

CBI vs. SHRI D.K. GOEL & ANR.
RC 15(A)/2010 (CC No.168/19)

26.06.2020

Present: None for CBI.

Accused No. 1 Sh. D.K Goel in person along with Ld. Counsel
Sh. Jaspreet Singh Rai.

(Through VC using Cisco WebEx app)

On the oral request, presence of Accused no. 2 Smt. Sangeeta
Goel is exempted.

The Reader of the Court has informed that the Ld. Sr. P.P for CBI
Sh. Brijesh Kumar Singh has been assigned urgent duty in some bail
application in the Court of Ld. Special Judge on duty at Rouse Avenue District
Court, New Delhi and he is not therefore in a position to join video conference
for this case.

On perusal of records available at present, at the time of video
conference, it is seen that the examination-in-chief and cross-examination of
PW-113 Sh.V. Subhrraahmanyam is not completely available. Ld. Counsel for
the accused submitted that the soft copy of the same will be sent on the
official ID of Reader of this Court for the assistance of this Court. Let it be sent
on the registered ID of Reader of the Court.

List for further proceedings now on 03rd July, 2020 at 12.30 p.m.

Let a copy of this order be sent by WhatsApp to accused persons
as well as their learned counsels.



Arun Bhardwaj
Special Judge (PC Act) (CBI-5)
Rouse Avenue District Court
New Delhi/26.06. 2020

26.06.2020

Present: Shri 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 and Sh. Dhruv Sehwat.

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.)

Sh. M.K. Verma, Ld. Counsel for Accused No. 6 Sh. Ashwani Dhingra and Accused No. 12 Sh. Dal Bahadur Singh resumed his arguments today.

Ld. Counsel referred to the arguments addressed by Sh. Y. Kahol, Ld. Counsel for Accused No. 1 Sh. D.S Sandhu and Accused No. 5 Smt. Sudershan Kapoor as recorded in the order sheet of 16.06.2020, where he has addressed some arguments with regard to role of Accused No. 6 Sh. Ashwani Dhingra.

The Ld. Counsel Sh. M.K. Verma argued that leveling these allegations during arguments have no legal value. The Accused No. 1 Sh. D.S. Sandhu has not entered the witness box under Section 315 of Cr. P.C., otherwise he would have been cross-examined on behalf of Sh. Ashwani Dhingra. Therefore, he submits that the submissions of Ld. Counsel for Accused No. 1 Sh. Dil Bhajan Singh Sandhu are mere arguments, so far as, they are leveled against Sh. Ashwani Dhingra and are without any legal weight.

The Ld. Counsel further submitted that the argument by Sh. Y. Kahol Ld. Counsel for A-1 and A5 that one Mr. Amit Pandey was also an accused in another case and was a prosecution witness in present case but had turned hostile, is also not relevant. Moreover, the mere fact that Shri Ashwani Dhingra is an accused in another case does not prove the charge framed him in this case.


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The Ld. Counsel next referred to internal report dated 5/6.08.1998 given by Sh. U.B. Upadhyay, Vigilance Officer of Central Bank of India, Ex. PW-12/E and referred to internal page 37 where the observations are as under:-

"It has emerged during the course of investigation that the KVPs which are fake, were provided by Sh. Ashwani Dhingra who is reportedly a Chartered Accountant. It is also reported that two DDs amounting to Rs.15,00,000/- were given to Sh. Dal Bahadur Singh by Sh. Ashwani Dhingra".

Ld. Counsel referred to another report of Sh. U.B. Upadhyay dated 11.08.1998 enclosing therewith photocopy of statement recorded by the Vigilance Officer on 10.08.1998. After referring to these reports, Ld. Counsel referred to the evidence of PW-12 Sh. U.B. Upadhyay dated 03.09.2009, where during his cross-examination by Sh. M.K. Verma, Ld. Counsel for Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh, the witness deposed that *"it was written in my inquiry report that the fake KVPs were provided by Sh. Ashwani on the basis of oral information given by Sh. Dal Bahadur Singh."*


The Ld. Counsel submitted that, if Sh. Dal Bahadur Singh had met Sh. U.B. Upadhyay on 10.08.1998, then, how it could come in the report of 05.08.1998 that the KVPs which are fake, were provided by Sh. Ashwani Dhingra. Therefore, the report of 05.08.1998 making this allegation against Sh. Ashwani Dhingra is based on hearsay and false. The Ld. Counsel clarified that these are arguments with regard to Sh. Ashwani Dhingra and not Sh. Dal Bahadur Singh.

The Ld. Counsel submitted that even if the statement of Sh. Dal Bahadur Singh dated 10.08.1998 is treated as extra judicial confession as argued by Ld. Sr. P.P for CBI, even then there is no confession with regard to fake KVPs in the said statement. The entire statement even does not refer to KVPs even once.

The Ld. Counsel submitted in conspiracy there should be no break in the chain, otherwise the accused is entitled to acquittal to charge of conspiracy.

The Ld. Counsel submitted that no witness has deposed that Sh. Ashwani Dhingra had procured false KVPs. He submitted that, for conspiracy, there is no evidence of common intention involving Sh. Ashwani Dhingra for securing loan from Central Bank of India on the basis of false KVPs.

The Ld. Counsel submitted that the Accused No. 6 Sh. Ashwani Dhingra is therefore entitled to be acquitted of the charge of conspiracy charged against him.


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Ld. Counsel submitted that PW-29 Sh. A.K. Dubey was sought to be relied on by prosecution to prove the charge, but the witness has turned hostile.

Ld. Counsel referred to cross-examination of PW-48 Sh. Rama Kant Tiwari, who is IO of the case dated 07.04.2017 and submitted that in cross examination conducted by Ld. Counsel for Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh, the witness stated that he does not remember whether Accused No. 1 Sh. D.S. Sandhu had requested Accused No. 6 Sh. Ashwani Dhingra for arranging finance as has been stated by any of the witnesses in this case. The witness further stated that the fact about the joining of accused Sh. Ashwani Dhingra and Sh. Dal Bahadur Singh at Lucknow with accused Sh. A.N. Rastogi was told to the IO by Late Sh. S.N. Pandey, the then Sub-Post Master.

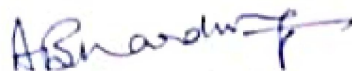
The Ld. Counsel submitted that Sh. S.N. Pandey was at Kanpur and he could not have deposed about their presence at Lucknow. Further, the Ld. Counsel submitted that the IO admittedly did not file statement under Section 161 Cr. P.C. of Late Sh. S.N. Pandey in the Court about the aforesaid fact taking the excuse that Sh. S.N. Pandey had died before filing of chargesheet.

There is an allegation that Sh. Ashwani Dhingra took Rs.18,00,000/-, as per the chargesheet. The Ld. Counsel pointed out the cross-examination of this witness/IO where he stated that he does not remember whether he had recovered any document pertaining to payment of Rs.18,00,000/- through cheques by Accused No. 1 Sh. D.S. Sandhu to Accused No. 6 Sh. Ashwani Dhingra.

Referring to the evidence of IO of the case, the Ld. Counsel pointed out that the IO had examined PW-12 Sh. U.B. Upadhyay, the then Vigilance Officer, Central Bank of India, Zonal Office, Lucknow, but Sh. U.B. Upadhyay had not handed over original of statement of accused Sh. Dal Bahadur Singh, Ex. PW-12/C to the IO of the case. The evidence further shows that the IO had taken photocopy of statement of Accused No. 11 Sh. Dal Bahadur Singh recorded on 10.08.1998 by Sh. U.B. Upadhyay. The Ld. Counsel submitted that the IO deliberately did not take the original statement of Accused No. 11 Sh. Dal Bahadur Singh as the same was against the line of his investigation.

Ld. Counsel submitted that Sh. Ashwani Dhingra was in the custody for a period of three months but no effort was made during that time or during pendency of investigation to take his specimen signatures for examination by GEQD. Ld. Counsel submitted that even today, he is ready to offer specimen signatures of Accused No. 6 Sh. Ashwani Dhingra for examination by GEQD.

Ld. Counsel submitted that so far as the statement under Section 313 Cr. P.C. is concerned, question no. 139 and question no. 140 pertain two cheques 163512 and 163511 both dated 25.03.1998, Ex. PW-19/B & A respectively.


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Ld. Counsel submitted that when the evidence of PW-19 Sh. Ved Bhagwan Katoria was being recorded in the Court, he had objected to the exhibiting of these two cheques regarding mode of proof. The original cheques were with Economic Offence Wing, Chandigarh and should have been summoned by the IO. There is no provision for proving bank documents by certified copies, as per banker's book of Evidence Act.

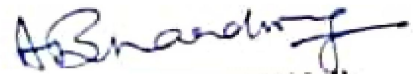
Ld. Counsel submitted when PW-19 had not identified the signatures of Sh. Ashwani Dhingra on the back of two cheques, what was left for the accused to respond as there was hardly any evidence against him in that regard.

With this, the Ld. Counsel concluded arguments with regard to Accused No. 6 Sh. Ashwani Dhingra and submitted that on the next date he will address arguments qua Accused No. 11 Sh. Dal Bahadur Singh and will also refer judgments in support of his arguments.

On the query of the court, the Ld. Counsel submitted that the position of Accused No. 6 Sh. Ashwani Dhingra and Accused No. 11 Sh. Dal Bahadur Singh continues to be the same with regard to connectivity for joining video conference as earlier but he is sending all the orders of this court to both the accused regularly.

List on Monday i.e. on 29.06.2020 at 11:00 AM for arguments by Sh. M.K. Verma on behalf of Accused No. 11 Sh. Dal Bahadur Singh.

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/26.06.2020