

SC 3A/11/2014  
7256/2016  
DRI Vs. ANIL KUMAR ORS

22.11.2019

Present: Ms. Mala Sharma, Ld. SPP for the DRI.

Sh. S. S. Dass Ld. Counsel for accused Amit Kumar Singh.

Vide separate order, dictated and announced in the open Court,  
the application of DRI u/s 311 Cr. PC dated 29.11.2018 **is allowed. The documents alongwith the application and the list of witnesses are taken on record.**

Matter be listed on the date already fixed i.e. **on 29.11.2019 for prosecution evidence.**

**(Rajesh Kumar Singh)**  
Special Judge (NDPS Act)  
South District, Saket/22.11.2019<sub>AR</sub>

**IN THE COURT OF SH. RAJESH KUMAR SINGH ,  
SPECIAL JUDGE-NDPS/ASJ (SOUTH) SAKET COURTS, NEW DELHI**

SC 3A/11/2014  
7256/2016  
DRI Vs. ANIL KUMAR ORS

22.11.2019

**Order on the application of DRI u/s 311 Cr. PC dated 29.11.2018**

1. By this order I shall dispose of the application of DRI u/s 311 Cr. PC dated 29.11.2018. DRI has prayed that the documents filed alongwith the application be taken on record and it be permitted to examine the witnesses mentioned in para 14 of the application.

2. Brief facts necessary for disposal of the application are that search and seizures were conducted in this case from 15.04.2013 to 17.04.2013. Various recoveries were effected including the recovery of 951.35 kg of substance from a Toyota Fortuner vehicle bearing no. DL-13CA-1800. The vehicle is owned by a company of the accused Amit Kumar and his wife Ms. Nupur Singh. The vehicle was located on the disclosure of accused Manu Khosla. According to the CRCL, Delhi and CFSL Hyderabad report, 747.400 kg of the substance recovered from the vehicle is Ketamine Hydrochloride (a psychotropic substance) and 53.950 kg is Phenylpropamolamine (a controlled substance).

3. Amit Kumar Singh was examined by DRI u/s 67 of NDPS Act (hereinafter referred to as the Act) on 02.05.2013 and he stated that he had filed FIR on 18.04.2013 at PS Kotwali Bullandshehar regarding theft of the Toyota Fortuner vehicle. In his third bail application dated 03.12.2015 captioned as the second bail application, the accused Amit Kumar stated

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that one Khazan Singh was arrested on 06.12.2014 by PS Vijay Vihar , Delhi in FIR no. 1434/14. He disclosed that he had stolen the Toyota Fortuner vehicle involved in this case and had sold the same to Praveen aka Sonu for Rs. 5,00,000/-. The bail application was ultimately withdrawn by the accused but DRI investigated the matter and found that a criminal conspiracy was hatched by the accused Amit Kumar, his brother Lalit Singh, Khazan Singh, Manjeet Singh of Agra and Amrish Puri to create false defence for the accused Amit Kumar by showing that the Toyota Fortuner vehicle had been stolen. Manjeet Singh provided his skoda car bearing no. UP-80-AN-0109 at the request of Amrish Puri. The vehicle was handed over to Khazan Singh on 12.04.2015 and he went to Delhi by the car. Complaint regarding theft of the car was made at PS New Agra on 20.04.2015. On 06.05.2015 Khazan Singh and Praveen Kumar @ Sonu were apprehended by the staff of PS Badli, Delhi. They were travelling in skoda no. UP-80-AN-0109 which was reported to have been stolen from Agra. Khazan Singh made confessional statement that he had stolen the Toyota Fortuner vehicle and had sold the same to Praveen aka Sonu for Rs. 5,00,000/-. He also confessed that he had stolen a maruti eeco van no. DL-3CBU-0409. The van was recovered at his instance.

4. The investigation carried out by DRI revealed that Rs. 30,000/- had been transferred from the account of proprietorship firm of sister-in-law of the

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accused Amit Kumar to the account of son of Khazan Singh. The persons involved in the conspiracy were in regular touch through mobile phones. The application contains detailed narration regarding following of the case at PS Bullandshehar by the accused Amit Kumar and conviction of Khazan Singh. It also contains narration of complaints made by DRI and applications/petitions filed by them before different judicial forums.

5. Notice of the application was issued to the accused persons. Only the accused Amit Kumar has filed reply. Submissions have also been made on the application only by his Ld. Counsel. I have considered the submissions made by Ld. SPP for DRI, the submissions made by Ld. Counsel for accused Amit Kumar and the material on record.

6. U/s 231 Cr. PC, the Court is supposed to take all evidence which may be produced by the prosecution in support of the case. This provision does not say that the evidence received after the stage of Section 226 Cr. PC cannot be received. Section 311 Cr. PC gives discretion to the Court to allow examination of any person as a witness if it is essential for just decision of the case. It is the defence of the accused Amit Kumar that the Toyota Fortuner vehicle was stolen. His Ld. Counsel cross-examined PW-10 Mr. B. K. Banerjee at length on this aspect. Prosecution has to be given an opportunity to place on record the documents which according to them show that false statement had been made by the accused Amit Kumar in his statement u/s 67 of the Act and that he is taking false defence before the

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Court. Section 5 of the Indian Evidence Act provides that evidence may be given of the existence or non-existence of every fact in issue and of such other facts as have been declared relevant under the Indian Evidence Act, 1872. There is no substance in the contention of the accused Amit Kumar that the application has been filed with ulterior motive. DRI will prove the allegations being made in the application by leading the evidence as prayed. No prejudice is caused to the accused.

7. While issuing notice of the application, this Court observed in order dated 04.06.2019 that this Court will also consider whether the application u/s 311 Cr. PC can be treated as an additional complaint. Accused Amit Kumar claims that he has been prejudiced by the said observation. This claim of the accused is without any substance.

8. The contents of the application u/s 311 Cr. PC show that a criminal conspiracy was hatched to save the accused Amit Kumar by creating false evidence regarding theft of Toyota Fortuner vehicle. If a false information is given regarding an offence with intention to screen the offender from legal punishment, it amounts to an offence u/s 201 IPC. This offence is triable by the Court of Magistrate. DRI has not invoked Section 36 A (2) of the Act. Their petition regarding the order passed by the Court of Ld. CJM, Bullandshehar convicting Khazan Singh for the theft of Toyota Fortuner vehicle is pending before Hon'ble Allahabad High Court. There are various

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options available to DRI if they want to file a complaint separately against the accused Amit Kumar and others for creating false evidence. However, discussion of those options by this Court is not required. The application can be disposed of in light of the prayer made by DRI. The discussion above shows that the documents which DRI wants to place on record and the witnesses which it proposes to examine are essential for just decision of the case. Accordingly, **the application is allowed. The documents alongwith the application and the list of witnesses are taken on record.**

*(announced in the  
open Court on  
22<sup>nd</sup> November 2019)*

**(Rajesh Kumar Singh)**  
Special Judge (NDPS)/ASJ  
South District: Saket