

CBI vs. P.Sasi
CC No.35/2019
CNR No.DLCT110000772019
RC No. ACI/2004/A006/CBI-ACU-I

19.07.2022

Present: Sh. Lalit Mohan, Ld. PP for CBI.

Sh. Riyaz A. Bhat, Sh. Saifuddin and Sh. S. Kander,
Ld. Counsel for accused.

Accused present on bail.

In the course of cross-examination of PW18 Mathew Samuel on 18.7.2022, Ld. Defence Counsel sought permission of the Court to put to the witness the detailed deposition of the witness before Justice K. Venkataswami Commission of Inquiry contained in two volumes. The permission sought was objected to by the Ld. PP for CBI contending that the deposition of this witness before the said Commission of Inquiry has no relevance to the present prosecution.

1. Ld. Defence counsel submitted that the deposition of PW18 Mathew Samuel before the said Commission of Inquiry is in fact a previous statement and that the witness can be confronted in respect of contradiction with the said previous statement in accordance with Section 145 of Indian Evidence Act 1872. Moreover, two of the affidavits of this witness given before the said Commission of Inquiry are relied upon by prosecution as Ex.PW18/D1 and PW18/D2.

2. On the query of the Court it was clarified that the record of the said Commission of Inquiry does not constitute part of the charge sheet and Ld. Defence counsel further clarified that the said Commission of Inquiry did not submit any report and was in fact wound up before the inquiry could be concluded.

3. Ld. PP submits that the said deposition cannot be used for the purposes of confrontation as the same was not made before any Court of Law, in the course of investigation before the IO, u/s 161 Cr.P.C. or otherwise. Ld. PP has drawn the attention of the Court to Section 6 of the Commissions of Inquiry Act 1952.

4. Ld. Counsel has relied upon judgment in Maj. Somnath Vs. Union of India AIR 1971 SC Page 1910, AIR 1982 SC 839 Mohan Lal Ganga Ram Geharani Vs State of Maharashtra, AIR 1965 Bombay Sohanlal Prahladrai Vaid Vs State, 1978 CrL. L. J. 1157 State of Maharashtra Vs Ibrahim Mohd. Hussain, 1982 CrL. L. J. 1672 State of Assam Vs Suprabhat Bhadra and CrL. Rev. P. 328/212 Sajjan Kumar Vs Central Bureau of Investigation in support of his contentions.

5. Heard. Record perused.

6. The present case came to be registered on 6.12.2004 in respect of the matter concerning “Tehelka Tape Exposure” against accused P. Sasi on the allegation that during 2000-2001 while posted and functioning as Assistant in the Ministry of Defence, he obtained illegal gratification from the representatives of Tehelka.com who were acting under fake identity as representatives of a fictitious firm, as consideration for rendering service by providing relevant information/documents to the said representatives and for inducing other officials of the Indian Army/Ministry of Defence by exercising personal influence, to render assistance in the matter of evaluation of the product purported to be sold to the Indian Army by the fictitious firm. The charge-sheet filed on 18.12.2006 makes no reference to any proceedings before or related to the Justice K. Venkataswami Commission of Inquiry. The FIR is registered consequent to the receipt of information/material from the then Additional

Secretary to Government of India (GoI), Department of Personnel and Training after abolition of Justice S.N. Phukan Commission of Inquiry which had been looking into the matter concerning Tehelka Tapes exposure, who has since been examined as PW13 and has proved the said letter and Gazette Notification. The prosecution has not relied upon any part of the proceedings of the said Commission of Inquiry. The deposition of Mathew Samuel if recorded before the said Commission is not filed with the charge-sheet nor relied upon by the prosecution, nor put to the witness in his examination in chief. The submission of the Ld. Counsel that the prosecution itself has relied upon 2 affidavits of this witness filed before the said Commission is not borne out from the record. The documents Ex. PW18/D1 and PW18/D2 were introduced in the cross-examination of this witness conducted on 27.2.2020. Certain clarifications therefore are required from the Ld. Counsel for the Accused.

For clarifications, put up at 1.15 PM as evidence is being recorded in the connected matter.

NEELOFER ABIDA PERVEEN
Special Judge (PC Act) (CBI)
Rouse Avenue Court
New Delhi 19.07.2022

At 1.15 PM.

Present: Sh. Lalit Mohan, Ld. PP for CBI.

Sh. Riyaz A. Bhat, Sh. Saifuddin and Sh. S. Kander,
Ld. Counsel for accused.

Accused present on bail.

Ld. Counsel submits that Justice S.K. Phukan Commission is in fact the successor commission and that initially

the inquiry was entrusted to the Justice K. Venkataswami Commission of Inquiry. Ld. Counsel submits that there other judicial pronouncements subsequent to Kehar Singh's case that he wishes to rely on and that some time may be granted for the same. Ld. Counsel in the course of cross-examination of this witness in the connected matter got visibly unwell. Judicial pronouncements, if any, be filed by Saturday as requested. For orders on the objection put up on 25.07.2022. For prosecution evidence on 22.8.2022, 25.8.2022 and 27.8.2022. Witness Mathew Samuel is present but is discharged unexamined for today as Ld. Counsel has taken ill. Witness is bound down for 22.8.2022. Remaining witnesses be summoned for 25.8.2022 and 27.08.2022.

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