

RC No. DAI-2018-A-0019
U/s: 120B IPC and 13 (2) R/w 13 (1) (d) of PC
Act
PS: CBI/ACB, Distt. : New Delhi
CBI Vs. Satyender Jain & Ors.

27.07.2021

(Proceedings conducted through VC on Cisco Webex)

Present: Sh. Pankaj Gupta, Ld. Sr. PP for the CBI and
IO Insp. Shyam Rai through VC.
Sh. Manish Kaushik, Ld. Counsel for the applicants Ms.
Renu Amitabh and Ms. Maya Amitabh with applicant Ms.
Renu Amitabh through VC.

Matter is fixed today for hearing through VC. However, I have come to court today to hold the proceedings as in absence of the court file, it would not have been possible for me to hear and appreciate the submissions advanced by Ld. Counsels.

An application dated 19.07.2021 moved by IO seeking permission for valuation of jewellery articles of applicants is pending on record. The application was originally filed online on the official email ID of this court on the same day i.e. 19.07.2021 and it was taken up for hearing on 20.07.2021. The hard copy of said application also now stands filed on record on 23.07.2021 and as per the instant protocol of Covid 19, the said envelope has been opened today and hard copy is taken on record.

Reply on behalf of both the applicants to this application has also been filed on email ID of the court yesterday and hard copy thereof has been filed in a separate sealed/closed envelope today in the court. Contents of the reply have been perused and submissions made from both the sides have been heard and considered.

Briefly stated, key no. 243 of locker of the applicants

being maintained in SBI Moti Bagh Branch was seized in this case by the then IO vide article no. 7 of the seizure memo dated 30.05.2018. The said locker was not opened or operated by the IO (s) during investigation of the case till an application was moved by the applicants before this court on 10.06.2021 seeking directions to the CBI/IO for release of key of the locker. It was replied in response to the said application that locker could not be opened mainly due to change of IO in November, 2019 and the subsequent outbreak of Covid 19 pandemic. IO had sought a week's time for opening the said locker and examining the articles kept in locker.

Vide order dated 14.06.2021, IO was directed to operate the said locker as per law and for the purposes of investigation and to prepare inventory of all the articles lying in said locker in presence of the applicants or their authorized representative (s) in case any of the applicants was not in a condition to be physically present at the time of operation. IO was also directed to give atleast one day advance notice and both the applicants were directed to cooperate in operation of the said locker. In compliance of the said order, the above locker was opened by IO on 15.06.2021 and one compliance report dated 21.06.2021 was filed by IO before this court. A copy of the locker operation memo dated 15.06.2021 was also annexed with the report. As per the said report, the jewellery articles lying in the locker were observed by the IO in the presence of one independent witness, applicant Ms. Renu Amitabh and some officials of the bank etc. The details of these articles containing tentative year and mode

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of acquisition of these articles are found to have been mentioned in the said memo. However, none of the jewellery articles was taken in possession or seized by the IO for the purposes of investigation of this case or for any other inquiry and all the articles were put back in the locker.

Vide subsequent order dated 01.07.2021 of this court, the IO was directed to return key of the above locker to applicants and applicants were permitted to use and operate the locker. On being asked by the court, it was also specifically stated by the IO that none of the above articles was required to be seized or taken into possession.

However, now the present application has been moved by IO seeking valuation of the jewellery articles before the key of above locker is returned back to the applicants in compliance of the above court order dated 01.07.2021. It has been submitted in the application that CBI registered valuator Sh. R.K. Gupta could not be taken to the bank at the time of operation of above locker in terms of the order dated 14.06.2021 as he was hospitalized at that time due to Covid 19. However, no document in this regard is found to have been enclosed with the application nor the IO has been able to furnish any reasonable explanation for not making any request to this court for grant of some further time to him for operation of the said locker, in terms of the above order and on the above said ground. Even this fact is not found mentioned or incorporated in the above compliance report or memo of operation of the said locker. Hence,

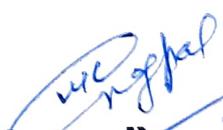
Ld. Counsel representing both the applicants, as well as the applicant Ms. Renu Amitabh, are both right in making a submission that above request of IO is only an afterthought and they have also requested for dismissal thereof on the ground that it will result in unnecessary harassment to them.

Admittedly, the above jewellery articles are still lying in the above locker as key thereof is yet to be returned back to the applicants in terms of the order dated 01.07.2021 of this court. Even though there may be some mistake or lapse on the part of IO in not getting the articles valued or not mentioning the valuation or weight etc. of these jewellery articles in the above memo, but there is no doubt in mind of this court that it should have been done by the IO at that very time when the locker was earlier operated by him. However, no prejudice is going to be caused to the applicants if the locker is opened again and articles are now weighed and valued by the CBI authorized valuator. Though Ld. Counsel for the applicants has maintained that most of the jewellery articles were earlier weighed by the IO and their weight was also noted in the rough proceedings drawn on that day, but the IO has denied the above fact. In any case, as already stated above, even weight of these jewellery articles is not found recorded in the above memo.

Hence, in the interests of justice, the present application moved by IO is being allowed and he is being permitted to again open and operate the said locker in presence of some independent witnesses as per law at any convenient date and time within a week

from today by giving advance notice to both the applicants as well as to their counsel and to prepare a fresh inventory/memo of all the articles lying therein after getting the articles valuated from the CBI authorized valuator. He shall ensure that weight as well as tentative value of these articles is mentioned in the above said memo. After operation of the locker, fresh compliance report with memo of operation be filed on record and IO is also directed to then release key of the above locker to the applicants without any further delay.

The application stands disposed off accordingly. Let this order be uploaded on official website of the court. Copy of the order be given dasti to the parties.


(M.K. Nagpal) 27/07/21
Special Judge PC Act (CBI-09)
Rouse Avenue District Courts
New Delhi/27.07.2021