

25.08.2020

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

Convict No. 1 Sh. Dilbhajan Singh Sandhu with Ld. Counsels  
Sh. Yudhishtar Kahol and Sh. Deepak Sharma.

Convict No. 2 Smt. Sudershan Kapoor with Ld. Counsel Sh. Vijay  
Aggarwal and Ms. Barkha Rastogi.

Convict No. 3 Sh. Amit Kapoor with Ld. Counsels Sh. Vikram  
Panwar and Sh. Manoj Pant.

Convict No. 4 Sh. Rishiraj Behl with Ld. Counsel Sh. M.K. Verma.

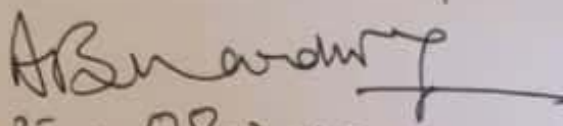
Sh. Ashwani Dhingra (earlier accused) with Surety Smt. Sandhya  
Makan.

Sh. D.B. Singh (earlier accused) with Surety Smt. Veena Singh.

**(Through VC using Cisco Webex App.)**

Vide separate order on sentence passed today, Convict No. 1 Shri Dilbhajan Singh Sandhu has been directed to undergo Simple Imprisonment for 3 (Three) years each on all the four counts i.e. under Section 411, 420, 471 read with section 467 and 468 of IPC and under section 120B read with section 411, 420, 467, 468, 471 and Section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act 1988. The sentence shall run concurrently. The convict is also given the benefit of Section 428 Cr.P.C, if applicable, and has been awarded a fine of Rs.5,00,000/- (Rupees Five Lakh Only). In the event of failure to pay the fine, he shall undergo simple imprisonment for 6 (Six) months.

Convict No. 2 Smt. Sudarshan Kapoor has been directed to undergo Simple Imprisonment for 3 (Three) years each on both the counts i.e.

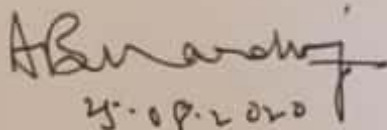
  
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under Section 13(2) read with section 13(1)(d) as well as under Section 120 B read with Section 411, 420, 467, 468, 471 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act 1988. The sentence shall run concurrently. The convict is also given the benefit of Section 428 Cr.P.C, if applicable, and has been awarded a fine of Rs.2,00,000/- (Rupees Two Lakh Only). In the event of failure to pay the fine, she shall undergo simple imprisonment for 6 (Six) months.

Convict No. 3 Shri Amit Kapoor and Convict No. 4 Sh. Rishiraj Behl have been directed to undergo Rigorous Imprisonment for 3 (Three) years each for the offence under section 120 B read with section 411, 420, 467, 468, 471 and read with Section 13 (2) read with section 13(1)(d) of the Prevention of Corruption Act 1988. The convicts are also given the benefit of Section 428 Cr.P.C, if applicable, and have been awarded a fine of Rs.2,00,000/- (Rupees Two Lakhs Only) each. In the event of failure to pay the fine, they shall undergo simple imprisonment for 6 (Six) months.

The learned counsels for the convicts have submitted that all the convicts intend to present appeal against the judgment and order on sentence of this court. Applications have been filed in this regard seeking suspension of sentence. Therefore, it is directed that the convicts be released on bail, subject to their furnishing personal bond and surety bond in the sum of Rs.50,000/-, for a period of 60 days (till 24.10.2020) to afford them sufficient time to present the appeal and obtain the orders of the Hon'ble Appellate/Hon'ble High Court court under Section 389(1) of Cr.P.C and the sentence of imprisonment shall, so long as they are so released on bail, be deemed to be suspended.

The learned counsels for the convicts requested for time to deposit the fine. Be deposited within 60 days i.e. on or before 24.10.2020. Sh. Ashwani Dhingra has furnished fresh bond under Section 437A of Cr.P.C. His surety is also present through V.C. The bond is accepted for a period of six months.

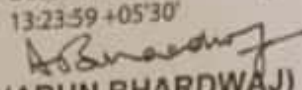
  
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All the convicts have furnished bail bonds which are accepted for a period of 60 days.

List on 26.10.2020.

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(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/25.08.2020  
(RY)

CBI vs. Shri D.S. Sandhu & Ors.  
CC No. 63/2019  
CNR DLCT110003132019

25.08.2020

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

Convict No. 1 Sh. Dilbhajan Singh Sandhu with Ld. Counsel  
Sh. Deepak Sharma.

Convict No. 2 Smt. Sudershan Kapoor with Ld. Counsel Sh. Vijay  
Aggarwal with Ms. Barkha Rastogi and Sh. Yugant Sharma, Ld.  
Counsels.

Convict No. 3 Sh. Amit Kapoor with Ld. Counsels Sh. Vikram  
Panwar and Sh. Manoj Pant.

Convict No. 4 Sh. Rishiraj Behl with Ld. Counsel Sh. M.K. Verma.

**(Through VC using Cisco Webex App.)**

In this case, arguments on sentence were addressed by the Ld. Sr  
PP for CBI and the Ld Counsels for the convicts on 17.08.2020 through video  
conferencing and case was adjourned for today i.e. 25.08.2020 for orders on  
sentence in the physical presence of convicts at Rouse Avenue District  
Courts, New Delhi.

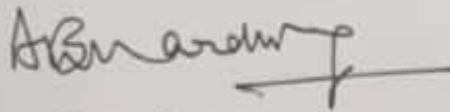
However, noticing that capital had reported highest 24 hours spike  
in a month on Sunday, it was directed on 24.08.2020 that the order on  
sentence shall be passed using video conferencing facility through Cisco  
Webex App.

Therefore, present proceedings have taken place through video  
conferencing using Cisco Webex App.

The submissions of Ld. Sr. PP for CBI and the Ld. Counsels for  
the convicts are recorded in detail in order dated 17.08.2020.

**Convict No. 1 Sh. Dilbhajan Singh Sandhu** has been convicted  
on four counts i.e. under Section 411 IPC, 420 IPC and 471 read with section  
467 and 468 IPC and under Section 120B read with Section 411, 420,

CBI vs. Shri D.S. Sandhu & Ors.  
CC No. 63/2019



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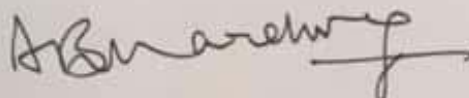
Page 1 of 5

467,468, and 471 and Section 13 (2) read with Section 13(1)(d) of P.C. Act. This convict is the main beneficiary of the fraud in as much as though the loan was passed in favour of this convict and in favour of Accused No. 2 Sh. Hari Narayan Sharma and Accused No. 3 Sh. Baljinder Singh (both died during pendency of the trial) but the account operating authority was with this convict Sh. Dilbhajan Singh Sandhu. He has been convicted for all the charges framed against him, as noted above. Though he settled civil liability with the bank on payment of Rs.90,00,000/-, but that is of no solace because leave aside loss of interest which is the core business of banks, the Central Bank of India lost Rs.56,00,000/- even towards principal loan sanctioned in favour of Convict No. 1 Sh. Dilbhajan Singh Sandhu and Accused No. 2 Sh. Hari Narayan Sharma and Accused No. 3 Sh. Baljinder Singh.

It has also come in the evidence of PW-28 Sh. Gopal Gupta that the house of this convict at New Rajender Nagar, New Delhi was sold for Rs.60,00,000/-, but this convict had given him receipt only for Rs.50,00,000/- and had taken another Rs.10,00,000/- in cash for which no receipt was given. Therefore, this convict caused additional loss of Rs.10,00,000/- to the bank even while setting his civil liability.

In normal circumstances, this convict deserved severest punishment provided under the law. But now he is 80 years of age. The offence was committed in 1998. The matter took 22 years for reaching the stage of finality. Since there were 13 accused (though some of them died during the trial/declared P.O.), every witness was cross-examined on behalf of each accused leading to long delay in decision of the case. A perusal of the record shows that the delay in decision is not solely attributable to the convicts.

As per treatment record at Cheema Medical Centre, Mohali, Punjab, this convict is stated to be suffering from health problems also. Therefore, keeping in mind the age and medical condition of this convict, long pendency of trial and the one time settlement (OTS) of civil liability with the bank, in the considered opinion of this court, the ends of justice would be

  
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served by awarding him **simple imprisonment of 3 (three) years** on each count i.e. for conviction under Section 411, 420, 471 read with Section 467 and 468 IPC and under Section 120B read with Section 411, 420, 467, 468, 471 and Section 13(2) read with Section 13(1)(d) of P.C. Act, 1988. However, the punishments shall run **concurrently** and the convict will also have the benefit of Section 428 of Cr.P.C. and period of detention, if any, undergone by him shall be set off against the sentence of imprisonment.

Additionally, Convict No. 1 Sh. Dilbhajan Singh Sandhu shall also pay a **fine of Rs.5,00,000/- (Rupees Five Lacs Only)**. In the event of failing to pay the fine, he shall undergo S.I. for 6 (Six) months.

**Convict No. 2 Smt. Sudershan Kapoor** was the officiating Branch Manager who had processed the application for Over Draft Facility without watching the interest of the bank and disbursed the sanctioned amount contrary to the terms of sanction. Had she been discharging her duties honestly, the bank would not have lost even a single penny. She has been convicted under Section 13(2) read with Section 13(1)(d) of P.C. Act, 1988 as well as under Section 120B read with Section 411, 420, 467, 468 and 471 and read with section 13 (2) read with Section 13(1)(d) of P.C. Act, 1988.

This convict is also 75 years of age. When the fraud was unearthed, she was dismissed from her service. She was denied her gratuity. She too has suffered the trial for 22 years. As noticed earlier, the delay was not attributable solely to the convicts.

Considering aforementioned facts and circumstances, this convict is awarded a sentence of **simple imprisonment for 3 (three) years** for both counts i.e. for the offence under Section 13(2) read with Section 13(1)(d) of P.C. Act, 1988 as well as under Section 120B read with Section 411, 420, 467, 468 and 471 and Section 13(2) read with Section 13(1)(d) of P.C. Act, 1988.

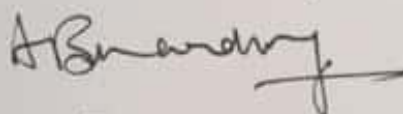
However, the punishments shall be **concurrent** and the convict will also have the benefit of Section 428 of Cr.P.C. and period of retention, if any, undergone by her shall be set off against the sentence of imprisonment.

She will also pay a fine of Rs. 2,00,000/- (Rupees Two Lacs Only). In the event of failing to pay the fine, she shall undergo S.I. for 6 (Six) months.

Next, is the order on sentence of **Convict No. 3 Sh. Amit Kapoor** and **Convict No. 4 Sh. Rishiraj Behl**. Both these convicts had played lead role in the conspiracy to cheat the bank. They were known to Convict No. 2 Smt. Sudershan Kapoor and had introduced Convict No. 1 Sh. Dilbhajan Singh Sandhu to Convict No. 2 Smt. Sudershan Kapoor. They had gone to meet Sh. D.L. Khanizo, Regional Manager with Convict No. 1 Sh. Dilbhajan Singh Sandhu. Convict No. 4 Sh. Rishiraj Behl had also accompanied Convict No. 1 Sh. Dilbhajan Singh Sandhu and Accused No. 4 Sh. Amarnath Rastogi for so called verification of fake KVPs to Armapur, Kanpur. Both have benefitted from the ill-gotten money. They have been convicted for the charge framed against them under Section 120B read with Section 411, 420, 467, 468 and 471 and read with 13(2) read with 13(i)(d) of P.C. Act, 1988. Both have mentioned their present circumstances and health conditions as mitigating circumstances. Considering that they too have faced the trial for more than two decades and the delay is not attributable to these convicts, in the interest of justice, they are awarded the sentence of **rigorous imprisonment for (three) years**. They shall also be given the benefit of Section 428 of Cr.P.C. and period of detention, if any, undergone by them shall be set off against the sentence of imprisonment. Additionally, they shall pay a fine of Rs.2,00,000/- (Rupees Two Lacs Only) each. In the event of failing to pay the fine, they shall undergo S.I. for 6 (Six) months.

The **digitally signed** copy of this order be sent electronically through whatsapp/email to the convicts as well as their Ld. Counsels.

The convicts shall collect the hard copy of order on sentence from the Ahlmad of the court today itself but to maintain social distancing, Convict No. 1 Sh. D.S. Sandhu or his Ld. Counsel shall collect the copy at 2:00 PM today. The Convict No. 2 Smt. Sudershan Kapoor or her Ld. Counsel shall collect the copy at 2:15 PM. The Convict No. 3 Sh. Amit Kapoor or his Ld.

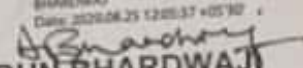
  
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Counsel shall collect the copy at 2:30 PM. The Convict No. 4 Sh. Rishiraj Behl or his Ld. Counsel shall collect the copy at 2:45 PM.

The detailed judgment passed on 06.08.2020 (soft copy and physical copy) was also directed to be supplied to the convicts as well as their Ld. Counsels. However, in case they have not collected the hard copy so far they be also provided hard copy of the judgment while providing them hard copy of order on sentence.

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(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/25.08.2020

(RY)



C.Case No. 63/2019

CBI Vs D.S.Sandhu & Ors.

25.08.2020

At this stage, the Ahlmad of the Court has reported that Convict No.2 Smt.Sudarshan Kapoor Convict No.3 Sh. Amit Kapoor and Convict No.4 Sh. Rishi Raj Bahl have taken physical copy of the judgment and order on sentence. Sh. Yudhishtar Kahol Ld Counsel representing Convict No. 1 Sh. Dilbhajan Singh sandhu has requested that he will take the judgment and order on sentence tomorrow. Convict No. 2, 3 and 4 have also filed physical copies of the bonds under Section 389(3) of Cr.P.C.

The Surety of Convict No.3 has given original RC of the vehicle HR26BK5220. Let a Robkar be given to the surety in this regard and RC be kept in safe custody by the ahlmad.

The surety of Convict No. 3 Sh. Amit Kapoor has given FDR with surety Bond. Let a letter be sent to the bank not to release the FDR without leave of the court.

Furthermore, Sh.Ashwini Dhingra who was accused in this case and has been acquitted, has furnished fresh bond under Section 437-A of Cr.P.C in physical form alongwith FDR issued by ICICI bank. Let a letter be sent to the concerned bank not to release the FDR without the permission of the Court.

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

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(ARUN BHARDWAJ)

Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 25.08.2020

Ct.Case No. 27/2019

ED Vs D.K.Goel & Ors.

25.08.2020

Present: Sh. Nitesh Rana, Ld.Spl.PP for ED.

Accused D.K.Goel and accused Sangeeta Goel with Ld.counsel  
Sh.Jaspreet Singh Rai.

(Through VC using Cisco WebEx App.)

Vide separate order,it is directed that charge be framed against all the  
three accused persons under Section 3 & 4 of PML Act,2002.

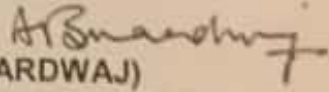
List on 02.09.2020 at 11.00 A.M for framing of charge.

In case the physical hearing is started by then, the accused persons shall  
appear in the Court, otherwise the soft copy of the charge framed against them  
shall be sent electronically to their Ld. Counsel and accused shall give their  
response to the same under their signatures duly verified by their Ld. Counsel  
and the same shall be sent to the e-mail ID of the Reader of the Court. The hard  
copy of the charge framed shall be taken on reopening of the courts.

Let a copy of this order as well as the detailed order on charge be sent by  
WhatsApp to Ld. Spl.PP for ED, both the accused and the learned counsel for  
the accused.

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(ARUN BHARDWAJ)  
Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 25.08.2020

IN THE COURT OF SHRI ARUN BHARDWAJ,  
SPECIAL JUDGE (P.C. ACT) (CBI-05),  
ROUSE AVENUE DISTRICT COURT, NEW DELHI

ECIR/14/DLZO/2013  
Ct. Case No. 27/19  
CNR DLCT110010342019

Directorate of Enforcement

...Complainant

Versus

Shri Devendra Kumar Goel and Ors.

...Accused

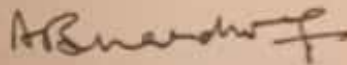
ORDER ON CHARGE

1. The case is at the stage of order on charge.
2. The Directorate of Enforcement has filed a complaint under Section 45 of the Prevention of Money Laundering Act, 2002 against the accused persons for the commission of offence of money laundering as defined in Section 3 and punishable under Section 4 of the said Act.
3. ECIR was registered in this case on 31.12.2013 after CBI registered RC No. DAI 201080015 dated 10.05.2010 against the accused persons. After completion of investigation, present complaint was filed against the accused persons.
4. The allegations against the accused Shri Devendra Kumar Goel in the RC registered by CBI were that while he was Deputy Secretary, Ministry of Home Affairs, New Delhi he was found to possess disproportionate assets to the tune of Rs.87,78,476/- which were

*ABhardwaj*  
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disproportionate to an extent of 66.8% of his known sources of income. Resultantly, RC was registered against him under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988. It was alleged that his wife Smt. Sangeeta Goel has abetted the offence under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

5. The check period in the CBI case was from July 1981 to 12.05.2010 i.e. the date of joining the service by the accused and the date on which search was conducted at his residence by CBI. The assets in the name of Shri Devendra Kumar Goel, Smt. Sangeeta Goel, Miss Sanyogita Goel (daughter), Shri Kunal Goel (son) and M/s. Kunal Agro Business Associates (India) Ltd. (M/s KABA) were taken into consideration. The complaint notices that the assets in the name of M/s KABA were worth Rs.60,52,893/-. The submission of the accused was that M/s. KABA (whose Managing Director was Smt. Sangeeta Goel) had raised paid-up equity worth Rs.68,72,000/- through equity share subscription from 360 shareholders which included 7 promoters. However, 105 number of shareholders denied investment worth Rs.17,24,000/- in M/s. KABA. 99 shareholders could not be examined due to fictitious/wrong addresses. The share subscription of these shareholders was Rs.16,46,000/-. Other shareholders had either died or shifted to unknown addresses and therefore did not respond. Their shareholding was Rs.24,74,000/-. Most of the purported shareholders were not even known to Smt. Sangeeta Goel or Shri Devendra Kumar Goel and denied having transferred their shareholding in the name of Smt. Sangeeta Goel.

  
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6. Investigation in the present complaint showed that the accused had invested funds which were disproportionate to his known sources of income in M/s. KABA. As a result, the properties in the name of M/s. KABA were attached provisionally vide orders dated 31.03.2015 and the Adjudicating Authority confirmed the provisional attachment vide order dated 06.08.2015.

7. The allegations against the accused and the role attributed to them in the complaint are as under:-

*"19. AND WHEREAS the foregoing facts, charge-sheet filed by the CBI along with relied upon documents, statements recorded under section 50 of the Prevention of Money Laundering Act, 2002 and the circumstances revealed that:-*

- a. Shri D K Goel had amassed disproportionate assets worth Rs.91,26,158.00 during the check period (taken by CBI) from July, 1981 to 15.05.2010, while Shri D.K. Goel was serving in various department of Govt. of India in different capacity;*
- b. The funds generated as disproportionate, by Shri D.K. Goel were invested through his wife Smt. Sangeeta Goel in the purchase of various immovable properties including properties worth Rs. 60,52,893/- purchased in the name of M/s KABA in which Smt. Sangeeta Goel was the Managing Director-cum-Chairperson and signatory of the all sale agreements of the Properties.*
- c. M/s KABA was incorporated on 08.09.1995 as a public limited company and was registered with Registrar, Delhi & Haryana. The original*

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subscriber to Memorandum and Article of Association of the company were including Smt. Sangeeta Goel and her relatives. Smt Sangeeta Goel was a Managing Director of the Company and was looking after day to day affairs and conduct of business of the company. Since 2004, Smt Sangeeta Goel holds almost all of the shares of the company. As per balance sheet, except cultivation of agricultural crop, the company has not carried out any business. During the check period the company was found in possession of following fixed assets land measuring more than 10 acre at Farukh Nagar, Gurgaon for a total consideration of Rs. 56,50,352/- (Rs. 57,25,632/- was shown as fixed assets in audited balance sheet for 2009-10) including stamp duty. The sale deed on behalf of M/s KABA have been executed by Smt. Sangeeta Goel and payments to sellers were made from different bank accounts including saving bank account in the name of Shri D K Goel and others at Syndicate Bank, South Block, New Delhi, Current account of M/s KABA at Bank of India, Malai Mandir Branch, New Delhi.

- d. The manner in which initial funds were generated in M/s KABA by way of showing subscription of shares by general public who later on transferred back these shares back in the name of Smt. Sangeeta Goel and the denial by such purported share holders (as discussed above) clearly establishes that the entire exercise was merely a facade to legitimize the source of funds of M/s KABA. In fact, with active collusion of Mrs. Sangeeta Goel, Shri D.K. Goel invested his money in M/s KABA with the view to purchase immovable properties and thus both Shri D.K.

*Goel and Smt. Sangeeta Goel indulged in the offence of money laundering as defined under section 3 of the PMLA, 2002 punishable section 4 of the Act, ibid.*

*e. Thus funds to the tune of Rs. 60,52,893/- invested in the purchase of immovable properties in the name of M/s KABA were the proceeds of crime, as the company was having fake share holders many of them denied having invested any money in M/s KABA and also shown false and purported transfer of shares of the company from the share holders in the name of Smt Sangeeta Goel. Thus Shri D.K. Goel and his wife Smt. Sangeeta Goel indulged in the offence of money laundering as defined under section 3 of the PMLA, 2002 and punishable under section 4 of the Act, ibid."*

8. In these circumstances, present complaint was filed with the prayer to take cognizance against Shri Devendra Kumar Goel, Smt. Sangeeta Goel and M/s. KABA for committing the offence of money laundering under Section 3 which is punishable under Section 4 of the PML Act, 2002 and with the further prayer to confiscate the proceeds of crime/properties which have been provisionally attached.

9. This complaint was filed on 02.05.2017 but orders on charge were being deferred from time to time awaiting the final decision in the predicate offence i.e. prosecution initiated by CBI in the disproportionate assets case.

10. Now, Shri Devendra Kumar Goel and Smt. Sangeeta Goel have been convicted for the offence under Section 13(2) read with Section

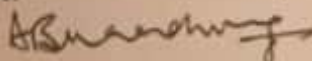
13(1)(e) of Prevention of Corruption Act and under Section 109 of IPC respectively vide judgement dated 14.07.2020.

11. Arguments on charge were addressed by Shri Nitesh Rana Ld. Special PP for ED and Shri Jaspreet Singh Rai, Ld. Counsel for the accused.

12. Ld Counsel for the ED argued that although the complaint under PML Act can proceed independent of the orders in predicate offence but in this case the accused have been convicted in the predicate offence also and therefore the accused be charged for the offence of money laundering in this case.

13. On the other hand, the learned counsel for the accused has opposed framing of charge and has prayed for discharge of the accused on the ground that the scheduled offence became part of the schedule under the PML Act, 2002 on 01.06.2009 and the properties were purchased in the name of M/s. KABA in the year 2004. He submitted that the operation of law cannot be retrospective. Counsel submitted that the accused cannot be convicted / punished for same offence twice and relied on Article 20(1) of the Constitution of India. He submitted that the trial of present complaint and the predicate offence should have been a joint trial and now the accused cannot be compelled to face de novo trial again. Reliance is placed on **Mahanivesh Oils and Food Pvt. Ltd. versus DoE**, a judgement of Hon'ble Delhi High Court dated 25.01.2016 and **A.K. Mishra versus ED**, 2015 (5) AD 353.

14. On behalf of ED, reliance is placed on **Narendra Mohan Singh and Anr. versus Directorate of Enforcement** dated 22.03.2014 (SCC ONLINE JHARKHAND 2861) to submit that it is the date when one

  
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person is found involved in any process or activity connected with the proceeds of crime and projecting it as untainted property which is relevant for the purpose of prosecution under Section 3 of the PML Act and not the date when the scheduled offence was committed. Reliance is also placed on **Hari Narayan Rai versus Union of India** judgement dated 06.08.2010 passed in Writ Petition (Criminal) No. 35/2010 (SCC ONLINE JHARKHAND 1066) to submit the relevant date is not the date of acquisition of illicit money but the date on which such money is being processed for projecting it as untainted. He also submitted that the Directorate of Enforcement has challenged the order in the case of Mahanivesh before the Hon'ble division bench of the Delhi High Court and it has been directed vide orders dated 30.11.2016 that "*We make it clear that the findings so recorded by the learned single judge shall not be construed as conclusive and binding precedent until further orders.*"

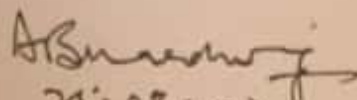
15. In the case of Arun Kumar Mishra (Supra), the ECIR registered u/s 3 and 4 of PML Act was quashed holding that the provisions of law cannot be retrospectively applied, as Article 20(1) of the Constitution bars the ex post facto penal laws and no person can be prosecuted for an alleged offence which occurred earlier, by applying the provisions of law which have come into force after the alleged offence. It was held that there cannot be retrospective application of the provisions of PML Act 2002 which came into existence in 2009 for the offences alleged to have been committed in 2005-06. However, the Directorate of Enforcement has challenged the said order before the Hon'ble Supreme Court and while issuing notice, it was directed that "In the meantime, status quo as obtains today, shall be maintained by the parties."

16. Therefore, from a reading of various cases relied on by Counsel for the parties it appears that there are judgments holding that the provisions of PML Act would be applicable even in cases where the scheduled offence was committed prior to amendment in the schedule of PML Act to include offences under Prevention of Corruption Act. There are judgments holding otherwise but in appeal either their operation has been stayed or it has been clarified that they would not be construed as conclusive and binding precedent.

17. Another factor which distinguishes the present case from all other cases relied on by Ld. Counsel for accused is that Section 3 of PML Act has been amended w.e.f. 01.08.2019 adding Explanation to the Section clarifying that "the process or activity connected with proceeds of crime is a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as untainted property or claiming it as untainted property in any manner whatsoever".

18. The Hon'ble Supreme Court in the case of **Govind Dass vs. ITO**, (1976) 1 SCC 906 (which is again referred in the judgment of the Hon'ble Supreme Court in the case of **Commissioner of Income Tax (Central) - 1, New Delhi vs. Vatika Township Pvt. Ltd.**, 2015 (1) SCC 1, has held that when the provisions of Act expressly provide and necessarily require that the provisions of the Act would have retrospective operation, only then the same will apply retrospectively. Now the process or activity connected with proceeds of crime has been made a continuing activity and continues till such time a person is directly or indirectly enjoying the proceeds of crime by its concealment or possession or acquisition or use or projecting it as

ED vs. Shri Devendra Kumar Goel & Ors.

  
25.08.2020

Page 8 of 10

untainted property or claiming it as untainted property in any manner whatsoever. Once this is continuing activity, the prosecution u/s 3 of the Act can be carried on even for the scheduled offence committed before amendment in the Schedule of the Act w.e.f. 01.06.2009.

19. Resultantly, the argument of Ld. Counsel of Accused that PML Act cannot have retrospective application is rejected in view of the fact that in appeals against judgments holding otherwise, it has been held that those judgments will not have precedential value. Moreover, now Section 3 has been amended clarifying that the process or activity connected with proceeds of crime is a continuing activity.

20. No other argument has been addressed on behalf of of learned counsel for the accused persons. The accused Shri D.K. Goel has been held guilty of having disproportionate assets to the tune of Rs.83,26,124/- which is 55.02% of the known sources of income. Taking into account provisional attachments already made in this complaint on behalf of AD, further attachment of immovable property of Shri Devendra Kumar Goel at Gurgaon has also been ordered for confiscation. This sum of Rs.83,26,124/- is the proceeds of crime and the accused are directly involved in the process and activity connected with proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property. Therefore, the accused are liable to be charged for the offence under section 3 of PML Act which is punishable under Section 4 of the said Act.

21. Let charge be framed against Accused No. 1 Devendra Kumar Goel, Accused No. 2 Smt. Sangeeta Goel and Accused No. 3 M/s. KABA through Managing Director Smt. Sangeeta Goel for the offence

under Section 3 of PML Act, 2002 punishable under Section 4 of the  
said Act.

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(ARUN BHARDWAJ)  
Special Judge (PC Act)  
(CBI-5), Rouse Avenue  
District Court, New  
Delhi: 25.08.2020  
(RY)

C.Case No. 17/2020

CBI Vs D.G.Footwear & Ors.

25.08.2020

Present: None.

(Through VC using Cisco WebEx app.)

Matter is taken up today on receiving an application moved by Accused No.6 Sh.Rupesh Gupta through the e-mail ID of the Reader of the Court seeking permission to visit UAE from 01.09.2020 to 05.09.2020.

Soft copy of the said application be supplied to Ld.Sr.PP for CBI, who will file the reply on 28.08.2020 at 11.00 A.M.

List on 28.08.2020 at 11.00 A.M for argument on the application moved by accused no.6.

Let a copy of this order be sent by WhatsApp to Ld. Sr.PP for CBI, the accused as well as the learned counsel for the accused.

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(ARUN BHARDWAJ)  
Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 25.08.2020

C.Case No. 59/2019

CBI Vs Sunil Chand Tyagi

25.08.2020

Present: None for CBI.

Accused Sunil Chand Tyagi with Ld. Counsel Sh. Avinash Mishra.

(Through VC using Cisco WebEx App.)

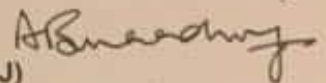
The case is at the stage of Prosecution Evidence, therefore can be taken up only on reopening of the Courts.

List on 05.09.2020 for P.E.

Let a copy of this order be sent by WhatsApp to Ld. Sr.PP for CBI, the accused as well as the learned counsel for the accused.

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(ARUN BHARDWAJ)  
Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 25.08.2020