

IN THE COURT OF SH. AMIT KUMAR,
SPECIAL JUDGE, PC ACT (CBI) - 04, ROUSE AVENUE
COURTS, DELHI

CNR No. DLCT11-000190-2022

CBI No. 30/2022

CBI Vs. Kuldeep Singh & Anr.

19.10.2022

ORDER

1) Vide this Order, I shall decide the issue of charge against accused A-2 Bhagat Lal. As far as accused A-1 Kuldeep Singh is concerned, Ld. Defence counsel has conceded to the charges as per charge sheet.

2) The brief facts necessary for deciding this question are that the present FIR was registered on the complainant of one Dheeraj Kumar against A-1, an ASI posted at PS Sultan Puri on the allegations that A-1 had demanded a bribe of Rs. 50,000/- from the complainant for not arresting his brother and son of the brother in an FIR No. 53/2022, PS Sultan Puri, being investigated by A-1. The verification was conducted on 17.01.2022. Thereafter, the present FIR was registered on 18.01.2022 and the trap proceedings were conducted on 18.01.2022. During the trap proceedings, A-1 directed the complainant to handover the part bribe amount of Rs. 20,000/- to A-2, who was running a tea shop opposite the premises of PS Sultan Puri and A-2 accepted the

amount of Rs.20,000/- from complainant on gesture and instructions of A-1.

3) Charges against A-1 have been conceded whereas for A-2, it was argued by Ld. Defence counsel that he had no knowledge that the amount handed over to him by the complainant on the instructions of A-1 was bribe amount. A-2 is running a tea shop opposite Police Station Sultan Puri and supplies tea and snacks at PS Sultan Puri as and when ordered by the officials posted at PS Sultan Puri. A-2 had no knowledge that the amount handed over to him by the complainant is part of bribe amount demanded by A-1 and he never conspired with A-1 as alleged by the prosecution and is guilty of no offence. Ld. Defence counsel had drawn my attention to the charge sheet where it is nowhere mentioned that A-2 had knowledge that the amount handed over to him by the complainant is part of bribe amount. It is argued that in the absence of any material showing any prior meeting of mind between A-1 and A-2 and absence of any knowledge to A-2 that the amount received by him is bribe amount, there is no material to frame charges against A-2 for any offence. Ld. Defence counsel in support of his submissions has relied upon the judgement of Hon'ble Supreme Court titled as ***Dipakbhai Jagdish Chandra Patel Vs. State of Gujarat & Anr., IV (2019) SLT 537 and Virendranath Vs. State of Maharashtra, AIR 1996 Supreme Court 490.***

4) Ld. PP on the other hand has argued that there is sufficient material against both the accused to frame charges for the offence punishable U/s 7 of the PC Act read with section 120 B of IPC. It has been argued that the independent witness of trap LW2 Deepak Kumar has specifically stated that complainant met A-1 and thereafter, crossed the road and met A-2 and then A-1 gave signal to A-2 through gesture of his eyes/head and thereafter, A-2 accepted bribe amount from the complainant and same is sufficient to infer the conspiracy between A-1 And A-2. It was also argued that immediately after the call between complainant and A-1 before meeting outside PS Sultan Puri, A-1 made a call to A-2 on his mobile and spoke for about 50 seconds and conspiracy can be inferred from this call as well which was immediately after the call between complainant and A-1 and before the transaction of bribe and therefore, there is sufficient material to framed charges against both the accused.

5) I have heard the submissions and have perused the record.

6) As far as A-1 is concerned, Ld. Defence counsel has conceded to the charges. Coming to material and evidence against A-2, record shows that he accepted the bribe amount from the complainant, which otherwise is not disputed at this stage. Tainted bribe amount of Rs. 20,000/- was recovered from him. It is the argument of A-2 that there was no conspiracy between him and A-1 as he was not aware that the amount so received is bribe amount. The material on record shows that when the complainant

met A-2 as instructed by A-1, A-2 asked the complainant that where is A-1 to which complainant replied that A-1 is standing at the gate of PS Sultan Puri and then, A-2 looked towards A-1 and A-1 nodded his head and thereafter, A-2 accepted money from the complainant. Record also shows that there was a call by A-1 to A-2 lasting for about 56 seconds immediately after the call of complainant to A-1 informing him that he is about to reach PS Sultan Puri.

7) It is settled law that evidence of conspiracy is seldom direct and most of the time has to be inferred from the circumstances of the case. In the present case, acceptance of bribe money by A-2 after getting nod in affirmation from A-1 and a telephonic call between them immediately after the call of complainant to A-1 is sufficient at this stage to infer the conspiracy between them. The judgments relied upon by Ld. Defence counsel are not applicable to the facts of this case. In the judgment of *Virendranath Vs. State of Maharashtra (supra)*, the restaurant owner who accepted bribe on the directions of police officer was acquitted at the stage of final judgment since the prosecution nowhere led evidence of conspiracy on the part of restaurant owner. In the present case, the case is at the stage of charge and the prosecution should be given opportunity to lead evidence.

8) I find sufficient material of offence of criminal conspiracy against A-2 as well for commission of offence U/s 7 of the PC

Act. In facts, there is sufficient material on record to frame charges against both the accused for the offence punishable U/s 120 B IPC read with Section 7 of the PC Act and sufficient material for framing charges of substantive offence U/s 7 of the PC Act against A-1.

**ANNOUNCED IN THE OPEN
COURT TODAY i.e. on 19.10.2022**

**(AMIT KUMAR)
SPECIAL JUDGE, PC ACT,
CBI-04, ROUSE AVENUE COURTS,
NEW DELHI**