

**CBI Vs. Brij Bhan Singh & Ors.  
RC No. 18(E)/2013/CBI/EOU-IV/EO-II/ND  
CC No. 229/2019**

**28.02.2020**

**ORDER ON CHARGE**

1. Vide this order, I shall dispose off the arguments on the point of charge(s).

2. Brief facts are :

**The present case was registered by CBI, EOU-IV/EO-II, New Delhi against Sh. Brij Bhan Singh s/o. Sh. Chander Gupt Singh, Prop. M/s. Max Enterprises, B-187, Mount Kailash, East of Kailash, New Delhi, DR. (Ms) Rifat Ali D/o. Shri Ali Mhd. Bhatt, B-124, Mount Kailash, East of Kailash, New Delhi and other unknown persons under Sections 120-B r/w 403, 406, 420 IPC and substantive offences thereof on the complaint of Shri Deepak Kumar Kakkar, AGM, Punjab National Bank, Circle Office (North Delhi), Delhi wherein it was alleged as under:**

**a) M/s. Max Enterprises through its proprietor Sh. Brij Bhan Singh and guarantor namely Dr. Rifat Ali obtained credit facilities to the extent of Rs. 3.5 crores on 23.09.2011, which was secured by way of equitable mortgage of property at AG-35, 3<sup>rd</sup> Floor, Shalimar Bagh, Delhi by Dr. Rifat Ali. However, this property was already mortgaged with Bank of India, Shaheed Bhagat Singh Marg, New Delhi in the loan account of M/s. Saraswati**

**Hospitals (I) Pvt. Ltd.**

**b) One of the conditions for sanction of loan was that sale proceeds would be routed through the account regularly, which was not done.**

**The investigations revealed that a current account no. 1603002100034752 in the name of M/s. Max Enterprises was opened with PNB, Laxmi Nagar branch on 07.09.2011 with the initial deposit of Rs. 5,000/-. The account opening form is undated, however, the date 07.09.2011 is appearing in the statement of account as opening date of this bank account. Investigation has revealed that the signature of Brij Bhan Singh appearing on this account opening form was actually made by Dr. Rajesh Kumar Singh. Thereafter, on 08.09.2011 a loan application was moved by Brij Bhan Singh, proprietor of M/s. Max Enterprises for extending credit facilities to the tune of Rs. 3.5 crores. For this property of 3<sup>rd</sup> floor AG-35, Shalimar Bagh in the name of Dr. Rifat Ali was proposed to be kept at collateral security whereas it was revealed that the sale deed dated 19.09.2011 with regard to the said property was forged.**

**The investigations also revealed that earlier Rajesh Kumar Singh and his wife Smt. Gunjan Singh had obtained loan from Bank of India, Shaheed Bhagat Singh Marg Branch, New Delhi in the name of Saraswati Hospitals Indian Pvt. Ltd. by mortgaging whole property at AG-35, Shalimar Bagh, New Delhi, which was owned by**

**Smt. Gunjan Singh during the year 2008. Later, the said loan turned into NPA. The said loan was obtained on furnishing of forged documents i.e. forged PAN Cards, ITR returns etc.**

**Regarding the role of public servant Rita Verma, she was working as Sr. Manager, PNB, Laxmi Nagar Branch. She dishonestly and fraudulently processed the said application / proposal and recommended for sanction of CC limit of 3.50 crores, despite so many anomalies in the said application. The investigations also revealed that the loan application form at the address of registered office, but no detail of the godown was mentioned. The concerned firm also furnished a rent agreement dated 02.12.2011 with regard to the premises at Faridbad, the same was forged and no verification was done by the concerned public servant.**

**The investigations further revealed that the party in the loan form submitted that it had started commercial operation in 2009 and having made Govt. supplies with turnover of Rs. 4666.95 lacs during 2011. However, no details of any bank account of the firm is mentioned anywhere.**

**The investigation further revealed that Smt. Rita Verma did not access MPBF as per bank guidelines mentioned in SME division circular No. 23/2010 dated 20.11.2010. Requirement of credit should have been arrived on the basis of Credit Monitoring Arrangement (CMA) data which has not been done as per the Board Note.**

**The investigations further revealed that Smt. Rita Verma in the Board Note concealed the facts that M/s. Sapphire International Traders was a group concern of M/s. Max Enterprises and they also had submitted a loan application form with a common guarantor and common addresses during the same period. Collateral security of another floor of the same building was offered in the loan of M/s. Sapphire International Tradres . Since, Dr. Rifat Ali was guarantor in both the proposals and was one of the Directors of M/s. Sanador International Hospitality Pvt. Ltd., the details of the said company was also supposed to have been analyzed. Both the loan application forms (of M/s. Max Enterprises and M/s. Sapphire International Traders) are filled in the same handwriting which itself confirms that both the firms were being actually controlled by the same persons. It has been revealed that loan application of both M/s. Max Enterprises and M/s. Sapphire International Traders were filled by Shri Neeraj Garg, an employee and close associate of Dr. Rajesh Kumar Singh, visited the bank to provide the documents and used to make transactions in both the loan accounts after sanction.**

**The investigations further revealed that Smt. Rita Verma obtained the confidential report in respect of Brij Bhan Singh, proprietor of M/s. Max Enterprises from Dr. Rajesh Singh, under whom Brij Bhan Singh was working as domestic servant and Neeraj Kumar Garg, an employee of**

**Rajesh Singh and mentioned as executive of the borrower firm in the loan application form. Dr. Rajesh Singh and neeraj Kumar Garg were the persons who were actually handling both the loan applications. Thus, Smt. Rita Verma and late Pushpender singh did not conduct any independent verification about Brij Bhan singh.**

**The investigations further revealed that the loan amount was disbursed without obtaining comprehensive insurance for the stocks. Insurance was obtained on 07.10.2011 whereas the whole limit had been disbursed by that date. The entire loan amount was transferred to 8 different bank accounts within a week. Out of these 8 bank accounts, 6 bank accounts were operated or controlled by Dr. Rajesh Singh and his associates. The account in respect of KABS Pharma and Maruti Enterprises were independent accounts and the firms were genuinely working in the Pharma field.**

**Regarding the role of accused Neeraj Garg, he filed an application for anticipatory bail dated 03.03.2015 before the Ld. ASJ Court at Saket stating that he was working as accountant in Indian Hospital, AG-35, Shalimar Bagh, New Delhi. Being accountant he was well aware of the fact that the whole property at AG-35, Shalimar Bagh, new Delhi was already mortgaged with bank of India. He opened the account in the name of M/s. Sarawati Enterprises as proprietor to facilitate the fraudulent siphoning of the loan funds. Account**

**opening forms of almost all the aforesaid bank accounts including the loan forms of M/s. Sapphire International and M/s. Max Enterprises are filled in his handwriting which have been found to be existing on papers only without any actual business. This shows that he was actively involved in the subject fraud.**

**The investigations further revealed that Dr. Rajesh Singh got transferred a portion / floor of a property at AG-35, Shalimar bagh, New Delhi in the name of Dr. (Ms) Rifat Ali with the intention to make her guarantor in the bank records. Though, it was well in the knowledge of Dr. Rifat Ali and neeraj Garg that the aforesaid property was already mortgaged with Bank of India, Shaheed Bhagat Singh marg branch in connection with loan of M/s. Saraswati Hospital (I) Pvt. Ltd. of which Dr. Rajesh Singh was Director yet they actively participated in the alleged fraud.**

**Investigations also revealed that Brij Bhan Singh visited the bank and signed the different loan documents and facilitated Dr. Rajesh Singh, Dr. Rifat Ali and Neeraj Garg in availing CC Limit of Rs. 350 lakhs sanctioned to M/s. Max Enterprises. Further, being third party guarantor in the loan of M/s. Saraswati Hospitals (I) Pvt. Ltd., he was knowing that the whole property at AG-35, Shalimar Bagh was already mortgaged with Bank of India.**

**Investigations further revealed that Smt. Rita Verma, the then Sr. manager in criminal**

**conspiracy with Late Pushpender Singh, the then Branch and Incumbent of the branch and private persons namely Dr. Rajesh Kumar Singh @ Rajesh Kumar @ Rajesh Singh, Dr. Rifat Ali, Neeraj Garg @ Neeraj Kumar Neeraj Kumar Garg and Brij Bhan Singh had caused a wrongful loss amounting to Rs. 3.50 crores and due interest thereupon to the bank and corresponding wrongful gain to the borrower and other co-accused persons.**

3. Ld. Counsel for (A-1) Brij Bhan Singh has argued that there is nothing on the record against the said accused and he has been wrongly charge sheeted without awaiting for the CFSL report, as in the CFSL report qua the handwriting dated 28.09.2017, none of the questioned signatures on the documents relied upon by the prosecution have matched with the admitted handwriting of the present accused Brij Bhan Singh, there is only one photograph affixed on the application form D-14 which could have been affixed by anyone, as he was the domestic servant of the main accused Rajesh Kumar Singh and there is no statement of any other witness of the bank or otherwise u/s. 161 CrPC that he had participated in the loan transaction in question. Therefore, there is nothing on the record to connect him with the offence(s) for which charge sheet had been filed. Therefore, he submits that he is liable to be discharged.

Ld. Counsel for the (A-3) Smt. Rita Verma has orally argued and has also filed written submissions that the said public servant i.e. A-3 has nothing to do with the alleged offence(s) and that she had performed and discharged of her official duties as Sr. Manager, PNB, Laxmi Nagar with sincerity and had dealt with the processing of the application of M/s. Max Enterprises, as per

Banking Rules and Procedure. There is nothing on the record to suggest the involvement of A-3 except her official forwarding and recommending notes based on the reports of different authorities nor there has been any incident of alleged acceptance of any illegal gratification by the said A-3 for obtaining any pecuniary advantage nor any recovery has been made at the instance of the above accused. The said accused had not been named in the FIR nor any recovery had been made from accused no. 3 nor there is any circumstantial evidence to show that she had any dishonest intention.

It is further stated that there was no criminal intent or any evidence pointing to the conspiracy between her and the other accused persons and there is no strong suspicion to frame charge(s) against her. In support of his contentions, he has relied upon the judgment ***P. Vijayan Vs. State of Kerala, AIR 2010, SC 663.***

Regarding the accused (A-4) Neeraj Kumar Garg, it has been argued on behalf of the Ld. Counsel that the said accused has been wrongly implicated as well, there is no evidence to establish conspiracy between him and the other accused persons, as he was merely working as accountant and no criminality can be attributed to him. Therefore, he submits that there is no material on record to frame charge(s) against him.

4. On the other hand, Ld. PP for CBI has strongly refuted the above arguments and has argued that there are number of lapses on part of the public servant A-3 for extending the credit facilities to the tune of 3.5 crores without due diligence. The collateral security which was offered with regard to the third floor AG-35, Shalimar Bagh, Delhi was in the name of Dr. Rifat Ali, who was close associate of Dr. Rajesh Singh. It was also revealed

that the sale deed dated 19.09.2011 submitted with regard to the said property was a forged document.

The investigations also revealed that the accused Rajesh Kumar Singh and his wife had obtained loan from Bank of India, Shaheed Bhagat Singh Marg branch in the name of Saraswati Hospitals Pvt. Ltd. by mortgaging whole of the property, whereas a forged sale deed with respect to the said property was furnished in the present case.

The public servant i.e. A-3 had fraudulently processed and recommended sanction of CC limit of Rs. 3.5 crores despite there being so much apparent anomalies in the loan application, for instance in the loan application form, the address of registered office was mentioned, but no detail of the godown was mentioned. The rent agreement dated 02.12.2011 in respect of premises at Faridabad was forged and no verification was done of these documents by the public servant. The investigations further revealed that the loan application and enclosures were bearing three different signatures of the proprietor and the differences were so prominent that any one could observe the same.

The investigation also revealed that the loaner had submitted that it had started commercial operations in 2009 and had tied up with different hospitals for supply of medicines with turnover of Rs. 4666.95 lakhs during the year 2011. It was also mentioned that the firm was supplying medicines to CGHS, ESIC and was dealing with companies like Cipla, Ranbaxy etc. However, no details of any bank account of the said firm was mentioned anywhere. It is further stated that it cannot be believed that a proprietorship firm existing since 2009 with such a huge turnover and dealing with government and aforesaid multinational companies was not having any bank account.

Further, she concealed in the bank note that M/s.

Max Enterprises was a group concern of M/s. Sapphire International Trader with common guarantors and common addresses and collateral property of another floor of the same building was offered in the loan of M/s. Sapphire International Traders. Dr. Rifat Ali was guarantor in both the proposals. Both the loan applications were filled up on the same handwriting by Neeraj Kumar Garg, who was an employee and close associate of Dr. Rajesh Kumar Singh, who visited the bank to provide the documents used to make transaction in both the loan accounts after sanction.

He has also argued that for the loan in question, the audit reports of the chartered accountant were forged. Further, the ITRs for the financial year 2009-10 of Brij Bhan Singh were not filed electronically, which fact had been concealed from the Board. The investigations further revealed that the CIBIL Report dated 19.09.2011 in respect of guarantor Dr. Rifat Ali was reflecting 38 loan inquiries, most of them were from PNB Bank, yet no clarifications were taken by A-3. The A-3 had also failed to obtain comprehensive insurance for the hypothecated stocks.

It has been further argued that in the bail application filed by accused Neeraj Garg, he had admitted that he was working as accountant in Indian Hospitals in AG-35, Shalimar Bagh and therefore, he was well aware of the fact that whole of the property at AG-35 Shalimar Bagh was already mortgaged with Bank of India and he had opened the account in the name of Saraswati Enterprises as proprietor to facilitate fraudulent siphoning of loan amounts and all the account opening forms including that of Sapphire International and Max Enterprises had been filled in his handwriting only.

Regarding the accused Brij Bhan Singh, he has submitted that from the statement of witnesses recorded u/S. 161 CrPC and other documents placed on the record, more than

sufficient suspicions arises that he is also involved in the conspiracy in question being the domestic servant of Dr. Rajesh Kumar Singh as he also used to visit the concern branch along with him.

He has also argued that his handwriting also matched on various documents with that of his admitted handwriting as per the CFSL report. Therefore, he has submitted that there is strong suspicion that all the accused persons are involved in the conspiracy to defraud the bank and they are liable to be charged accordingly.

5. I have gone through the rival contentions.

6. It is settled law that at the stage of framing of charge, it is not expected that the prosecution evidence should be meticulously evaluated. 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.

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.

Where the materials placed before the court disclose grave suspicion against the accused which has 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.

7. Further, the Hon'ble Supreme Court in **Sajjan Kumar Vs. Central Bureau of Investigation 2010 (9) SCC 368** held as under :

***“On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge;***

***(i) The Judge while considering the question of framing the charges under Section 227 CrPC 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. The test to determine prima facie case would depend upon the facts of each case.***

***(ii) 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.***

***(iii) The court cannot act merely as a post office or a mouthpiece 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 etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.***

***(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.***

***(v) At the time of framing of the charges, the probative value of the material on record***

**cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied**

**that the commission of offence by the accused was possible.**

**(vi) At the stage of Section 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.**

**(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."**

8. The law is also well settled to the effect that if at the time of framing of charge, two views are possible, the view in favour of accused shall be taken into consideration. The law is also well settled to the effect that at the time of framing of charge, the court has to shift the weight for a limited purpose and not to evaluate the entire evidence meticulously which the prosecution may lead after framing of charge nor the court has to hold a mini trial within the trial.

9. With regard to the role of accused Brij Bhan Singh (A-1), though his photograph appeared or affixed on the document D-14 which is the loan application form submitted by Max Enterprises with the PNB, Laxmi Nagar Branch, but as per the CFSL report dated 28.09.2017, it has been opined as under :

**The authorship of the questioned signatures marked Q-960 to Q-964, Q-971 to Q-976, Q-985 to Q-988, Q-1047, Q-1084, Q-1053, Q-10567, Q-1059, Q-1067, Q-1069, Q-1070, Q-1077, Q-1078, Q-1080, Q-1081, Q-1083, Q-1085, Q-1087, Q-1088, Q-1093 to Q-1095, Q-1097 to Q-1099, Q-1101 to Q-1103, Q-1105, Q-1106, Q-1108 to Q-1110, Q-1112 to Q1114, Q-1116, Q-1118, Q-1120, Q-1123, Q-1125, Q-1127, Q-1129, Q-1131, Q-1133, Q-1135, Q-1137, Q-1139, Q-1141, Q-1143, Q-1145, Q-1147, Q-1149, Q-1151, Q-1153, Q-1155, Q-1157, Q-1159, Q-1161, Q-1163, Q-1165, Q-1167, Q-1168, Q-1170, Q-1172, Q-1173, Q-1175, Q-1177, Q-1178, Q-1181, Q-1188, Q1223 to Q-1242, Q-1244 to Q-1294, Q1311 to Q-1313, Q-1325, Q-1328, Q-1392 to Q-1407, Q-1410, Q-1413, Q-1414 to Q-1417, Q-1418, Q-1421, Q-1422, Q-1425, Q-1426, Q-1429 to Q-1431, Q-1433, Q-1436, Q-1438, Q-1439, Q-1443, Q-1444, Q-1448, Q-1449, Q-1452, Q-1453, Q-1458, Q-1459, Q-1463, Q-1467, Q1470, Q-1471, Q-1473, Q-1475, Q-1476, Q-1478, Q-1480, Q-1482, Q-1484, Q-1498, Q-1499, Q-1503 to Q1505, Q-1507, Q-1509, Q-1512, Q-1514, Q-1519, Q-1520, Q-1523, Q-1524, Q-1527, Q-1528, Q-1531, Q-1534, to Q-1536, Q-1539 to Q-1541, Q-1544 and Q-1263A could not be connected with the writer of the specimen signatures marked S-688 to S-697 attributed to Brijbhan Singh.**

The perusal of the relevant documents to which this handwriting expert report pertains are the loan application form submitted by Max Enterprises, the signatures on which have not been found to be that of accused Brij Bhan Singh, as also the half yearly operating statement, forwarding letters, requesting for CC limit, the attested copies of the CA reports along with the balance sheet, showing him as proprietor of Max Enterprises and all the relevant documents seized by the CBI in this case pertaining to the loan documents, as no positive opinion has been opined by the CFSL expert that the said disputed signatures belonged to him.

10. With regard to the statement of witnesses u/s. 161 CrPC, firstly that of Neeta Madan, working as Deputy Manager, PNB, who was posted in the said branch during the relevant time. Though, she had stated that she had seen the Brij Bhan Singh on the day when the loan documents were executed, after the sanction of the loan of M/s. Max Enterprises, but she had not seen him before or after that day in the bank. Rather, Neeraj Garg, who introduced himself as accountant of Rajesh Kumar and authorized signatory of Brij Bhan Singh used to visit the bank for presenting cheques and RTGS applications.

In further statement recorded u/S. 161 CrPC the same witness stated that the said person i.e. Brij Bhan Singh whose photograph is pasted on the loan application on behalf of Max Enterprises visited the branch only once on the day when the loan documents were executed or signed. He never visited the branch before or after that.

Next is the statement u/S. 161 CrPC of another banker Shobha Aggarwal, who has stated that she is not in a position to comment whether Brij Bhan Singh visited the bank to open the account or not, nor she had seen him.

Next is the statement u/S. 161 CrPC of Piyush Sood, who was working in Bank of India, Shaheed Bhagat Singh Marg, who had stated that Brij Bhan Singh, third party guarantor, had also come to bank with other persons i.e. Rajesh Kumar Singh and Gunjan Singh to execute the documents, but he has not anywhere stated that this accused had actually executed any of the documents pertaining to that transaction with Bank of India. In any case, the said transaction is not in fact in issue in this case, as the loan transaction pertaining to the PNB, Laxmi Nagar Branch.

11. In these circumstances there is nothing on the record to connect the accused Brij Bhan Singh (A-1) with the loan transaction in question or for the offence(s) for which he has been chargesheeted. Further, as per Article 21 of the Constitution of India **“No person shall be deprived of his life or personal liberty except according to the procedure established by law”**.

In the judgment of ***Maneka Gandhi Vs. Union of Indian 1978 AIR, 597***, Hon'ble Supreme Court has held that the procedure established by law for depriving a person of his life and personal liberty, must be right, just and fair and not arbitrary, fanciful and oppressive, otherwise it will be no procedure at all and the requirement of Article 21 would not be satisfied.

12. The IO and the SP, who had forwarded the charge sheet seems to have jumped the gun in the present case by filing the chargesheet without waiting for the CFSL report. Though, it has been mentioned in page no. 9 of the charge sheet that **“The opinion of handwriting expert on the signatures of Brij Bhan Singh made by others is awaited,”** yet both of them proceeded to charge sheet this accused without awaiting for the report of the

CFSL handwriting expert which is totally negative qua him, which has deprived him of his life and liberty which is protected under Article 21 of the Constitution of India, save according to the procedure established by law. The procedure adopted by the IO / SP, CBI cannot be said to be just, right and fair.

Consequently, the IO and the then SP, CBI, EO-II, New Delhi, who has forwarded the charge sheet, are directed to show cause as to under what circumstances, they had chargesheeted the accused Brij Bhan Singh without awaiting the CFSL report qua handwriting, which has unnecessarily put the accused on inquiry for almost five years and he had been deprived of his life and liberty contrary to the procedure established by law.

13. With regard to the role of the public servant A-3, number of anomalies have been pointed out by the Ld. PP for CBI, as stated above in his arguments and despite so much infirmities in the application and other documents submitted on behalf of loaner, the said public servant did not get done the proper verification and *prima facie* fraudulently processed the loan application and recommended the sanction of cash credit limit of 3.5 crores by ignoring that forged sale deed had been submitted and forged audit reports as well as forged rent agreement had been submitted regarding which no verification was got done nor this fact was verified that whether any government supply was ever made as claimed by loaner having huge turnover of 4666.95 lakhs and without having any bank account and without verifying that the drug licence submitted by the borrower was just one and half month old.

The sanction u/s. 19 of PC Act, 1988 has already been given by the concerned sanctioning authority vide sanction dated 27.08.2015. I have gone through the same. From the perusal of

the same, it appears that the sanctioning authority has gone through the entire material placed before it and had *prima facie* given sanction after due application of mind.

The contention to the contrary can only be seen after conclusion of trial and after the examination of the sanctioning authority and other relevant witnesses in this regard.

14. Regarding the role of accused Neeraj Garg (A-4), for instance his handwriting on the documents at Q-977 to Q-984 and that on Q-1075, Q-1076, Q-1079, Q-1082, Q-1084, Q-1086 to Q-1089 to Q-1096 have been made by him, which is the loan application form of the M/s. Max Enterprises. Further, *prima facie* it appears he has forged signatures on the part of the document i.e. D-160 which is customer master form in the name of Subh Narain Singh, as signatures mark Q-1661, Q-1662, Q-1663 have been found to have been put by him purported to be of Subh Narain Singh.

Further, *prima facie* it appears he had also put signatures on the PAN number as well as voter I card and telephone bill, PAN number of Subh Narain Singh as well as Memorandum and articles of Association of Luv Kush Medicare Pvt. Ltd. of S.N. Singh and various other documents which have been *prima facie* found to be in his handwriting.

As per document D-314 which is the anticipatory bail application filed by the accused before the court of Ld. ASJ, Saket Court in RC No. E0016 to E0019 of 2013 and RC 220 of 2014 E0001 of 2014, in the said anticipatory bail application, he had admitted that he was working for Dr. Rajesh and in para 3 of the said application, it has been mentioned as under :

**3. It is respectfully submitted that the petitioner is an accountant by profession and was**

**appointed by the company named Indian hospital run by Dr. Rajesh Kumar Singh on 10<sup>th</sup> July 2008. the same is a proprietorship firm situated at AG-35 Shalimar Bagh, New Delhi. A copy of petitioner's appointment letter is attached herewith a annexure-P1.**

It was also stated in the said application that Dr. Rajesh Kumar regularly used to hand over cash to him for deposit in various accounts of the companies run by him. Along with the bail application, he had also filed appointment letter of M/s. Indian Hospital AG-35, Shalimar Bagh, Delhi dated 14.07.2008 and whereas the present loan was applied in the year 2011, therefore, *prima facie* it was not possible that he was not aware about the mortgaging about the property AG-35 Shalimar Bagh with bank of India by his employer Rajesh Kumar Singh prior to taking of the present loan.

15. With regard to evidence of conspiracy being admissible against all the accused persons *except accused Brij Bhan Singh (A-1)*, Section 10 of the Evidence Act, is relevant, same is reproduced as under :

***Section 10. Things said or done by conspirator in reference to common design.- Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing***

***that any such person was a party to it.***

In view of the said provision of the Evidence Act, if *prima facie* evidence of existence of conspiracy is given and accepted, the evidence of acts and statements made by any of the conspirators in furtherance of the common object is admissible against all **(AIR 2005 SC 716)**.

Further, Section 10 incorporates the principle of agency as otherwise, in the case of conspiracy there would be no evidence against the co-conspirators for the individual act done by the conspirators in furtherance of their common object. It has been held in ***Badri Rai Vs. State of Bihar AIR 1958 SC 953*** that ***“Section 10 has been deliberately enacted in order to make acts and statements of a co-conspirator admissible against the whole body of conspirators, because of the nature of crime.”***

Since, there is more than reasonable grounds in view of above discussion to infer the existence of conspiracy between all the accused persons, therefore, anything said, done or written by any of them in reference to the common intention during the subsistence of the conspiracy would be a relevant fact against each of accused persons by the principle of agency incorporated u/S. 10 of the Evidence Act.

16. In view of the above discussion, there is strong suspicion that the accused persons (A-3) Rita Verma (public servant) and (A-4) Neeraj Kumar Garg along with (A-5) Rajesh Kumar Singh and (A-2) Dr. (Ms) Rifat Ali @ Riya (**since both PO**) entered into conspiracy to fraudulently and dishonestly obtained cash credit limit of Rs. 3.5 crores on the loan application of M/s. Max Enterprises from PNB, Laxmi Nagar Branch, thereby dishonestly

cause a wrongful loss to the above bank by using forged document(s) for the purpose of cheating, and some of the forgery pertained to the documents, which were valuable securities and such documents were used as genuine despite knowing the same to be forged documents for the purpose of cheating the above bank.

17. Consequently, from the above said facts and circumstances, *prima facie* the accused persons i.e. A-3 Rita Verma and A-4 Neeraj Kumar Garg are liable to be charged u/S. 120-B r/w 420/467/468/471 IPC r/w 13(2) r/w 13(1)(d) of the PC Act, 1988.

Further the accused Rita Verma will also be liable to be charged substantively u/S. 13(2) r/w 13(1)(d) of the PC Act, 1988.

Further, the accused Neeraj Kumar Garg will also be liable to be charged substantively u/S. 420/467/468/471 IPC.

Further, as discussed at length above, the accused Brij Bhan Singh (A-1) stands discharged of the offence(s) u/S. 120-B, 420, 471 IPC and Section 13(2) r/w 13(1)(d) of PC Act 1988 and substantive offences thereof.

18. Let formal charge(s) be framed against the accused persons Rita Verma (A-3) and Neeraj Kumar Garg (A-4), as discussed above.

19. As directed above, the IO and the then SP, CBI, EO-II, New Delhi, who has forwarded the charge sheet, are directed to show cause, as to under what circumstances, they had chargesheeted the accused Brij Bhan Singh without awaiting the CFSL report qua handwriting, which has unnecessarily put the accused Brij Bhan Singh on inquiry for almost five years whereby he has been

deprived of his life and liberty contrary to the procedure established by law, in violation of Article 21 of Constitution of India.

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

**Announced in the open Court                      Sanjeev Aggarwal  
on this 28<sup>th</sup> day of Feb. 2020.                      Special Judge-CBI (PC Act)-02  
Rouse Avenue Court/New Delhi  
28.02.2020**