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

\+ CRL.A. 916/2015

C SANGIT ..... Appellant

Through Mr. Anwesh Madhukar and Mr. Pranjal Shekhar, Advs.

versus

C B I ..... Respondent

Through Ms. Rajdipa Behura, SPP with Mr. Philomon Kani, Ms. Kriti Handa, Ms. Hansika Sahu and Ms. Damini K., Advs.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

<u>O R D E R</u>

% 13.02.2018

Appellant has been convicted under Section 120-B read with Sections 419/420/467/468/471 IPC and Sections 13(2) and 13(1)(c) & 13(1)(d) of Prevention of Corruption Act. He has been sentenced to undergo rigorous imprisonment for a period of 3½ years with fine of ₹4,000/- was imposed. And in default of payment of fine to undergo simple imprisonment for three months under Section 120-B read with Sections 419/420/467/468/471 IPC and Sections 13(2) and 13(1)(c) & 13(1)(d) of Prevention of Corruption Act. Sentence of rigorous imprisonment for a period of 2½ years with fine of

₹2,000/- and in default of payment of fine to undergo simple imprisonment of two months under Section 419 read with Sections 468/471 IPC.

As per the prosecution, on 10th July, 1996 residential premises of co-accused P.K. Thugan was searched in connection with the investigations in RC-33(A)/96/DLI. Various documents including cheque book of saving bank account number of 7770 of Vijaya Bank, Ansari Road, New Delhi in the name of Prem Kumar were recovered. On inquiry made from Vijaya Bank, it was revealed the said account was opened on 31st March, 1994, inasmuch as one locker number 288 was also allotted against the said account. On verification of statement of account, it was revealed that ₹8 lacs was credited in the said account from the account no. 7798 opened on 25th April, 1994 in the name of Thanu Thungon on the introduction of co-accused Mahesh Maheshwari. Further investigations revealed that Mahesh Maheshwari had opened the account no. 7798, at the instance of P.K. Thungon impersonating himself as Thanu Thungon in order to encash the bank draft of ₹9,98,500/- issued by State Bank of India, Lerie Branch, Nagaland on the instructions of Irrigation and Flood Control Department, in respect of supply of sausage wire. It was further revealed that on the request of Government of Nagaland, central assistance of ₹2 crores was granted to the Nagaland Government by the Planning Commission as a result whereof ₹1 crore was deposited in the treasury of Government of Nagaland on 30th March, 1994. On 19th April, 1994 Under Secretary, Department of Expenditure, Government of Nagaland authorised Joint Director, Irrigation and Flood Control to withdraw ₹50 lacs. On 6th April, 1994 Joint Director ordered for procurement of Sausage Wire worth ₹20 lacs for the ongoing 'Minor Irrigation Project'. Co-accused Tali AO submitted a bill dated 19th April, 1994 of ₹29,99,295/- towards supply of 'Sausage Wire', on a plain paper. Vide a subsequent letter dated 21st April, 1994 he requested that the demand draft of ₹10 lacs be prepared in the name of Thanu Thungon and that of ₹15 lacs in favour of K. Kongon Konyak. Accordingly, a demand draft of ₹9,98,500/- was issued in the name of Thanu Thungon by State Bank of India, Lerie Branch. The said demand draft was deposited on 25th April, 1994 in the account no. 7798 opened on 25th April, 1994 in the fictitious name of Thanu Thungon by Mahesh Maheshwari, in connivance with P.K. Thungon and Sh.N.M.Jain Senior Branch Manager, Vijaya Bank, Ansari Road, Darya Ganj, New Delhi. Out of the said amount of ₹9,98,500/- a sum of ₹8 lacs was transferred in the account of Prem Kumar on the next date. Out of which, ₹1,98,000/- was withdrawn by a self cheque.

During the investigations it was revealed that no ‘Sausage Wire’ was supplied either by T. Moa or by Tali A.O and payments were claimed dishonestly and fraudulently.

As regards appellant is concerned, it was alleged that he impersonated as T. Moa and signed two receipts of ₹8,52,240/- and ₹10 lacs.

Prosecution examined 26 witnesses to prove the case.

Mr. Zile Singh, Dy. Advisor (Retd.) and Mr. Mewaram Dhore, Director (Retd.), both from Planning Commission were examined as PW1 and PW2 respectively. They deposed about the sanction of grant of ₹2 crores towards additional central assistance to Govt. of Nagaland. Mr. S. Kantarao, Sr. Manager, Mr. N.M. Jayaram and Mr. G.Lingo Rao, Managers, Vijaya Bank were examined as PW3, PW5 and PW7 respectively. They deposed about opening and transactions of the saving bank account nos. 7770 and 7798 and transactions made thereon. Mr. Bipin Sharma, Dy. Manager of State Bank of India was examined as PW4. He proved the drafts of ₹9,98,500/- and ₹14,98,500/- favouring Thanu Thungon and K. Konngam Konyak. Mr. Balabhadra Sarma, Branch Accountant-cum-Manager of State Bank of India was examined as PW20. He proved the issuance of the bank draft of ₹14,98,500/- on the requisition of Irrigation

Department. He has also proved the seizure memo of the said draft. Mr. S.N. Lahiri, Branch Manager of State Bank of India was examined as PW21. He proved the issuance of drafts, requisition slips of Joint Director, Irrigation Department and handing over of the DACs. Mr. U.C. Gogoi, Accountant of State Bank of India was examined as PW6, who proved the handing over of the account opening form no. 24/1729, original draft of ₹5,91,821/- and withdrawal slips/letters of K. Konngam Konyak. Mr. S.L. Tandon, Additional Private Secretary of P.K. Thungon was examined as PW8. He proved his signatures and endorsement on the letter dated 12th November, 1993.

Mr. Chupatotatseo, Upper Divisional Assistant in Department of Irrigation and Flood Control was examined as PW9. He identified the signatures of Mezakrol and Neilakuo on various documents/letters/seizure memos. Mr. Imna Long Kumar, Cashier in Irrigation department was examined as PW10, who identified the handwriting and signatures of Neilakuo on various documents. He also proved the receipts of payment to Tali AO and T. Moa. The documents were exhibited as Ex. PW10/A to Ex. PW10/E). Mr. Ram Bahadur, was examined as PW11. Mr. P.C. Sharma, DSP of CBI, on whose complaint the FIR was lodged, was examined as

PW12. Mr. Chubanongson, Sectional Assistance Dimapur Store was examined as PW13. He identified the signatures of K. Angami on the stock register (D-63). Mr. Thung Zamo Lotha, Joint Secretary Irrigation, Department of Irrigation and Flood Control, Government of Nagaland was examined as PW14. He identified his signatures on the seizure memo Ex. PW14/A.

Mr. D.R. Handa, Sr. Scientific Officer – I was examined as PW15. He proved the handwriting expert report (Ex. PW12/D). Mr. A.K. Malik, 1st Investigating Officer was examined as PW16. He deposed about the investigations conducted by him. Mr. V.K. Kondal was examined as PW17. Mr. Imkong Chujag, Section Officer of Irrigation and Flood Control Department was examined as PW18. Mr. M.K. Choudhary, Chief Manager, SBI, Dimapur Bazar Branch was examined as PW19. Mr. M.C. Joshi, Assistant Director and Scientist 'C', CFSL was examined as PW22. He had compared the signatures of appellant, P.K. Thungon, Tali AO, Mezakrol, K. Konngam Konyak, K. Angami, Neilakuo Kshokshrie, Imna Long Kumar, G.C. Dutta and Bandang Wapang. Mr. A.C. Sarkhel, Private Secretary to K. Konngam Konyak, State Minister, Irrigation and Flood Control Department, was examined as PW23. He identified and proved the signatures of K.

Konngam Konyak on Ex. PW9/TI and other documents. Mr. Sharda Prasad, Joint Secretary in MHA, Govt. of India was examined as PW24. She exhibited the sanction order. Mr. Shiv Kumar Bedia, an employee of SBI, Mon Branch, was examined as PW25. Mr. R.C. Garvan, DSP (Special Crime), CBI, was examined as PW26.

Trial court has found the testimony of relevant prosecution witnesses to be trustworthy and reliable and considered the exhibited documents and held the appellant guilty of the offences for which he has been convicted.

During the course of hearing, learned counsel for the appellant, on instructions of the appellant has given up challenge to his conviction on merits. He has only prayed for reduction of the sentence. It is contended that appellant is aged about 61 years. He has three sons and one daughter. Daughter of the appellant is unmarried. Appellant's wife is suffering from various ailments. Appellant has already completed sentence of three years and four months including the remission period. Fine has already been deposited.

I have considered the contentions of the learned counsel. Out of the sentence of three and half years appellant has already completed about three years and four months. His wife is suffering from various ailments, in as much as, daughter's marriage is yet to be performed. Jail conduct of the appellant is satisfactory. Accordingly, in the above facts, sentence of the appellant is reduced to the period already undergone by him. Appellant be released from jail forthwith, if not required in any other case.

Appeal is disposed of in the above terms. A copy of this order be sent to Superintendent Jail for compliance.

A.K. PATHAK, J.

FEBRUARY 13, 2018
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