

IN THE COURT OF MS. NIRJA BHATIA, SPECIAL JUDGE, PC
ACT (CBI)-03, ROUSE AVENUE DISTRICT COURT, NEW DELHI

CBI Vs. Ramjee Singh & Ors.
IA No.2/2020
RC No.16(A)/2016

30.09.2020

Pr. : Sh. Praneet Sharma, ld. Sr. PP for CBI.

Sh. I.B. Jha, ld. Counsel for A-2.

The matter has been taken up physically as per duty roster No. E-10559-10644/Power Gaz./RADC/2020 dated 28.08.2020.

By this order, I propose to decide the application moved on 03.03.2020 on behalf of applicant/A-2 Hari Shankar Jha.

It is averred that the investigating agency (CBI) seized an amount of Rs.21.50 lacs on 21.10.2016 from the residence of the applicant during the course of a raid conducted. Subsequent thereto, the seized amount was converted into FDR in account No. 604841110000990 on 13.11.2019 in the name of S.P., CVI ACU-V, New Delhi with Bank of India on the directions vide order dated 30.08.2019.

It is claimed by the applicant that the charge-sheet submitted by the investigating agency does not speak of the amount of Rs.21.50 lacs as detailed above, recovered during the raid proceedings from the house of the

applicant on 21.10.2016 and is only mentioned about the amount of Rs.20 lacs as bribe money, which was seized from the possession of the applicant (during trap proceedings).

Applicant states that on 24.04.2017, another application was moved, which was kept pending with liberty to consider it at a later stage as is reflected from the order dated 03.05.2017. However, it was disposed off vide order dated 20.04.2018 with the direction to CBI to open the bag of seized amount in presence of defence representative for noting down the serial number of notes, taking photographs and preparation for Panchnama and then, forwarded the same to RBI for needful.

Applicant claims that he had moved second application on 24.04.2017 seeking directions to CBI for releasing the amount in new currency notes as CBI was not taking prompt action. However, the application was dismissed vide order dated 11.08.2017 on the ground that earlier application dated 24.04.2017 was pending disposal.

It is claimed that now the circumstances have changed. Old currency notes have been exchanged and the amounts have been converted in FDR and hence, there is fresh cause of action and accordingly, the amount of Rs.21.50 lacs, which was seized from the house of the applicant, be released.

While it is not denied and disputed by the ld. Sr.PP that vide direction dated 30.08.2019, the amount of Rs.21.50 lac was got exchanged

of specified bank notes (old currency notes) from RBI and it is also not denied that on 21.10.2016 an amount of Rs.20 lac was seized as case property during trap proceedings of accused Hari Shankar Jha (applicant herein), who was caught red handed while accepting bribe amount from Sh. Samkit Shah of M/s Shashvat Jewellers Pvt. Ltd. on behalf of accused Ramjee Singh. It is averred that the amount of Rs.21.50 lac should not be released to the applicant as he could not satisfactorily account for the source of the same.

It is averred that since the amount was seized in cash from the possession of the applicant/accused, the same are made case property and the seizure memo is duly supplied to the applicant/accused. The claim of the applicant/accused that the amount of Rs.21.50 lac is not the case property is denied and it is averred that the applicant/accused acted as a conduit of accused Ramjee Singh and has also revealed to as acted in such capacity for Sh. Brijesh Prabhudas Patel of Sharda Homeopathic College and Swami Bhaktvatsal of Swaminaryan Homeopathic College, who have given Rs.5 lac each to the applicant/accused Hari Shankar Jha for affiliation of their colleges. It is alleged in the reply that similar instances against the applicant/accused have also surfaced and having regard to the aforesaid, the release of the amount is opposed.

I have heard Sh. Inder Bhushan Jha, Id. Counsel for the applicant/accused Hari Shankar Jha.

During arguments, Id. Counsel for the applicant/accused has not been able to reflect clearly and reply satisfactorily as to how the amount of Rs.21.50 lac came to be possessed by him, which was recovered during raid proceedings on 21.10.2016 (which fact is admitted by him during submissions) is not the case property as he has claimed.

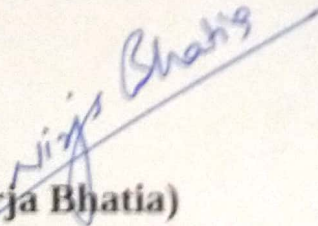
Ld. counsel for applicant/accused has vehemently argued that the amount of Rs.21.50 lac is the personal amount, which was lying in cash with the applicant, who stated to be a hotelier. However, he has not furnished any material in support thereof. He has relied upon ITR and one printed cash book from 01.04.2016 to 21.10.2016. However, the ITR does not reveal the amount of Rs.21.50 lac to be in hand, to which, now Id. Counsel claims that ITR filed up till till 31st March and the remaining amount has been accumulated thereafter. The computation of income and expenditure for the year ending 31.03.2016 shows cash in hand Rs.5,54,805/-. If the aforesaid submission is accepted, it is requisited to be shown that amount of Rs.16 lac (approx.) is added subsequent to 31.03.2016 to 25.10.2016. The cash book, which appears to be a computer printed copy, tagged alongwith the application, is neither the authenticated document nor the audited one. There is no support to any entry from the ledger or register kept in the usual course of business and/or specifically any material to suggest that the amount of Rs.16 lac approximately was added if the ITR entry is believed hence, lying at the time of raid total amounting to Rs.21.50 lac, in cash were owned by the applicant. No

competent supporting document/material filed. Even otherwise the source of cash generation is not stated. Further more, the averments that the charge-sheet submitted by the IO speaks only of the amount of Rs.20 lac recovered from the applicant at Karol Bagh appears to be half-hearted attempt, as undisputedly, supplementary charge-sheet has been filed, in which, the IO has detailed this amount seized during seizure conducted under raid proceedings on 21.10.2016 from the house of the applicant, which part of the charge-sheet Mr. Jha, Id. Counsel for the applicant himself read out during the proceedings.

Mr. Jha, Id. Counsel for the applicant now submits that supplementary charge-sheet holds no value as it could not have been taken on record.

I find myself unable to agree with this proposition. The supplementary charge-sheet, which is filed by the IO, has been taken on record vide order dated 23.01.2020 and copy has been supplied to the accused. The order has attained finality and the averments to the contrary that it could not have been taken to on record which are now being made seem to mis-premised and an unfounded attempt in desperation to seek release of the amounts. In my opinion, the amounts as are clearly shown in the charge-sheet (supplementary charge-sheet) and having been made part of the case property, cannot be released at this stage, for all the above stated grounds.

In view of the above, no merit is found in the application and the same is hence rejected.


(Nirja Bhatia)
Spl. Judge PC Act (CBI)-03,
RADC, New Delhi/30.09.2020