

29.06.2020

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, Sh. Dhruv Sehrawat and Sh. Ashok Angral.  
Accused No. 7 Sh. Amit Kapoor and Accused No. 8 Sh. Rishiraj Behl in person.  
Sh. M.K. Verma, Ld. Counsel for Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh.

(Through VC using Cisco Webex App.)

The Ld. Counsel Sh. M.K. Verma today addressed arguments on behalf of Accused No. 11 Sh. Dal Bahadur Singh.

Ld. Counsel submitted that allegations against this accused are mentioned in paragraph no. 2, 5, 7, column no. 7 and paragraph 10 of the charge sheet. The Ld. Counsel read the allegations against this accused from the charge sheet.


Next, the Ld. Counsel read order on charge dated 04.02.2003, especially its paragraph 6 to show the allegations noted against this accused at that time.

Ld. Counsel submitted that the day charge was framed against this accused, on the same day charge was also framed against Mohd. Anwar A-13 under Section 411 IPC and 120B IPC. Ld. Counsel submitted that the said accused Mohd. Anwar pleaded guilty to both the charges and was convicted for the period already undergone vide order dated 04.02.2003 itself.

The Ld. Counsel referred to order on sentence, paragraph 3 to show that this court while convicting him had held that he was not the one who had stolen the KVPs. Ld. Counsel submitted that the entire investigation of CBI does not show who is the thief of KVPs/who had stolen the KVPs at Patna.

Ld. Counsel submitted that two FIRs were registered at GRP Patna and Calcutta. But, CBI has not brought on record the thief of KVPs. It is the submission of the Ld. Counsel that if the circle is not complete, this accused Sh. Dal Bahadur Singh cannot be convicted for the offence of conspiracy under Section 120B IPC.

Ld. Counsel read the evidence of PW-7 Sh. Vijay Prakash, Regional Manager of Central Bank of India to show that this high dignitary had

  
29.06.2020

not received the vigilance report of PW-12 Sh. U.B. Upadhyay and was not in knowledge of this report.

Coming to the evidence of PW-12, Ld. Counsel submitted that only carbon copy of the statement of Sh. D.B. Singh was enclosed by this witness with the vigilance enquiry report. The IO never procured the original statement of Sh. D.B. Singh although it was available and accessible.

Ld. Counsel submitted similar arguments which he had addressed while defending Accused no. 6 Sh. Aahwani Dhingra that PW-12 Sh. U.B. Upadhyay had recorded the statement of Sh. Dal Bahadur Singh on 10.08.1998 then how in the report of 05.08.1998 incriminatory material could be included by the Vigilance Office in his enquiry report.

Ld. Counsel referred to evidence of PW-23 and submitted that opening account on 19.03.1998 and receiving the DDs on 18.03.1998 does not show any conspiracy. The Ld. Counsel referred to the statement of PW-23 where he had deposed that Sh. Dal Bahadur Singh had told him that he is money lender by profession when he had opened the account.

Ld. Counsel referred to evidence of PW-46 Sh. Ajay Kumar Singh and submitted that the witness was hostile and has not supported the prosecution. Moreover, the witness is speaking about IVPs (Indira Vikas Patras) and not KVPs (Kisan Vikas Patras).


Lastly, Ld. Counsel referred to the evidence of PW-48, who is IO of the case and pointed out that in this case part investigation was conducted by a Sub-Inspector, who was not authorized to conduct investigation for offence under PC Act. Ld. Counsel submitted that the arguments addressed by Sh. I.D. Vaid, Ld. Counsel for Accused No. 12 Sh. Vikas Srivastava would apply to argument in favour of Sh. Dal Bahadur Singh also.

The Ld. Counsel referred similar arguments which he had addressed in defence of Sh. Ashwani Dhingra namely Sh. S.N. Pandey could not have told the IO that Sh. Ashwani Dhingra and Sh. Dal Bahadur Singh had joined other accused at Lucknow Airport, as S.N. Pandey was at Post Office Armapur, Kanpur and never met the accused at Lucknow Airport.

The Ld. Counsel pointed out from the evidence of IO of the case that he never took original statement of Sh. Dal Bahadur Singh from PW-12 Sh. U.B. Upadhyay, the Vigilance Officer of the bank. It was also shown that the IO did not verify profession of Accused No. 11 Sh. Dal Bahadur Singh. There was no investigation with regard to statement of Sh. Dal Bahadur Singh dated 10.08.1998.

Lastly, Ld. Counsel addressed the arguments with regard to extra judicial confession of Accused No. 11 Sh. Dal Bahadur Singh before PW-12 Sh. U.B. Upadhyay. Ld. Counsel referred to Section 22 to Section 28 of the Indian Evidence Act in this regard and referred to the judgment of Hon'ble Supreme Court in the case of Sahadevan vs. State of Tamil Nadu, Criminal Appeal No.105/2008 from Indian Kanoon to submit that Extra Judicial Confession is a weak piece of evidence and requires corroboration by other prosecution evidence. In case there are material infirmities and inherent probabilities, such extra judicial confession cannot be the basis of conviction.

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

  
29.06.2020

Page 2 of 3

Ld. Counsel submitted that the Vigilance Officer was biased and inimical to Sh. Dal Bahadur Singh and had motive to impute false allegations against him.

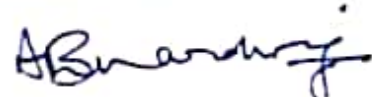
Ld. Counsel submitted PW-12 is not credit worthy witness to believe Extra Judicial Confession before him. Ld. Counsel submitted that Accused No. 11 Sh. Dal Bahadur Singh had never met Accused Nos. 1, 2 and 3 at any place. He deposed that no witness had stated meeting of Mohd. Anwar and Dal Bahadur Singh therefore, there is no evidence of procuring stolen KVPs by this accused from Mohd. Anwar.

Lastly, Ld. Counsel referred to the case of Kehar Singh vs. State of Delhi, AIR 1998 SC 1883 and referred Paragraph 268 to 272 on the point of conspiracy and relying on this judgment, the Ld. Counsel submit that there is no incriminatory evidence against Sh. Dal Bahdur Singh and he is entitled to acquittal.

With this, the arguments of Accused no. 1 Sh. D.S. Sandhu, Accused No. 12 Sh. Vikas Srivastava, Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh stands concluded.

List for arguments on behalf of Accused No. 7 Amit Kapoor and Accused No. 8 Sh. Rishi Raj Behl on 30.06.2020 at 11:00 AM.

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



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/29.06.2020

At this stage, the reader of this court has received the following message from Accused No. 11 Sh. Dal Bahadur Singh:-

*"Due to poor network of bsnl, it is difficult to download cisco app and connect during court proceedings. I have already authorize my advocate to address final argument"*

This information is also taken on record.



(ARUN BHARDWAJ)  
Special Judge (P.C. Act)(CBI-05)  
Rouse Avenue District Court,  
New Delhi/29.06.2020