

23.09.2020

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, Mr. Gaganjyot Singh, Ms. Smriti Ramchandran, Sh. Prince Kumar and Ms. Pinky Dubey.

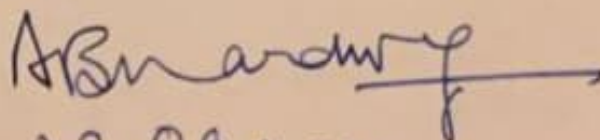
Accused No. 2 Sh. Suresh Nanda (through VC from UAE) with Ld. Sr. Advocate Sh. Ramesh Gupta along with Sh. Sandeep Kapoor and Alok Sharma, Advocates.

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

(Through VC using Cisco Webex App.)

Today, Shri P.K. Dubey, learned counsel for Accused No. 1 Sh. Ashutosh Verma read from the cross examination of PW-26 Shri Amit Saxena.

Attention of the witness was drawn to his statement under Section 161 of Cr.P.C. recorded on 28.09.2010 and 26.11.2010. However, the witness accepted that only part statement dated the 28.09.2010 is correct. Whereas he accepted his statement written from A to A and B to B but statement written from C to C and D to D was stated to be not entirely what he had stated to the IO and had some variations. Similarly, in statement dated 26.11.2010, he admitted that the statement from point B to B, D to D, F to F had been correctly recorded but statement from A to A is not hundred percent incorrect but it has some variations. Similarly, he deposed statement from C to C and E to E has been recorded incorrectly and statement from D to D and F to F had been correctly recorded.


23.09.2020

Both the statements were exhibited as Exhibit PW-26/D1 and Exhibit PW-26/D2 respectively.

The learned counsel submitted that from this statement of the witness, his conduct should be observed. The witness did not say what are the variations? The witness did not say how these statements were incorrect. It was argued that when these statements were put to the investigating officer, he had deposed that he had recorded them correctly. The learned counsel submitted in the peculiar facts and circumstances, both the statements be deemed to be correct.

The learned counsel referred to the statement of this witness where he deposed that he had resigned from the Directorship of M/s. Nitya Resorts Private Ltd. but could not answer whether he had intimated the Banks that he has ceased to be authorised signatory of M/s. Nitya Resorts Private Ltd. The witness also deposed that he had invested in the shares of JHS Svendgaard (company of Shri Nikhil Nanda). Since the witness was allotted preferential shares, learned counsel submitted that such treatment is given to family members, close friends or preferred persons. The witness deposed that DR International company was introduced to him by Shri Nikhi Nanda. The witness also deposed that from DR International, M/s. Nitya Resorts Private Ltd. had received Rs. 1.50 Crores. The learned counsel submitted that the above shows money of Shri Nikhi Nanda from DR International was being transferred to M/s. Nitya Resorts Private Ltd. The learned counsel pointed out that there is no agreement with regard to investment made by this witness with DR International. The learned counsel submitted that this shows that in fact the money was of Shri Nikhil Nanda only. Referring to Exhibit PW-22/1 the witness deposed that Shri Nikhil Nanda would not have written the same if he was not involved in the property at Morjim Beach, Goa. Learned counsel submitted that as per D-44, the copies of demand drafts of the five companies at Calcutta which were given as

sale consideration to Shri Pradeep Sahni/Elliot Prima Resorts Pvt. Ltd. were seized from the premises of Shri Nikhil Nanda during search conducted by CBI. Learned counsel submitted that D-44 is a settlement of account between Shri Nikhil Nanda and Shri Amit Saxena. Exhibit PW-26/1 and Exhibit PW-22/1 do not mention the name of Shri Ashutosh Verma anywhere. The learned counsel submitted that when this witness was cornered on being questioned why it has been written that the commission of M/s. Nitya Resorts Pvt. Ltd. was stated as 3% or why it has been stated company formation Nitya 2 lakhs, the witness tried to shift the burden on Shri Nikhil Nanda stating that he does not know why such writing has been written as the same is written by Shri Nikhil Nanda not by him. When questioned about payment of Rs.11,61,500/- by him to Shri Pradeep Sahni, the witness remained evasive. Attention was also drawn to the response of this witness where he deposed that he took no step for recovery of outstanding amount from Shri Ashutosh Verma as per Exhibit PW-22/1 and Exhibit PW-26/1. Learned counsel submitted that no books of accounts were produced to show the outstanding against Shri Ashutosh Verma. The witness admitted that Exhibit PW-26/1 does not reflect that this amount was outstanding against Shri Ashutosh Verma. Referring to payment of 5% commission to Shri Ajay Gupta by Shri Nikhil Nanda, the learned counsel submitted that this shows interest of Shri Nikhil Nanda otherwise he would not have paid any interest/commission to Shri Ajay Gupta. When the attention of this witness was drawn to point D to D of Exhibit PW-26/D1 where it is recorded that Shri Nikhil Nanda was the primary investor of M/s. Nitya Resorts through five companies, the witness deposed that he had not made this statement to the investigating officer and it is incorrectly recorded. The learned counsel submitted that it shows either the witness was deposing falsely or the investigating officer has deposed falsely and in both the situations the benefit should be given to the accused. At number of other places, the witness denied having made the statement to the investigating officer and deposed that

the same is incorrectly recorded. Learned counsel submitted that this witness has deposed falsely and has made contradictory statements thereby losing creditworthiness. During cross examination of this witness on 10.03.2017 where the witness deposed that it was not in his knowledge whether any survey was conducted prior to construction of the boundary-wall, the learned counsel submitted that from here onwards the witness started telling another story. Attention was drawn to the deposition of this witness where he deposed that the huts and shacks upon the property were got constructed by him and he must have taken permission from Panchayat because otherwise it was not possible to raise the construction. The expenses for erection of shacks and huts were paid by the witness out of his own pocket. Learned counsel submitted same would not have been possible if he was not the owner of the property. The witness did not claim this amount from the company at the time of his resignation which also shows that he was actually the owner of the property. The learned counsel summarized that this witness has close relationships with Shri Nikhil Nanda, the settlement of account was with Shri Nikhil Nanda, this witness was looking after the property/shacks/huts, the investment in M/s. Nitya Resorts was made by DR International, another company of Shri Nikhil Nanda and Exhibit PW-22/1 and Exhibit PW-26/1 do not mention the name of Shri Ashutosh Verma anywhere. The learned counsel also submitted that in view of statement of this witness he is not a creditworthy witness.

Next, the learned counsel referred to the evidence of PW-22 Shri Nikhil Nanda who deposed that he was summoned by CBI for recording his statement in 2012. The learned counsel submitted that the witness concealed his earlier statement recorded by CBI under Section 161 of Cr.P.C. in the year 2010. The witness deposed that during January 2008, Shri Ashutosh Verma told him that he had some investable amount which he had received from the sale of ancestral property and which he wanted to invest in a property in Goa. Learned

counsel submitted if this is the case of the prosecution, then there is no case under Section 7 of the Prevention of Corruption Act against Shri Ashutosh Verma as there is even otherwise also no evidence that the money had come from Shri Suresh Nanda. The witness deposed that while he was in USA, Shri Ashutosh Verma had called him requesting that he was sending some money which would be collected by Mr. Rajinder Kashyap. The learned counsel submitted that there is no such call in the month of January 2008 between Shri Ashutosh Verma and Shri Nikhil Nanda. Moreover, the employee who had collected this money was not named. Learned counsel submitted that Shri Jawahar had deposed that the sum of Rs. One Crore was given by Shri Nikhil Nanda for Shri Pradeep Sahni. Learned counsel submitted there is no consistency in the evidence of prosecution witnesses. When the witness showed ignorance to the transaction of Rs. 2 Crores raised by Shri Ajay Gupta, the learned counsel submitted that then how this witness had written in D-44, that 5% commission to Shri Ajay Gupta. So far as the position with regard to survey of the property is concerned, the learned counsel submitted that the evidence of this witness is contrary to number of prosecution witnesses who were independent witnesses and not part of caucus of Shri Nikhil Nanda. Learned counsel referred to the cross examination of this witness on behalf of Accused No. 2 Shri Suresh Nanda where the witness deposed that he has never met this man Shri Suresh Nanda and does not know him and never had any direct or indirect relationship with him. The learned counsel submitted that it ruled out that Shri Suresh Nanda had given the money to Shri Nikhil Nanda on behalf of Shri Ashutosh Verma. Learned counsel submitted that prosecution did not prosecute Shri Ashutosh Verma for disproportionate assets under Section 13(1)(e) of the Prevention of Corruption Act because they had no such evidence. There is no evidence of exchange of money between Shri Suresh Nanda and Shri Ashutosh Verma. There is no direction to the department to conduct an enquiry regarding the benami property

allegedly owned by Shri Ashutosh Verma. Learned counsel submitted that by alleging the Goa property to be the benami property of Shri Ashutosh Verma, the prosecution was falsely trying to entangle the accused as they could not get evidence to prosecute Shri Ashutosh Verma in this case.

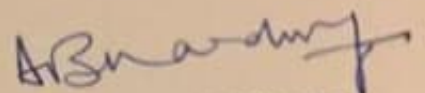
Learned counsel submitted that now on the next date, he will address arguments with regard to cross examination of Shri Nikhil Nanda.

List on **25.09.2020 at 2:15 PM** for further arguments by Shri P.K. Dubey, learned counsel for Accused No. 1 Shri Ashutosh Verma.

Let a copy of this order be sent by WhatsApp to Shri B.K. Singh, learned Senior PP for CBI, all the accused and their learned counsels.

ARUN
BHARDWAJ

Digitally signed by
ARUN BHARDWAJ
Date: 2020.09.23
22:25:23 +05'30'



(ARUN BHARDWAJ)
Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/23.09.2020

CBI Vs. Prithvi Raj Meena @ P.R. Meena & Others
CC No. 173/2019

23.09.2020

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

Accused No. 1 Sh. Prithvi Raj Meena in person along with Ld. Counsel Sh. Sachin Anand.

Accused No. 2 Sh. Deepak Aggarwal with Ld. Counsel Sh. P.K. Sharma.

Accused No. 3 Smt. Parul Garg with Ld. Counsels Sh. Hemant Shah and Sh. Deokant Tripathi.

(Through VC using Cisco Webex App.)

Ahlmad has provided soft copy of chargesheet along with the documents to the Ld. Counsels for the accused.

Sh. P.K. Sharma, Ld. Counsel for Accused No. 2 Sh. Deepak Aggarwal submits that the Ld. Principal District & Sessions Judge-cum-Special Judge, (PC Act)(CBI), RADC, New Delhi vide her orders dated 13.08.2020, had directed the Ahlmad to provide entire copy of judicial record electronically to all Ld. Counsels for the accused.

Ld. Counsel submits that in case the entire record is scanned, then it will be comfortable for this court to appreciate the arguments.

The Ahlmad of the court has informed that the entire record was not burnt in one CD by the Ahlmad of the court of Ld. Principal District & Sessions Judge-cum-Special Judge, (PC Act)(CBI), RADC, New Delhi and only chargesheet and documents are available electronically.

The Ld. Counsels submit that they have the Prosecution Evidence with them and it would have been better if the entire record was available in one CD.

Considering the report of the Ahlmad of the Ld. Principal District & Sessions Judge-cum-Special Judge, (PC Act)(CBI), RADC, New Delhi and considering that at present there is no provision for scanning the record at

Rouse Avenue District Court as records are sent to Headquarter for scanning. the Ld. Counsels shall address arguments on the basis of Prosecution Evidence available with them in physical form. In case, any Ld. Counsel wishes to inspect the court records, he shall file application electronically and with permission of the court, can inspect the records maintaining required protocols in mind.

So far as list of exhibits and indexing is concerned, the Ahlmad shall provide the same to all the Ld. Counsels within three days.

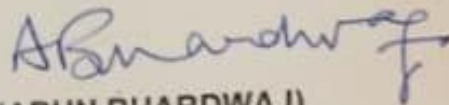
As directed, vide order dated 13.08.2020, the Ld. Counsels shall file written submissions in brief synopsis form at least two days before the date fixed.

List for final arguments now on 03.10.2020 at 10:00 am.

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

ARUN
BHARDWAJ

Digitally signed by
ARUN BHARDWAJ
Date: 2020.09.23
11:53:51 +05'30'



(ARUN BHARDWAJ)
Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/23.09.2020