

C. Case No. 274/19
CBI Vs Nitin Jain & ors.

29.09.2020

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

Sh.Harsh K.Sharma, Ld. Counsel for accused no.1
Sh. Nitin Jain.

Sh.Manish Tiwari, Ld. Counsel for accused nos. 2
and 3.

Sh.Rajiv Chauhan, Ld. Counsel for Accused no.4 and
accused no.5.

Sh. Santosh Kumar, Ld. Counsel for accused no.6
and accused no.7.

Separate exemption applications have been filed on behalf of all the accused persons for today. Considering the prevailing Covid-19 pandemic situation, all the accused are exempted from personal appearance for today only. The accused are at liberty to join proceedings through VC, but their authorized counsels shall appear in Court on the date on which Court is convened physically.

Ld. Counsel for A-1 submits that so far as witness from RSMML P &A is concerned, the details have been mentioned at S.No.18, page 13 of the application. Ld. Counsel further submits that these documents were seized by CBI during investigation, but were not relied upon while filing the chargesheet and they are available with the CBI. It is further submitted that this submission is on the basis of

information of A-1 as he was shown these documents by the CBI during investigation by the Investigating Officer Sh.O.P.Parida.

Ld. Counsel for A-1 further submits that no witness is now required to prove leftover income of A-1, but witness is required to prove the Sanctioning Authority of A-1. Ld. Counsel further submits that within 5 days he will provide such documents which are in power and possession of CBI so that CBI can be directed to file them on record and the necessity to summon witness from Rajasthan may be avoided.

Other witness sought to be examined on behalf of A-1 is concerning the policy file of CBI. Ld. Sr.PP for CBI submits that two circulars called for by Ld. Counsels have been filed in the Court in sealed cover. The said sealed covers will be opened after hearing the submissions on behalf of both sides.

The third defence witness sought to be examined by A-1 is with regard to Crime file and specifically the submission is that during investigation the accused had given certain documents to the IO which the IO had admitted in his cross examination and the Ld. Counsel seeks to bring those documents on record.

Ld. Sr.PP for CBI submits that the accused is at liberty to place on record the office copy of the same available with him.

However, to find out what notings were made on

the representation of the accused no.1, Ld. Counsel submits that he will provide the specific Exhibit No. given to the office copy of the accused so that original thereof can be called from the CBI.

Lastly, Ld. Counsel submits that he has filed an application under Section 91 Cr.P.C dated 04.03.2020. The submission in the application is that in RTI application filed by some party (though represented by same Ld. Counsel) information was sought from CFSL and he is relying upon reply given under RTI.

Ld. Sr.PP for CBI will give his response whether they are admitting the RTI application and response thereto on the next date.

Ld. Counsel submits that he will provide soft copy of RTI application as well as reply received from CFSL within 5 days.

This resolves all the pending defence witnesses on behalf of A-1.

Ld. Counsel for A-5 submits that he could not find out the Assessment Order of financial year 2009-2010 of Rajender Khatri and Assessment Order of financial year 2008-2009 of Ridhi Sidhi. He further submits that he could not find the record of appeal preferred by Ridhi Sidhi for financial year 2008-2009 and 2009-2010. For this purpose, the witness will be required to be summoned.

However, today he has filed ITR acknowledgment

for F.Y 2008-2009 of Sh.Rajinder Khatri, ITR acknowledgment for F.Y 2009-2010 of Sh.Rajinder Khatri, ITR acknowledgment for F.Y 2010-2011 of Sh.Rajinder Khatri, copies of the correspondence of CBI and ITR and S.P report, Copy of ITR acknowledgment and computation of income and tax for F.Y 2008-2009 pertaining to Ridhi Sidhi, copy of ITR acknowledgment for F.Y 2009-2010 pertaining to Ridhi Sidhi, copy of notice of demand u/S 156 of IT Act, income tax computation form and Assessment Order for F.Y 2009-2010 and F.Y 2010-2011 of Ridhi Sidhi and copy of order on appeal for the F.Y 2009-2010 of Ridhi Sidhi. Copy has been given to Ld. Sr.PP for CBI to enable him to admit or deny the same on the next date.

Besides the above, private witness mentioned at S.No.11 and 12 of the list of defence witnesses will also to be examined on behalf of accused physically in the Court.

So far as A-4 is concerned, Witness no.9 Sh.Naveen Bolia of M/s Nutan Decomark Pvt.Ltd. will also be examined.

So far as A-6 is concerned, today Circular Nos.9/10 and 12/10 have been received through e-mail from the office of Inspector General (Registration & Stamps), Rajasthan through e-mail ID igrs@rajasthan.gov.in by CBI office in response to summons issued by this Court. The same shall be read in evidence and **circular no.9/10 is exhibited as Ex.A and circular no.12/10 is exhibited as Ex.B.**

Now, only the Rajasthan Stamp Rules, 2004

including the conditions of license to sell stamps applicable during 2009-2010 remains to be summoned. For this, steps shall be taken by Ld. Counsel to summon the required record on the next date. The Ld. Counsel seeks permission to contact the concerned office to guide them what is exactly required by him. Request allowed.

Before summoning any witness from Income tax department, the Ld. Counsel shall inspect the Court Records to avoid re-summoning a witness who has already sent the required record in the Court.

Now, the matter shall be taken up on 23.10.2020 for D.E.



(ARUN BHARDWAJ)
Special Judge-05, CBI (PC Act)
Rouse Avenue District Court
Delhi/29.09.2020 (D)

After the order was passed, Circular dated 26.09.2020 issued by Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act) CBI, RADC, New Delhi has been received intimating duty roster for the month of October, 2020 for holding physical Courts. As per the roster, this Court has to convene physical Court on 05.10.2020, 09.10.2020, 19.10.2020 and 29.10.2020. Therefore, the date of 23.10.2020 is now changed to 19.10.2020 and 29.10.2020 for D.E.

Let a copy of this order be sent by WhatsApp to Ld.


29.09.2020

Sr.PP for CBI, all the accused persons and their learned authorized counsels.



(ARUN BHARDWAJ)
Special Judge-05, CBI (PC Act)
Rouse Avenue District Court
Delhi/29.09.2020 (D)

Ct. Case No. 53/19
ED Vs Ashutosh Verma & Anr.

29.09.2020

Present: Sh.Nitesh Rana, Ld.Spl.PP for ED (through VC).

Accused no.1 Sh.Ashutosh Verma alongwith Ld. Counsel
Ms.Smriti Sinha (through VC).

None for A-2.

Today the Court is convened physically, but the Ld. SPP
for ED, accused and Ld. Counsel for the accused have appeared
through VC.

Now, the matter shall be taken up on **03.11.2020** for
P.E.

Let a copy of this order be sent by WhatsApp to Ld.
Spl.PP for ED, accused and his learned counsel.



(ARUN BHARDWAJ)
Special Judge-05, CBI (PC Act)
Rouse Avenue District Court
Delhi/29.09.2020 (D)

Ct. Case No. 46/19
ED Vs Nitin Jain & ors.
29.09.2020

Present: Sh.N.K.Matta, Ld.Spl.PP for ED.

Sh.Harsh K.Sharma, Ld. Counsel for accused no.1 Sh. Nitin Jain.

Sh.Manish Tiwari, Ld. Counsel for accused nos. 2 and 3.

Sh. Santosh Kumar, Ld. Counsel for accused no.4.

Sh.Rajiv Chauhan, Ld. Counsel for accused no.5.

Separate exemption applications have been filed on behalf of all the accused persons for today. Considering the prevailing Covid-19 pandemic situation, all the accused are exempted from personal appearance for today only. The accused are at liberty to join proceedings through VC, but their authorized counsels shall appear in Court on the date on which Court is convened physically.

Ld.Spl.PP for ED submitted that an application dated 12.02.2020 filed on behalf of ED is pending.

Let reply, if any, to the said application be filed by the accused persons for next date of hearing.

Now, the matter shall be taken up on **23.10.2020** for disposal of application.

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



(ARUN BHARDWAJ)
Special Judge-05, CBI (PC Act)
Rouse Avenue District Court
Delhi/29.09.2020 (D)

Ct. Case No. 27/19
ED Vs D.K.Goel & ors.

29.09.2020

Present: Sh.Nitesh Rana, Ld.Spl.PP for ED (through VC).

Sh.Lenoy Vargeese, Ld. Counsel for all the accused with
A-1 Sh.D.K.Goel.

The matter shall be taken up on **02.11.2020** for P.E.

Let a copy of this order be sent by WhatsApp to Ld.
Spl.PP for ED, the accused and their learned counsel.



(ARUN BHARDWAJ)
Special Judge-05, CBI (PC Act)
Rouse Avenue District Court
Delhi/29.09.2020 (D)

CBI vs. Sh.Durga Madhab Rout & Ors.
CC No. 247/19

29.09.2020

Present:- Sh. Brijesh Kumar Singh, Ld. Sr. PP for CBI with IO of the case.

Chargesheet was filed in this case on 27.03.2019. At that time, sanction u/s 19 of P.C Act, 1988 was awaited qua four public servants namely Sh.Durga Madhab Rout (Sr. Manager and Branch Head), Sh M.V.S.R. Pavan Arya (the then Chief Manager), Sh A.R.K. Prasad (the then DGM) and Sh G. Balasubramanian (the then AGM).

On 22.05.2019, it was informed to the court that sanction to prosecute Sh M.V.S.R. Pavan Arya has been received.

On 11.12.2019, sanction accorded for prosecution by the competent authority on 13.05.2019 and informed to SP CBI on 14.05.019, in respect of Sh Pavan Arya M.V.S.R was filed in this court.

Vide letter dated 08.01.2020 of the Chief Vigilance Officer of the Corporation Bank, it was informed that sanction to prosecute Sh .Durga Madhab Rout, Sh .A.R.K. Prasad and Sh .G. Balasubramanian was declined.

Vide letter dated 08.01.2020 of the DGM Corporation Bank, it was informed that Sh .G. Balasubramanian had retired on 30.06.2014 and Sh .A.R.K. Prasad was dismissed from service on 01.08.2016. Since, the Bank had initiated disciplinary proceedings before his retirement, the Bank invoked Regulation 20(3)(iii) and after completion of disciplinary proceedings, imposed punishment of dismissal upon the officer. Therefore, all the three public servants (Sh.Pavan Arya M.V.S.R , Sh.A.R.K. Prasad and Sh.G. Balasubramanian) had already retired/dismissed from service before filing of the chargesheet.

The Competent Authority has given sanction to prosecute only in respect of one accused and refused sanction in respect of three other public servants. The Prevention of Corruption Act has undergone amendment w.e.f.

26.07.2018. Amendment brought in Section 19 dealing with necessity of previous sanction for prosecution now provides that no court shall take cognizance of offence u/s 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 amendment provides that the expression public servant includes such person who has ceased 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 13 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 previous un-amended Section 13. Meaning thereby for taking cognizance of offence committed before the amendment in the Act, provisions of Section 19 of the pre-amended Act would apply and the 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.

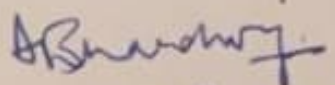
In this case, the offence was committed in the year 2013 and the FIR was registered on 21.06.2017. Therefore, the un-amended Section 19 of the Act would apply and no sanction would be required after the public servant has retired or has been dismissed from service. Present case is not the case where the sanction was declined during the tenure when the public servant was in service. In this case, sanction was sought when the public servants had already been dismissed from service or had retired. Therefore, after such retirement/dismissal from service, no sanction was necessary and the order declining the sanction when the public servants stood dismissed/retired will not come in the way of the Court taking cognizance against such public servants who committed

the offence before amendment in the Act and had retired/dismissed even before registration of the FIR in question.

The Ld. Sr. PP for CBI Sh. B.K. Singh referred to the judgment in the case of State of Telangana vs. Sri Managipet @ Mangipet Sarveshwar Reddy, decided by the Hon'ble Supreme Court on 06.12.2019 in CrI. 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 had retired/dismissed from the service before amendment of the Act. For this, the Ld. Sr. PP referred to para 37 of the aforesaid judgment which is as under:-

"37. Mr. Guru Krishna Kumar further refers to a Single Bench judgment of the Madras High Court in M. Soundararajan vs. State through the Deputy Superintendant 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 afore- said case, the learned trial court applied amended provisions in the Act which came into force on 26 th July, 2018 and acquitted both the accused from 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, this court agrees with the submissions of the Ld. Sr. PP for CBI that there is no legal restriction for taking cognizance of the offences involved in this case against the three public servants (Sh.Pavan Arya M.V.S.R , Sh.A.R.K. Prasad and Sh.G. Balasubramanian).


21.09.2020

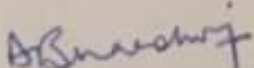
This court has gone through the charge sheet and enclosed material and is of the view that there is sufficient material to take cognizance of offences under Section 120B read with Section 420, 471 IPC read with Section 13(2) and Section 13 (1)(d) of P.C. Act, 1988 and substantive offences thereof against Accused No. 2 Sh. Pawan Arya, Accused No. 3 Sh. A.R.K. Prasad, Accused No. 4 Sh. G. Balasubramanian, Accused No. 5 Sh. Vikas Garg, Accused No. 6 Sh. Sandeep Sharma, Accused No. 7 Sh. Chakradhar Muduli, Accused No. 8 Sh. Rajiv Kumar and Accused No. 9 Sh. Lalit Kumar and Accused No. 10 M/s Solomon Consulting Pvt. Ltd. through its Director Sh. Vikas Garg .

Let all the accused, except Accused No.1 Shri Durga Madhab Rout, be summoned for 28.10.2020.

Let a copy of this order be sent by whatsapp to Ld. Sr. PP for CBI.

ARUN
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(ARUN BHARDWAJ)
Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/29.09.2020

29.09.2020

Present:- Sh. Brijesh Kumar Singh, Ld. Sr. PP for CBI with IO of the case.

Chargesheet was filed in this case on 30.03.2019. At that time, sanction u/s 19 of P.C Act, 1988 was awaited qua four public servants namely Sh.Durga Madhab Rout (Sr. Manager and Branch Head), Sh M.V.S.R. Pavan Arya (the then Chief Manager), Sh A.R.K. Prasad (the then DGM) and Sh Arjun Sethi (the then AGM).

This position continued till 11th December 2019 as is evident from the application of investigating officer of the case where more time was prayed to file sanction.

Vide application dated 09.01.2020 of the IO of the case, it was informed that sanction to prosecute Sh .Durga Madhab Rout was declined and CVC had advised grant of sanction for prosecution against the then DGM A.R.K. Prasad. However, the Corporation Bank referred the matter of sanction with regard to A.R.K. Prasad to DOPT.

Vide letter dated 08.01.2020 of the DGM Corporation Bank, it was informed that Sh .A.R.K. Prasad had retired on 30.06.2015 but he was dismissed from service on 01.08.2016. Since, the Bank had initiated disciplinary proceedings before his retirement, the Bank invoked Regulation 20(3)(iii) and after completion of disciplinary proceedings, imposed punishment of dismissal upon the officer. The date of retirement of Shri Arjun Sethi was mentioned as 30th April 2014. Therefore, all the three public servants (Sh.Pavan Arya M.V.S.R , Sh.A.R.K. Prasad and Sh.Arjun Sethi) had already retired/dismissed from service before filing of the chargesheet.

The Competent Authority has given sanction to prosecute only in respect of one accused, referred sanction of 2nd public servant DOPT whose

response was awaited and refused sanction in respect of two other public servants. The Prevention of Corruption Act has undergone amendment w.e.f. 26.07.2018. Amendment brought in Section 19 dealing with necessity of previous sanction for prosecution now provides that no court shall take cognizance of offence u/s 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 amendment provides that the expression public servant includes such person who has ceased 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 13 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 previous un-amended Section 13. Meaning thereby for taking cognizance of offence committed before the amendment in the Act, provisions of Section 19 of the pre-amended Act would apply and the 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 2013 and the FIR was registered in 2017. Therefore, the un-amended Section 19 of the Act would apply and no sanction would be required after the public servant has retired or has been dismissed from service. Present case is not the case where the sanction was declined during the tenure when the public servant was in service. In this case, sanction was sought when the public servants had already been dismissed from service or had retired. Therefore, after such retirement/ dismissal from service, no sanction was necessary and the order declining the sanction

Ar. Bhattacharya
24.09.2021

when the public servants stood dismissed/retired will not come in the way of the Court taking cognizance against such public servants who committed the offence before amendment in the Act and had retired/dismissed even before registration of the FIR in question.

The Ld. Sr. PP for CBI Sh. B.K. Singh referred to the judgment in the case of State of Telangana vs. Sri Managipet @ Mangipet Sarveshwar Reddy, decided by the Hon'ble Supreme Court on 06.12.2019 in CrI. 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 had retired/dismissed from the service before amendment of the Act. For this, the Ld. Sr. PP referred to para 37 of the aforesaid judgment which is as under:-

"37. Mr. Guru Krishna Kumar further refers to a Single Bench judgment of the Madras High Court in M. Soundararajan vs. State through the Deputy Superintendant 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 afore-said 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 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, this court agrees with the submissions of the Ld. Sr. PP for CBI that there is no legal restriction for taking cognizance of the offences

AB Sreedhar
29.09.2020

involved in this case against the three public servants (Sh.Pavan Arya M.V.S.R , Sh.A.R.K. Prasad and Sh.Arjun Sethi).

This court has gone through the charge sheet and enclosed material and is of the view that there is sufficient material to take cognizance of offences under Section 120B read with Section 420, 471 IPC read with Section 13(2) and Section 13 (1)(d) of P.C. Act, 1988 and substantive offences thereof against Accused No. 1 Sh. Umesh Sadhna, Accused No. 2, Smt. Sonu Sadhna, Accused No. 3 Sh. Shiv kumar Verma, Accused No. 4 Sh. Pavan Arya, Accused No. 5 Sh. ARK Prasad, Accused No. 7 Sh. Arjun sethi, Accused No. 8 Sh. Chakradhar Muduli , Accused No. 9 Sh. B.P. Singh and Accused No. 10 Sandeep Sharma.

Let all the accused, except Accused No.6 Shri Durga Madhab Rout, be summoned for 28.10.2020.

Let a copy of this order be sent by whatsapp to Ld. Sr. PP for CBI.

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BHARDWAJ

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(ARUN BHARDWAJ)
Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/29.09.2020