

\$~17-20 & 23-25.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 12.02.2015**

% **CRL.A. Nos.61/2009 & 154-59/2009**

SAT BHUSHAN JAIN

..... Appellant

Through: Mr. A.P. Singh & Mr. Praneet
Sharma, Advocates.

versus

CBI

..... Respondent

Through: Mr. Narender Mann, Spl. PP (CBI)
along with Mr. Manoj Pant &
Ms.Utkarsha Kohli, Advocates for the
respondent/ CBI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

VIPIN SANGHI, J. (OPEN COURT)

1. These appeals arise out of the common judgment dated 20.12.2008 passed in CC Nos.66/2001, 67/2001, 69/2001, 70/2001, 71/2001 & 72/2001, wherein the appellant was the accused, and was convicted under Sections 420, 468, 471 & 477-A of the I.P.C. and under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act (PC Act).

2. In respect of each of the convictions, the appellant was sentenced to undergo Rigorous Imprisonment (RI) for different periods – the maximum being three years. All the sentences were directed to run concurrently. He was also subjected to fine. The appellant has already paid the fine.

3. After some arguments, learned counsel for the appellant submits that

the appellant accepts the conviction in all the cases. However, the appellant prays that the sentence be reduced, considering the fact that the appellant had refunded about 90% of the amount, with interest, which he had diverted into an account maintained by him, from the accounts of the bank customers even before the detection of the offence on 06.08.1994; he was dismissed from service; lost his entire retiral benefits; and suffered a paralytic stroke on account of which he is suffering from Orthopaedic Handicap to the extent of 70%. In this respect, the appellant has placed on record the certificate issued by the Office of the Civil Surgeon, Jhajjar on 19.01.2000, wherein it is certified that the appellant has been found to be suffering from *o/c CVA Rt Side with Hemiparesis Left Side with Gait Instability*.

4. The appellant is aged 62 years. He is present in Court. I have seen his condition. He is not in a position to walk properly, or even to get up without assistance. Subjecting him to imprisonment, at this stage, will not only cause pain & suffering to the appellant but would also burden the Exchequer as he would require constant attention and dedicated personnel/ attendant to look after him.

5. Though the minimum sentence prescribed under Section 13(2) of the PC Act is one year (since the case pertains to the period prior to the amendment brought into force on 16.01.2014), in my view, this Court in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure, 1973 can make such orders as may be necessary to secure the ends of justice. In my view, it would not be just to subject the appellant to imprisonment in his present physical condition.

6. I may refer to the decision of this Court in ***Ram Lal Dogra Vs. State***

(*CBI*), 95 (2002) DLT 535. While upholding the conviction of the appellant in that case under Section 7 and 13(2) read with Section 13(1)(d) of the PC Act, the Court, in view of similar circumstances in that case, reduced the sentence to the period spent in Jail, which was only ten days.

7. I may also observe that there are decisions rendered by the Supreme Court to the same effect, *inter alia*, in *B.G. Goswami Vs. Delhi Administration*, 1973 SCC 796; and *V.K. Verma Vs. C.B.I.*, (2014) 3 SCC 485 – though the exercise of jurisdiction by the Supreme Court in those cases stemmed from Article 141 of the Constitution of India, which jurisdiction/ power does not rest in this Court.

8. However, as noticed above, since this Court has the inherent powers to pass appropriate orders in the interest of justice, I reduce the sentence in all the cases to imprisonment till the rising of the Court within the Court premises – to run concurrently, and enhance the fine by another Rs.7,500/- in each of the aforesaid appeals. However, in the event of the said fine not being deposited, the appellant shall undergo Simple Imprisonment for one week. The fine shall be deposited within two weeks.

It is 04:30 p.m. The accused has undergone the sentence by remaining present in Court throughout the day, i.e. till the rising of the Court.

Dasti.

VIPIN SANGHI, J

FEBRUARY 12, 2015

B.S. Rohella