IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI), ROUSE AVENUE DISTRICT COURT

CNR No. DLCT11-000629-2024
RC/218/2023/A0011/CBI/AC-III/New Delhi
CBI vs. Manjit Singh & Ors.
CBI No. 100/2024

Appearances:

Sh. A. K. Kushwaha, Ld. Sr. PP for CBI.

Accused Manjeet Singh on bail with Ld. Counsel Sh.Anish Dhingra.

Accused Puneet Kumar Duggal on bail withLd. Counsels Sh.Mohit Kumar Gupta, Sh.Harsh Yadav and Ms.Shashi.

Accused Ruhi Arora on bail with Ld. Counsels Sh.Sandeep Kapur, Ms. Niharika Karanjawala, Sh.Vivek Suri and Ms.Kajal.

Accused Reshabh Raizada on bail with Ld. Counsels Sh.Yogesh Jagia, Sh.Sumant De, Sh.Naman Issrani, Sh.Bharat Sharma, Sh.Amit Sood and Sh.Hriday Minocha.

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Sh. Sidharth Luthra, Sr. Advocate along with Counsels Ms.Petrushka Das Gupta, Sh. Madhav Khurana, Sh.Mridul Yadav and Sh.Anand Sengar for accused Surendra B. Jiwrajka along with accused Surendra B. Jiwrajka.

24.12.2024

ORDER ON CHARGE

1. In the present case (bearing RC No. 2182023A0011 dated 28.07.2023), having been registered on the basis of source information, CBI has charge-sheeted the following accused persons:- (i) Manjit Singh (A-1), Joint Director O/o Director General, Ministry of Corporate Affairs, New Delhi (ii) Puneet Kumar Duggal (A-2), Joint Director, O/o Regional Director, North Western Region, Ministry of Corporate Affairs, Ahmedabad (iii) Ruhi Arora (A-3) Senior Technical Assistant, O/o Director General, Ministry of Corporate Affairs, New Delhi (iv) Reshabh Raizada (A-4) the then CEO, M/s Alok Industries Ltd. (v) Surendra B. Jiwrajkha (A-5) Ex. Joint Managing Director, M/s Alok Industries Ltd., for the offences punishable under Section 120-B IPC read with Section 7, 7A, 8, 9, 10 and 12 of the Prevention of Corruption Act 1988 (as amended in 2018) and for the offence of 201 IPC and substantive offences thereof.

2. The facts (in brief) are that a matter relating to M/s Alok Industries Limited was pending initially before Puneet Kumar Duggal (A-2) and in order to have the favourable outcome, Reshabh Raizada (A-4) (on behalf of Alok Industries), regularly contacted Puneet Kumar Duggal and also delivered the bribe amount of Rs.25 Lakhs to Puneet Kumar Duggal at Ahmedabad on 01.05.2023. Subsequently, the matter came up for consideration before Director General, Ministry of Corporate Affairs, New Delhi, where the matter was marked to Manjit Singh, Joint Director (A-1) for re-examination and accused Ruhi Arora (A-3) was tracking the file. Also Puneet Kumar Duggal was tracking the developments in the file through Ruhi Arora and public servant Manjit Singh (Joint Director) was persuaded to help Reshabh Raizada (A-4) in the matter in lieu of illegal gratification.

3. M/s Alok Industries Limited was established by Jiwrajka brothers in 1986. The company went into Corporate Insolvency Resolution Process (CIRP) and taken over by Reliance Group companies as per NCLT order dated 08.03.2019. Accused Surendra B Jiwrajka (A-5) managed the company from 2013 -2014 particularly handling the accounts and finance.

4. The issue of M/s Alok Industries Limited has been that an investigation under Section 20 (1) (c) of the Companies Act, 2013 was ordered by Secretary, Ministry of Corporate Affairs. The

investigation was initiated by DGCoA, Ministry of Corporate Affairs, New Delhi on 11.09.2019 in the public interest and same was assigned to the office of Regional Director, North Western Region, MCA, Ahmedabad. The investigation was initiated on the basis of presentation made before the screening Committee by Resolution Professional (RP) in context of outstanding dues of Rs.11,622 crores. The public servant Puneet Kumar Duggal was working as Joint Director, North Western Region, Ahmedabad from 09.04.2019 to 10.07.2023. Sh.V. Elengovan and Puneet Kumar Duggal were appointed as Inspectors to investigate Alok Industries Limited (while V. Elengovan got transferred and superannuated before submitting the report in June 2021). The investigation report was forwarded in August 2021 and after the approval of Secretary, MoCA in March 2022, the Regional Director, NWR, Ahmedabad was directed to take action against the company based on the violations in the report and to submit a supplementary report on the application filed by the Resolution Professional under Section 60 (5) of Insolvency and Bankruptcy Code; the orders passed by NCLT and to give a conclusive finding on the issue of writing off/provisioning of trade debt and the role of auditor.

5. The investigation file of M/s Alok Industries Limited was transferred to Sh.Dip Narayan Chowdhary (JD/IO) who found no malicious intent by the promoters of the company. The statutory auditors were also deemed free of adverse roles. The file was sent to

the office of DGCoA for further processing on 29.04.2022. Manjit Singh (A-1) noted that the earlier investigating officer had been changed without justification and proposed to re-assign the investigation to the previous investigating officer Puneet Kumar Duggal. Additionally, further scrutiny vide note dated 23.09.2022 was directed and accordingly a letter dated 21.12.2022 signed by Manjit Singh was sent to Regional Director, Ahmedabad to re-examine the pointers raised by the Ministry. Accordingly, matter was re-assigned to Puneet Kumar Duggal for investigation.

6. Second supplementary investigation report dated 06.06.2023 was submitted by Puneet Kumar Duggal but the file was reverted for the comments of the investigating officer. Puneet Kumar Duggal in response submitted a report /IO comments on 10.07.2023.

7. It has been the version of CBI that two instances of delivery of bribe occurred for giving undue favour to M/s Alok Industries Limited.

(i) Firstly Rupees 25 Lakhs were delivered to Puneet Kumar Duggal in Ahmedabad on 01.05.2023.

(ii) Secondly, bribe was delivered to Manjit Singh through Ruhi Arora on 28.07.2023.

8. It has come to be revealed that public servant Puneet Kumar Duggal was in constant touch with Reshabh Raizada, who in turn was in constant touch with Surendra Jiwrajka (A-5). The call records circumstantially confirm that they were talking on the same issue. Puneet Kumar Duggal in his supplementary report dated 06.06.2023 and IO comments dated 10.07.2023, has given clean chit to the previous management of the company. Reshabh Raizada (A-4) got delivered Rs.25 Lakhs to the residence of Puneet Kumar Duggal on 01.05.2023. There are telephonic conversations between Puneet Kumar Duggal and Dinesh Bindal dated 01.05.2023, which reveal delivery of bribe amount at the residence of Puneet Kumar Duggal through Ravindra Sharma (employee of Dinesh Bindal) who collected Rs.25 Lakhs from Hawala Operator at Ahmedabad and handed over the same to Puneet Kumar Duggal. The address and location of Puneet Kumar Duggal was shared with Dinesh Bindal who forwarded the same to Ravindra Sharma. Dinesh Bindal was doing so at the behest of Reshabh Raizada. It has also been revealed that Reshabh Raizada and Surendra Jiwrajka were in touch with Rajkumar Somani who delivered Rs.25 Lakhs at the instance of Reshabh Raizada through Hawala operator at Malad for sending the same to Hawala Operator at Ahmedabad.

9. The second instance of delivery of bribe amount to Manjit Singh through Ms.Ruhi Arora is dated 28.07.2023 at Delhi. Prior to this, Reshabh Raizada exchanged messages whereby he

asked for draft note which was to be put up before Manjit Singh in pursuance to the conspiracy. Manjit Singh also exchanged messages with Puneet Kumar Duggal capturing the images of printout of recommendation notes. Also the same messages containing printout were forwarded to Ruhi Arora and to Reshabh Raizada. Manjit Singh sent pointers in the recommendation note dated 18.07.2023 on the report of Puneet Kumar Duggal but thereafter Manjit Singh pulled up the e-file back and changed the pointers in his recommendation note on 19.07.2023 (as per discussion with Ruhi Arora and Puneet Kumar Duggal). The comparison of both the notings dated 18.07.2023 and 19.07.2023 reveal that Manjit Singh had removed pointers no.1 and 5 from the note dated 18.07.2023 and added one pointer. In this way, Manjit Singh mentioned only those points which Puneet Kumar Duggal was able to reply. The pointers mentioned in the note dated 19.07.2023 were for the namesake only.

10. The investigation has established that accused persons conspired with each other to ensure desirable and favourable note in the investigation file of Alok Industries Limited. Prosecution is relying upon the recorded conversations obtained through intercepted calls during the relevant period between the accused persons Manjit Singh, Puneet Kumar Duggal, Ruhi Arora and Reshabh Raizada and orders in this regard was taken from Sh. Atul Kumar Shahi, Commandant (MU), Ministry of Home Affairs, Govt. of India, New Delhi. The intercepted calls and whatsapp calls reveal that Reshabh

Raizada was constantly following the matter of Alok Industries with Puneet Kumar Duggal and offered bribe for favourable settlement. On 27.07.2023, Rs.4 Lakhs were delivered at the residence of Puneet Kumar Duggal at Dwarka, Delhi by the driver of Reshabh Raizada namely Shiv Pal Singh. Ruhi Arora collected the said amount and delivered the same to Manjit Singh on 28.07.2023 in his office.

11. A team was constituted consisting of CBI officers and independent witnesses on 28.07.2023 to lay a trap at the office of DGCoA, New Delhi. Accused Ruhi Arora came out of the office of Director General, Ministry of Corporate Affairs, Shahjahan Road, New Delhi and she was followed and intercepted by Inspector Veer Jyoti. Meanwhile other CBI offices and other independent witnesses entered the office of Manjit Singh and he was questioned about demand and acceptance of bribe to which he admitted. The bribe of Rs.3 Lakhs was recovered (as Rs.1,00,000/- was retained by Ruhi Arora as commission) from drawer at the instance of Manjit Singh kept in a carry bag with caption *'Bansal Pure Desi Ghee Sweets, Amritsar Wale'.*

12. Ruhi Arora facilitated communication between Manjit Singh and Puneet Kumar Duggal and later Reshabh Raizada directed Puneet Kumar Duggal to destroy his phone. The mobile phone of Reshabh Raizada was not produced and it was claimed that the same was lost. After coming to know about the CBI raid, Reshabh Raizada

made first call to Surendra Jiwrajka from Mobile (in the name of Arun Gupta, friend of Reshabh Raizada). During the investigation, specimen voice of accused persons were collected and sent to CFSL for expert opinion. The mobile phones of Manjit Singh, Puneet Kumar Duggal, Ruhi Arora, Reshabh Raizada and other persons were seized and messages and images were also collected from there. Finally, it is concluded that there has been criminal conspiracy between accused Manjit Singh (A-1), Puneet Kumar Duggal (A-2), Ruhi Arora (A-3) to obtain illegal gratification from Reshabh Raizada (A-4) for favourable recommendations in the investigation file of M/s Alok Industries. Reshabh Raizada was in constant touch with Surendra B. Jiwrajka (A-5) and was receiving instructions. The sanction for prosecution has been accorded by the competent authority against public servants and accordingly accused persons mentioned above have been sent to face trial for offences punishable under Section 120-B IPC r/w Section 7, 7A, 8, 9, 10 and 12 Prevention of Corruption Act 1988 (as amended in 2018), 201 IPC and substantive offences thereof.

13. The cognizance on the charge-sheet was taken on 26.07.2024 and compliance to Section 207 Cr.P.C was made by supplying all copies to the accused persons.

14. Arguing on behalf of Prosecution, Ld. Sr. Prosecutor Sh.A. K. Kushwaha submitted that matter relating to Alok Industries was under investigation with Ministry of Corporate Affairs which relate to avoidance of payment worth Rs.11,622/- crores. The report of the investigation was firstly given by Puneet Kumar Duggal (A-2) in August 2021. However, the file was again dealt with by Puneet Kumar Duggal for re-examination and second supplementary report dated 06.06.2023 was prepared by Puneet Kumar Duggal. In lieu of favoring Alok Industries, accused Puneet Kumar Duggal accepted an amount of Rs.25 Lakhs on 01.05.2023 which was got delivered through Ravinder Sharma (LW-25) by Dinesh Bindal (LW-24) at the instance of Reshabh Raizada. Prosecution has been able to bring the complete chain of delivery of bribe by examining all the relevant witnesses. The messages exchanged on whatsapp between accused persons particularly the public servants also show their involvement in favouring Alok Industries by recording a favourable note and also sharing it with Reshabh Raizada.

15. On the basis of intercepted phone calls, the conversations were recorded and it was revealed that the file of Alok Industries was being marked to Manjit Singh (Joint Director) at the office of Ministry of Corporate Affairs, New Delhi. Accused Puneet Kumar Duggal being interested in the matter, kept track of the file through Ruhi Arora (Senior Technical Assistant), also posted in New Delhi office. The bribe amount of Rs.4 Lakhs was got delivered by

Reshabh Raizada to the house of Puneet Kumar Duggal situated at Delhi and same was collected by Ruhi Arora and she delivered Rs.3 Lakhs to Manjit Singh. A trap was laid on 28.07.2023 and the CBI team apprehended accused Manjit Singh and Ruhi Arora and the amount of Rs.3 Lakhs were recovered from the office drawer of accused Manjit Singh. The nature of recorded conversations clearly prove that the amount of Rs.4 Lakhs was given in lieu of making a favourable note by Manjit Singh and in this way, there are two instances of delivery of bribe in the matter concerned. Ld. Prosecutor submitted that recordings were done on the basis of the orders of Secretary, Ministry of Home Affairs and if the court wants to see the compliance to Rule 419A, it may call for the relevant records from the concerned department/office/Ministry at any stage of present proceedings.

16. On the issue of conspiracy, Ld. Prosecutor submitted that meeting of minds of two or more persons for doing an illegal act is necessary to constitute conspiracy and it is not necessary that all the conspirators know or colloborate with each other directly in the larger conspiracy. Ld. Prosecutor has relied upon the judgment of **Ajay Agarwal vs Union of India, 1993 AIR 1637** wherein following judgments have been mentioned and relied upon:-

> *"In Yashpal v. State of Punjab [1977] SCR 2433 the rule was laid as follows "The very agreement, concert or*

league is the ingredient of the offence. It is not necessary that all the conspirators must know each and every detail of the conspiracy as long as they are co-participators in the main object of the conspiracy. There may be so many devices and techniques adopted to achieve the common goal of the conspiracy and there may be division of performances in the chain of actions with one object to achieve the real end of which every collaborator must be aware and in which each one of them must be interested. There must be unity of object or purpose but there may be plurality of means sometimes even unknown to one another, amongst the conspirators. In achieving the goal several offences may be committed by some of the conspirators even unknown to the others. The only relevant factor is that all means adopted and illegal acts done must be and purported to be in furtherance of the object of the conspiracy even though there may be sometimes misfire or over-shooting by some of the conspirators".

In Mohammed Usman. Mohammad Hussain Manivar & Anr. v. State of Maharashtra [1981] 3 SCR 68, it was held that for an offence under section 120B IPC, the prosecution need not necessarily prove that the conspirators expressly agreed to do or cause to be done the illegal act. the agreement may be proved by necessary implication. In Noor Mohammed Yusuf Momin v. State of Maharashtra [1971] 1 SCR 119, it was held that s. 120-B IPC makes the criminal conspiracy as a substantive offence which offence postulates an agreement between two or more persons to do or cause to be done an act by illegal means. If the offence itself is to commit an offence, no further steps are needed to be proved to carry the agreement into effect. In R. K. Dalmia & Anr. v. The

Delhi Administration It 963] 1 SCR 253, it was further held that it is not necessary that each member of a conspiracy must know all the details of the conspiracy. In Shivanarayan Laxminarayan & Ors. State of Mahrashtra & Ors. [1980] 2 SCC 465, this court emphasized that a conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the conspirators in pursuance of a common design."

17. Arguing on behalf of accused Manjit Singh (A-1), Ld. Counsel Sh.Anish Dhingra submitted that accused Manjit Singh has been falsely implicated. The file was not pending with Manjit Singh as on the day of trap and therefore there was no motive to accept the bribe. There is absolutely no evidence showing demand or acceptance or delivery of bribe or any persuasion by Ruhi Arora to Manjit Singh to show any favour on the file which was already submitted on 19.07.2023. The recovery of Rs.3 Lakhs is planted as also selective evidence is brought by not producing CCTV footages of crucial period. Nothing incriminating is seen in CCTV footages. The file was pulled back by Manjit Singh which was in his discretion and there was nothing unusual. Ld. Counsel has strongly argued that mere recovery of money is no offence unless it is proved that same is illegal gratification. The bag in which money was allegedly recovered is easily available in the market. The audio recordings relied upon by the prosecution is inadmissible in evidence due to non-compliance of the provisions of Telegraph Act and the rules framed thereunder as

per the judgment of **Jatinder Singh vs CBI 2022 SCC OnLine Del 135**. Ld. Counsel has relied upon the provision of Section 17 A Prevention of Corruption Act 1988 to assert that prior sanction was required as it was not a case of laying trap on the spot. Ld. Counsel has relied upon the following judgments in support of his arguments:-

1. People's Union of Civil Liberties (PUCL) vs Union of India (UOI) & Ors. (1997) 1 SCC 301.
2. Jatinder Pal Singh vs CBI, 287 (2022) DLT 334.
3. Neeraj Dutta vs. State (Govt. of NCT of Delhi) (2023) 4 SCC 731.
4. Neeraj Dutta vs State (Govt. of NCT of Delhi) (2023) 2 SCR 1997.
5. Mir Mustafa Ali Hasmi vs. The State of A.P, AIR 2024 SC 3 356.
6. N. Thejas Kumar vs The State of Karnataka & Ors, MANU/KA/1077/2022
7. Jeet Singh vs. CBI, MANU/PH/1473/2017
8. State through CBI vs Anup Kumar Srivastava (2017) 15 SCC 560.
9. B. Jayaraj vs State of AP (2014) 13 SCC 55, 2014.
10. Lambodar Prasad Padhy vs CBI, MANU/DE/6262/2024
11. Yashwant Sinha & Ors. vs CBI & Ors. (2019) 17 SCR 917.
12. Siddaramaiah vs State of Karnataka & Ors., MANU/KA/2945/2024.

13. Rule 419A Telegraph Rule.

18. Arguing on behalf of accused Puneet Kumar Duggal (A-2), Ld. Counsel Sh.Mohit Kumar Gupta submitted that from the entire material brought on record by the prosecution, no demand of bribe or undue advantage is made out against the accused. The delivery of bribe allegedly shown at Ahmedabad is sought to be proved only through the statements of witnesses and there is no direct evidence showing that any undue advantage was demanded or accepted by the accused. The alleged delivery of bribe at Delhi is planted, in order to falsely implicate the accused as also there is delay in registration of FIR and no verification of source information was conducted. Ld. Counsel has also raised the point that prior permission under Section 17A of Prevention of Corruption Act 1988, was required as against the accused which the prosecution has failed to obtain as accused Puneet Kumar Duggal was not apprehended or arrested at the spot. There is no evidence that co-accused Ruhi Arora (A-3), actually visited the flat of Puneet Kumar Duggal at Delhi or that she collected an amount of Rs.4 Lakhs which was given as bribe to co-accused Manjeet Singh. There is no evidence to show that Ruhi Arora retained Rs.1 Lakh as commission for herself as no recovery could be effected from her. There was no motive with accused Puneet Kumar Duggal to accept undue advantage as he was not in a position to help or favour in the matter of Alok Industries. The question as to the validity of Sanction has also been raised in the manner that CCTV

footage was not produced before the sanctioning authority and on the basis of incomplete material, the sanction has been mechanically granted. The accused has been falsely implicated by CBI for internal reasons. Ld. Counsel has relied upon the following judgments in support of his arguments:-

1. State of Himachal Pradesh vs Gian Chand (2001) 6 SCC 84.
2. Neeraj Dutta vs State (Govt. of NCT of Delhi) 2022 5 SCR 104.
3. Mir Mustafa Ali Hasmi vs The State of A. P. (2024) 7 SCR 640: 2024 INSC 503.
4. Lambodar Prasad Padhy vs Central Bureau of Investigation, 2024 SCC OnLine 6380.
4. Yashwant Sinha & Ors. vs CBI through its Director 2020 (2) SCC 338.
5. L. K. Advani vs CBI, 1997 (41) DRJ.
6. CBI vs Ashok Kumar Agarwal (2014) 14 SCC 295.

19. Arguing on behalf of accused Ruhi Arora (A-3), Ld. Counsel Sh. Sandeep Kapur submitted that there are various discrepancies in the recovery memo about timings of arrest and seizing of bribe amount as also sanction has not been granted with due application of mind, since CCTV footages and CFSL report were not placed before the sanctioning authority. Accused Ruhi Arora has been working as Senior Technical Assistant, much below in rank to

co-accused Manjit Singh. No ingredients of offence under Section 7 PC Act 1988 are made out against her as there has been no demand, acceptance or delivery of undue advantage. The transcripts so produced by the prosecution do not incriminate the accused, as also they cannot be accepted in evidence due to non-constitution of Review Committee. Ld. Counsel has relied upon the judgment of **People's Union of Civil Liberty vs Union of India (1997) 1 SCC 301,** to assert that interception has been in violation of fundamental right to privacy. With respect to identification of voice (contained in D-21), point is raised, that there is only one female voice in the recordings and therefore was no actual exercise conducted to identify the questioned voice of accused Ruhi Arora. At the time alleged trap was laid, no recovery was effected from accused Ruhi Arora and she has been falsely implicated by the CBI in the present case. Ld. Counsel has relied upon the following judgments in support of his arguments:-

1. R. M. Malkani vs State of Maharashtra, (1973) 1 SCC 471.
2. Vishnu Kumar Shukla & Ors. vs State of Uttar Pradesh & Ors. 2023 SCC OnLine 1582.
3. P. Satyanarayana Murthy vs District Inspector of Police, State of Andhra Pradesh & Anr. (2015) 10 SCC 152.
4. Central Bureau of Investigation vs Ashok Kumar Aggarwal (2014) 14 SCC 295.
5. People's Union for Civil Liberties (PUCL) vs Union of India & Anr. (1997) 1 SCC 301.

6. K. C. Singh vs CBI, Criminal Appeal No.976/2010 of Delhi High Court.
7. K.L.D. Nagasree vs. Govt. of India, Ministry of Home Affairs, 2006 SCC OnLine AP 1085.
8. Union of India vs Prafulla Kumar Samal (1979) 3 SCC 4.

20. Arguing on behalf of accused Reshabh Raizada (A-4), Ld. Counsels Sh. Yogesh Jagia and Sh.Sumant De submitted that transcripts relied upon by the prosecution do not incriminate the accused as no demand or delivery of cash amount is reflected from the recorded conversations. There is no direct evidence showing delivery of bribe at the instance of accused. Ld. Counsel pointed out to the statements of witnesses Dinesh Bindal, Ravinder Sharma and Shiv Pal Singh recorded under Section 164 Cr.P.C to assert that these statements are not sufficient to prove the alleged involvement of Reshabh Raizada.

21. Ld. Counsel further argued that at the relevant time, Reshabh Raizada was not holding any position with Alok Industries, as his employment with Alok Industries ended in January 2023, having resigned and there is no prudence to allege that Reshabh Raizada has involved himself in such illegal activities. Reshabh Raizada had no concern with the affairs of the company and was not having any knowledge about matter pending with Puneet Kumar Duggal or Manjit Singh. CBI has not laid any trap at the time of

delivery of Rs.25 Lakhs despite interception of phone calls, which is questionable. The prosecution has failed to attribute any motive or purpose to Reshabh Raizada for having any interest in the affairs of Alok Industries and for being involved in transactions of bribe. Prosecution has failed to show as to how any favour was extended in the matter of Alok Industries by the accused persons. Ld. Counsel has relied upon the following judgments in support of his arguments:-

1. Neeraj Dutta vs State (Govt. of NCT of Delhi) 2023 SCC OnLine SC 280.
2. Ghulam Hassan Beigh vs Mohd. Maqbool Magrey & Ors., 2022 12 SCC 657.
3. Prakash Singh Badal & Anr. Vs State of Punjab & Ors. (2007) 1 SCC 1.
4. B. Jayraj vs State of Andhra Pradesh (2014) 13 SCC 55.
5. K. Shanthamma vs State of Telangana (2022) 4 SCC 574.
6. State of Gujrat vs Dilipsinh Kishansinh Rao (2023) SCC OnLine SC 1294.
7. P. Satyanarayana Murthy vs District Inspector of Police, State of Andhra Pradesh (2015) 10 SCC 152.
8. State of Karnataka vs Madesha & Ors. (2007) 7 SCC 35.
9. Ram Sharan Chaturvedi vs State of AP (2022) 16 SCC 166.
10. Ram Prakash Chadha vs State of UP 2024 SCC Online SC 1709.
11. Jatinder Pal Singh vs CBI 2022 SCC OnLine Del 135

12. Mohd. Bilal vs State of NCT of Delhi 2024 SCC OnLine Sel 2725.
13. A. Subair vs State of Karnataka (2009) 6 SCC 587.
14. State of Kerala vs C.P. Rao (2011) 6 SCC 450.
15. Kishan Chand Mangal vs State of Rajasthan (1982) 3 SCC 466
16. Union of India vs Prafulla Kumar Samal, AIR 1979 SCC 366.
17. State of Orissa vs Debendra Nath Padhi (2005) 1 SCC 568.
18. B. N. Rao vs State (CBI), 1997 JCC 359.
19. Rajinder Sigh Sethia vs. State, RLR 1995 448.
20. CBI vs Dr. Anup Kumar Srivastava (2017) 9 SCR 341
21. L. K. Advani vs CBI, 1997 (41) DRJ.

22. Arguing on behalf of accused Surendra B. Jiwrajka (A-5), Ld. Sr. Advocate Sh.Sidharth Luthra submitted that accused has been Managing Director of Alok Industries. Although the matter of Alok Industries was under investigation with the Ministry of Corporate Affairs but prosecution has failed to show any conspiracy on the part of accused Surendra B. Jiwrajka. He has not been named in the first information report and there is no statement of any witness indicating the involvement of accused Surendra B. Jiwrajka. In other words, none of the statements of witnesses are incriminating qua him. The mobile phone of accused was never intercepted and therefore no conversations of accused Surendra B. Jiwrajka were recorded. The prosecution has failed to link accused Surendra B. Jiwrajka with the alleged payment of bribe amount.

23. It is further argued that accused Surendra B. Jiwrajka was looking after manufacturing unit of Alok Industries during 2014-2017. The accused was Managing Director only during the period 2013-2014, while in the year 2014 Joint Lending Firm, took over the realm of the company. In May 2016, stock audit was done. In the year 2017, Resolution Professional was appointed and Directors had no discretion under Section 17 of Insolvency and Bankruptcy Code. The accused was not having any interest nor he was looking after the financial aspects of the company. Accused Surendra B. Jiwrajka cannot be held liable in the present matter, on the basis of hypothesis or assumptions. It is incorrect for the prosecution to say that accused would have been ultimate beneficiary as accused was not having any position in Alok Industries. The call detail records of accused are usual and routine, particularly with co-accused Reshabh Raizada and there is no abnormality. There is nothing on record to suggest that undue advantage or bribe amount originated from Surendra B. Jiwrajka nor the calls recorded after the raid of CBI, are incriminating in nature. The prosecution has alleged destruction of evidence by alleging that accused has changed his mobile. Mobile of accused was lost in Dubai and complaint in this regard was registered on 19.09.2023.

24. Very specifically, the counsel has pointed out that recorded conversations from intercepted calls are not admissible in

evidence, in view of non-compliance of the provisions of Telegraph Act and the rules framed thereunder. The constitution of review committee and consideration of the surveillance order has not been shown by the prosecution in compliance to Rule 419 A. The tapping of telephonic conversations are violative of right to privacy, which has been held to be a fundamental right, under Article 21 of the Constitution of India in the case **People's Union of Civil Liberty vs Union of India (supra)**. The judgment of Karanataka High Court **Dr. S. M. Mannan vs CBI 2024 SCC OnLine Kar 80** has also been relied upon to assert that the interception of phone calls being in contravention of statutory provisions cannot be read in evidence.

25. It is further argued that If the recorded conversations are taken out of the material relied upon by the prosecution, no evidence survives sufficient enough to frame charge against the accused persons. Through the recorded conversations only, prosecution is connecting the delivery of money to the matter of Alok Industries and in the absence of such conversations, the alleged delivery of money would not be incriminating in nature. In this way, the entire prosecution story falls apart and accused persons deserve to be discharged. Prosecution has not been able to bring any material to show that accused Surendra Jiwrajka was privy to the alleged conspiracy. The ingredients of offence of criminal conspiracy are agreement between the persons for doing an illegal act or for doing an act by illegal means. The offence of conspiracy cannot be deemed to

have been established on mere suspicion and surmises or inference, without being supported by cogent and acceptable evidence. The judgments of **Central Bureau of Investigation vs. K. Narayana Rao (2012) 9 SCC 512 and Jitender Singh vs State of Rajasthan, Criminal Revision Petition No.265/2023 of High Court of Rajasthan** are relied upon. The telephonic connection between Surendra B. Jiwrajka and Reshabh Raizada by any stretch does not prove the offence of illegal agreement or criminal conspiracy. Ld. Counsel has relied upon the following judgments in support of his arguments:-

1. Ram Prakash Chadha vs. State of U. P. 2024 SCC OnLine 1709.
2. Dilawar Babu Kurane vs State of Maharashtra (2002) 2 SCC 135.
3. Avijit Mondal @ Abhijit Mondal vs State of Kolkata & Anr. C.R.M (DB) 342 of 2024.
4. State through CBI vs. Dr. Anup Kumar Srivastava (2017) 15 SCC 560.
5. Neeraj Dutta vs. State (Govt. of NCT of Delhi) 2022 SCC OnLine SC 1724
6. Ashok Kumar Chaudhari & Ors. vs Kunal Saha & Anr. (2017) 11 SCC 561.
7. Jatinder Pal Singh vs CBI, 2022 SCC OnLine Del 135.
8. KLD Nagasree vs Govt. Of India, MHA & Ors. AIR 2007 AP 102.

9. Govt. of India vs. KLD Nagasree & Ors. 2023 SCC Online AP 1834.
10. State of UP (through CBI) vs Dr. Sanjay Singh & Anr 1994 Supp (2) SCC 707.
11. State of Karnataka vs Muniswany & Ors. (1977) 2 SCC 699.
12. State of Kerala vs. P. Sugathan & Anr. (2000) 8 SCC 203.
13. S. P. Bhatnagar vs. State of Maharashtra (1979) 1 SCC 535.
14. Sukhram vs State of Maharashtra (2007) 7 SCC 502.
15. Maghavendra Pratap Singh @ Pankaj Singh vs. State of Chhattisgarh, 2023 SCC OnLine SC 486.

26. I have given due consideration to the rival submissions and also to the facts and evidence of the case in the light of legal position. I have also gone through the written submissions filed on behalf of all the accused persons.

27. The law on the question of consideration of charge is well settled, if the criminal court, on consideration of the material submitted with the charge sheet finds that a grave suspicion exists about the involvement of the accused in the crime alleged, it is expected to frame the charge and put the accused on trial. At such initial stage of the trial, the truth, veracity and effect of the evidence which the prosecutor proposes to adduce is not required to be meticulously judged, nor any weight is to be attached to the probable defence of the accused.

28. In the case of **"State of Bihar vs. Ramesh Singh", AIR 1977 SC 2018**, Hon'ble Supreme Court observed as under:-

> *It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under section 227 or section 228 of the Code. At that stage the Court is not to 'see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction.*
>
> *Xxxxx*
>
> *Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused.*
>
> *Xxxxx*
>
> *If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the, trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But, if, on the other hand, it is so at the initial stage of making an order under section 227 or section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under section 228 and not under section 227.*

29. In **"Union of India Vs. Prafulla Kumar Samal" 1979 Crl. L.J. 154**, Hon'ble Supreme Court made the following observations regarding the test to be applied at the stage of consideration of the case for charge:

> *"Thus, on a consideration of the authorities mentioned above, the following principles emerge:*
>
> *(1) That the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.*
>
> *(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be, fully justified in framing a charge and proceeding with the trial.*
>
> *(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.*
>
> *(4) That in exercising his jurisdiction under section 227 of the Code the Judge which under the present Code is a senior and experienced Judge cannot act merely as a Post*

> *office or a mouth-piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."*

30. Similar observations were made in **State of M.P. Vs. S. B. Johari 2000 Cri. L.J. 944 (SC)** in the following words:-

> *"The Court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not for convicting the accused. If the Court is satisfied that a prima facie case is made out for proceeding further then a charge has to be framed. The charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged by cross examination or rebutted by defence evidence, if any, cannot show that accused committed the particular offence. In such case, there would be no sufficient ground for proceeding with the trial".*

31. In the case of **"P. Vijayan Vs. State of Kerala and another, AIR 2010 SC 663**, while observing that the criminal court is not a mere post office to frame the charge at the behest of the prosecution, Hon'ble Supreme Court has observed that the court is required to exercise judicial mind to the facts of the case in order to

determine whether a case for trial has been made out or not. In this context, the following observations indicate the manner of assessment:

> *"In assessing this fact, it is not necessary for the Court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the Court, after the trial starts. At the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. In other words, the sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."*

32. In the present case, primary offence for which the accused persons have been charged is punishable under Section 7 Prevention of Corruption Act 1988, and is re-produced as under:-

> *"7. Any public servant who,—*
> *(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or*
>
> *(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or*

dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.—A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2.—For the purpose of this section,—

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

33. On reading of the above provision, it is clear that the scope and ambit of Section 7 is wide enough to include the public servants who are directly involved in demanding or accepting the bribe but also public servants, who demand or accept the bribe through third parties. It is also not necessary that motive would only cover the pending work as it also includes the work performed in routine or a reward for the work already done, in respect of which the bribe is accepted.

34. The presumption of law as contained under Section 20 Prevention of Corruption Act 1988, invariably arises in such facts and circumstances of the case. Although the presumption is rebuttable but same is required to be rebutted by proof and not by just explanation which may seem to be plausible, although the test of strict proof may not be required.

35. According to Section 20 of Prevention of Corruption Act, 1988:-

20. Presumption where public servant accepts gratification other than legal remuneration.—(1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of sub-section (1) of section 13 it is *proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.*

(2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no interference of corruption may fairly be drawn.

36. It was held in **Madhukar Bhaskarrao Joshi Vs. State of Maharashtra (2000 (8) SCC 571)** as follows :-

"The premise to be established on the facts for drawing the presumption is that there was payment or acceptance of

> *gratification. Once the said premise is established the inference to be drawn is that the said gratification was accepted 'as motive or reward' for doing or forbearing to do any official act. So the word 'gratification' need not be stretched to mean reward because reward is the outcome of the presumption which the court has to draw on the factual premises that there was payment of gratification. This will again be fortified by looking at the collocation of two expressions adjacent to each other like 'gratification or any valuable thing'. If acceptance of any valuable thing can help to draw the presumption that it was accepted as motive or reward for doing or forbearing to do an official act, the word 'gratification' must be treated in the context to mean any payment for giving satisfaction to the public servant who received it."*

37. In the case **B. Noha Vs. State of Kerala & Anr., 2006 12 SCC 277**, it has been held by Supreme Court :

> *"When it is proved that there was voluntary and conscious acceptance of the money, there is no further burden cast on the prosecution to prove by direct evidence, the demand or motive. It has only to be deduced from the facts and circumstances obtained in the particular case ...."*

38. Coming to the case in hand, the prosecution has relied upon audio conversations (recorded through intercepted calls), statements of witnesses, record of whatsapp calls / messages retrieved from the mobile phones of accused persons, recovery memo and other documentary evidence to allege that bribe was accepted by

public servants on two occasions firstly by Puneet Kumar Duggal on 01.05.2023 of Rs.25 Lakhs at Ahmedabad and secondly at office of Director General, Ministry of Corporate Affairs, New Delhi by Manjit Singh through Ruhi Arora on 28.07.2023, in connection with the matter of Alok Industries.

39. It is not in dispute that the file of Alok Industries was dealt with by accused Puneet Kumar Duggal at Ahmedabad and also by Manjit Singh at New Delhi. The prosecution has able to show through the evidence of witnesses, Raj Kumar Jagdish Chandra Somani (LW-21), Ankit Kumar Prahladbhai Patel (LW-22), Hemal Bharatbhai Patel (LW-23), Dinesh Bindal (LW-24), Ravindra Sharma (LW-25) that an amount of Rs.25 Lakhs was delivered to accused Puneet Kumar Duggal on 01.05.2023 and in this way the acceptance of Rs.25 Lakhs by public servant Puneet Kumar Duggal is shown on record. The second instance of delivery of bribe is shown through the statements of Shiv Pal Singh (LW-28) and Trap Laying Officer Vipin Kumar Gupta (LW-43) and other witnesses and also recovery was effected during the trap on 28.07.2023. In this way, prosecution has prima facie established the involvement of accused persons in the transactions of exchange of undue advantage / bribe.

40. The defence has raised the question about the admissibility of audio conversations on the ground of non compliance of the provisions of Telegraph Act and the rules (419A), as it has not

been shown whether the surveillance order was reviewed by the Review Committee. In this regard, Ld. Prosecutor has submitted that records may be summoned from Ministry of Home Affairs to ascertain, if Review Committee had reviewed the surveillance order but the fact remains that no order setting aside of surveillance order was received by CBI at any point of time. Therefore, since the calls were intercepted through a legal order, it would be a matter of evidence, if such recorded conversations are admissible or not. Even otherwise, if the audio recordings are taken out of the consideration, there is sufficient evidence on record in the form of statements of witnesses, showing that bribe was accepted by public servants namely Puneet Kumar Duggal (A-2) and Manjit Singh (A-1) in relation to the matter of Alok Industries in conspiracy with Ruhi Arora (A-3) and Reshabh Raizada (A-4).

41. The law relating to criminal conspiracy is wide enough to cover all the persons involved in the larger conspiracy. The counsel for accused Reshabh Raizada (A-4) has raised a point that Reshabh Raizada had left the employment of the company and on his part no interest survived into the affairs of the company and prosecution has not been able to bring any concrete evidence showing that bribe money originated from Reshabh Raizada. In my opinion, all the above questions pertain to defence pleas and would be a matter of trial and would be appreciated on completion of evidence. There is sufficient evidence existing on record showing that accused Reshabh

Raizada was constantly in touch with public servant Puneet Kumar Duggal and arranged Rs.25 Lakhs through Hawala for being delivered to Puneet Kumar Duggal on 01.05.2023 and further Reshabh Raizada arranged Rs.4 Lakhs for being delivered to the residence of Puneet Kumar Duggal at Dwarka, New Delhi, from where the amount was picked up by Ruhi Arora and delivered to Manjit Singh on 28.07.2023.

42. The defence has also raised the requirement of prior sanction under Section 17 A Prevention of Corruption Act 1988, stating that proviso is not applicable as public servants were not apprehended while accepting the bribe. However, on analyzing and evaluating the facts and events of the case, I am of the opinion that on the basis of recorded conversations of accused persons, a trap team was constituted and accused Manjit Singh was apprehended immediately after accepting the bribe of Rs.3 Lakhs and in this way the entire events culminated into laying a trap at the office of Director General, Ministry of Corporate Affairs, Shahjahan Road. The facts are well covered with proviso of Section 17A and therefore prior sanction was not required.

43. On behalf of accused persons, it has been vehemently argued that there is no demand raised by any public servant and since demand is *sine-qua-non* to the offence of Section 7 Prevention of Corruption Act 1988, the charge cannot be framed against the

accused persons. In this regard, the definition of Section 7 PC Act is clear and mere acceptance of undue advantage also constitutes an offence as also held in **Neeraj Dutta vs State (Government of NCT of Delhi) (2023) 4 SCC 731**:-

> *88 What emerges from the aforesaid discussion is summarised as under:*
>
> *88.1 (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.*
>
> *88.2 (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*
>
> *88.3(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*
>
> *88.4(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*
>
> *(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of*

the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13(1)(d), (i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13(1)(d) and (i) and (ii) of the Act.

88.5 (e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

88.6 (f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

88.7 (g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1)(d) (i) and (ii) of the Act.

88.8 (h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5 (e), above, as the former is a mandatory presumption while the latter is discretionary in nature."

44. In view of above observations, it is concluded that accused persons Manjit Singh (A-1) and Puneet Kumar Duggal (A-2) consciously accepted undue advantage in pursuance of conspiracy with Ruhi Arora and Reshabh Raizada and hence prima facie case for the offence punishable u/s. 120-B IPC read with Section 7 Prevention of Corruption Act 1988 is made out against all the above named four accused. Also the substantive offence u/s. 7 Prevention of Corruption Act 1988 is made out against both accused Manjit Singh and Puneet Kumar Duggal. As against Ruhi Arora, the substantive

offence under Section 7A Prevention of Corruption Act 1988 is made out. The substantive offence under Section 8 Prevention of Corruption Act 1988 is made out against Reshabh Raizada.

45. Analysing the role of accused Surendra B. Jiwrajka (A-5), the charge-sheet seeks to implicate him on the ground that he has been ultimate beneficiary being Managing Director of M/s Alok Industries and also he was constantly in touch with Reshabh Raizada through mobile calls. In this context, I have evaluated the material available on record. It is debatable, if accused Surendra B. Jiwrajka would be the ultimate beneficiary, as admittedly Alok Industries as on the date of commission of offence was already taken over by Reliance Industries in the NCLT proceedings. No witness has named Surendra B. Jiwrajka for any participation or involvement in the transaction of bribe. The mobile of accused Surendra B. Jiwrajka was not intercepted and hence no evidence is brought on record to show the participation of Surendra B. Jiwrajka for the exchange of undue advantage by the public servants. Admittedly, Surendra B. Jiwrajka never contacted accused Puneet Kumar Duggal, Manjit Singh or Ruhi Arora nor he was in contact with any witness who arranged the payment of Rs.25 Lakhs through *Hawala*. It is true that Surendra B. Jiwrajka was in regular contact with accused Reshabh Raizada through his mobile but this is not enough to attribute criminal conspiracy to him. The evidence brought on record does not indicate the nature of conversations between Surendra B. Jiwrajka

and Reshabh Raizada and therefore, their connect through mobile cannot be taken as incriminating. On the basis of presumptions, assumptions or inferences, the criminal liability cannot be fastened upon any person. It is thus clear that prosecution has not be able to show evidence sufficient to frame charge against accused Surendra B. Jiwrajka.

46. Similarly, there is no evidence qua the offence of disappearance of evidence under Section 201 IPC. The only allegations in this regard is that Reshabh Raizada suggested to Puneet Kumar Duggal to destroy his mobile phone while he and Surendra B. Jiwrajka did not produce their mobile phones claiming that same have been lost. In both the above mentioned situations, the offence of disappearance of evidence is not actually committed. Mere suggestion coming from Reshabh Raizada asking Puneet Kumar Duggal to destroy his phone, can only be taken as an intention or preparation but not the actual commission of offence. Also, there is nothing on record to suggest that mobile phones of accused Reshabh Raizada and Surendra B. Jiwrajka were carrying any particular evidence relating to the case and therefore even if the phones are claimed to be lost, the criminal liability under Section 201 IPC is not attributable.

47. In the light of the above-said observations, I order that charges be framed against accused Manjit Singh (A-1), Puneet Kumar Duggal (A-2), Ruhi Arora (A-3) and Reshabh Raizada (A-4) in terms of para no. 44 of this order, while accused Surendra B. Jiwrajka (A-5) is discharged in the present case.

48. Matter is listed for framing of charge.

ANJU BAJAJ CHANDNA

Digitally signed by ANJU BAJAJ CHANDNA
Date: 2024.12.24 11:48:34 +0530

(Anju Bajaj Chandna)
Principal District & Sessions Judge-cum-Special Judge (PC Act) (CBI),
Rouse Avenue District Court
New Delhi/24.12.2024