

CBI Vs. Sachin Chauhan and Ors.
RC no. 09(A)/2018 PS CBI/AC-I/ND
CC no. 31/2022
U/s 120 B IPC r/w 201/420 IPC and 13(2) r/w 13(1) D
of PC Act and 66 D of IT Act.
CNR no. DLCT11-000266-2022

04.08.2023

Present: Sh. V. K. Pathak, Ld. Sr. PP for CBI.

--:ORDER ON THE POINT OF COGNIZANCE::--

1. Facts of the case as per the charge-sheet are as under:-

16.1) On receipt of complaint dated 04.03.2018 from Shri Ashim Khurana, Chairman SSC, New Delhi forwarded by Jt. Secretary, DoPT, a Preliminary Enquiry AC-1 2018 A0004 was registered for conducting enquiry into the allegation of malpractices in Staff Selection Commission Combined Graduate Level (CGL Tier-11) Exam-2017 held from 17.02.2018 to 22.02.2018 conducted by M/s Sify Technologies Ltd. On conclusion of the PE the present RC was registered for the offences punishable U/s 120B, 420 IPC, 13(2) r/w 13(1(d) of PC Act 1988 and section 66 D of IT Act.

(16.2) It is alleged that in SSC CGL 2017 Tier-II held from 17.02.2018 to 22.02.2018 following malpractices had taken place:-

(1) The answer keys of some of the questions of Quantitative Ability (QA) exam scheduled from 10:30AM on 21.02.2018 appeared on the social media prior to the start of exam.

(2) Screen shots of some of the questions of QA exam Tier -II of candidates Shri Anoop, Shri Deepak Rana, Shri Shambhu Kumar, Ms. Sonam and Shri Sachin Chouhan appeared on the social media. Similarly questions of English Language and Comprehension of candidate Shri Dhiraj also appeared on the social media.

(3) The screen shots of some questions of CGL Tier-1 of candidate Ms. Suman Shivran also appeared on social media

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(16.3) That, the Staff Selection Commission (SSC) is an organization under Government of India to recruit Group B, C & D officials/officers for various posts in the Ministries and Departments of the Government of India and in Subordinate Offices. The commission functions under the Department of Personnel and Training (DoPT) consisting of Chairman, two Members and a Secretary-cum-Controller of Examination.

(16.4) That, in 2016, SSC decided to switch from pen paper form of examination to Computer Based Examination. M/s Sify Technologies Ltd. having its registered office at Tidel Park, 2nd floor, No.4, Canal Bank Road, Taramani, Chennai registered with Registrar of Companies, Chennai vide CIN No. U72200TN 1995PLC050809, having its regional office at B-7, Sector 132, NOIDA participated in tender process and was awarded the work of conducting online exams for SSC. In pursuance thereof an agreement dated 12.04.2016 was executed between SSC and M/s SIFY Technologies Ltd for 2 years. The agreement is signed by Shri Deen Bandhu Singh, Secretary Cum Controller of Examination on behalf of SSC and Shri Chandan Kumar Sharma, Business Development Manager (BDM) on behalf of M/s SIFY. In terms of the agreement M/s Sify Technologies Ltd. is responsible for:-

(i) Preparation of centres for computer based examination.

(ii) Preparation of adequate number of

question paper sets of appropriate standard as per guidelines and requirement of SSC.

(iii) Conduct of Computer Based Examination.

(iv) Preparation/compilation of Result.

(v) MIS/customized report generation.

(16.5) That, the Combined Graduate Level Examination (CGL) is held in four stages. The Tier I of the CGLE-2017 was held from 05.08.2017 to 24.08.2017. The result of CGLE (Tier 1)-2017 was declared by the SSC on 30.10.2017, wherein 1,50,404 candidates were declared qualified to take Tier II examination. However, the Commission revised the result, and post revision 1,89,838 candidates were declared qualified to take CGLE Tier II- 2017.

(16.6) That, during Investigation, Shri Prakhar Rohtagi of SSCTUBE produced softcopy as well as hard copy of 17 questions of QA exam dated 21.02.2018 of candidate Shri Sachin Chouhan which were received by him from a whatsapp group 'Aspirants'. Shri Prakhar Rohtagi stated that one Param Rathi had posted these screen shots on whatsapp group "Aspirants". This Shri Param Rathi stated that these questions were forwarded to him by his friend Shri Anurag. Shri Anurag in turn stated that he received the questions from Shri Mohit Sehrawat who further received them from Shri Sumit Malik and Sumit Malik received from Shri Ravi. Shri Sumit Malik stated that Shri Ravi has requested him for answers of these questions and on his request he further forwarded them to Shri Rajiv Saini and Mohit Sehrawat. However, Shri Rajiv Saini after going through whatsapp informed Ravi that these questions seemed to had been leaked and refused to help.

(16.7) That, Shri Ravi during examination stated that on 21.02.2018 his friend Shri Amit Sharma from his village took him to a room in Gandhi Vihar Delhi. On reaching the room Shri Amit Sharma requested Shri Ravi to give his phone for some time as screen of his own phone was damaged. Shri Ravi gave his phone and waited in outer room whereas Shri Amit Sharma went inside. Shri Amit Sharma came out and gave mobile to Shri Ravi with request to arrange for answers of QA questions, screen shots of which were taken in his mobile. Shri Ravi forwarded these questions over whatsapp to his friend Shri Sumit Malik who in turn forwarded them to Shri Rajiv Saini and Shri Mohit Sehrawat,

(16.8) That, during investigation, it has been found that the images/screen shots of these questions show one Anydesk ID "lab-2-PC-12@ad(736505538,Lab-2) (Identity verified)". This information was shared with M/s Anydesk through email and following details were requested:-

(i) Detail of IP address, (Local & Public), MAC address, of both the computers involved in the remote connection using AnyDesk ID connected to, lab-2-pc-12@ad (736505538, LAB- 2) on 21.02.2018 at 12:32 PM IST

(ii) Details of IP addresses, (Local & Public), MAC of any other computers in India involved in the remote connection using AnyDesk during 17.02.2018 to 21.02.2018 between 08:00AM IST to 07:00 PM IST.

M/s Anydesk through email dated 25.10.2018 provided the total connection traces of "lab-2-pc-12@ad (736505538, LAB-2)". These traces were scrutinized and it was found that on 21.02.2018 during the exam time i.e. 10:30AM to 06:30PM "lab-2-pc-12@ad (736505538,

LAB-2) was connected with anydesk ID-615639167.

(16.9) That, further, investigation revealed that the Anydesk ID lab-2- pc-12@ad (736505538, LAB-2) was used by using Excitel Broadband network (IP- 103.46.202.165) whereas Anydesk ID-615639167 was used through Den Broadband (IP-112.196.132.235). M/s Excitel informed that IP 103.46.202.165 was allotted to Shri Rakesh Kumar, r/o Bagdola.

(16.10) That, investigation pertaining to Shri Rakesh Kumar revealed that he is brother of Shri Harpal Singh owner of M/s Ray Group of Institutions, Dwarka which was examination centre for SSC CGL Tier- II Exam 2017 and candidate Sachin Chouhan had appeared from the said centre on 21.02.2018. The broadband connection in the name of Shri Rakesh Kumar is being used by Shri Harpal Singh in his examination centre.

(16.11) That, on the other side Den broad band connection is found in the name of Shri Krishan Kumar, r/o Property No. E 142, 143 Ground Floor, Gandhi Vihar Delhi 110009.

(16.12) That, investigation further revealed that Shri Krishan Kumar alongwith Shri Vikal, Shri Naveen, Shri Neeraj and Shri Sanjay Kadian were sharing the aforesaid internet connection during Feb. 2018 and the internet password was known to all of them. During examination all these 5 persons denied having knowledge about the question paper and were found associated in their own work on 21.02.2018 when paper of Shri Sachin Chouhan was scheduled. However, the analysis of CDRs of mobile no. 9466475335 (Ravi), 7389650302 (Vikram Mishra), 9988665110 and 8750008910 (Amit Sharma) for 21.02.2018 revealed that all these 3 persons were in

contact with each other as well as with Shri Sanjay Kadian @Sanjay (9560622712). The other persons namely Shri Krishan Kumar alongwith Shri Vikal, Shri Naveen, Shri Neeraj were not found to be associated with any of the accused persons.

(16.13) That, investigation further revealed that accused Sanjay Kadian @ Sanjay and Amit Sharma had taken on rent the premises at A- 227, 2nd Floor, Gandhi Vihar, Delhi from 01.06.2017, documents of which have been collected during investigation. However, it is revealed during investigation that Sanjay Kadian @ Sanjay used to reside at C-153-154, 2nd Floor, Gandhi Vihar, Delhi from Sept, 2017 to March, 2018 alongwith other persons. Hence, it is established that Sanjay Kadian @ Sanjay and Amit Kumar@Amit Sharma were known to each other.

(16.14) That, during examination candidate Shri Sachin Chouhan while disclosing the story behind his leakage stated that in February 2018, his distant relative Shri Sonu Chouhan @ Sandeep Chouhan working in FCI informed him that if needed he can introduce him to one Shri Kuldeep who can help him in clearing SSC CGL Tier-II Exam 2017. Subsequently, Shri Sonu accompanied Shri Sachin Chouhan to Kuldeep's place in Village Budhpur and during the meeting Shri Kuldeep obtained his roll no. and admit card and promised to help him. During the 2nd meeting Shri Kuldeep offered Shri Sachin Chouhan two options viz. (i) He can learn the question and solution in advance or (ii) his question paper would be solved directly through remote access. To minimize the risk he consented for second option and in lieu of the help Shri Kuldeep demanded Rs. 11 lakh out of which Rs. 5.5 lakh were paid in advance and remaining was to be paid after the exam.

(16.15) That, in the morning of 21.02.2018, Sachin Chouhan received call from Mobile no. 7838072673 (Kuldeep) asking him if he can arrange some solver for solving his question paper. He turned down the offer to which Kuldeep informed that he will manage at his own. At about 09:00 am, when he was at his examination centre M/s Ray Group of Institution Dwarka, he received a call from mobile no. 7389650302 (Vikram Mishra) asking him to enter the examination hall early. After completing all the formalities he occupied seat no. 33 and soon one of the examination controllers came to his seat and asked him to occupy the nearby vacant seat and himself occupied his seat. The said Examination Controller did some activity in his computer and asked him to return back to his seat. The QA examination which was to start at 10:30 AM was cancelled and exam started with fresh paper at 12:15 AM. He observed that somebody was having access of his PC and attempting questions. After coming out of the examination hall Shri Sachin Chouhan contacted Shri Kuldeep and informed that the person attempting his question had marked wrong answers to some of the questions to which Kuldeep assured him not to worry he will take care of his interest. Again in the afternoon when his English paper was to start he again received call from mobile no. 7389650302 (Vikram Mishra) asking him to enter examination hall early. After completing all the formalities he occupied seat no. 71 and the Examination Controller who had come to his seat in the morning came again and did some activity in his PC. This time he could see that the Examination Controller had installed some software in his PC. Again when the examination started, he found that somebody had accessed to his computer and was attempting questions. Subsequently, after

registration of the case by CBI Shri Kuldeep alongwith Sonu came to his house and threatened him not to disclose their names and asked him that he can name Amit Sharma and Vikram Mishra who had arranged the remote accesses and solver for both of his papers.

(16.16) That, further, CDRS of accused persons establishes that S/Shri Amit Sharma, Dipu, Sanjay Kadian and Vikram Mishra had played crucial role in solving the questions of Shri Sachin Chouhan through remote access. Shri Vikram Mishra is an IT person and known to Shri Amit Sharma as well as Shri Dipu who functioned as Examination Controller (EC) at Ray Group of Institution Dwarka, Examination centre of Shri Sachin Chouhan. The CDR of mobile no. 7389650302 (Vikram Mishra) shows that he was in continuous contact with Shri Amit Sharma (9811674196 and 9988665110). It is also seen that Shri Vikram Mishra (mobile no. 7389650302) called Shri Sachin Chouhan (9015651970) when the exam was about to start from 10:30AM on 21.02.2018 and again when the 2nd paper was to start from 15:30 Hrs. CDRs also show that Shri Amit Sharma was also in direct contact with Shri Kuldeep R/o Budhpur who assured help to Shri Sachin Chouhan in lieu of money. The CDRs also show that Shri Sanjay Kadian @Sanjay and Vikram Mishra were also in contact with each other on the date of examination. Further, Shri Dipu Kumar (8210856631) is found in contact with Vikram Mishra (7389650302).

(16.17) That, during investigation, Shri Sachin Chouhan has identified Shri Dipu Kumar in CCTV footage dated 21.02.2018 of M/s Ray Group of Institution, Dwarka as the person who did activity in his computer for remote access.

(16.18) That, during investigation, it is also revealed that Amit Sharma was childhood friend of Ravi Kumar. On 21.02.2018, Ravi Kumar met Shri Amit Sharma while coming from cricket ground at Gandhi Vihar, Delhi. Amit asked him to come alongwith him to his place of residence at Gandhi Vihar, Delhi. He asked for his (Ravi) mobile phone stating that screen of his mobile is broken. Ravi Kumar gave him his mobile phone. He took his mobile and went to other room and returned after half an hour. On return, he showed him 18-20 questions of Quantitative Ability in his phone and requested him to solve them. On going through the questions Ravi Kumar found that they were screenshots of one Shri Sachin Chauhan whose photograph was also appearing. On request of Amit Sharma, Ravi forwarded the questions to Shri Sumit Malik @ Rinku on his mobile no. 9671945253 through whapsapp for solution as he is good in Mathematics. After some time when he (Ravi) called Sumit Malik for answers he refused to solve them and warned him not to contact him again for such work. Sumit further informed that he will not solve them because those questions were leaked and even advised him (Ravi) to remain cautious.

(16.19) That, during investigation, the hard disks of computer system, used by candidate Sachin Chouhan at M/s Ray Group of Institution, Dwarka, New Delhi was to be sent forensically analyzed by M/s Deloitte and it was revealed that files associated with AmmyAdmin on the exhibit on the exam dated 21.02.2018 during the exam time noted. The log and executable file was recovered during the exam time on 21.02.2018.

(16.20) That, investigation also revealed that the event of remote access of candidate namely Ms. Suman Shivran was also taken place in

Tier-1 exam, but no steps were taken by Sify to be cautious in future.

(16.21) That, the presence of unauthorized software tools like Ammy Admin, Any Desk, Teamviewer etc displays the active role and help from the officials of Sify in the cheating in collusion of other accused persons.

(16.22) That, investigation also revealed that that many computers used for the examination were formatted/defragmented just after the examination, so that no proof of remote access could be gathered.

(16.23) That, the above mentioned facts clearly establish criminal conspiracy on the part of Shri Dipu Kumar, Examination Controller, Sify Technologies Pvt. Ltd. & M/s Sify Technologies Pvt. Ltd., through its Director, who received remuneration from Central Government (SSC) for conducting public service (to conduct exam). Hence, Shri Dipu Kumar and the Company M/s Sify Technologies Pvt. Ltd., through its Director are treated as Public Servants.

(16.24) That, the above discussed facts constitute commission of offences punishable u/s 120-B IPC r/w 201, 420 IPC, Section 66-D of IT Act and section 13(2) r/w 13(1) (d) of PC Act, 1988 and substantive offences punishable u/s 201, 420 IPC & Section 66-D of the IT Act, 2000, against Shri Sachin Chauhan, Shri Kuldeep, Shri Vikram Mishra, Shri Amit Sharma, Shri Dipu Kumar, Shri Sanjay Kadian (@Sanjay and M/s Sify Technologies Ltd., through its Director have been substantiated. Further, substantive offences punishable u/s 13(2) r/w 13(1)(d) of PC Act, 1988 also constitutes against company M/s Sify Technologies Ltd., through its Director.

(16.25) That, Sanction for prosecution against accused Dipu Kumar, Examination Controller of Sify Technologies Pvt. Ltd. at examination center Ray Group of Institution, Dwarka, New Delhi and Company M/s Sify Technologies Limited, through its Director, has been sought from competent authority U/s. 19 (1)(a) of P.C. Act, 1988 (Act 49 of 1988 and as amended in 2018), which is awaited.

(16.26) That, further investigation u/s 173(8) Cr.PC is kept open for investigation of the role of remaining FIR named accused persons and other unknown public/private persons.

2. Alongwith the charge-sheet various documents have also been filed.
3. Sanction for prosecution in respect of accused public servant Dipu Kumar, Examination Controller of Sify Technologies Pvt. Ltd. at Examination Centre Ray Group of Institutions, Dwarka, New Delhi and accused Company M/s Sify Technologies Limited through its Director was granted by Ms. Swati, Under Secretary on behalf of Staff Selection Commission (HQ). The Sanction Orders have been placed on record and the same are perused.
4. I have heard the submissions made by the Ld. Sr. PP for CBI and have carefully perused the record including sanction orders in respect of A-5 and A-7 issued by the competent authority.
5. After perusal of the complaint, the statement(s) of the witnesses and the other relevant documents relied upon by the

prosecution including the Sanctions for prosecution issued by the competent authority in respect of accused A-7 M/s Sify Technologies Ltd. (through its Director) and A-5 Dipu Kumar, I hereby take cognizance of the offence(s) punishable U/s 120 B IPC r/w 201, 420 IPC, Section 66 D of IT Act and Section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences punishable U/s 201, 420 IPC and Section 66 D of IT Act, 2000 and 13(2) r/w 13(1) (d) of PC Act in respect of accused Sachin Chauhan, Kuldeep, Vikram Mishra, Amit Kumar @ Amit Sharma, Dipu Kumar, Sanjay Kadian @ Sanjay and M/s Sify Technologies Pvt. Ltd. (through its Director), as there are sufficient grounds to proceed against the accused persons arraigned in the charge-sheet.

6. Let accused Sachin Chauhan, Kuldeep, Vikram Mishra, Amit Kumar @ Amit Sharma, Dipu Kumar, Sanjay Kadian @ Sanjay and M/s Sify Technologies Pvt. Ltd. (through its Director) be summoned for 02.09.2023.

7. IO is also directed to appear on the NDOH along with copies of the charge-sheet and relied upon documents.

(Rakesh Kumar-III)
Special Judge (PC Act) (CBI)-02
Rouse Avenue District Court
New Delhi/04.08.2023