

**IN THE COURT OF SHRI AJAY GULATI
SPECIAL JUDGE (PC ACT), CBI-12, ROUSE AVENUE COURT
COMPLEX, NEW DELHI.**

CC No. 275/2019

CBI Vs. Om Parkash & Another

31.07.2020

Present:- Dr. Jyotsna Pandey Sharma, Ld. PP for CBI.
Sh. Sudhir Nagar, Ld. Counsel for convict Om Parkash.
Sh. Sanjeev Kumar, Ld. Counsel for convict Anil Gupta.
Both the convicts are present in the court.

Present proceedings have been taken up through Video Conference hosted by court reader Sh. Virender Yadav.

Vide separate order of even date announced through Video Conferencing, **Convict Om Parkash** has been sentenced to 4 years Simple Imprisonment under section 13(2) read with section 13 (1) (d) of the Prevention of Corruption Act along with a fine of Rs. 50000, in default of payment of which, the convict shall undergo further SI for 3 months. **Convict Om Parkash** is also sentenced to 2 yrs. Simple Imprisonment u/s 120 B IPC read with section 13 (2) of the Prevention of Corruption Act read with section 13 (1) (d) of the Prevention of Corruption Act and section 420 of the IPC, along with a fine of Rs. 25000 in default of payment of which, the convict shall undergo further SI for 1 month.

Convict Anil Gupta is sentenced to 4 years Simple Imprisonment u/section 420 of the IPC along with a fine of Rs. 75000, in default of payment of which the convict shall undergo further SI of 3 months. **Convict Anil Gupta** is also sentenced to 2 years Simple Imprisonment u/s 120 B IPC read with section 13 (2) of the Prevention of Corruption Act read with



CC No. 275/2019
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section 13 (1) (d) of the Prevention of Corruption Act and section 420 of the IPC, along with a fine of Rs. 25000 in default of payment of which, the convict shall undergo further SI for 1 month.

Fine has been paid by both the convicts. Both the convicts shall be entitled for the benefit of the provisions of Section 428 of Cr. PC.

Both the convicted persons be taken in custody by the judicial lockup authorities. The jail authorities are directed to get the convicts tested for COVID 19. Till the results of the test come, necessary precaution be taken to keep the convicts isolated.

Copy of judgment of conviction as also of order on sentence be given to both the convicts free of cost.

Copy of the judgment be also given to Ld. PP for the CBI.

File be consigned to record room after completion of necessary formalities.

*Copy of Judgement and copy
of order on sentence kept.*

*Copy of judgement and copy
of order on sentence kept*



(AJAY GULATI)

Spl. Judge (PC Act), CBI-12
RADCC/New Delhi/31.07.2020

**IN THE COURT OF SHRI AJAY GULATI,
SPECIAL JUDGE (PC ACT), CBI-12,
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

CC No. 275/2019

**RC No. DAI/2014/A0002/ACB/CBI/New Delhi
U/s 120-B r/w 420 r/w 511 IPC &
Section 13 (2) R/W 13 (1) (d) of Prevention of Corruption Act.**

Central Bureau of Investigation

Versus

**1. Om Prakash S/o Sh. Chandan Singh,
R/o Quarter No. 599/6, Rajpur-Heerpur,
Railway Colony, Maninagar,
Ahmadabad-380008.**

....Accused No.1

**2. Anil Gupta S/o Sh. H. R. Gupta,
R/o H. No. 4/6, Jaidev Park,
New Delhi-110026.**

....Accused No.2

ORDER ON SENTENCE

1. Arguments on the quantum of sentence to be awarded to the convicted persons were addressed yesterday. The matter was thereafter listed for today for pronouncing the order of sentence.

2. **Ld. Counsel** for convict *Om Prakash* had prayed for a lenient view to be taken while sentencing keeping in view that the convict has little over 6 months of service left before he superannuates in April 2021. **Ld. Counsel** also highlighted that prior to the judgment of conviction, Om Prakash has had a spotless career and has earned many commendations from his superiors, including in the year 2011 and as recent as in 2019. On a specific query by the Court regarding family responsibilities, **ld. Counsel** for convict Om Prakash responded that he has 5 sons, all of whom are major and married. Convict only has his wife to take care of. **Ld. Counsel** concluding by praying for awarding the minimum sentence of 1 year to Om Prakash, as per the unamended provisions of section 13 (2) of the *Prevention Of Corruption Act* since the offences were committed in the year

2011. **Ld. Counsel** relied on a judgment of **Hon'ble the Apex Court** cited as AIR 2015 SC 3775, *titled as Kiran Chander Asri vs. State of Haryana*, in support of his prayer.

3. Ld. Counsel for convict *Anil Gupta* highlighted that the convict has the responsibility of looking after his wife who is suffering from arthritis and also that the convict himself is nearing the age of 60. The convict is stated to be living in a containment zone in Delhi. He further informed the Court that the convict is financially broke owing to the present case. On a specific query by the Court, **Ld. Counsel** informed that convict *Anil Gupta* has 2 children - a son and a daughter, both of whom are married and settled in life.

4. Ld. Public Prosecutor for the CBI however has submitted that the punishment to be awarded should act as a deterrent for any possible future misadventure by the members of the services as also the general public and hence, lenient view may be avoided lest the entire purpose of conviction is lost. **Ld. Public Prosecutor** relied on a Full Bench judgment of

the **Hon'ble Supreme Court** titled as *Shanti Lal Meena vs. NCT of Delhi* cited as MANU/SC/0408/2015

5. I have carefully considered the submissions.

6. It needs no specific emphasis that the sentencing policy followed in the Indian criminal justice administration system has no extremes. Sentencing has to be balanced so as to be peppered with a measure of deterrence as also by factoring in the possibility of reformation of the convict. Having said that, it also needs to be observed that when it comes to matters of corruption in public service/employment, zero tolerance is to be adopted. Efficiency of a welfare state rests so much on the shoulders of a clean public service. Once a public servant breaks the trust which the State has reposed in him for carrying his duties faithfully, it is impossible to repair the same. Every act of misconduct on the part of a public servant wears down the faith of citizens in the entire system as such. As much as the act of a dishonest public servant is impossible to condone, the act of a citizen who corrupts the very system which has been designed to serve him

cannot be condoned. Little does such a citizen realise the amount of damage that his act causes to an institution of public service. The acts of the convicts thus do not call for a lenient view to be taken.

7. There are no mitigating circumstances to take note of except the age of the convicts. Having given due consideration to the need for deterrence, possibility of reformation of the convicts, their age as also keeping in mind the gravity of the acts of the convicts, I deem it appropriate to sentence them as under :

Convict Om Prakash is sentenced to 4 years Simple Imprisonment under section 13(2) read with section 13 (1) (d) of the Prevention of Corruption Act along with a fine of Rs. 50000, in default of payment of which, the convict shall undergo further SI for 3 months.

Convict Om Prakash is also sentenced to 2 yrs. Simple Imprisonment u/s 120 B IPC read with section 13 (2) of the

Prevention of Corruption Act read with section 13 (1) (d) of the Prevention of Corruption Act and section 420 of the IPC, along with a fine of Rs. 25000 in default of payment of which, the convict shall undergo further SI for 1 month.

Both the sentences awarded to convict Om Prakash shall run concurrently.

Convict Anil Gupta is sentenced to 4 years Simple Imprisonment u/section 420 of the IPC along with a fine of Rs. 75000, in default of payment of which the convict shall undergo further SI of 3 months.

Convict Anil Gupta is also sentenced to 2 years Simple Imprisonment u/s 120 B IPC read with section 13 (2) of the Prevention of Corruption Act read with section 13 (1) (d) of the Prevention of Corruption Act and section 420 of the

IPC, along with a fine of Rs. 25000 in default of payment of which, the convict shall undergo further SI for 1 month.

Both the sentences awarded to convict Anil Gupta shall run concurrently.

8. Fine has been paid by both the convicts. Both the convicted persons be taken in custody. The jail authorities are directed to get the convicts tested for COVID 19. Till the results of the test come, necessary precaution be taken to keep the convicts isolated.

9. File be consigned to the record room after completion of necessary formalities.

ANNOUNCED THROUGH VIDEO
CONFERENCE ON 31st JULY, 2020.

**AJAY
GULATI**

Digitally
signed by
AJAY
GULATI

Date:
2020.07.31
05:05:03
+0530

(AJAY GULATI)
Special Judge (PC-Act) CBI-12
RADCC/ New Delhi/31.7.2020