
(2002) 10 DEL CK 0108
In the Delhi High Court
Case No : Criminal R. No. 198 of 2000

Kapil Bhasin

APPELLANT

Vs

C.B.I.

RESPONDENT

Date of Decision : 10-10-2002

Acts Referred:

Penal Code, 1860 (IPC) — Section 120, 201, 420
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)

Citation : (2002) 101 DLT 279 : (2003) 66 DRJ 266

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : Nem, for the Appellant; A.K. Dutt, for the Respondent

Final Decision : Allowed

Judgement

J.D. Kapoor, J.—The petitioner has been charged for the offences punishable under Sections 120B r/w Sections 420 and 201, IPC and offence u/s 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and offences under Sections 25 and 27 of Indian Telegraphic Act. Main allegation against him is that he tore one or two pages of the register containing the details of telephone bills against a telephone which was being misused by the company of which he happened to be an employee in connivance and conspiracy with the employees of the MTNL.

2. The case of the petitioner can be segregated from the other accused on the premise that he was in the employment of the said company named Cepham Organics Limited only for 4-5 months. He is a highly qualified person and was working as Advisor to the company. The statement of the witnesses recorded by the IO is mainly against the Chairman of the company and there is also a reference that Mr. Samir Pruthi one of the the Directors of the company was also engaged in the conspiracy. Conspiracy was unearthed by the CBI emanating from the complaint dated 30th June, 1995 made by Mr. Ved Prakash, Inspector, CBI on the allegations that staff of MTNL in connivance with the Chairman of the

company and Mr. Bhag Chand, Office Assistant of the company diverted telephone No. 3716165 with STD facility on the disconnected telephone No. 3713201 installed in the premises No. M-134, Connaught Place against a monthly consideration of Rs. 25,000/- to be paid to Lala Ram by Shri D.C. Pruthi through Shri Bhag Chand.

3. It was some time in 1994 that Shri Lala Ram traced a telephone line with STD/ISD and entered into a criminal conspiracy with the Chairman of the said company and diverted the line of the said telephone number with STD facility on the line of disconnected telephone of the company.

4. Perusal of the impugned order shows that there was allegation that the son of the Chairman of the company, namely, Samir Pruthi had also destroyed the IOUs containing payment made by them against the use of the said telephone. The period of conspiracy spanned from 1994 to 1995. It was only on the premise of a statement given by PW 6 Smt. Anuradha Diwan, Private Secretary to the Chairman that the petitioner in her presence tore off one page only containing the amount of Rs. 12,500/- and kept the same in his pocket and gave back register to her. This is hardly any evidence that may fasten the petitioner for an offence of conspiracy main beneficiary of which was the Chairman and his son Samir Pruthi. The allegation against Mr. Samir Pruthi was of much higher magnitude than that against the petitioner. Still learned Trial Judge made the observation that so far as Samir Pruthi was concerned there was no material on record to connect him with the commission of the present offence as the only allegation of offence against him is the statement of PW 30 Mr. Subhash Chand who had asked him to bring the file of IOC from the cashier and he accordingly obtained the file from the cashier and handed over the same to Mr. Samir Pruthi.

5. I find that the observations of the learned Sessions Judge basing the allegation of conspiracy against the petitioner are on feeble foundation and cannot be eschewed for the offence of conspiracy which not only involves meeting of minds but also active participation for wrongful gain. The material against the petitioner was highly tenuous, inadequate and insufficient for framing the charges for the aforesaid offences.

6. The petition is allowed. The charges framed against the petitioner stand quashed.