

CBI Vs. Sh. D.S. Sandhu & Others.
CC No. 63/2019

02.07.2020

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. Ashok Angral.

Accused No. 7 Sh. Amit Kapoor along with Ld. Counsel Sh. Vikram Panwar.

Accused No. 8 Sh. Rishiraj Behl in person.

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.)

In the very beginning Sh. I.D. Vaid, Ld. Counsel for the Accused No. 12 Sh. Vikas Srivastava sought permission to make further arguments with regard to the accused represented by him. The Ld. Counsel submitted that pursuant to permission given by this court, he has filed written arguments and sent to the official E-mail ID of the Reader of this Court. The Reader shall send a copy of the same to the Ld. Sr. PP of CBI also.


Ld. Counsel argued that only one witness namely PW-23 and Exhibits PW-23/A to Ex. PW-23/M are relevant with regard to the charge framed against this accused.

Ld. Counsel submitted that Ex. PW-23/A is the specimen signature card of the Accused No. 11 Sh. Dal Bahadur Singh which bears the signature of accused No. 12 on the front as well as the reverse. Same is the position with regard to Ex. PW-23/B which is also specimen signature card of Sh. Dal Bahadur Singh.

It was submitted that Exhibit PW-23/C is the account opening form of Sh. D.B.Singh.

Ex. PW-23/D is the deposit slip vide which Sh. Dal Bahadur Singh deposited Rs.500/- in the Bank and Ex. PW-23/E is also deposit slip vide which Sh. Dal Bahadur Singh deposited two DDs in the bank.

CBI Vs. D.S. Sandhu and others.
CC No. 63/2019


02-07-2020

Page 1 of 4

Ld. Counsel submitted that Ex. PW-23/F is cheque issued by Sh. Dal Bahadur Singh in favour of Sh. Nagender Singh. Ex. PW-23/G is pay in slip vide which Sh. Dal Bahadur Singh deposited Rs.2,00,000/- in his bank account. Ex. PW-23/H is a bearer cheque in favour of Sh. Vikash for a sum of Rs.2,50,000/-.

Ld. Counsel submitted that the back of the cheque also has signature of Sh. Dal Bahadur Singh where the denomination of currency notes is mentioned. It shows either the cash was taken by Sh. Dal Bahadur Singh himself or Sh. Vikas Srivastava had handed over the cash to Sh. Dal Bahadur Singh, after taking the same from the bank.

Ld. Counsel submitted that Ex. PW-23/J is a bearer cheque issued by Sh. Dal Bahadur Singh and Ex. PW-23/K is another bearer cheque for Rs 2,50,000/- in the name of Sh. Rajesh Singh. He submitted that Ex. PW-23/L is a bearer's cheque issued by Sh. Dal Bahadur Singh for Rs.3,00,000/- and Ex. PW-23/M is the statement of account of Sh. Dal Bahadur Singh.

Ld. Counsel submitted that the statement of account is maintained electronically but there is no certificate under Section 65-B of Evidence Act or any certificate under Banker's Book of Evidence Act.

Ld. Counsel submitted that even by commonsense, no one can allege that there would be a bribe of Rs.2,50,000/- only for helping in opening a bank account genuinely. Ld. Counsel submitted that Sh. Dal Bahadur Singh had all the required documents and was eligible and entitled to open the bank account. If, in this scenario Accused No. 12 Sh. Vikas Srivastava helped him in opening the account, he cannot be held guilty of conspiracy under Section 120(B).

Ld. Counsel submitted that the role of Sh. Nagender Singh and Sh. Rajesh Singh is at par with the role of this accused Sh. Vikas Srivastava but both of them are not even prosecution witnesses leave aside making them accused.

Ld. Counsel submitted that all these documents were not filed in the chargesheet but were taken on record on the application of the IO from RC of some other case [RC5(E)/98BS&FC/DLI] and that case was investigated by an official of CBI who was not empowered to carry out the investigation in the absence of permission of the concerned court. Moreover, neither the said IO of the other case was examined in this case nor the applicant who had filed application in this case for taking on record additional documents was examined by the CBI.

Ld. Counsel referred to the judgment in the case of Kehar Singh to argue that no overt act has been attributed to this accused who was not even knowing the other accused except Sh. Dal Bahadur Singh.

The Ld. Counsel submitted that Accused No. 11 is innocent and entitled to acquittal.

Today, Sh. Vikram Panwar, Ld. Counsel for Accused No. 7 Sh. Amit Kapoor has joined the proceedings through video conferencing and submitted that he had appeared in this case for this accused sometime 10

years ago and his vakalatnama was filed at that time on record and also undertook to file fresh vakalatnama.

As Ld. Counsel for Accused No. 7 Sh. Amit Kapoor has joined the proceedings, Ld. Sr. PP for CBI submitted his arguments with regard to Accused No. 7 Sh. Amit Kapoor. Ld. Sr. PP for CBI submitted that there are specific averments against Accused No. 7 Sh. Amit Kapoor in the chargesheet. The Ld. Counsel referred to paragraph 20 and 21 of the order on charge dated 04.02.1993. Ld. Sr. PP for CBI referred to the evidence of four witnesses namely PW-3, PW-5, PW-6 and PW-22 to address prosecutions' case against this accused. He submitted that PW-3 Sh. D.L. Khanejo has deposed about presence of Sh. Amit Kapoor along with Sh. D.S. Sandhu at Regional Office at the time of taking loan.

Ld. Counsel referred to the evidence of PW-6 Sh. R.K. Taneja from Oriental Bank of Commerce who proved the seizure memo (D-60), Ex. PW-5/A as per which he had given original account opening form dated 24.06.1997 in respect of current A/c No. 388 opened in the name of M/s Kanika Marketing & Consultant Pvt. Ltd. by Sh. Amit Kapoor and Sh. Rishi Raj Behl, Directors upon introduction by Sh. Arun Handa, Proprietor of M/s Winsome Overseas, Naraina, New Delhi, specimen signature card, extract of the firms Board's Resolution dated 23.06.1997 signed by Sh. Amit Kapoor, Director, Memorandum and articles of association of this company and statement of account of this company from 30.06.1997 onwards. The statement of account was exhibited as Ex. PW-5B. He deposed that DD No. 032794 for a sum of Rs.2,00,000/- was deposited in this account on 20.03.1998. The said DD is already Ex. PW-1/A4.

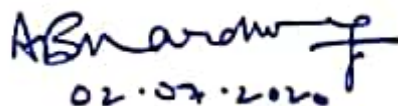
PW-6 Sh. Ashok Kumar Gupta deposed that M/s S.K. Air Travels is owned by Sh. Amit Kapoor and identified the accused present in the court. He deposed that on the basis of agent coupon, ticket was booked by M/s S.K. Air Travels in favour of Sh. A.N. Rastogi, Ex. PW-6/B and similarly, Air ticket was booked in the name of Sh. Rishi Raj Behl, Ex. PW-6/C. He deposed that payments for these tickets were made by M/s S.K. Air Travels.

Ld. Counsel submitted that the other witness who has deposed against this accused is PW-22. He submitted that all these witnesses were not cross-examined on behalf of the accused. He submitted that there is no explanation why, for a ticket of Rs.4,000/-, this accused was given Rs.2,00,000/- by Accused No. 1 Sh. D.S. Sandhu. Moreover, why Accused No. 1 Sh. D.S. Sandhu will pay for the air ticket of Sh. A.N. Rastogi to this accused Sh. Amit Kapoor. Ld. Counsel submitted that no explanation has been given by this accused in his statement under Section 313 Cr. P.C.

With this, Ld. Counsel concluded arguments with regard to the Accused No. 7 Sh. Amit Kapoor.

Ld. Counsel Sh. Vikram Panwar requested for time till Wednesday to address arguments in defence of Sh. Amit Kapoor.

List on Wednesday i.e. 08.07.2020 at 11:00 AM.


02.07.2020

The reader of the court has sent the following SMS received by him from Accused No. 6 Sh. Ashwani Dhingra:-

*"Good morning sir
Yesterday I tried to contact myself with video conferencing but fail to connect.bcs of no proper network Today I will again try
Regards
Ashwani Dhingra"*

Today, Accused No. 6 Sh. Ashwani Dhingra has been able to join the proceedings through video conferencing. He submitted that he is residing in a village near Shri Ganganagar which is at a distance of 1.5 kilometer from Indo-Pakistan Border and therefore there is a difficulty in connectivity. He submitted that he is receiving all the order sheets of this court and has also received the order sheets where arguments addressed by his Ld. Counsel Sh. M.K. Verma were noted by this Court. He expressed his satisfaction in this regard.

During video conference proceedings, the reader of the court has received the following SMS from CISCO:-

*"Cisco Webex Meetings
Your administrator has set a limit on meeting durations for your account. Your meeting will end for all participants in 5 minutes."*

Thereafter, the proceedings snapped and the parties and Ld. Counsels were given the CISCO password of the Presiding Officer of the court for remaining part of today's proceedings viz. giving the next date and settling the schedule.

Now onwards, the Ld. Counsels and the accused shall note that the VC sessions would end after 30-40 minutes thereafter the reader will again host the meeting and they will have to rejoin the CISCO meeting on the password of the reader of this court for continuation of proceedings beyond 30- 40 minutes.

Let a copy of this order be sent by WhatsApp to all the accused and their learned counsels. In the meanwhile Accused No. 8 Sh. Rishiraj Behl shall also make arrangement for the representation of his counsel on the NDOH.



(ARUN BHARDWAJ)
Special Judge (P.C. Act)(CBI-05)
Rouse Avenue District Court,
New Delhi/02.07.2020