

26.09.2020

Present: Sh. B.K. Singh Ld. Sr. P.P. for CBI.

(Through VC using Cisco Webex App.)

The case is at the stage of cognizance.

Chargesheet has been perused and submissions of learned Senior P.P. for CBI also heard.

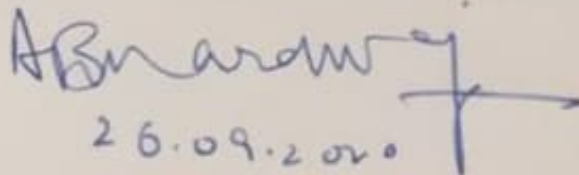
There are three public servants who are Accused No. 7 Sh. Shri Satish Kumar Garg, Ex Assistant General Manager, Punjab National Bank, Civil Lines Branch, Delhi, Accused No. 8 Shri Pawan Kumar Jindal, the then Chief Manager and Accused No. 9 Shri Ramesh Kalia, the then Deputy Manager (Loans), now retired.

CBI has filed sanction order dated 09.03.2020 and 03.03.2020 under Section 19 of the Prevention of Corruption Act, 1988 to prosecute Accused No. 7 Sh. Shri Satish Kumar Garg and Accused No. 8 Shri Pawan Kumar Jindal respectively. So far as Accused No. 9 Shri Ramesh Kalia is concerned, it is mentioned in the chargesheet that sanction for prosecution against him is still awaited and shall be submitted before this court as soon as it is received.

Whether sanction is required under Section 19 of the Prevention of Corruption Act, 1988 for prosecution of Accused No. 9 Shri Ramesh Kalia?

Prevention of Corruption Act has undergone amendment w.e.f. 26th July 2018.

Amendment brought in Section 19 dealing with necessity of previous sanction for prosecution now provides that no court shall take cognizance of offence under Section 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 the amendment provides that the expression public servant includes such person

  
26.09.2020

CBI vs. M/s Meroz Trading and Ors. C.C.39/2020 Page 2 of 3 who has seized 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 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 previously 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 provisions of post amended Act would apply only to the offences committed after amendment in the Act.

In this case, the offence was committed in the year 2016 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.

The learned Senior PP for CBI Shri B.K. Singh referred to the judgment in the case of State of Telangana versus CBI Versus Sri Managipet@Managipet Sarveshwar Reddy, decided by the Hon'ble Supreme Court on 6th December 2019 in Criminal 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 has retired from the service. In para 37 of the judgment, it is held as under:-

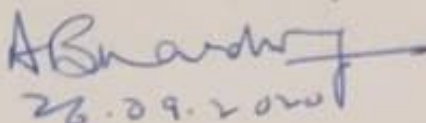
*"Mr. Guru Krishna Kumar further refers to a Single Bench judgement of the Madras High Court in M.Soundarajan versus State through the Deputy Superintendent of Police, Vigilance and Anti-corruption, Ramanathapuram to contend that amended provisions of the Act as amended by Act XVI of 2018 would be applicable 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 aforesaid case, the learned*

trial court applied amended provisions in the Act which came into force on 26th July 2018 and acquitted CBI vs. M/s Meroz Trading and Ors. C.C.39/2020 Page 3 of 3 both the accused from the 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, in the opinion of this court, there is no legal restriction for taking cognizance of the offences involved in this case against accused No. 9 Shri Ramesh Kalia who is a retired person today.

This court has gone through the records.

There is sufficient material to take cognizance of the offences under Section 120B read with Section 420, 467, 468 and 471 IPC and Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and substantive offences thereof against accused (i) M/s. Meroz Trading Pvt Ltd (A-1) through its Director, (ii) Sh. Uddham Singh (A-2), Director of M/s Meroz Trading Pvt Ltd, (iii) Sh. Deepak Gupta (A-3), (iv) Sh. Ajay Pal (A-4), Director M/s Meroz Trading Pvt Ltd (v) Sh. Pankaj Kumar Chaudhary (A-5), Director M/s NTG, (vi) Er. B.P. Singh (A-6), (vii) Sh. Satish Kumar Garg (A-7), Ex. AGM, Punjab National Bank (viii) Shri Pawan Kumar Jindal (A-8), the then Chief Manager, PNB, Civil Lines Branch, Delhi (ix) Shri Ramesh Kalia (A-9), the then Deputy Manager, PNB, Civil Lines Branch, Delhi (x) Sh. Sanjay Kumar, Panel Advocate (A-10), (xi) M/s Rzkien Pvt. Ltd. (A-11), through its Director/AR (xii) M/s NTG Builders Builders (A-12), through its Director Sh. Pankaj Kumar Chaudhary and cognizance of these offences is therefore taken qua all the twelve accused named above and they be summoned for 22nd October 2020.


  
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The chargesheet also mentions that further investigation under section 173 (8) of CrPC is continuing on the aspect relating to identify forger of balance sheet/provisional balance sheet of M/s. trading Private Ltd on the basis of which ODIP's limits of Rs.Five Crores was a sanction and disburse; to investigate the circumstances under which the sale deed of the mortgaged properties were executed and registered without any consideration amount paid for the sale purchase of properties stop the investigating officer shall file the report on completion of further investigation in this court.

Let a copy of this order be sent by WhatsApp to the learned Senior P.P. for CBI.

ARUN  
BHARDWAJ

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ARUN BHARDWAJ  
Date: 2020.09.26  
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(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New next, Delhi/26.09.2020

C.Case No. 246/2019

CBI Vs Sunny Kalra & ors.

26.09.2020

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

A-1 Sunny Kalra not present through VC from Tihar Jail. However, his Ld. Counsel Sh.Bharat Gupta is present.

A-2 M/s Samadhan Management represented by A-7 Sh.Rajesh Goel with Ld. Counsel Sh.Chandra Gupta.

A-3 Sh.Pavan Arya MVSR with Ld. Counsel Sh. Akhand Pratap Singh.

**A-4 Sh.Robin Davis is not summoned.**

A-5 Sh.A.R.K.Prasad and A-6 G.Balasubramanian with Ld. Counsel Sh.K.K.Nadar.

A-7 Sh.Rajesh Goyal and A-8 Sh.Amit Aggarwal with Ld. Counsel Sh.Chandra Gupta.

A-9 Sh.Puran Nath Juneja with Ld. Counsel Sh.Hitendra Kapoor.

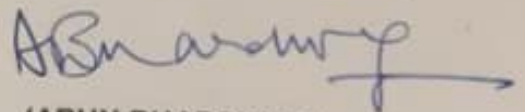
A-10 Sh.Anil Kumar Goel with Ld. Counsel Sh.Yogesh Verma.

A-11 Sh.M.L.Nasa with Ld. Counsel Sh.Mayank Maini.

**(Through VC using Cisco WebEx App)**

Arguments on the bail applications filed by A-3, A-5, A-6, A-7, A-8, A-9, A-10 and A11 heard.

List on 30.09.2020 at 11.00 A.M. for orders.



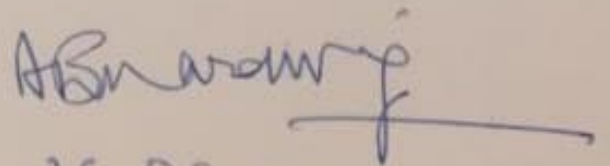
**(ARUN BHARDWAJ)**  
Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 26.09.2020

At this stage A-1 Sh.Sunny Kalra produced through VC from Tihar Jail. He is apprised of the court proceedings and the next date of hearing fixed in the matter.

C.Case No. 246/2019

CBI Vs Sunny Kalra & ors.

Page 1 of 2



26.09.2020

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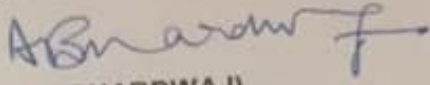
Let a copy of this order be sent by WhatsApp to Ld. Sr.PP for CBI, the accused and Ld. Counsels for the accused.

Ahmad is directed to send copy of the order by e-mail to the accused Sunny Kalra through Jail Superintendent, Tihar Jail, Delhi.

Jail Superintendent, Tihar Jail, Delhi is directed to produce A-1 Sh.Sunny Kalra through VC on the next date of hearing.

ARUN  
BHARDWAJ

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(ARUN BHARDWAJ)  
Special Judge, CBI-05 (PC Act),  
RADC, New Delhi/ 26.09.2020