

CBI Vs Ashok Kumar & Ors.

22.09.2020

Present: None.

This application seeking cancellation of endorsement on the FDR alongwith some documents has been sent on the official e-mail ID of the Reader of the Court yesterday.

It is stated in the application that the applicant Sh.Rakesh Aggarwal had stood surety for the accused Ms.Maya Devi and had furnished FDR bearing No.0967636 dated 23.03.09 for a sum of Rs.1 Lakh drawn on Oriental Bank of Commerce, GTK Road, Delhi while furnishing the bail bonds. It is further stated in the application that the accused Ms.Maya Devi has already been acquitted vide order dated 15.11.2016 and the judicial record is lying in record room of Tis Hazari Court bearing goshwara no.21/S. It is prayed in the application that the endorsement on the said FDR be cancelled.

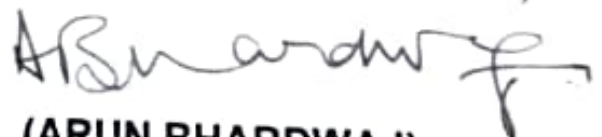
Presently, the courts are working through VC and partly through Physical Courts. Therefore, subject to feasibility of summoning the file, a requisition be sent to the record room to send the file in this court for 23.10.2020.

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

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 22.09.2020

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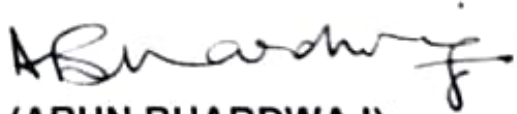
It is stated in the application that the applicant Sh.Sameer Chadha had stood surety for the accused Sh.Ashok Kumar and had furnished FDR bearing No.41025160002030 for a sum of Rs.1 Lakh drawn on Karur Vysya Bank, Lawrence Road, Delhi while furnishing the bail bonds. It is further stated in the application that the accused Sh.Ashok Kumar has already been acquitted vide order dated 15.11.2016 and the judicial record is lying in record room of Tis Hazari Court bearing goshwara no.21/S. It is further stated that said FDR has been lost by the applicant/surety for which NCR has been registered and copy thereof has also been annexed with this application. It is prayed in the application that the bank be directed to release the said FDR.

Presently, the courts are working through VC and partly through Physical Courts. Therefore, subject to feasibility of summoning the file, a requisition be sent to the record room to send the file in this court for 23.10.2020.

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 22.09.2020

22.09.2020

C.C.38/2020

**CBI VERSUS M/s ADITYA MEDIA NETWORK PRIVATE LIMITED
AND ORS.**

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

Chargesheet in this case was received from the office of learned District and Sessions Judge cum Special Judge (PC Act) (CBI), RADC, New Delhi online on 2nd September 2020.

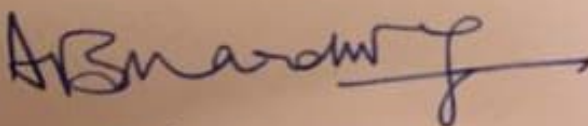
However, at that time the chargesheet was not complete and on 5th September 2020 directions were given for supplying complete chargesheet in a CD.

Now, complete chargesheet has been filed in a CD.

Chargesheet has been perused and submissions of learned Senior PP for CBI also heard.

There are three public servants who are Accused No. 12 Shri Satish Kumar Garg, Ex Assistant General Manager, Punjab National Bank, Civil Lines Branch, Delhi, Accused No. 13 Shri Pawan Kumar Jindal, the then Chief Manager and Accused No.14 Shri Ramesh Kalia, the then Deputy Manager (Loans), now retired.

CBI has filed sanction under section 19 of the Prevention of Corruption Act, 1988 to prosecute Accused No. 12 Shri Satish Kumar Garg and Accused No. 13 Shri Pawan Kumar Jindal. So far as Accused No. 14 Shri Ramesh Kalia is concerned, it is mentioned in the chargesheet that sanction for prosecution against him is still awaited and shall be submitted before this court as soon as it is received.



22.09.2020

Whether sanction is required under Section 19 of the Prevention of Corruption Act, 1988 for prosecution of accused No. 14 Shri Ramesh Kalia?

Prevention of Corruption Act has undergone amendment w.e.f. 26th July 2018.

Amendment brought in Section 19 dealing with necessity of previous sanction for prosecution now provides that no court shall take cognizance of offence under section 13 alleged to have been committed by a public servant except with the previous sanction of the authority competent to remove public servant from his office. The proviso added in the Act after the amendment provides that the expression public servant includes such person who has seized to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed.

After the amendment in the Act, section 13 itself has undergone drastic changes in comparison to section existing in P.C. Act, 1988 before the amendments. When the contents of section 13 itself have undergone major changes, the section 13 referred in section 19 of the Act after the amendment would refer to the amended section 13 and not the previously un-amended section 13. Meaning thereby for taking cognizance of offence committed before the amendment in the Act, provisions of section 19 of the post amended act would apply only to cases under section 13 of the post amended act i.e. the offences committed after amendment in the Act.

In this case, the offence was committed in the year 2015 and the FIR was registered on 13th September 2017. Therefore, the un-amended

section 19 of the Act would apply and no sanction would be required after the public servant has retired.

The learned Senior PP for CBI Shri B.K. Singh referred to the judgement in the case of State of Telangana versus CBI Versus Sri Managipet@Managipet Sarveshwar Reddy, decided by the Hon'ble Supreme Court on 6th December 2019 in Criminal Appeal No. 1662 of 2019 to strengthen the submissions that cognizance qua an accused can be taken where offence was committed before amendment of the Act in the case of a public servant who has retired from the service. In para 37 of the judgement it is held as under:-

"Mr. Guru Krishna Kumar further refers to a Single Bench judgement of the Madras High Court in M.Soundarajan versus State through the Deputy Superintendent of Police, Vigilance and Anti-corruption, Ramanathapuram to contend that amended provisions of the Act as amended by Act XVI of 2018 would be applicable as the Amending Act came into force before filing of the charge sheet. We do not find any merit in the said argument. In the aforesaid case, the learned trial court applied amended provisions in the Act which came into force on 26th July 2018 and acquitted both the accused from the charge under section 13 (1) (d) read with 13 (2) of the Act. The High Court found that the order of the trial court to apply the amended provisions of the Act was not justified and remanded the matter back observing that the offences were committed prior to the amendments being carried out. In the present case, the FIR was registered on 9th November, 2011 much before the Act was amended in the year 2018. Whether any

offence has been committed or not has to be examined in the light of the provisions of the statute as it existed prior to the amendment carried out on 26th July 2018."

Therefore, in the opinion of this court, there is no legal restriction for taking cognizance of the offences involved in this case against accused No. 14 Shri Ramesh Kalia who is a retired person today.

This court has gone through the records.

There is sufficient material to take cognizance of the offences under section 120B read with section 419, 420, 467, 468 and 471 IPC and section 7 and 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act 1988 and substantive offences thereof against accused (i) M/s. Aditya Media Network Private Ltd (A-1) through its Director, (ii) Ms Pallavi Gupta (A-2), Director of M/s Aditya Media Network Private Ltd, (iii) Daya Nath Dubey (A-3), Director of M/s. Aditya Media Network Private Ltd, (iv) Deepak Gupta (A-4), (v) Shri Ajay Kumar alias Chandan Kumar Singh (A-5), Proprietor of M/s. Bremmik International, (vi) Chander Shekhar (A-6), Proprietor of M/s. C.S. International, (vii) Rupesh Gupta (A-7), (viii) Rohit Gupta (A-8), Proprietor of M/s. S.K.Agency (ix) Vikas Goel (A-9) Proprietor of M/s. Balaji Telecom, (x) Birendra Prasad Singh (A-10), Empanelled Bank Valuer (xi) Vijendra Kumar Aggarwal (A-11), Empanelled Bank Valuer (xii) Satish Kumar Garg (A-12), the then AGM, PNB, Civil Lines Branch, Delhi (xiii) Shri Pawan Kumar Jindal (A-13), the then Chief Manager, PNB, Civil Lines Branch, Delhi (xiv) Shri Ramesh Kalia (A-14), the then Deputy Manager, PNB, Civil Lines Branch, Delhi (xv) M/s Rishima Impex Pvt Ltd (A-15) through its Director (xvi) Virender Bhatia (A-16) and cognisance of these

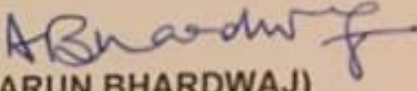
offences is therefore taken qua all the sixteen accused named above and they be summoned for **22nd October 2020**.

As further investigation is continuing against Sahil Gupta, Proprietor of M/s.Ajanta Sales, Ms Priya Sharma and Ms Sunisha Sharma partners of M/s. P.S.Enterprises and on certain other issues, the IO shall file the supplementary final report under section 173 (8) CrPC on the outcome of further investigation before this court.

Let a copy of this order be sent by WhatsApp to the learned Senior PP for CBI.

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ARUN BHARDWAJ
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(ARUN BHARDWAJ)

Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/22.09.2020