

**In the court of Shri Naresh Kumar Laka  
Special Judge (PC Act) (CBI-20),  
Rouse Avenue District Courts, New Delhi**

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**Case No. CBI-24/2021**  
**RC No. DAI-2019-A-0015 dated 30.04.2019**  
**CNR No. DLCT11-000169-2021**

***In the matter of:***

**Central Bureau of Investigation**

**vs.**

**Dr. Vikas Gupta and Ors.**

**Dated: 16.08.2022**

**ORDER ON CHARGE**

I have heard arguments on the point of charge from Sh. Pramod Singh, Ld. PP for CBI, Ms. Meenakshi Mohan, Ld. Counsel for accused no. 1 and Sh. Abhishek Yadav, Ld. Counsel for accused no.2.

2. After hearing the arguments this case was reserved for passing of order on 16.08.2020. A direction was also given in the meantime to the CBI to produce the voice and video recordings (investigation copy) as relied in this case for today. The same were produced and heard/seen by the undersigned. File perused.

3. The present case originated after filing of a complaint dated 03.01.2019 by the accused Basant Goel (who later on turned as an approver

witness) to the Hon'ble Labour Minister, Government of India alleging that the accused Vikas Gupta (who is a Doctor), his wife and Mr. Kajal Goldar, the then DMD in ESIC proposed him (Sh. Basant Goel) to appoint him as an agent of medicine manufacturing company, namely, M/s. BDR Pharmaceutical Pvt. Ltd. to whom a tender for supply of bulk quantity of medicine would be given against which a bribe amount of Rs. 1 Crore was demanded from Sh. Basant Goel which he agreed to pay and thereafter he made payment of the said amount, partly through banking mode and partly in cash. It was further alleged in the complaint that the said contract was not awarded to M/s. BDR Pharmaceutical Pvt. Ltd. as promised and when the applicant demanded refund of his amount, it was not given back to him.

4. The complainant Sh. Basant Goel (who was one of the accused earlier) had filed an application for tendering pardon under Section 306 and 307 Cr.P.C. in the meantime. Vide a detailed order dated 01.07.2022, the said application was allowed and the accused Basant Goel (complainant) was directed to be examined as an approver witness of the prosecution. Therefore, the aforesaid development tilts in favour of the prosecution as far as the presentation and proving the facts before this Court are concerned.

5. It is a settled proposition of law that at the time of framing of charge, this Court is not required to meticulously go through the pros and cons of both sides and in fact this Court is required to examine the material which has been placed on record by the prosecution only to arrive at a decision whether there are sufficient grounds for framing of charge.

6. As far as role of accused Vikas Gupta is concerned, there are ample material on record including credit of Rs.48 lakhs in his bank account and the bank account of his wife from the complainant, his conversation recording and if the prosecution succeeds in proving the fact that the said amount (along with other amount allegedly given in cash) were given as a gratification, the Section 20 of PC Act would apply which raises a presumption against the accused. In that eventuality, the onus would lie upon him to prove that the said amount was given towards some other transaction than the bribe as demanded from the complainant. There are other voluminous evidence on record which are sufficient to frame charge against the said accused for the offences under Section 120-B IPC r/w Section 7, 11, 12 and 13 (d)(i) and (ii) of the PC Act, 1988 and also for the substantive offences under Section 7, 11, 12 and 13 (d) (i) and (ii) of the PC Act, 1988 (prior to amendment dated 26.07.2018).

7. The Ld. Counsel for two other accused persons vehemently submitted that the complainant Basant Goel had given contrary statements on earlier occasions during investigation i.e. - (1) at one point of time by claiming advancement of loan amount to the accused persons and (2) at another point alleging giving of amount as bribe. On the other hand, the Ld. PP for CBI has drawn attention of this Court to a verification report of the concerned Police Station which stated that no such complaint, where the amount given to the accused Vikas Gupta was alleged to be a loan, was ever received in the said Police Station. Therefore, it raises a strong presumption that the said complaint was not, in fact, filed by the complainant or processed

by him before the concerned Police Agency. Therefore, the stand of the accused persons that the complainant has shown transfer of the amount of Rs.48 lakhs as a loan transaction in the said complaint as well as Income Tax Authority are part of defence which are required to be appreciated after giving opportunity to both the parties to prove or dis-prove the said facts.

8. As far as the role of accused no. 2 Dr. Kajal Goldar is concerned, it is stated that the accused no. 2 neither demanded nor accepted any illegal gratification and that he has been falsely implicated in this case. From the voice recording, it is seen that there is no direct incriminating evidence against the said accused. However, from the said recordings it is *prima facie* clear that Dr. Vikas Gupta was acquainted with the complainant and he was aware of the matter of giving of amount to the accused Vikas Gupta.

9. It is further alleged by prosecution that when the tender was not awarded to M/s BDR Pharmaceuticals, Dr. Kajal Goldar promised Basant Goel to allot user units and in this regard, he influenced the members of the committee to allot three dispensaries i.e. V.K. Nagar, Seelampur and Sabzi Mandi to Basant Goel. In this regard, the statements recorded during investigation of PW-1, PW-2 and PW-15 and inquiry report of PW-1 and PW-2 are very material. The Inquiry Committee further held that the allotment process was done in violation of rules and in a manner which was not fair, transparent and equitable. The relevant extract of the voice transcription is reproduced as under:

“BG -नहीं मैं तैयार हूँ... मैं तैयार हूँ सर.... मैं तैयार हूँ और एक सर इस बार लोकल केमिस्ट वाले में हॉस्पिटल और वो सब बढ़िया आप इसमें मुझे बढ़िया काम दे दो बस सर

KG- एक हॉस्पिटल दे दूंगा मैं आपको

BG -हम एक हॉस्पिटल दे दो सर मुझे और ४-५ डिस्पेंसरी बढ़िया सी दे दो सर

KG- 4-5 क्यों सारी नहीं दे दूंगा

BG – 3-4 तो दे दोगे न

KG- देखो एक उधर से एक सीलमपुर या नंदनगरी दोनों में से एक दूंगा

BG -हाँ। ..... और एक वी. के. नगर में दे देना ”

10. Accordingly, a joint charge be framed against both accused persons, namely, Dr. Vikas Gupta and Dr. Kajal Goldar for the offences under Section 120-B IPC r/w Section 7, 11, 12 and 13 (d)(i) and (ii) of the PC Act, 1988 and also for the substantive offences under Section 7, 11, 12 and 13 (d) (i) and (ii) of the PC Act, 1988 (prior to amendment dated 26.07.2018).

Announced & dictated in  
the open court on 16.08.2022

**(Naresh Kumar Laka)**  
**Special Judge (PC Act) (CBI-20),**  
**Rouse Avenue District Courts,**  
**New Delhi/16.08.2022**