

19.06.2020

Present:- 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.

Sh. Mukesh Kumar Verma, Ld. Counsel for Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh.

Accused No. 12 Sh. Vikas Srivastava in person along with Ld. Counsels Sh. I.D. Vaid and Sh. Ashok Angral.

Accused No. 7 Sh. Amit Kapoor in person.


Accused No. 8 Sh. Rishi Raj Behl in person.

(Through VC using Cisco Webex App.)

Shri Y. Kahol, learned counsel for accused no.1 submitted that in this case two important witnesses which should have been examined were not examined by CBI.

The 1<sup>st</sup> person which should have been examined is Shri Rajendra Prasad who was SP of CBI and had registered the FIR in question. He had also sought for sanction to prosecute the public servants.

The 2<sup>nd</sup> witness which according to the learned counsel should have been examined in this case is Dy.SP SK Kashyap who was the investigating officer of this case for several months and had recorded the statements of various witnesses besides seizure of documents.

  
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The learned counsel submitted that non-examination of these 2 witnesses may not be fatal to the case of the prosecution but this fact should be kept in mind as it has caused prejudice to the accused and should be taken into consideration at the time of final decision in this case.

To substantiate his submissions, the learned counsel referred to Exhibit PW7/F (D-50) which shows that Shri SK Kashyap was the investigating officer of this case till December/September/August 1998. The learned counsel pointed out cuttings on the seizure memo where the date of 24/12/1998 has been cut to 24/08/1998. Moreover, the signatories on this seizure memo Shri Vijay Parkash and Shri SK Kashyap have put the date of 5<sup>th</sup> of September 1998 below their signatures.

The learned counsel also pointed towards serial number 41, 42 and 43 of this seizure memo and pointed out that these 3 identity slips have been concealed by CBI.

The learned counsel referred to the evidence of PW 35 Shri Natha Prasad Hans to show that the metallic seal and rubber stamp of Post Office Armapore and seal of Post Office Armapur were seized during investigation and sent to GEQD but the report was never placed on record. The learned counsel submitted that it has already been noticed that the attendance register in this case was from Post Office Armapur.

The learned counsel further submitted that in this case no statement of Shri SN Panday who was the postmaster of Post Office Armapur was recorded by the investigating officer. He submitted that when an investigating officer refuses to look into case diary in spite of opportunity before answering the question, adverse inference has to be drawn against him.

The learned counsel also submitted that the investigating officer of this case was on deputation to CBI from Enforcement Department and was not a police officer under section 8 of the Indian Police Act.

The learned counsel submitted from the evidence of investigating officer that the 1<sup>st</sup> notification about theft of KVP's is dated 19/06/1998. He also referred to the response of the investigating officer where he answered in affirmative that the Security Press at Nasik had accepted the genuineness of the KVP's. The learned counsel submitted that it was not possible for accused no.1 or accused no. 5 to doubt the

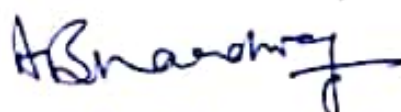
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genuineness of the KVP's and she had deputed a person to visit Kanpur to verify the KVP's and no fault can be found in her conduct in this regard. The learned counsel referred to a specific question put to the investigating officer of this case whether there was any pecuniary benefit gained by accused no. 5 and the response of the witness was that there was no such investigation. The learned counsel referred to the response of the investigating officer where he stated that he cannot say whether A5 misused her official position to benefit accused no. 1 and other accused in this case or not. The learned counsel submitted that a sword has been hanging on the heads of accused no.1 and accused no.5 for the last 22 years despite of the fact that the investigating officer was not sure whether A5 had misused her official position. Reference was also made to the response of the investigating officer where he stated that the report of GEQD was not placed on record.

Learned counsel submitted that PW 43 Ms. Rajshree had denied the suggestion of the learned public prosecutor that her statement was recorded by CBI officer. Still she was asked court question whether she gave any complaint to the court or any other senior officer of CBI including Director in writing that her statement had been wrongly recorded by the IO. Learned counsel submitted when the witness had stated that her statement was not recorded, there was no question for her to make any complaint to any senior officer for wrongly recording her statement. The learned counsel submitted that the evidence of the witness showed that she had appeared in the court 3 to 4 times earlier in this case itself. In spite of that a court observation was made that the witness was stated to be waiting outside the court room by the learned defence counsel. The learned counsel submitted that the inference suggested in the court question that the learned defence counsel and the witness had acquaintance beforehand is wrong and misplaced.

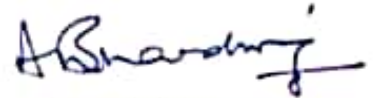
At this stage, learned counsel requested for adjournment to conclude his arguments on 22/06/2020. As requested list now for concluding arguments by learned counsel for accused no.1 on 22/06/2020 at 11 AM.

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

  
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Accused no.6 and 7 shall also inform the court about presence of their learned counsel to address the arguments.

Shri M.K. Verma learned counsel shall also ensure presence of accused no. 6 and 11 through VC on the next date.



(ARUN BHARDWAJ)

Special Judge (P.C. Act)(CBI-05)

Rouse Avenue District Court,

New Delhi/19.06.2020