

**IN THE COURT OF MS. ANJU BAJAJ CHANDNA  
PRINCIPAL DISTRICT & SESSIONS JUDGE-CUM-SPECIAL  
JUDGE (PC ACT) CBI ROUSE AVENUE DISTRICT COURTS,  
NEW DELHI**

**Cr. Rev 35/2024**

**Vishal Exports Overseas Ltd. & Anr. Vs CBI**

**CNR No. DLCT11-000974-2024**

**Appearance : Sh. Vikas Sharma and Sh. Deekshant Kumar  
Ld. Counsels for revisionist.**

**Sh. A. K. Kushwaha, Ld. Sr. PP for CBI**

28.01.2025

**ORDER**

1. The present revision has been preferred by the petitioners Vishal Exports Overseas Ltd (through its Managing Director) and Pradeep Subhash Chandra Mehta against the impugned order dated 29.04.2024 whereby charges have been ordered to be framed against the petitioners for the offences punishable under 420 IPC and 471 read with Section 468 IPC.

2. According to the petitioner, the order passed by Ld. ACMM-2 cum ACJ has been unjust and unreasonable. There is nothing incriminating against the petitioners / accused for framing of charges. No criminality can be attached to the normal business dealings as also the petitioner cannot be impleaded as an

accused merely because he is director of the company or the beneficiary of the deal / contract. The judgment of **Anil Hada vs Indian Acrylic Limited (2000) (1) SCC** has been relied upon on this aspect. The investigating agency has failed to place on record any material showing wrongful gain to the petitioners / accused and corresponding loss either to the Food Corporation of India or Punjab State Warehousing Corporation. The correctness, legality and propriety of the impugned charges have been challenged. The petitioners have relied upon the following judgments in support of petition:-

1. M. S. Lamba vs CBI, RCR, 1996 (1).
2. State of T. N. vs N. Suresh Rajan (2014) 11 SCC 709
3. Onkar Nath Mishra vs State (NCT of Delhi) 2008 2 SCC 561
4. K. Ramakrishna vs. State of Bihar, AIR 2000 SC 3330
5. Rajesh Bajaj vs State NCT of Delhi (1999) 3 SCC 259.
6. K. Neelaveni vs State (represented by Inspector of Police & Ors. (2010) 11 SCC 607.
7. Century Spinning and Manufacturing Co. Ltd. vs. State of Maharashtra, 1997 Cr. LJ239.
8. State of Karnataka vs. L. Muniswami & Ors. AIR 1977 SC 1489.
9. Union of India vs Prafulla Kumar Samal, 1979 Cr.LJ 154.
10. Niranjana Singh Karan Singh Punjabi vs. Jitendra Bhimraj Bijjaya (1990) 4 SCC 76.

11. State of UP. Through CBI vs Dr. Sanjay Singh & Anr., 1994 Supp (2) SCC 707.
12. State of Madhya Pradesh vs S. B. Johari & Ors., 2000 SC (Cri) 311.
13. Dilawar Balu Kurane vs. State of Maharashtra (2002) 2 135.

3. It is prayed that impugned charges be set aside as ordered vide order dated 29.04.2024 and framed vide order dated 03.08.2024.

4. On behalf of CBI reply has been filed stating therein that RC 04 (A)/2006/CBI/ACU-VII was registered against the accused company for the offences punishable under Section 120-B, 420, 468 and 471 IPC and Section 13 (2) r/w Section 13 (1)(d) of PC Act 1988. On completion of investigation, charge-sheet was submitted for the offences punishable under Section 420 r/w Section 511 and 471 IPC. Cognizance was taken on the charge-sheet.

5. A contract was signed on 12.03.2003 between Punjab State Warehousing Corporation (PSWC) and M/s Vishal Export Overseas Ltd who was having an export contract with a foreign buyer to export 5500 MT rice which was to be allotted by FCI. Investigation revealed that a contract was signed on 12.03.2003 between PSWC and M/s Vishal Export Overseas Ltd

who was having an export contract with a foreign buyer to export 5500 MT rice, which was to be allotted by FCI. After obtaining allocation for 5500 MT Par Boiled rice for the crop year 2002-2003, a representative of PSWC, Chandigarh deposited an amount of Rs. 3,82,25,500/- and the release order was issued for issue of 2000 MT rice to PSWC, Chandigarh for the purpose of export @6915/- Per MT from FCI Depot, Ferozpur, 1500 MT from FCI Depot Abhohar, 2000 MT from FCI Depot, Jalabad making a total of 5500 MT.

6. It is further stated that PSWC Chandigarh (A/c M/s Vishal Export Overseas Ltd.) vide letter dated 30.04.2004 and 24.06.2004 submitted export documents such as invoice, shipping bills, bill of lading, Bank Realisation Certificate (BRC), etc for 4223 MT and 1167 MT rice respectively. The documents received so, were sent for verification of their genuineness to custom Authorities of Kandla, who vide letter dated 25.10.2004 intimated about genuineness of shipping bill dated 31.01.2004 for the quantity of 3000 MT rice only. Consequently, a committee was constituted by Distt. Office, FCI, Ferozpur to look into the matter of BRC issued by Development Credit Bank and State Bank of India. The Development Credit Bank confirmed to the committee of members on 31.03.2006 that the BRC in question for export of 1167 MT rice was not issued by them, whereas SBI confirmed that the BRCs in question for 4223 MT rice (3000+1223) was issued by them. Finally the export document

for 4223 MT rice were accepted on the advice of Regional Office, FCI (Punjab), Chandigarh.

7. The BRC produced by M/s Vishal Export Overseas Ltd. Ahmedabad was forged and had not been issued by the Development Credit Bank, Ahmedabad as the bank was not issued any code "ENRC" but the issued code started from "ENRN". 4223 MT rice was exported from Kandla port as per record available in the port. However, with regards to the export of 1167 MT rice, it is revealed that the consignment, mentioned in shipping bills no. 9803 was not shipped on the vessel MV Sinar Riau on 07.04.2004. The shipping bills no. 9803 and 9804 dated 07.04.2004 in favour of M/s Vishal Export Overseas Ltd, did not contain endorsements of custom noting clerk, assessing officer and Assistant Commissioner (Export), Custom house, Kandla Gujarat for the consignment of 545 MT and 625 MT respectively of non-basmati rice. 575 MT rice was purchased by Shree Gokul Rice Mills and 75 MT rice was purchased by Savan traders from M/s Vishal Export Overseas Ltd., in the year 2004 @ Rs. 8200 per MT.

8. Revisionist Pradeep S Mehta, Managing Director, M/s Vishal Export Overseas Ltd, gave direction to Shri Suresh Padya to dispose of balance 1167 MT of rice in domestic market. M/s Vishal Overseas Export Ltd. through its MD, Sh. Pradeep S. Mehta was the beneficiary of the attempt of cheating and forgery

by using forged documents as genuine to show the export of the quantity of 1167MT rice with the object to cheat the exchequer of the FCI by selling the rice in open market, which had been allocated at subsidized rate as per the policy of Govt. of India.

9. CBI has prayed that the petition be dismissed. CBI has relied upon the following judgments:-

1. Sunil Bharti Mittal vs CBI, AIR 2015 SC 923.
2. Union of India vs Prafulla Kumar Samal & Ors. 1979 AIR 366.
3. Sajjan Kumar vs CBI, SLP (Crl.)No. 6374 of 2010 dated 20.09.2010

10. Vide impugned order dated 29.04.2024, the Ld. ACMM court has made the following observations:-

*“Considering the allegations against the accused, contents of the charge-sheet, statements of witnesses recorded and the documents filed along with the charge-sheet, prima facie case of commission of offence u/s 420 IPC and 471 IPC is made out against accused company M/s Vishal Exports Overseas Ltd. (through its director Pradeep Subhash Mehta) and accused Pradeep Subhash Mehta for which charge is to be framed.”*

11. I have heard both the sides and also examined the trial court record.

12. The present revision is directed against the order on charge. 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.

13. 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](#).*

14. 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.”*

15. 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”.*

16. 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.*

17. Thus, in view of above judgments, at the stage of charge, court is required to evaluate the facts and evidence only to ascertain if there is sufficient evidence and prima facie case raising grave suspicion about the commission of the offence and involvement of the accused. On examining the entire record, it is clear that there is sufficient evidence to show forgery of Bank Realisation Certificates (BRCs) on the part of the firm and benefits thereof have been availed of by the firm. As per the contract, the firm was required to export 5500 MT of rice while only 4223 MT of rice was exported and remaining was sold in

domestic market. There is verification to the effect that Bank Realisation Certificates were forged and in this way FCI was induced to release 5500 MT of rice for the purposes of export.

18. The claim on behalf of accused company that differential amount has been paid off is of no consequence as once the offence has been committed, the subsequent payment of differential amount would not make any difference. The shipping bills were also found to be not genuine while the same were being used by the petitioner to show that consignment was shipped.

19. In my opinion, Ld. ACMM has rightly ordered framing of charges against the petitioners as there was sufficient material on record raising grave suspicion about the commission of offences and involvement of the accused.

20. Accordingly, there is no reason to interfere with the order of Ld. ACMM. There is no merit or substance in the present revision, hence same is dismissed.

21. Copy of order be sent to the Ld. trial Court for information. Trial court record be also sent back.

22. Revision file be consigned to the record room.

**(Anju Bajaj Chandna)**  
Principal District & Sessions Judge-  
cum-Special Judge (PC Act) (CBI),  
Rouse Avenue District Court  
**New Delhi/28.01.2025**