

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

13.07.2020

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 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.

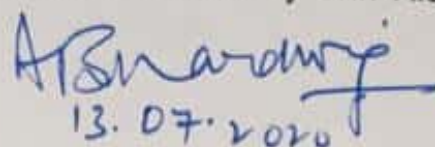
(Through VC using Cisco Webex App.)

Shri M.K. Verma learned counsel submitted that he has been engaged by accused No. 8 Shri Rishiraj Behl and has filed online his vakalatnama. The learned counsel shall also file hard copy of the vakalatama on reopening of the courts.

Learned Senior P.P. for CBI submitted that the charge against Accused No. 8 is of conspiracy under Section 120-B of IPC.

It was submitted that PW-1 has already proved as Exhibit PW-1/5, a Demand Draft for a sum of Rs.2,00,000/- bearing No. 032795 in favour of M/s. Paramount Marketing.

It was submitted that PW-4 Shri Ajit Singh Malhotra from State Bank of Patiala has proved Seizure Memo, D-98, as Exhibit PW4/A. As per this Seizure Memo, this witness had provided the documents mentioned in the Seizure Memo to CBI including Account Opening Form in respect of Current Account No. 1632 opened on 20.03.1998 by Shri Rishiraj Behl, Proprietor of

  
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M/s. Paramount Marketing along with photocopy of ledger sheet of this account.

It was submitted that Exhibit PW4/B is the Account Opening Form (D-92) and Exhibit PW-4/C (D-92) is the Specimen Signature Card of the proprietor of M/s. Paramount Marketing, Shri Rishiraj Behl. Statement of Account is already proved as Exhibit PW-4/E (D-91). The deposit slip for this demand draft of Rs.2,00,000/- dated 19.03.1998 is Exhibit PW-4/F (D-76). The cheques vide which amount was withdrawn from this account are Exhibit PW-4/G to Exhibit PW-4/J.

It was submitted that PW-6 and PW-22 have deposed about air ticket of this accused for visiting Lucknow. Reference was made to the evidence of PW-5 who deposed that vide cheque No. 342966 a sum of Rs.40,000/- was withdrawn by Shri Rishiraj Behl from the account of M/s. Kavika Marketing and Consultants Pvt. Ltd.

It was submitted that the conspiracy in this case would not have come to an end when the loan was sanctioned in favour of accused No. 1. It was submitted that it was not a saving bank account but a loan account and the account holder had no discretion to spend the money as per his choice.

He submitted that the Loan Manager had a duty to see that loan dispersal is for the purpose of loan and should have seen that the demand drafts issued by accused No. 1 are for the purpose of loan in relation to Mahindra and Mahindra products.

It was submitted that issuing of DDs in favour of persons not related with business of loan is in itself indicative of conspiracy. It was submitted that conspiracy continues till the time money is debited from the loan account of Accused No. 1. He submitted that accused No. 1 had the power of accused No. 2 and 3 to operate the loan account.

The learned Senior PP for CBI also submitted that the purpose of transfer of money from the borrower/accused No. 1 to the co-accused has not been explained by any of the accused.

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In defence, Shri M.K. Verma, Learned Counsel for accused Shri Rishiraj Behl submitted that para 3 of the chargesheet does not say that this accused had accompanied accused No. 1 and Shri Amit Kapoor to meet the Regional Manager of the Bank Shri D.L. Khanijo.

It was submitted that it is mentioned in Para 4 of the chargesheet that loan would be utilised for lifting stock of Mahendra Jeep's and KVPs should be endorsed in bank's name.

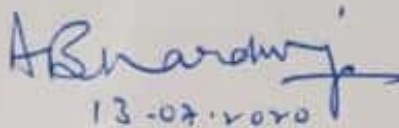
The learned counsel further referred to para 4 of the chargesheet and submitted that the Manager in the regional office Shri V.K. Jain, a prosecution witness did not say that this accused had met him while the loan was being processed in the regional office.

It was submitted that as per para 5 of the chargesheet, this accused had accompanied accused No. 1 and the bank official to Lucknow by Indian Airlines flight for verification of KVPs. Therefore, the learned counsel submitted that the allegations against this accused are that he had introduced accused No. 1 to accused No. 5, he had gone to Lucknow for verification of KVPs and he had withdrawn a sum of Rs.2,00,000/- from the account of accused No. 1.

It was submitted that PW-20 has also not deposed that this accused had met him. Therefore, the conspiracy is ruled out. Learned counsel submitted that PW-3 has simply identified this accused and has not deposed anything further.

The learned counsel referred to para 22 of the order on charge dated 04.02.2003 and submitted that there is no evidence on record that accused No. 1 was introduced to accused No. 5 by this accused. It was submitted that evidence of PW-4 does not show that this accused had gained illegally from accused No. 1 in any manner whatsoever.

Counsel submitted that the account Exhibit PW/E is operational till date and was not opened solely for the purpose of credit of the demand draft from accused No. 1.

  
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He submitted that the evidence of PW-5 is inconclusive and he has proved only the seizure memo. The witness has not deposed who was the director of the company? Who was operating the bank account? He submitted that during the evidence of PW-5, no cheque was exhibited. It was submitted that the evidence of PW5 is only on the basis of records. The cheque in question was not called for by the Investigating Officer and therefore not seized. Learned counsel submitted that he is also adopting the arguments addressed by learned counsel for Shri Amit Kapoor in this regard.

The learned counsel submitted that PW-6 has only deposed about agent coupon, a carbon copy of which was with the witness, the original of the coupon is with the airlines which was never produced. The actual proof whether a passenger has travelled/boarded a plane or not is not agent coupon but boarding pass. In the absence of a boarding pass, it is not conclusively proved that the accused Shri Rishiraj Behl had gone to Lucknow with accused No. 1 and the other bank official.

It was argued that neither PW-35 nor any other employee of the post office at Armapore has deposed about visit of Shri Rishiraj Behl to Kanpur with accused No. 1 and other bank official for verification of KVPs. It was argued that PW 48/H is the attendance register of the post office which shows the presence of 11 persons in the post office on that date but no one has spoken about the presence of this accused in the post office on 11.03.2008.

Learned counsel submitted that the Internal Enquiry Report of the Vigilance Officer has made serious remarks against the Regional Manager PW-3 Shri D.L. Khanijo but he was spared by the Investigating Officer and that is the reason why this witness was dancing to the tune of CBI.

It was submitted that hardly two minutes interaction explained by PW-3 with this accused and Shri Amit Kapoor is not sufficient to identify them in the court after 7 years.

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It was submitted that accused No. 4 has not named this accused in his written statement and has only stated that one travel agent had accompanied him to Lucknow for verification of KVPs.

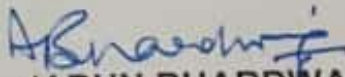
It was also submitted that PW-3 has also not named this accused in his written statement given to the vigilance officer.

Learned counsel submitted that mere payment to this accused is not sufficient to prove conspiracy. Example was given where a payment is made to an advocate and learned counsel asked a question that in such a situation the advocate will not become conspirator. It was submitted that had there been any mala fide, this accused would not have taken the money by way of demand draft and would have taken the same by cash.

It was submitted that this accused is a financial consultant and accused No. 1 may have borrowed some money which he may have returned by way of this DD of Rs.2,00,000/-. The learned counsel submitted that this accused had no formal introduction with PW-3 and the identification by the said witness is only on the pressure of CBI. Thus, the learned counsel submitted that it is a fit case for acquittal of Shri Rishiraj Behl.

As requested by Shri Y. Kahol, list now on **16.07.2020 at 11:00 AM, for addressing arguments on behalf of Accused No. 5 Smt. Sudarshan Kapoor.**

Let a copy of this order e sent by WhatsApp to all the accused persons and their learned counsels.

  
(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New next, Delhi/13.07.2020