

CBI Vs. Monish Malhotra & Ors.

CC No.341/2019

31.01.2020

Present : Sh. Om Prakash, Ld. PP for CBI.

A-1 on bail with Sh. Ajit K. Singh and Sh. Deepak Bhadana Advocates.

A-2 is on bail with Sh. Ashish Garg Advocate.

Today the matter is fixed for filing of replies to the two applications of A-1 and arguments on the point of charge.

Ld. PP for CBI seeks some more time to file the replies of the two applications of A-1.

Arguments heard on the point of charge.

It has submitted by the Ld. Counsel for A-1 that the charges may be framed against A-1 as per record and he pleads not guilty to them.

As far as A-2 is concerned, it has been argued that the charge sheet does not disclose as to what amount was received by A-2 as gratification on behalf of A-1 and what A-1 has to do in lieu of that gratification. There is no beneficiary of the alleged gratification alleged to be collected by A-2 on behalf of the A-1 and in the absence of any beneficiary, no charges under PC Act are made out. It is also argued that A-2 had taken a loan from the wife of A-1, which he was repaying in instalments and there is no material on record to show that in what backdrop the cash amount of Rs.10,000/- was given by A-2 to A-1 on 02.08.2017.

Ld. PP for the CBI has rebutted the arguments advanced by A-2. It has been submitted that the plea of loan is a defence of accused, which requires trial and the list of the beneficiary is annexed with the charge sheet as document no. 9

and the gratification was accepted by A-1 through A-2 to protect those identities.

I have heard the submissions. As far as the plea of loan by A-2 is concerned, Ld. PP as rightly submitted that the same is a defence of A-2, which requires trial.

Coming to the second plea of absence of beneficiary, Section 13 of the PC Act, does not talk about any such beneficiary and further document no. 9 records the list of persons through whom the gratification collected by A-2 on behalf of A-1 and at this stage, prosecution has to be given an opportunity to prove the case and accused can not be discharged only on the basis of verbal arguments.

There is sufficient material on record to frame charges against both the accused persons as follows :-

(I) A-1 Monish Malhotra had committed the offences punishable under Section 120B of IPC read with Section 7,8 and 12, 13(1) (d) r/w Section 13(2) of the PC Act, 1988 and Section 109 of IPC Act. He had also committed the offence punishable under Section 7 of PC Act read with Section 120B of IPC. He had also committed the offence punishable under Section 13(1) (d) read with Section 13(2) of PC Act read with Section 120B of IPC.

(II) A-2 Manas Patra had committed the offences punishable under Section 120B of IPC read with Section 7,8,12, 13(1)(d) read with Section 13(2) of PC Act and Section 109 of IPC. He had also committed the offence punishable under Section 12 of PC Act read with Section 120B of IPC. He had also committed the offence punishable under Section 8 of PC Act read with Section 120B of IPC. He had also committed the offence

punishable under Section 109 of IPC read with Section 13(1)(d) read with Section 13(2) of PC Act.

Let the charges be framed accordingly.

Charges are framed separately against both the accused persons, to which they have pleaded not guilty and claimed trial.

Let PW- (1) Sh. Anil Kumar Mann, (2) Sh. Sunil and (3) Inspector Sh. Vikki Gautam, mentioned in the list of witnesses at serial no. 1,6 and 8 be summoned for the next date of hearing.

At this stage, Ld. Counsel for A-1 has filed two applications of applicant Radha Sharma i.e. (1) application for seeking direction for defreezing of her locker and release the key of said locker and (2) application for release of unrelid documents, which were seized by the CBI during the house search of the applicant Radha Sharma. Copies supplied.

Put up for PE and replies/arguments on behalf of CBI on the two applications of A-1 and on the two aforesaid applications of applicant Radha Sharma on **13.03.2020**.

(AMIT KUMAR)
Special Judge, PC Act, CBI-04
Rouse Avenue Courts, New Delhi
31.01.2020