

CC No. 93/2023
CBI Vs. Pradeep Kumar Jain
RC No. 14(A)/2023 CBI ACB, Delhi
CNR No. DLCT11-000678-2023
U/s 7 of P.C. Act

20.09.2024

ORDER ON CHARGE:

1 Vide this order, I shall decide whether there is sufficient material to proceed against the accused for trial.

2 Complainant Sh. Anil Khanna, lodged a written complaint dated 26.04.2023 with SP, CBI, ACB, New Delhi alleging that he is a contractor and on 03.04.2023, he raised second and final bill alongwith 10 C bill (being extra item for Rs.10,22,531/-) after completion of awarded work of Annual Maintenance Contract of various old and new Type-III Qts and FTA at A.V. Nagar, AIIMS. It has been further alleged that Sh. Pradeep Kumar Jain, A.E. (Civil), ESD, AIIMS, New Delhi demanded Rs.20,000/- from him for forwarding the "10C" item bill dated 03.04.2023 to the office of Executive Engineer C-II, ESD, AIIMS, New Delhi for approval and subsequent entries in measurement book.

3 Verification of complaint was conducted on 26.04.2023 by Shri Vikrant Tomar, Inspector CBI in presence of independent witness Shri Abhijeet Kumar and complainant and during said verification, the complainant went to office of accused Sh. Pradeep Kumar Jain and discussed about the pending matter. During discussion, the accused demanded Rs.20,000/- from complainant for recommending item "10C". The mobile calls and the conversation were recorded in the SD card

which corroborated factum of demand of Rs.20,000/- by accused. The verification concluded on 26.04.2023 and proceedings were incorporated in "Verification Report in CO-12/2023/CBI/ACB/ NewDelhi."

4 On the basis of the aforementioned complaint and the verification, the present case FIR No. RC- DAI-2023-A-0014 dated 27.04.2023 registered u/s 7 of P.C. Act, 1988 (as amended in 2018) in CBI, Anti- Corruption Branch, New Delhi against Shri Pradeep Kumar Jain, Assistant Engineer (Civil), Engineering Service Department, AIIMS, New Delhi and the case was entrusted to Shri Balbeer Singh, Inspector, CBI, ACB, Delhi for investigation.

5 During investigation, a trap team comprising of Trap Laying Officer (TLO) Sh. Balbeer Singh, Independent witnesses Shri Abhijeet Kumar, MTS, ESIC, New Delhi and Shri Ansh Ojha, Inpsector, CGST, Delhi and other CBI officials constituted on 27.04.2023. It is the case of prosecution that after conducting pre-trap proceedings, sucessful trap was laid down and during the said trap, accused was found demanding and accepting illegal gratification of Rs.20,000/- from the complainant. It is claimed that the entire conversation between accused and complainant was recorded by complainant in a memory card through a DVR provided by CBI. It is further alleged that accused had instructed the complainant to put Rs.20,000/- in a brown colour envelope and the said envelope was sealed by using CBI brass seal and the chemical wash of said envelope was taken and the solution of said wash turned into pink which corroborated the factum of accuesd accepting the bribe amount. After this, investigating team conducted post trap proceedings and arrested the accused. Thereafter, memory card containing recorded conversation of verification and trap proceedings

alongwith solution of sodium carbonate and water were sent for forensic examination. During forensic examination, it came that recorded conversation contains voice of accused P.K. Jain.

6 That sanction for prosecution against accused Pradeep Kumar Jain was obtained and thereafter charge sheet was filed for commission of offence punishable U/s 7 of PC Act, 1988 (As amended in 2018) and copy of charge sheet was supplied to accused.

7 Arguments were heard from both the parties on the point of charge.

8 During arguments, it is submitted by Ld. PP for CBI that there is sufficient material to proceed against the accused for trial. He submitted that material on record particularly the transcript of recorded conversation between complainant and accused shows that accused had demanded bribe of Rs.20,000/- from the complainant for clearing file of 10 C item bill (extra item). He submitted that apart from recorded conversations between complainant and accused, there is complaint given by complainant and recovery of Rs.20,000/- belonging to complainant from office of accused in a brown envelope provided by accused which prima facie shows that accused had not only demanded bribe of Rs.20,000/- from accused, but he also accepted the same. Therefore, he has prayed that charge U/s 7 PC Act may be framed against accused and he may be tried for the said offence.

9 Per contra, Ld. Counsel Shri H.K. Sharma for accused has submitted that accused is entitled to be discharged as material against him is insufficient to proceed for trial. Ld. Counsel for accused submitted that there was neither any demand made by the accused nor there is acceptance of bribe money by the accused. It is submitted that as

per complaint, the accused had demanded bribe money of Rs.20,000/- from the complainant for recommending bill of Item 10 C (extra item), whereas, it is admitted case of prosecution that at the time of verification of complaint itself, accused had categorically told the complainant that his file was already cleared by him and he had already send the file to senior officer. Ld. Counsel submitted that the aforesaid admission clearly shows that nothing was pending with accused for which he could have asked for any bribe from the complainant. He therefore, submitted that verification proceeding totally failed but despite that CBI in connivance with the complainant registered the FIR, by wrongly recording that verification proceedings were successful.

10 Ld. Counsel for accused further submitted that admittedly accused never demanded any money from complainant and it was complainant himself, who was putting words in the mouth of accused and he has manipulated the entire facts in order to project that it was accused who had earlier demanded bribe of Rs.20,000/-. He submitted that transcription provided by prosecution itself clearly shows that during verification as well as trap proceeding, accused was always denying the proposal of complainant for bribe money. He further submitted that accused categorically stated to the complainant that he never demanded any money from him. It is further submitted that admittedly accused never received money from the complainant. He further submitted that the evidence produced by prosecution itself shows that contents of verification are false. He further submitted that the entire conversation does not show any agreement amongst the speaker who has projected as complainant and accused to demand a bribe of Rs.20,000/-. He submits that it was complainant only who initiated the

offer relating to bribe which clearly shows that he was falsely trying to implicate the accused. He further submitted that even CBI officials were in connivance with the complainant as they hide an important fact of presence of third person. He further submitted that admission on the part of CBI that verification report was prepared at office of CBI and entire team was in CBI office for more than 2 hours for writing the said report shows that a well thought process was scribing the same and thus it carry no evidentiary value.

11 On basis of aforesaid grounds, Ld. Counsel for accused has prayed that accused may be discharged.

12 To counter the aforesaid contentions of Ld. Counsel for accused, Ld. PP has submitted that at the stage of framing of charge, the scope of examining the evidence is very limited and court cannot sift the evidence in meticulous manner. He further submitted that the tenor of arguments of Ld. Counsel for accused shows that he want the court to appreciate the evidence produced in the charge sheet in a manner as is done at the time of final judgment. He submits that court cannot hold an inquiry at the stage of charge and draw inference of innocence or guilt of accused from the evidence produced by the prosecution in the charge sheet by meticulously examining the same. He submitted that court has to presume the truthfulness of facts as is appearing on face of it.

13 Ld. Counsel for accused on the other hand submitted that court is well within its right to examine the evidence, albeit for limited purpose to find out whether there is sufficient material to proceed against the accused. In order to support his submissions, ld. Counsel for accused has relied upon following judgments:

*i) Kanchan Kumar Vs. State of Bihar
(2022) 9 SCC 577*

*ii) Charan Singh Vs. State of Maharashtra & Ors.
(2021) 5 SCC 469*

*iii) State of Karnataka Lokayukta Vs. M.R. Hiremath
(2019) 7 SCC 515*

*iv) Dipakbhai Jagdish Chandra Patel Vs. State of Gujarat
(2019) 16 SCC 547*

*v) Sajjan Kumar Vs. CBI
(2010) 9 SCC 368*

14 I have heard the rival contentions and perused the record carefully.

15 It is settled law that at the stage of framing of charge, it is not expected from the court that the prosecution evidence should be meticulously evaluated so as to pass the judgment of truthfulness of the same. At this stage, court is bound to proceed on the assumption that material which has been brought on record by the prosecution is true and evaluate the same in order to determine whether the facts emerging from the material, taken on its face value, disclose the existence of ingredients necessary to constitute offence. The court has to frame a charge, if there is a strong suspicion that the accused is involved in the commission of offence for which he has been charge sheeted.

16 It has been held in judgments *Dilawar Balu Kurane Vs. State of Maharashtra*, (2002) 2 SCC 135 and *Union of India Vs. Prafulla Kumar Samal*, (1979) 3 SCC 4 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.

17 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. 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.

18 In **State of MP Vs. Mohan Lal Soni (2000)(SCC 338)** this court has held:

“The crystallized judicial view that at the stage of framing charge the Court has to prima facie considered whether there is sufficient ground for proceedings against the accused. The court is not required to appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused. It was further observed;

“.....As is evident from the paragraph extracted above if the court is satisfied that a prima facie case is made out for proceeding further than a charge has to be framed. Per contra, is the evidence which the prosecution proposes to produce to prove the guilt of the accused, even if fully accepted before it is challenged by the cross examination rebutted by the defence evidence, if any, cannot show that the accused committed the particular offence then the charge can be quashed.”

19 In the present case, in order to buttress its case for framing of charge, the prosecution has relied upon complaint of complainant, wherein complainant categorically stated that accused had demanded

bribe of Rs.20,000/- from him, transcription/voice recordings between complainant and accused recorded during verification and trap proceedings, statements of witnesses U/s 161 Cr. P.C., chemical examination report and forensic examination report of audio recordings to show that there is prima facie case against the accused to proceed against him for commission of offence punishable U/s 7 of PC Act. In the complaint, on basis of which FIR has been registered, the complainant had categorically stated that accused demanded bribe of Rs.20,000/- from him for recommending/approval of file of 10 C bill and subsequent entries in measurement books. At this stage, without affording an opportunity to prosecution, it cannot be said that complaint is false. The allegations levelled in the complaint were verified by the CBI and the transcript of conversation recorded between complainant and accused shows that during verification of said complaint, the accused had agreed to query of complainant that he had demanded Rs.20,000/-. The relevant portion of said conversation is as under:

Anil Khanna:	इसमें आपने मुझसे मांगे थे क्या मांगे थे
P.K. Jain :	ऐसे मुँह से बात मत कर यार तू ऐसे
Anil Khanna:	हां तो वैसे पेपर मे लिख कर बता दो यार क्या दिक्कत है
P.K. Jain :	मैंने यह मांगा था फिर तूने यह yes किया था इस पर
Anil Khanna:	20,000 रुपए yes किया था ना
P.K. Jain :	हूँ
Anil Khanna:	मतलब कि Rs.20000 आपको देना है ना कल कितने बजे दूँ 20,000 रुपए आपको

20 Similarly, during trap proceeding, although, it has not come directly that accused demanded or accepted any bribe amount, but the following recorded conversation prima facie raises strong and grave suspicion about the criminality of accused and commission of offence U/s 7 of PC Act. The relevant portion of conversation is reproduced as under:

Anil Khanna: आप आप ऐसे ही शक कर रहे हो जब आपने मांगे थे इधर मेरी बात सुनो इधर आओ

P.K. Jain : यह मोबाइल तो बंद कर दें

Anil Khanna: यह ले मोबाइल तो बंद है मोबाइल बंद है मुझे एक बात बताओ

P.K. Jain : तू बार बार शोर क्यों मचा रहा

Anil Khanna: मुझे एक बात बताओ तुमने जब 20 मांगे थे मैंने 20 दे दिए तुम लिफाफे में डलवा रहे हो उसे क्या फर्क पड़ेगा

P.K. Jain : यार हम लोगों का अपना सेफ्टी होती है ना

Anil Khanna: क्या सेफ्टी क्या कि मतलब कि मैं चोर कोई चोर हूँ यार

P.K. Jain : यार देखो

Anil Khanna: मतलब आपने मेरे से 20 मैंने दे दिए

P.K. Jain : यार बार बार

Anil Khanna: “यार तुम आइटम भी तो कराया करो ना फटाफट आइटम तो तुमने कराई नहीं यार”

P.K. Jain : इसमें डाल दो इसमें

Anil Khanna: किधर

P.K. Jain : इसमें डाल दो

Anil Khanna: अबे पकड़ो ना यार

P.K. Jain : इसमें डाल कर दे यार ऐसे नहीं

Anil Khanna: Rs. 20000 तुमने मांगे थे यह लो Rs. 20000 इसमें इस लिफाफे में डालने से क्या फर्क पड़ेगा Rs. 20000 तो Rs. 20000 ही रहेंगे ना

P.K. Jain : शोर क्यों मचा रहा है तू

Anil Khanna: आप ऐसे ही बोल रहे हो 20 इसमें रख दे कोई मैं चोर हूँ यार आप तो ऐसे बोल रहे हो आपने Rs. 20000 मांगे थे ना 10C के

P.K. Jain : यार क्यों शोर मचा रहा है यार मैंने कुछ नहीं माँगा तेरे से यार

Anil Khanna: नहीं नहीं आप समझे नहीं

P.K. Jain : नहीं मैंने कुछ नहीं माँगा यार तू ऐसे ही

Anil Khanna: नहीं आपने 10 का आप ऐसे ही शक कर रहे हो

P.K. Jain : नहीं मैंने कुछ नहीं माँगा तेरे से

Anil Khanna: आप सक कर रहे हो कमाल हो गया शक करने वाली बात ही कोई नहीं है

P.K. Jain : ऐसे ही

Anil Khanna: आप ऐसे ही बात कर रहे हो चाय पिला रहे हो या जाऊ मैं चाय पिला रहे हो या जाऊ मैं

P.K. Jain : उधर चलेंगे

Anil Khanna: किधर

P.K. Jain : उधर जेई के कमरे में

Anil Khanna: वहां चाय पिलाओगे

P.K. Jain : बात करनी है

21 Although, during verification accused told the complainant that he had already recommended the file to senior officer and the said file was not pending with him and also during verification and trap proceedings, the conversation between complainant and accused reveal at some places, accused directly or indirectly denied that he had not demanded money / bribe from the complainant. However, the court has to draw inference for forming prima facie opinion from the entire conversation which took place between complainant and accused. The court cannot draw inference from isolated part or peculiar portion of conversation between complainant and accused which favours the accused. The cumulative reading of conversation between accused and complainant prima facie shows that although, accused did not himself start the talks regarding bribe money, but he also did not strongly disprove the offer or indication given by complainant regarding bribe money. Rather, conversation prima facie reveal that accused had agreed to having demanded and also accepted the bribe money. The conduct of accused prima facie shows that he was very cautious and taking precaution. His conduct also shows that although he was previously known to complainant but still, he was not having confidence upon the complainant and therefore he was participating in conversation regarding bribe in minimum possible words and therefore, instead of strongly refusing complainant about bribe or rebuking him, he was telling the complainant not to directly speak about the bribe money. Therefore, in considered opinion of this court, these facts are sufficient to prima facie form an opinion for limited purpose for proceeding against the accused for trial for commission of offence punishable U/s 7 of PC Act.

22 Consequently, from the above said facts and circumstances, this court is of the view that accused Pradeep Kumar Jain is liable to be charged for offence u/S. 7 of PC Act 1988 (as amended in the year 2018).

23 Nothing observed herein above shall have any bearing on the merits of the case during trial.

(ANKIT SINGLA)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/20.09.2024