

Ct. Case No.7/2020
ECIR. No.HQ/03/2017
DoE vs Sanjay Bhandari & Ors.

File taken up today pursuant to Order No.E-14270-14306/Cases Transfer/CBI/RADC/Gaz./2020 dated 21.09.2020 of the Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act), CBI, RADC, New Delhi.

22.9.2020

Present: None.

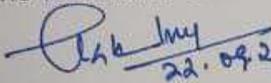
The Id. Principal District and Sessions Judge-Special Judge (PC Act) vide order dated 21.9.2020 has transferred the present case to the court of Sh. Shailender Malik, Ld. Special Judge (PC Act), CBI-22, RADC, New Delhi.

In view of the above order, let the case file alongwith documents be transferred to the transferee court.

The Reader of the court is directed to send all the e-mails pertaining to this case received online on the official e-mail of this court to the official e-mail ID of Reader of the transferee court. A copy of the above-mentioned order be also placed on the notice board.

An intimation be sent to the learned SPP, DoE through electronic mode i.e. via WhatsApp message or e-mail, as the case may be.

An application in this case was received on behalf of Sh. Robert Vadra seeking permission to go abroad which was listed for 23.9.2020. Let the applicant be informed about the transfer of this case through his counsel via WhatsApp message or e-mail, as the case may be. Application was received online alongwith documents and reply was also filed online on the official email ID of this court. The Reader shall forward those emails regarding application and documents to the official email ID of the Reader of the transferee court.


22.09.2020

(AJAY KUMAR KUCHAR)
Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi: 22.9.2020 (SR)

DL-00036

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Ct. Case No.22/19
DLCT11-000985-2019
DoE vs. M/s Lara Project LLP & Ors.

Matter is taken up today for physical hearing in terms of Office Order No.417/RG/DHC dated 27.8.2020 and Circular issued by Ld. District & Sessions Judge-cum-Special Judge (CBI), Rouse Avenue District Court, New Delhi, regarding Duty Roster of the Judicial Officers and Modalities in respect of hearing bearing No.E-10559 10644/Power/Gaz./RADC/2020 dated 28.8.2020 and No.E-10927-11013/Power/Gaz./RADC/2020 dated 30.8.2020 respectively.

22.9.2020

Present: Sh. Atul Tripathi, Learned SPP for the DoE.
Sh. Akhilesh Singh Rawat, learned counsel for A-1 M/s Lara Project LLP.
Sh. Varun Jain, learned counsel for A-2 Smt. Rabri Devi and A-3 Tejashwi Prasad Yadav.
Sh. Akhilesh Singh Rawat and Sh. Akshay Nagarajan, learned counsels for A-4 Lalu Prasad Yadav and A-9 Rahul Yadav.
Sh. Yoginder Handoo, learned counsel for A-5 Smt. Sarla Gupta and A-6 Prem Chand Gupta.
Sh. Varun Jain, learned counsel for A-7 Gaurav Gupta.
Sh. Faraz Mohd., proxy counsel for Sh. Nikhil Fernandez, learned counsel for A-8 Nath Mal Kakrania.
Sh. Yoginder Handoo, proxy counsel for Sh. Aditya Chaudhary, learned counsel for A-10 Vijay Tripathi.
Sh. Faraz Mohd., proxy counsel for Sh. Nikhil Fernandez, learned counsel for A-11 Deoki Nandan Tulshiyani.
Sh. Akshay Nagarajan, learned counsel for A-12 M/s Sujata Hotels, A-13 Vinay Kochhar and A-14 Vijay Kochhar.
Sh. Madhav Khurana, learned counsel for A-15 Rajiv Kumar Rehlan and A-16 M/s Abhishek Finance Pvt. Ltd.

A request has been received via email on behalf of



DL-00036

Ms. Tarannum Cheema, learned counsel for A-4 and A-9 to take up the matter through VC as Sh. R. S. Meena, learned senior counsel will be appearing in the matter. Considered.

There is stay on framing of Charge in this case from the Hon'ble Supreme Court in SLP (Criminal) No.8156/2019 vide order dated 16.9.2019.

Let the matter be listed on **14.10.2020**. In case it happens to be date of physical hearing of the court, efforts will be made to have hearing through VC.



22.09.2020

(AJAY KUMAR KUHAR)
Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)

CC No.55/19
CNR No. DLCT11-000125-2019
CBI v Sh. Lalu Prasad Yadav & Ors.

Matter is taken up today for physical hearing in terms of Office Order No.417/RG/DHC dated 27.8.2020 and Circular issued by Ld. District & Sessions Judge-cum-Special Judge (CBI), Rouse Avenue District Court, New Delhi, regarding Duty Roster of the Judicial Officers and Modalities in respect of hearing bearing No.E-10559 10644/Power/Gaz./RADC/2020 dated 28.8.2020 and No.E-10927-11013/Power/Gaz./RADC/2020 dated 30.8.2020 respectively.

22.9.2020

Present:

Sh. Raj Mohan Chand, learned Sr. PP for CBI with
Sh. Rupesh Kumar Srivastava, AIO, Inspector and
IO/Dy.SP Sanjay Dubey.

A-1 Lalu Prasad Yadav is absent as he is undergoing
sentence in some other case at Ranchi Jail.

Sh. Varun Jain and Sh. Akshay Nagarajan, associates of
Sh. R. S. Cheema, learned senior counsel for A-1, A-2 Smt.
Rabri Devi and A-3 Tejashwi Prasad Yadav.

Sh. Akhilesh Singh Rawat, learned counsel for A-4 M/s. Lara
Projects LLP.

Sh. Akshay Nagarajan, proxy counsel for Sh. Shadan Farasat,
learned counsel for A-5 Vijay Kochhar and A-6 Vinay
Kochhar.

Sh. Yoginder Handoo, learned counsel for A-7 Ms. Sarla
Gupta.

Sh. Ranjeet Kumar Singh, learned counsel for A-8 Pradeep
Kumar Goel.

Sh. Yoginder Handoo, learned counsel for A-9 Sh. Prem
Chand Gupta.

Sh. Sanjay Abbot, learned counsel for A-10 Rakesh Saxena.

Sh. Yuvraaj Paul, learned counsel for A-11 Bhupender Kumar
Agarwal.

A-12 Rakesh Kumar Gogia with learned counsel Sh. Bijender
Singh.



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Sh. Swaroop Mishra, proxy counsel for Sh. Abhir Dutt,
learned counsel for A-13 Vinod Kumar Asthana.
Sh. Akshay Nagrajan, proxy counsel for Sh. Shadan Farasat,
learned counsel for A-14 M/s Sujata Hotels Pvt. Ltd.

A request has been received via email on behalf of Sh. R. S. Cheema, learned senior advocate for A-1 to A-3 for taking the matter for hearing through VC.

Similar request has also been received from Sh. R. K. Handoo, learned counsel for A-7 & A-9.

CBI has filed an application to place on record sanction order under Section 19 of PC Act qua A-1, A-8, A-10, A-12 and A-13. These applications and sanction orders were received online at the official email ID of the court. Today, learned prosecutor is filing the original hard copy of the application as well as sanction orders. Let they be deposited with the ahlmad in a sealed envelop which shall be opened after three days as per the protocol laid by the Id. District & Sessions Judges Office. The copy of application alongwith the sanction order has already been supplied to all the concerned accused persons.

A-8 Pradeep Kumar Goel has also filed an application under Section 91 Cr.PC which was also received online and the printout of the same has been taken out.

Notice of this application was given to the CBI and reply to the same has been filed. Copy supplied.

Let a reply be filed and deposited with the ahlmad in a sealed envelop which shall be opened after three days as per the protocol.

An application was filed by A-9 Sh. Prem Chand Gupta and A-7 Ms. Sarla Gupta for release of their passports for the purpose of



renewal.

Reply has been filed by the CBI which shall be deposited with the ahlmad in a sealed envelop which shall be opened after three days as per the protocol.

Learned counsels appearing for A-1, A-8, A-10, A-12 and A-13 submit that they may be given liberty to file the reply to this application. Although, the CBI simply placed on record the sanction orders qua these accused under Section 19 of PC Act but at the request of the learned counsel for the accused persons, they are permitted to file their reply, if any.

Matter be now listed on **14.10.2020 at 10.30 am**. In case the date of hearing is physical functioning of the court then the case shall be taken up in the court itself, otherwise through VC, as the case may be.



Handwritten signature of Ajay Kumar Kuhar, dated 22.09.2020.

(AJAY KUMAR KUHAR)
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)

Ct. Case No.3/2020
CNR No. DLCT11-000110-2020
Sh. Shrikant Prasad vs Sh. Narendra Modi & Anr.

Matter is taken up today for physical hearing in terms of Office Order No.417/RG/DHC dated 27.8.2020 and Circular issued by Ld. District & Sessions Judge-cum-Special Judge (CBI), Rouse Avenue District Court, New Delhi, regarding Duty Roster of the Judicial Officers and Modalities in respect of hearing bearing No.E-10559 10644/Power/Gaz./RADC/2020 dated 28.8.2020 and No.E-10927-11013/Power/Gaz./RADC/2020 dated 30.8.2020 respectively.

22.9.2020

Present: None.

Vide separate order of even date, the complaint filed by the complainant under Section 200 readwith Section 190 (a) of Code of Criminal Procedure, alleging commission of offences under Section 420 and 406 IPC and Section 13 (a) of Prevention of Corruption Act and also violation of Section 123 (b) of the Representation of Peoples Act, 1951 stands dismissed.

File be consigned to record room.


22.09.2020

(AJAY KUMAR KUHAR)
Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)

**IN THE COURT OF SH. AJAY KUMAR KUHAR, ADDITIONAL
SESSIONS JUDGE / SPECIAL JUDGE (PC ACT), CBI-09
(MPs/MLAs Cases), ROUSE AVENUE DISTRICT COURT, NEW
DELHI**

**Ct. Case No.3/2020
CNR No. DLCT11-000110-2020**

Sh. Shrikant Prasad
R/o H. No.2609, 2nd Floor,
Hudson Lane, GTB Nagar,
Delhi-110007

... Complainant

versus

1. Sh. Narendra Damodar Das Modi
R/o 7 Lok Kalyan Marg,
New Delhi

2. Amit Shah
R/o 6 A Pandit Deen Dayal Upadhyaya Marg,
New ITO, Railway Colony-Minto Road,
New Delhi

... Accused

Date of Institution : 11.02.2020
Date of Arguments : 18.09.2020
Date of Order : 21.09.2020

ORDER

1. This complaint was filed by the complainant under Section 200 readwith Section 190 (a) of Code of Criminal Procedure, alleging commission of offences under Section 420 and 406 IPC and Section 13 (a) of Prevention of Corruption Act and also violation of Section 123 (b) of the Representation of Peoples Act, 1951.

Sh. Shrikant Prasad vs. Sh. Narendra Damodar Das Modi & Anr.
Ct. Case No.3/2020



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2. The complainant has arrayed Sh. Narendra Damodar Das Modi (Hon'ble Prime Minister) and Sh. Amit Shah (Hon'ble Home Minister) as accused in this complaint. It is alleged that on 01.01.2014, prior to the General Elections for Lok Sabha, Sh. Modi made a false and fraudulent speech with dishonest intention stating that every citizen of India will get Rs.15 lacs in his account. Sh. Amit Shah gave an interview to ABP News and denied it saying that it was an election "jhumla".

3. It is stated in the complaint that Sh. Modi had made a promise of giving Rs.15 lacs each to the citizen of India to induce the voters to vote for him. He never had the intention nor he later on tried to bring the black money from foreign account as promised for getting votes from the citizen of India. It is submitted that such intentional fraudulent and dishonest promise amounts to a 'Corrupt Practice' under Section 123 of Representation of Peoples Act, 1951.

4. It is also stated in the complaint that Sh. Modi holding the post of the Prime Minister has criminally misappropriated government property entrusted to him by privatization of various organizations and government companies like BPCL and there are further plans to privatize Air India and other PSU. Another allegation of complainant is that Rs.3000 crores were misappropriated for making the statue of Sh. Sardar Patel in Gujarat.

5. On the basis of these allegations, he has made a prayer for initiating criminal proceedings against Sh. Modi and Sh. Amit Shah and further prayer to restrict them from selling government authorities to private individuals; direct them to notify vacancy and attach the

property of Sh. Narendra Modi to cover the unnecessary expenses incurred by him in making the statue.

6. I have heard the complainant at length and perused the complaint and the relevant provisions of law.

7. At the very outset, when an offence is alleged to be committed by a public servant while acting or purporting to act in discharge of his official duty, the court cannot take cognizance of the offence without a prior sanction under Section 197 of Criminal Procedure Code. For an offence under the Prevention of Corruption Act, particularly under Section 13, no court can take cognizance of the said offence except with the prior sanction of the competent authority under Section 19 of PC Act.

8. Cognizance of an offence is taken at the very threshold when the court would apply judicial mind to the facts in the complaint or a police report or upon information received from any other person that an offence has been committed (*State of West Bengal and Another v. Mohd. Khalid and Others (1995) 1 SCC 684*). The expression "cognizance" which appears in Section 197 Cr.PC came up for consideration in the case *State of Uttar Pradesh vs Paras Nath Singh (2009) 6 SCC 372* wherein it was observed:-

"6 And the jurisdiction of a Magistrate to take cognizance of any offence is provided by Section 190 of the Code, either on receipt of a complaint, or upon a police report or upon information received from any person other than a police officer, or upon his knowledge that such offence has

been committed. So far as public servants are concerned, the cognizance of any offence, by any court, is barred by Section 197 of the Code unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in discharge of the official duty. The section not only specifies the persons to whom the protection is afforded but it also specifies the conditions and circumstances in which it shall be available and the effect in law if the conditions are satisfied. The mandatory character of the protection afforded to a public servant is brought out by the expression, 'no court shall take cognizance of such offence except with the previous sanction'. Use of the words 'no' and 'shall' makes it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete. The very cognizance is barred. That is, the complaint cannot be taken notice of. According to Black's Law Dictionary the word 'cognizance' means 'jurisdiction' or 'the exercise of jurisdiction' or 'power to try and determine causes'. In common parlance, it means taking notice of. A court, therefore, is precluded from entertaining a complaint or taking notice of it or exercising jurisdiction if it is in respect of a public servant who is accused of an offence alleged to have been committed during discharge of his official duty."

9. With regard to the offence under PC Act, the Hon'ble Supreme Court in the case of Anil Kumar & Ors. vs M. K. Aiyappa & Anr.

(2013) 10 SCC 705 has gone to the extent of saying that sanction is mandatory requirement even when the Magistrate is invoking the power under Section 156 (3) Cr.PC and observed “requirement to obtain sanction is mandatory requirement and not directory in nature. If there is no prior sanction, the Magistrate cannot direct investigation against a public servant while invoking powers under Section 156 (3) Cr.PC.”

10. Cognizance of an offence can be taken by any Magistrate under Section 190 Cr.PC:-

- a. Upon receiving a complaint of facts which constitute such offence;
- b. Upon a police report of such facts;
- c. Upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

11. The complaint herein therefore, fails on the ground that there is no prior sanction either under Section 197 Cr.PC or under Section 19 of the PC Act. For want of such a sanction, no cognizance can be taken in the present case.

12. The allegations which have been made in the complaint even otherwise, are devoid of any substance to invoke criminal jurisdiction. The averment in the complaint is that false promises were made prior to the General Elections in 2014, which amounts to a corrupt practice as per Section 123 (2) of the Representation of Peoples Act, 1951.

13. I need not go further in this issue because corrupt practice as defined in Section 123, Chapter-I, part-VII of the Representation of

Peoples Act does not call for a criminal action. The offences which are punishable under the Act are incorporated in Section 125 to 136 under the Representation Peoples Act, 1951.

14. The allegations of misappropriation by privatization of Public Sector Undertaking is without any content and substance showing any criminal intent. These are policy decisions of the government in power which cannot be interfered with by the court under Criminal Jurisdiction. The complainant during the course of his submissions had stated that he does not have any evidence with him but the court may exercise its power under Section 202 Cr.PC for making inquiry. However, I do not agree with this submission because to reach the stage of Section 202 Cr.PC, cognizance is required to be taken of the offence. But in the present case, for want of sanction, no cognizance can be taken. Further, mere averment in the complaint without a supporting evidence regarding the commission of an offence will not justify any action by this court.

15. In view of the above, finding no substance in the complaint, I decline to take cognizance of the complaint and dismiss the same.

16. File be consigned to record room.


22.09.2020

**Announced in the open court
on 22.9.2020**

**(AJAY KUMAR KUHAR)
Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)**

CC No.19/20
CNR No. DLCT11-000122-2020
ECIR/19/HQ/2017
DoE v M/s Advantage India & Ors.

File taken up today pursuant to Order No.E-14270-14306/Cases Transfer/CBI/RADC/Gaz./2020 dated 21.09.2020 of the Ld. Principal District & Sessions Judge-cum-Special Judge (PC Act), CBI, RADC, New Delhi.

22.9.2020
Present: None.

The Id. Principal District and Sessions Judge-Special Judge (PC Act) vide order dated 21.9.2020 has transferred the present case to the court of Ms. Anuradha Shukla Bhardwaj, Ld. Special Judge (PC Act), CBI-21, RADC, New Delhi.

In view of the above order, let the case file alongwith documents be transferred to the transferee court.

The Reader of the court is directed to send all the e-mails pertaining to this case received online on the official e-mail of this court to the official e-mail ID of Reader of the transferee court. A copy of the abovementioned order be also placed on the notice board.



22.09.2020

(AJAY KUMAR KUHAR)
**Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)**

Cr. Case No.6/19
CNR No. DLCT11-000983-2019
State v Ramesh Bhardwaj & Ors.

Matter is taken up today for physical hearing in terms of Office Order No.417/RG/DHC dated 27.8.2020 and Circular issued by Ld. District & Sessions Judge-cum-Special Judge (CBI), Rouse Avenue District Court, New Delhi, regarding Duty Roster of the Judicial Officers and Modalities in respect of hearing bearing No.E-10559 10644/Power/Gaz./RADC/2020 dated 28.8.2020 and No.E-10927- 11013/Power/Gaz./RADC/2020 dated 30.8.2020 respectively.

22.9.2020

Present:

Sh. Manish Rawat, learned Additional PP for the State.
Sh. R. N. Sharma, learned counsel for A-1 Ramesh Bhardwaj @ Ballu.
Sh. Shubham, proxy counsel for Sh. Pradeep Rana, learned counsel for A-2 Sharad Chauhan, A-6 Amit Bhardwaj and A-8 Mukhtiyar Singh.

Proceedings against A-3 Sonu Virender Mann @ Kala stands abated.

A-4 Mohan Lal Verma and A-5 Sanjay are absent.
Sh. Sahil Malik, proxy counsel for Sh. R. S. Malik, learned counsel A-7 Rajnikant.

Request has been received from Sh. Pradeep Rana, learned counsel for A-2, A-6 & A-8 that he is unable to attend to court as he has tested COVID-19 positive.

Arguments on Charge heard on behalf of Ld. APP for the State.

List the matter for arguments on Charge by the learned counsel for accused on **08.10.2020**. In case, the date happens to be date of physical hearing, the matter will be taken up in the court itself otherwise, through VC, as the case may be.


22.09.2020

(AJAY KUMAR KUHAR)
Additional Sessions Judge/
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 22.9.2020 (SR)