2020

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI.

Accused No. 1 Sh. D.S. Sandhu and Accused No. 5 Smt. Sudershan Kapoor in person along with Ld. Counsels Sh. Y. Kahol and Sh. Deepak Sharma.

Accused No. 12 Sh. Vikas Srivastava in person alongwith Ld. Counsels Sh. I.D. Vaid, Sh. Dhruv Sehrawat and Sh. Rajender Kumar Shukla.

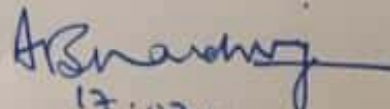
Accused No. 7 Sh. Amit Kapoor along with Ld. Counsel Sh. Manoj Pant.

Accused No. 8 Sh. Rishiraj Behl and Accused No. 6 Sh. Ashwani Dhingra in person along with Ld. Counsel Sh. M.K. Verma who represents Accused No.11 Sh. D.B. Singh also.

(Through VC using Cisco Webex App.)

Ld. Counsel Sh. Yudhishtar Kahol submitted that in the arguments addressed by him which are recorded in the order sheet of 16.07.2020, the circular has been noted as of December 1996, whereas the circular is of 1997.

Ld. Counsel resumed arguments on behalf of Accused No. 5 Smt. Sudarshan Kapoor and referred to the evidence of PW-7 Sh. Vijay Prakash, who was the Regional Manager in Regional Office, Central Bank of India, Chandni Chowk, Delhi on 20.07.1998. Ld. Counsel pointed out that this witness is a very senior officer of the bank but is casually deposing that the loan was sanctioned by East Patel Nager Branch of the bank against KVPs. Ld counsel submitted that the loans ( including loan in case in hand) are sanctioned at the level of Regional Manager and not at the Branch level. Ld. Counsel submitted that this is on the instigation of the IO so that the accused no. 5 can be made scapegoat.

  
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Ld. Counsel pointed out that this witness is referring to the post office of Armapore, whereas all the documents relied on by the bank and prosecution are from post office Armapur. Ld. Counsel submitted that the bank and the investigation agency should have visited both the post offices i.e. at Armapore and Armapur both. He submitted that PW-8 Sh. J.S. Bhatti had also gone to post office Armapur and not post office Armapore.

Ld. Counsel submitted that as the bank claims that there is a circular of December, 1997, the same would have been known in the Regional Office.

Ld. Counsel referred to the evidence of PW-7 recorded on 26.09.2006, where the witness deposed that he had got the valuation of securities offered informally. Ld. Counsel submitted in banking circle, nothing is done informally.

Ld. Counsel referred to the cross-examination of this witness dated 26.09.2006, on behalf of Ld. Counsel for deceased Accused No. 4, where the witness deposed that the Vigilance Officer was directed to verify the genuineness of KVPs orally. Ld. Counsel submitted, till then the bank was not sure whether the KVPs are forged, fake or stolen. He submitted that Accused No. 12 and accused no. 5 had no magic wand to know that these KVPs were fake.

Ld. Counsel submitted that Exhibit PW-7/DZ is the circular in question which was issued by PW-3 Sh. D.L. Khanzo. He submitted that no such circular could have been issued before the registration of FIR and submitted that this circular has been manufactured by the witness to save his skin. However, Ld. Counsel submitted that he will revert to this circular after reading the enquiry report of PW-12 Sh. U.B. Upadhyay.

Ld. Counsel pointed out that PW-8 Sh. J.S. Bhatti, who had gone to verify the KVPs to Kanpur stayed at the post office hardly for one hour. He submitted that PW-8 could not say whether post-master had consulted or referred to his record before making his observations that KVPs are fake.

Ld. Counsel submitted that D-18, D-19 & D-20 are slips having stamps of GPO, Kanpur but no investigation was conducted in that regard.

Ld. Counsel referred to the evidence of PW-9 Sh. Vinod Kumar Jain, Senior Manager of the bank, who deposed he had no knowledge, if any circular was received from the head office/RBI that some fake/forged KVPs are in circulation. He deposed that he came to know this fact in August, 1998.

Ld. Counsel submitted that it shows the circular of December, 1997 is a forged document only to victimize accused no. 5.

Ld. Counsel referred to the evidence of PW-10 who deposed that he had not investigated into the genuineness or otherwise of the receipts regarding deposit of Rs.1/- each for endorsement of KVPs in favour of the bank. Ld. Counsel submitted that the same was neither verified by bank nor by the IO and therefore it cannot be said that those receipts are fake.

Now, Ld. Counsel referred to the evidence of PW-12, who had conducted vigilance enquiry in the matter. This witness deposed genuineness of KVPs was already got verified by Zonal Office by deputing Officer to go to the post office Armapur, Kanpur. He deposed that money receipts issued by GPO, Kanpur were genuine but the stamp of Armapur post office was forged.

Ld. Counsel submitted that the stamp was sent to GEQD for examination but the prosecution concealed the report and now adverse inference be drawn that the report was against the prosecution and in favour of the accused.

The Ld. Counsel pointed out the evidence of this witness where he deposed that he had orally examined the official from concerned post office for writing and signature comprising the endorsement appearing on nine KVPs Ex. PW-8/A1 to A5. Ld. Counsel submitted that this was not the responsibility of Branch Manager/Accused No. 5 and case of prosecution is full of concoction.

Ld. Counsel referred to the vigilance report given by this witness and referred to internal Page 2 where it is mentioned that Sh. Rishi Behl, Sh. Amit Kapoor and Sh. D.S. Sandhu had met Sh. D.L. Khanijo to discuss their

proposal and Accused No. 5 Smt. Sudarshan Kapoor discussed the proposal with Sh. D.L. Khanjo who advised her to send the proposal to Regional Office. Ld. Counsel submitted, if it is so, then there is no case against accused no. 5.

Ld. Counsel referred to the report at internal Page 3 where it is mentioned that borrower had enclosed the list of KVPs against which OD limit was required. Reference was made to internal Page 4, where it is noted in the enquiry report that Accused no. 5 forwarded the request of borrowers to Regional Office. Ld. Counsel submitted there is no irregularity in the same.

Reference was also made to oral assurance to give margin money of Rs.30,00,000/- and open one OD account. However, it was submitted that there is nothing in writing.

Ld. Counsel submitted that as against KVPs of Rs.3,00,00,000/-, the bank had to give loan of Rs.1,40,00,000/- and there was no anomaly in forwarding the loan application to Regional Office, as the loan was fully secured by KVPs.

Ld. Counsel submitted that if any mistake was committed by Accused No. 5, similar mistakes were also committed by three senior officers at Regional Office, who have been let off and only Accused No. 5 has been made a victim.

Ld. Counsel submitted that it was never in dispute that Accused No. 1 was a dealer of Mahindra & Mahindra Jeeps. His identity was genuine and laxity, if any, on the part of Accused No. 5 was technical in nature. Ld. Counsel submitted that the officers at Regional Office also failed to discharge their duty in case there was anything amiss on the part of Accused No. 5.

Ld. Counsel submitted that PW-3 never asked a single query from the branch and sought the clarification from the Regional Office and sanctioned the loan hurriedly.

Ld. Counsel submitted that at Regional Office, there is a Manager (Credit) who is expected to be an expert in evaluating application for loan and in case there was something, it should have been noted at Regional Office. On the other hand, as noted at internal Page 5 of the report, Sh. V.K. Jain,

Manager (Credit) simply recommended on 09.03.1998 itself, sanction of OD limit of Rs. 1,40,00,000/-, subject to conditions mentioned therein.

Ld. Counsel submitted that as the officers at Regional Offices relied on document, the Branch Manager would have also acted and relied on them and there is no difference in the performance between officers of Regional Office and Branch Manager and she is entitled to similar treatment on parity.

Ld. Counsel pointed out the anomalies by PW-3 Sh. D.L. Khanijo as noted at internal Page 7 of the report. Ld. Counsel submitted that as PW-3 could have been booked by CBI, he manufactured the circular of December, 1997 to save his skin.

Ld. Counsel submitted, deputing Accused No. 4 Sh. A.N. Verma to visit Kanpur for verification of KVPs was the most appropriate thing which Accused No. 5 could have done. She had no other remedy.

Ld. Counsel submitted that report also mentions that Sh. Rishi Raj Behl booked air tickets for Lucknow from the cabin of Accused No. 5. However, there is absolutely no such evidence in this regard. Reference was made to relevant pages of the Report where it is mentioned that the receipts were issued by Kanpur, GPO.

Ld. Counsel submitted that there is no investigation of the prosecution in this regard. Reference was made to internal page 22 of the report which says that it was doubted in July, 1998 that KVPs may be fake. Ld. Counsel submitted that it also contradicts issuing of any circular in December, 1997 about fake KVPs.

Ld. Counsel submitted that Accused No. 5 had seen KVPs on 14.03.1998 and by then, lien was already marked and there was nothing left to be done by Accused No. 5.

At this stage, Ld. Counsel submitted that now he will address arguments with regard to the evidence of PW-20.

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17.07.2020

Now, further arguments shall be resumed on **Monday i.e. 20.07.2020 at 11:00 am** as it is time for hearing through video conferencing in other cases listed for today.

Let a copy of this order sent by WhatsApp to the Ld Senior PP for CBI, all the accused persons and their learned counsels.



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New next, Delhi/17.07.2020