

C.Case No. 165/2019

CBI Vs M/s Sonshriya Polymers & ors.

16.09.2020

Present: Sh. B.K.Singh, Ld.Sr.PP for CBI.
A-2 Sh.S.K.Upadhyay with Ld. Counsel Sh. VikasArora.
A-3 Sh.RajivThukral and A-4 Ms.VeenaThukral in person.

(Through VC using Cisco WebEx App)

An application has been moved on behalf of A-2 Sh.S.K.Upadhyay in the office e-mail ID of the Reader of the Court yesterday seeking directions to the CBI to place on record and supply the list of unrelieved documents along with unrelieved documents to the applicant/accused.

Copy of the application has been supplied to Ld.Sr.PP for CBI.

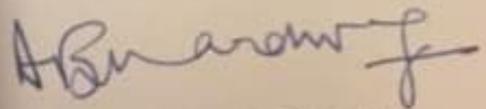
Ld.Sr.PP for CBI requests for some time to file reply to the said application. Heard. Allowed.

A-3 Sh.RajivThukral submitted that he has engaged a new Counsel Sh.Rishabh Relhan in place of his earlier counsel Sh.M.K.Malhotra. He further submitted that his new counsel will place his appearance as well as file vakalatnama on the next date of hearing.

List on 14.10.2020 at 10.00 A.M.for reply and consideration on the application filed by A-2 Sh.S.K.Upadhyay.

The date already fixed in the matter i.e. 19.09.2020 stands cancelled.

Let a copy of this order be sent by WhatsApp to Ld. Sr.PP for CBI, all the accused and their Ld. Counsels.



(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 16.09.2020

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C.Case No.248/2019

CBI Vs UmeshSadana& ors.

16.09.2020

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

(Through VC using Cisco WebEx app.)

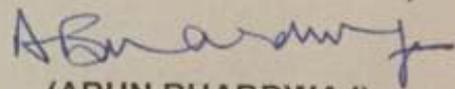
Court Record perused and clarification sought from Ld. Sr.PP for CBI.

List on 17.09.2020 at 10.00 A.M.

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

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 16.09.2020

C.Case No.247/2019

CBI Vs Durga Madhab Rout & ors.

16.09.2020

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

(Through VC using Cisco WebEx app.)

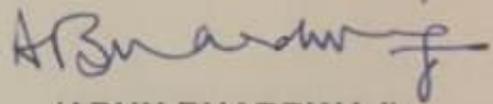
Court Record perused and clarification sought from Ld. Sr.PP for CBI.

List on 17.09.2020 at 10.00 A.M.

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

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 16.09.2020

S. Case No. 21/2019

CBI Vs Anil Kumar Garg & ors.

16.09.2020

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

Accused Sh. Anil Kumar, accused Sh. Sunil Kumar and accused Sh. Vikas in person with Ld. Counsels Sh. Mudit Jain and Sh. Yugant Sharma.

Sh. Deepak Talwar, Ld. Counsel for the applicant.

(Through VC using Cisco WebEx app.)

Ld. Counsels for the accused requested for some more time to file citations in support of the submissions made on the previous date of hearing.

Similarly, Ld. Sr. PP for CBI also requested for some more time to file the citations in support of his submissions already made by him on the point of jurisdiction on the previous date of hearing as he submitted that he was busy with the final arguments of some other case.

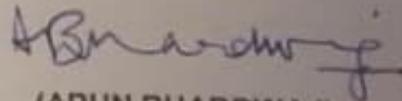
Heard. Request allowed.

List on 06.10.2020 at 10.00 A.M.

Let a copy of this order be sent by WhatsApp to Ld. Sr. PP for CBI, all the accused, Ld. Counsel for the accused and Ld. Counsel for the applicant.

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(ARUN BHARDWAJ)
Special Judge, CBI-05 (PC Act),
RADC, New Delhi/ 16.09.2020

16.09.2020

CC No. 192/2019

CBI Versus Sh. Ashutosh Verma and Ors.

Present: Shri B.K. Singh Id Sr PP for CBI.

Accused No. 1 and 4 with their learned counsels.

Accused No. 2 (at UAE) with Ld Sr Counsel Sh. Ramesh Gupta with Id counsel Sh. Sandeep Kapoor.

The learned counsel Sh.P.K. Dubey, with reference to the statement of Shri Pradeep Sahni recorded under section 161 CrPC on 29th of September 2010, submitted that when the Investigating Officer PW 59 Inspector Ram Singh was in the witness box on 27th April 2018, he admitted that he had recorded the statement of Sh. Pradeep Sahni, Exhibit PW-29/D1, correctly but the same was not filed along with the chargesheet and was not sent to the sanctioning authority.

Learned counsel submitted that since this statement did not speak about any cash transaction, the same was concealed by CBI and could be brought on record by the orders of the court under Section 207 of CrPC.

Now, learned counsel referred to the evidence of PW-29 Shri Pradeep Sahni. The learned counsel submitted that the earlier statement of this witness was recorded on 29th September 2010 but thereafter he was called to CBI office after a gap of two years in the year 2012.

This time, the witness deposed that he had sold the property in question for a sum of Rs. 4.4 Crores approximately. He deposed that one Sh. Rajinder Kashyap, who was purchaser of the property, had given him a sum of Rs. 2.5 Crores in cash. These payments were also received through his employee Shri

Jawahar Gautam. Thereafter, the deal was carried forward by Shri Amit Saxena from M/s. Nitya Resorts who paid remaining amount of Rs. 1.9 Crores approximately by way of demand drafts.

Learned counsel submitted that the user of this land was changed from a resort/hotel to orchid. The seller was not expecting more than Rs. Two Crores as sale price due to change in user of the property. He submitted that these improvements are figment of imagination and referring to the judgement of 'Tehsildar', he submitted that the statement of this witness recorded in the court is hit by section 161 of CrPC and therefore the entire story that the property was purchased for a sum of Rs. 4.4 Crores and payment in cash goes away. The learned counsel submitted that this witness has admitted that he had made statement on 29.09.2010 but still deposed in the court exaggerating the sale price and including payments by cash. Learned counsel submitted that the witness has deposed that there is no agreement to sell which is unbelievable. He submitted that it was not a deal between two individuals as the vendor was a corporate entity and could not have entered into the deal without Board resolution. He submitted that all payments received by a company are shown in the balance sheet which is submitted annually to Registrar of Companies. Learned counsel submitted that the witness has deposed that the Resolution mentioned the sale price as Rs. 1.91 Crore and had there been any truth in the story of this witness, the resolution would have recorded that the sale consideration is Rs. 4.40 Crores in place of Rs. 1.91 Crores. Learned Counsel referred to Section 91 and 92 of the Evidence Act to submit that oral evidence contradicting the written agreement is not permissible. Learned counsel submitted that the broker of the deal Rajan/Shayam Sundar should have been examined as they were the best independent witnesses to tell the sale consideration. He submitted that even

the CBI Manual mentions that the sale consideration of immovable property should be taken as mentioned in the sale deed. He submitted that the investigating officer did not take into account the circle rate. He did not get the property valued by government approved valuers and did not investigate prevailing rates in the area. Thus, the learned counsel submitted that it is unbelievable that the sale consideration of this property was Rs.4.4 Crores and part payments were given in cash.

Next, the learned counsel read the evidence of PW-17 Shri Ajay Kumar Gupta. Learned counsel submitted that this witness was approached by Shri Nikhil Nanda for a share capital of Rs. 2 crores and not Shri Ashutosh Verma. Learned counsel submitted that Chabi Lal/Rajpal who are alleged to have given the payment in cash were not examined as prosecution witnesses. The learned counsel submitted that he had filed an application under section 207 of CrPC and in the reply it was stated by CBI that these witnesses were called to the CBI office but their statements were not recorded. The learned counsel submitted that from the evidence of this witness it is evident that Shri Nikhil Nanda was keenly interested which shows that he was the owner of the property in question. Learned counsel also read the statement of this witness recorded under Section 164 of CrPC, D-56, to show the involvement of Shri Nikhil Nanda in the deal and also payment of commission. Learned counsel referred to D-47 to submit that this property was Benami property of Shri Nikhil Nanda. The learned counsel referred to D-27, Exhibit PW-38/1 to show that a sum of Rs. 1.50 crores was received in the account of M/s. Nitya resorts Private Ltd from D.R. International Private Ltd on 18th November 2008. The learned counsel submitted that it shows Shri Nikhil Nanda was adding funds in the account of M/s. Nitya Resorts Private Limited.

Learned counsel referred to the evidence of PW-34 Shri Ravinder Kumar Aggarwal who deposed that he was approached by Shri Ajay Gupta in March/April 2008 whereas Shri Ajay Gupta deposed that he had contacted this witness in December 2008. Learned counsel submitted that no investigation was made from the five companies who had arranged share capital and are named in the evidence of this witness. Learned counsel submitted that the best witnesses such as Shri Vineet Khaitan who had arranged all the share capital were not examined in this case.

Next, learned counsel referred to the evidence of PW-10 Shri Dinesh Kumar a peon at JHS Svend Gaard Laboratories who deposed he had deposited five cheques of Rs. 25 lakhs each in the account of M/s. Nitya Resorts Private Ltd. and all these cheques were given to him by one Ms Monica, secretary of Shri Nikhi Nanda. The learned counsel submitted that it shows that the cheques were coming from Shri Nikhi Nanda and were deposited by the employee of Shri Nikhi Nanda and everything was controlled by Shri Nikhi Nanda. Interestingly, the learned counsel submitted that the prosecution had put him a question whether Shri Nikhil Nanda was owner of M/s. Nitya resorts or not to this witness. Learned counsel submitted that all the employees of JHS Svend Gaard Laboratories were involved in the transaction but were not examined.

Next, learned counsel referred to the evidence of PW-19 Shri Jawahar Gautam. This witness has deposed about the transaction in December of 2007 as against other witnesses who have deposed about this payment in March 2008. Learned counsel also pointed out D-28, page 8 which is blank RTGS where the contact No. of this witness Shri Jawahar Gautam is mentioned but is duly signed by authorised signatory Smt. Pahlavi Verma wife of Shri Ashutosh Verma. It was submitted that Smt. Pahlavi Verma has not been made a witness

by prosecution. He submitted that Shri Ashutosh Verma had no interest in M/s. Kashyap motors and his family cannot be connected in any manner with the same. He submitted that this deliberate jumbling of facts is to create confusion by CBI.

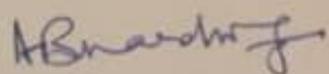
Learned counsel submitted that on the next date he will refer to the last witness pertaining to Goa transaction and will finish submissions with regard to Goa property.

List for further arguments now on 18th September 2020 at 0215 PM.

Let a copy of this order be sent by WhatsApp to the learned Senior PP for CBI, all the accused and their learned counsels.

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Special Judge, CBI – 05(PC Act)
RADC, NEW DELHI/16.09.2020.