

NCB Vs. Maria Laura Balcazar Zabala & Ors.
Case No. SC/412/17

01.06.2018

Present: Sh. P.C. Aggarwal, SPP for NCB.

All accused produced from JC.

Defence counsels Sh. Gaurav Chandhok and Ms. Svetlana.

Arguments on charge have already been advanced by both the parties.

It is submitted by Ms. Swetlana that no recovery was made from accused Michael Azubuike and Michael Onyebuchi. There was no recovery effected from their residence also. There is no CCTV footage from the hotel which is a public place, to show that there was any connection between the accused persons. It is submitted on behalf of accused Michael Onyebuchi that even his statement recorded u/s 67 NDPS Act is exculpatory.

It is submitted by SPP for NCB that accused Maria came to India with the contraband on the said date which was to be handed over to accused Michael Azubuike and Michael Onyebuchi. It is submitted that accused Maria Laura, after arrest had disclosed the name of one 'Amigo' from whom she had got the said contraband to be supplied to other two co-accused persons. She also provided one phone number of said Amigo. It is also submitted that the other two accused persons have also disclosed the same phone number however they told the name of the person as I.K. Chidi. That the two mobile numbers being used by accused Michael Onyebuchi and Michael Azubuike were procured by them in the name of some Indian persons with the help of forged documents. He further submitted that the statement of accused Maria was recorded in the presence of one interpreter, two panch witnesses, one hotel manager and there was one taxi driver also

namely Sh. Rajesh who had brought accused Michael Onyebuchi and Michael Azubuiké.

It has been vehemently argued on behalf of accused Maria that the case of the prosecution was unbelievable as nobody could be believed to have brought the alleged bag with contraband out of the scrutiny of the airport authorities.

It is submitted by Ld. SPP that there is a huge recovery of 2.5 kg of cocaine. He further submitted that in case there was a lapse on the part of the airport authorities, the accused cannot claim immunity. That there was sufficient material to connect all the three accused with the offences alleged. The statement of the accused Maria u/s 67 NDPS Act has been recorded in the presence of five persons. She has disclosed that the recovered drug was to be delivered to the other two accused Michael Onyebuchi and Michael Azubuiké.

Ld. SPP for NCB has further submitted that the accused persons were intercepted on the basis of specific information alongwith the baggage and the said baggage belonged to accused Maria as per the airline and travel documents. He also contended that since accused maria was in possession of the recovered contraband and recovered contraband was brought by her in India, therefore, offence u/s 21 and 23 of NDPS Act are made out against her. Ld. SPP further stated that the other two accused persons are also conspirators and involved in the drug peddling. They had come to the hotel with the intention to receive the recovered drug, hence, they have also violated the provisions of NDPS Act and charges should be framed against them.

On perusal of the documents annexed, it is revealed that the bag in question belonged to accused Maria which she had brought from abroad and the recovered drug was found concealed in it. The other two

accused persons had come to the hotel with pre-planned conspiracy to receive the recovered drug from accused Maria, statement of accused Maria u/s 67 NDPS Act has been recorded and same is inculpatory. Therefore, there is prima facie sufficient material available on record to proceed against all three accused persons. Hence, charges u/s 21, 23 and 29 NDPS Act be framed against accused Maria and charges u/s 21 r/w section 29 be framed against the other two accused persons. The submissions raised on behalf of the accused persons could be considered only after the prosecution is given an opportunity to lead evidence to prove the allegations. Let formal charge u/s 21(c), 23(c) and 29 NDPS Act be framed against the accused. Charges have accordingly been framed to which all the accused persons have pleaded not guilty and claimed trial.

List this case for PE now on 13.08.2018 and 27.08.2018.

(Sudesh Kumar II)
Spl. Judge, NDPS/N. Delhi
01.06.2018