

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

CNR No. DLCT11-000420-2022

CBI No 41/2022

CBI v Rajesh Mishra

08.01.2024

ORDER ON CHARGE

1. The Central Bureau of Investigation had submitted the charge-sheet in RC06A99SIL dated 06.12.1999 against accused Dr. M. P. Singh and Rajesh Mishra (being not arrested) for the offences punishable under Section 120-B, 420, 467, 468, 471 IPC and Section 13 (2) r/w Section 13 (1) (d) of PC Act 1988 before Ld. Special Judge, Manipur East, Imphal on 20.01.2003. On the same day, Ld. Special Judge, Manipur East took cognizance in the matter against accused Dr. M. P. Singh, being public servant (the then Vice-Chancellor, Central Agricultural University, Imphal, Manipur) and Rajesh Mishra. Thereafter, vide order dated 18.04.2005, Hon'ble Supreme Court transferred the present case to Delhi Court.

2. Accused M. P. Singh appeared before the court while accused Rajesh Mishra was not traceable and thereafter was declared Proclaimed Offender vide order dated 26.03.2008. Vide order dated 26.11.2009, charge had been framed against the

accused Dr. M. P. Singh for the offence punishable under Section 13 (2) read with Section 13 (1) (d) of P. C. Act to which accused M. P. Singh pleaded not guilty and claimed trial. After conclusion of the trial, accused M. P. Singh was convicted for the offence punishable under Section 13 (2) r/w Section 13 (1) (d) of PC Act 1988 vide judgment dated 30.03.2011 and sentenced vide order dated 31.03.2011.

3. Accused Rajesh Mishra was arrested on 09.06.2022 and on compliance of Section 207 Cr.P.C, arguments have been heard on the point of charge.

4. In brief the facts of the prosecution case are that Dr. M. P. Singh was working as Vice-Chancellor in Central Agricultural University, Imphal on deputation basis. On expiry of deputation period, the accused relinquished the post of Vice-Chancellor on 19.01.1999.

5. According to the procedure, the Library Advisory Committee (LAC) was constituted to assess the requirements of books and for recommendation and advising the University for purchase of books and journals for the library. The formation of LAC was done by the accused verbally. On the recommendations of LAC, the orders for purchase of books / journals were placed in bulk, depending upon the funds. When the financial limit of the Dean exceeds for the purchase of books /journals, the proposal for sanction comes to Vice-Chancellor. On approval of the proposal,

the purchase orders were placed by the Librarian. Books were received by the Librarian and after that bills were also received and verification of bills vis-a-vis books received and Good Offices Committee (GOC) rules and stock entries are made by the Librarian. The proposal for payment of bills were submitted by the Librarian and after verification, sanctions were accorded by Dean or Vice-Chancellor, depending upon the value of payments to be made.

6. The books and journals were to be purchased by the said University as per the guidelines of GOC which is being followed by all universities with 10% discount. Accused Rajesh Mishra had running a proprietor concern namely M/s Best Book Sellers and Distributors, Kankarbagh Colony, Rental Flat No.213, Patna-20 and M/s Best Book Sellers and Distributors, 184/8A, DDA Janta Flat, Trilok Puri, New Delhi. Rajesh Mishra has been managing the affairs of these concerns throughout as its proprietor.

7. As per terms and conditions, the books were to be purchased on discount of 10% from the published price. According to the prosecution, Dr. M. P. Singh had shown undue favour to accused Rajesh Mishra, proprietor of M/s Best Book Sellers & Distributors by awarding supply orders. The supply order dated 05.12.1995 was placed with the firm of accused Rajesh Mishra, for the supply of books of different titles. Accused Rajesh Mishra supplied books to the University enclosing seven bills dated

06.01.1996 amounting to Rs.3,34,686/-. The Assistant Librarian pointed out that the prices indicated by the teachers were very different in comparison with the prices mentioned in the price proof submitted by the firm for which no action was taken by Dr. M. P. Singh, rather a sum of Rs.3,34,686.34 was sanctioned by accused Dr. M. P. Singh on 18.01.1996.

8. In the meeting dated 03.02.1996, the LAC resolved to purchase books for a sum of Rs.3.8 Lakhs. On the directions of accused Dr. M. P. Singh, the Librarian put a note giving the names of four firms including the firm of accused Rajesh Mishra. On 14.02.1996 vide note 291, accused Dr. M. P. Singh approved the proposal for purchase of books and selected the firm of accused Rajesh Mishra for supply of books without giving any reason for rejecting other firms. The supply order was sent by registered post to the firm of accused Rajesh Mishra. On 21.02.1996, accused Dr. M. P. Singh reached Delhi on official visit. He had taken the copy of supply order and in pursuance of conspiracy, handed over the same to accused Rajesh Mishra by hand, unofficially informing him that the official copy had been sent to him by post. Accused Rajesh Mishra started supplying the books before receiving the supply order officially. Accused Rajesh Mishra received the supply order officially on 28.02.1996.

9. Dr. R. N. Singh, OSD, college of Veterinary Science & Animal Husbandry, Imphal vide his letter No. Nil dated 03.08.1998, submitted proposal for purchase of additional Veterinary books. On receiving the same, accused M. P. Singh directed the Librarian to process the same. The Assistant Librarian suggested the names of five firms, including the firm of accused Rajesh Mishra, for the purchase of books. Accused Dr. M. P. Singh selected the firm of accused Rajesh Mishra, without giving any reasons for rejecting the names of other firms. The supply order dated 06.08.1998 was placed with the firm of accused Rajesh Mishra. The prices of books charged by accused Rajesh Mishra, were exorbitant and the price proof submitted along with the bills, were false, fake and manipulated. Accused Rajesh Mishra supplied the books on Veterinary subjects enclosing therewith photocopies of price proof and submitted 49 bills in 14 bunches for a sum of Rs.38,49,267/-. Accused Dr. M. P. Singh accorded sanction for payment against all the bills and 14 sanction orders were issued for a sum of Rs.38,49,267/-.

10. Accused Rajesh Mishra purchased 17 books of Animal Physiology @ Rs.395/- with 40% discount from M/s CBS Publishers vide original carbon copy of invoice dated 13.09.1997 for total amount of Rs.4,029/-. Accused Rajesh Mishra manipulated the said invoice by inflating the price of book from Rs.395/- to Rs. 1395/- with discount of 10% and supplied the

books to the University, Imphal. Accused Rajesh Mishra was paid the inflated price. Accused Rajesh Mishra purchased one book titled “Diseases of Poultry” from Jaypee Brothers vide invoice dated 03.12.1997 @ \$ 140.40 with 20% discount, the price in Indian Rupees came to Rs.4360/-. Accused Rajesh Mishra supplied the same book to the University @ \$ 430.95 with 10% discount by manipulating the original invoice and inflated the price of book from \$ 140.50 to \$ 430.95. Accused Rajesh took payment at inflated rate enclosing the photocopy of the manipulated invoice along with his bill.

11. Accused Rajesh Mishra submitted fake price proof of the book titled “Animal Physiology – Adaptation and Environment” showing the price of book as 324.95 UK Pound instead of 24.95 UK Pound. The accused supplied the same to the University and took payment at the inflated rate by enclosing photocopy of the price proof. Accused Rajesh Mishra had manipulated the price of books “Diary Management in India” 1989 edition authored by Mohan and “Economics of Sheep Farming” 1990 edition authored by Chauhan both published by Mittal Publications by submitting fake and false price proofs showing price of Rs.1250/- and Rs.420/- respectively whereas the actual price of the books were Rs.250/- and Rs.120/- respectively. Rajesh Mishra took payment of the inflated price using the forged price proofs from CAU.

12. Accused Rajesh Mishra in conspiracy with accused M. P. Singh took excess payment towards supply of 277 copies of 31 books to the tune of Rs.4,20,285/- by manipulating the price proofs and submitting the forged price proofs, showing higher prices. The conversion rate of the foreign currencies were taken at the rate prevailing at the relevant time when said Rajesh Mishra had submitted the bills and payment made by the University. Rajesh Mishra gave 10% discount to CAU as mentioned in the bill but he gave false certificates on the bills. According to the prosecution, accused Rajesh Mishra along with accused M. P. Singh (since convicted) acted in criminal conspiracy with each other to cheat the University.

13. Arguing on behalf of CBI Sr. PP Sh. Praneet Sharma submitted that there is sufficient evidence on record to show that accused has committed offence of cheating and forgery. Accused Rajesh Mishra had submitted forged price proofs of books, photocopies of challans / invoices in which prices of books had been tampered to show much higher prices than the actual price of the books and all the bills were passed. Accused Rajesh Mishra also had furnished false certificates in the bills stating that correct prices were charged, latest editions were supplied and received the excess payment from the University.

14. On the other hand, Sh. Kanhaiya Singhal, Ld. Counsel for accused Rajesh Mishra argued that this is the case of no evidence and accused has been falsely implicated. Ld. Counsel has argued that the investigating agency could produce only two bills claiming to be forged to prove that the prices charged by the publishers is different from what the accused used to claim in the price proof. There is no seizure memo of these alleged forged bills on record. It is further argued that prosecution has not sought any scientific opinion about the alleged forged document and the said forged document was neither produced in original. The prosecution has failed to bring direct evidence on record to prima facie show that accused has been involved in the commission of the alleged offence. Ld. Counsel for accused has relied upon the judgments of **Supreme Court, Topandas vs. State of Bombay AIR 1956 SC 33, Devender Pal Singh v. State NCT of Delhi 2002 (56) SCC 235.**

15. 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.

16. 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.

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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.

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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](#).

17. 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:

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 giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused. 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.”

18. 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”.

19. 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.

20. I have duly considered the contentions of both the sides and examined the record of the case. I have also gone through the written submissions filed on behalf of accused.

21. On hearing both the sides and on examination of relevant record of the present matter and the statements of witnesses, I am of the opinion that there is sufficient evidence to establish the involvement of accused in the commission of the offence. Accused Rajesh Mishra had submitted forged price proofs of books, photocopies of challans / invoices in which prices of books had

been tampered to show much higher prices than the actual price of the books for the purpose of cheating. Accused Rajesh Mishra also had furnished false certificates in the bills stating that correct prices were charged, the latest editions were supplied. Accused Rajesh Mishra used forged documents as genuine and gain wrongful benefit by cheating the University Authorities. Accused Rajesh Mishra took excess payment towards supply of 277 copies of 31 books to the tune of Rs.4,20,285/- by manipulating the price proofs and submitting the forged price proofs showing higher prices along with the bills.

22. Since in order to constitute conspiracy meeting of minds of two or more persons for doing an illegal act, is necessary the offence of criminal conspiracy now cannot be attributed to accused Rajesh Mishra as accused M. P. Singh was not charged for conspiracy. Further, the offence of committing forgery cannot be attributed to accused Rajesh Mishra as there is no allegation or evidence that forged documents were created by accused Rajesh Mishra in his handwriting. Although, forged price proofs were submitted but it is not clear as to who has committed the forgery. In this situation, accused can only be charged for using the forged document and for deceiving the University authorities.

23. At this stage, the court is required to take prima facie view of the matter. At the stage of charge, no fishing and roving enquiry can be conducted. The truthfulness of the evidence brought by the prosecution would be tested during the trial.

24. In view of above observations, prima facie case for offences under Section 420 IPC and 471 IPC are made out against Rajesh Mishra. Accordingly, the accused is liable to be charged for the said offences. Let the charges under Section 420 IPC and 471 IPC be framed against the accused Rajesh Mishra.

(Anju Bajaj Chandna)
Principal District & Sessions Judge-
cum-Special Judge (PC Act) (CBI),
Rouse Avenue District Court
New Delhi/08.01.2024