



2025:DHC:10483



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

% Date of Decision: 18.11.2025

+ **CRL.A. 769/2000**

G. RAMAKRISHNA

.....Appellant

Through: Mr. Mohit Mathur, Senior Advocate
with Mr. Mohd. Shahrukh and
Mr. Vignesh Ramanathan, Advocates

versus

STATE C.B.I.

.....Respondent

Through: Mr. Rajesh Kumar, SPP for CBI with
Ms. Mishika Pandita, Mr. Changez
Khan, Mr. Siddharth Shekhar and
Ms. Pragya, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

18.11.2025

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1. The present appeal has been filed against the judgment dated 18.11.2000 and the order on sentence dated 29.11.2000, passed by the Learned Special Judge, Delhi in CC No. 70/93, whereby the appellant was convicted for the offence punishable under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1947, (PC Act) as well as for the offence of criminal conspiracy under Section 120-B IPC read with Section 5(2) read with Section 5(1)(d) of PC Act.

He was sentenced to undergo rigorous imprisonment for a period of three and a half years for each of the aforesaid offences and to pay a fine of Rs. 50,000/-. In default of payment of fine, he was directed to undergo



rigorous imprisonment for a further period of one year. The substantive sentences were directed to run concurrently.

The sentence of the appellant was thereafter suspended vide order dated 19.02.2001.

2. Briefly stated, the case of the prosecution was that while serving as the Branch Manager, State Bank of India, Kalkaji Branch, the appellant unauthorisedly issued a Bank Guarantee bearing No. GUA/83/15 exhibited as Ex.PW-2/B dated 02.06.1983 for a sum of Rs. 25 lakhs in favour of M/s Lohia Machines Ltd. on behalf of M/s Joy Exports, whose proprietor was co-accused *S.P. Nair*. According to the prosecution, the appellant had no discretionary financial authority to issue a bank guarantee of such magnitude without sanction from the Regional Manager, nor did he obtain any written application from the party, secure any margin money, or charge the mandatory bank commission. It was further alleged that the issuance of the said guarantee enabled co-accused *S.P. Nair* to secure a credit of Rs. 25 lakhs from M/s Lohia Machines Ltd., thereby causing pecuniary advantage to him and exposing the bank to financial risk.

3. During the trial, the prosecution examined several witnesses, including senior officials of the State Bank of India and officers associated with the internal enquiry. PW1 the complainant Shri *Y.P. Saigal*, PW-2 Shri *H.R. Magon*, the then Regional Manager, PW-3 Shri *V.K. Khattar*, Administrative Officer (Loan), PW-4 Shri *Jagdish Chander*, Assistant, PW-6 Shri *Kuldeep Singh Tuli*, Accountant, and PW-7 Shri *Hari Om Maheshwari*, Chartered Accountant. Their testimonies collectively established that the appellant had no financial authority to issue a Bank Guarantee of Rs. 25 lakhs, that there was no written application for issuance



of the guarantee was received, that no margin money or security was obtained and that the guarantee was not entered in the Guarantee-cum-Liability Register.

4. The appellant, in his statement under Section 313 Cr.P.C., denied all allegations and asserted that the guarantee had been issued on the oral instructions of the Regional Manager. The appellant subsequently denied issuing the guarantee in his letter exhibited as Ex.PW-2/D. He examined two defence witnesses, one of whom (DW-2 Roy Chaudhary) attempted to support the plea of oral approval, though his testimony was found unreliable and inconsistent.

5. Upon analysis of memorandum of instructions relating to re-organisation scheme of delegation of financial powers 1977, it was found that the appellant, who was a branch manager, did not have the discretionary financial power to issue BG to the tune of Rs 25 lacs. His defence was that he issued the BG on the approval of Regional Manager, who gave him oral instructions in the presence of co-accused SP Nair. The Regional Manager, examined as PW2, denied this suggestion. PW2 also deposed that during the tenure of appellant, there was a huge spurt in advances being given, leading to PW3 conducting an enquiry. PW3 deposed that there were huge clean overdrafts, beyond the power of the branch manager, to M/s Joy Imports. The co-accused also took a contradictory defence, that he had already taken the approval from the regional manager in absence of the appellant. The BG was issued on 02.06.1983, yet the appellant asked for permission to open it on 21.07.1983, and moreover, he denied issuing the BG in another letter. Moreover, a perusal of the Guarantee-cum-liability register (Ex. PW3/B) showed that the impugned BG and another BG issued on behalf of M/s



Jungra Engineering Works were shown to have allotted the same number 83/15, showing that the entry was not made properly in the register.

6. Upon appreciation of the evidence, the Trial Court held that the prosecution witnesses were cogent and supported by contemporaneous documents including the Guarantee-cum-Liability Register, enquiry reports, and correspondence exchanged between the branch and the Regional Office. The Court rejected the appellant's plea of oral sanction. The Trial Court also found that the appellant exceeded his financial powers, failed to follow mandatory procedures, did not secure the bank's interest, and acted in concert with co-accused S.P. Nair, thereby establishing the charges under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1947 and Section 120-B IPC.

7. Having re-examined the record, this Court finds no infirmity in the reasoning of the learned Special Judge. The conviction of the appellant stands affirmed.

8. Learned Senior counsel for the appellant places reliance on the decisions of the Hon'ble Supreme Court in V.K. Verma v. CBI¹, B.G. Goswami v. Delhi Administration², as well as the recent judgment of a Co-ordinate bench of this Court in Surendra Kumar v. CBI³, to contend that in the present case, the appellant prays for release on the period already undergone. It is submitted that these authorities recognise inordinate delay in trial and appeal proceedings, advanced age of the accused, absence of criminal antecedents, and the long-drawn agony of prosecution as significant mitigating factors for reducing the quantum of sentence, particularly in

¹ (2014) 3 SCC 485

² (1974) 3 SCC 85



prosecutions under the Prevention of Corruption Act, 1947. Learned Senior Counsel submits that the appellant is of advanced age, being 84 years old, his multiple medical ailments including diabetes and hypertension, and he has already suffered incarceration during investigation/trial. It is emphasised that the appellant has already deposited the entire fine, the receipt of which he has handed over. Learned Senior counsel accordingly submits that, in light of the cumulative mitigating circumstances and consistent judicial precedent, that the present appeal may be considered only on the quantum of sentence.

9. Learned counsel for the CBI opposes the request for reduction of sentence, submitting that the appellant, as a public servant, misused his official position to issue an unauthorized Bank Guarantee, causing pecuniary advantage to the co-accused and exposing the Bank to risk.

10. Section 5(1)(d) of the PC Act deals with the offence of a public servant abusing his position to obtain for himself or for any other person any valuable thing or pecuniary advantage dishonestly or fraudulently. Section 5(2) states that any person guilty of the offences committed under Section 5(1) shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years, along with a fine. Its proviso states that the court may, for any special reasons recorded in writing impose a sentence of imprisonment of less than one year.

11. Sentencing is governed by principle of proportionality. A just and appropriate sentence has to be determined by giving due consideration to the facts and circumstances of each case, to ensure deterrence and correction. There has to be delicate balancing of the aggravating and the mitigating

³ 2025 SCC OnLine Del 4788



factors and the circumstances revolving around the crime, keeping in view the gravity of the offence. Any one factor, whether aggravating or mitigating, cannot by itself be determinative of the sentence. The Supreme Court in *Mohd. Giasuddin v. State of A.P.*⁴ observed the following:-

16. The new Criminal Procedure Code, 1973, incorporates some of these ideas and gives an opportunity in Section 248(2) to both parties to bring to the notice of the Court facts and circumstances which will help personalise the sentence from a reformatory angle. This Court, in Santa Singh [Santa Singh v. State of Punjab, (1976) 4 SCC 190 : 1976 SCC (Cri) 546], has emphasised how fundamental it is to put such provision to dynamic judicial use, while dealing with the analogous provisions in Section 235(2):

“This new provision in Section 235(2) is in consonance with the modern trends in penology and sentencing procedures. There was no such provision in the old Code. It was realised that sentencing is an important stage in the process of administration of criminal justice — as important as the adjudication of guilt — and it should not be consigned to a subsidiary position as if it were a matter of not much consequence. It should be a matter of some anxiety to the Court to impose an appropriate punishment on the criminal and sentencing should, therefore, receive serious attention of the Court. (p. 194)

Modern penology regards crime and criminal as equally material when the right sentence has to be picked out. It turns the focus not only on the crime, but also on the criminal and seeks to personalise the punishment so that the reformist component is as much operative as the deterrent element. It is necessary for this purpose that facts of a social and personal nature, sometimes altogether irrelevant if not injurious, at the stage of fixing the guilt, may have to be brought to the notice of the Court when the actual sentence is determined. (p. 195)

A proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances — extenuating or aggravating — of the offence, the prior criminal record, if any, of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental conditions of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of

⁴ (1977) 3 SCC 287



offence. These factors have to be taken into account by the Court in deciding upon the appropriate sentence. (p. 195)

The hearing contemplated by Section 235(2) is not confined merely to hearing oral submissions, but it is also intended to give an opportunity to the prosecution and the accused to place before the Court facts and material relating to various factors bearing on the question of sentence and if they are contested by either side, then to produce evidence for the purpose of establishing the same. Of course, care would have to be taken by the Court to see that this hearing on the question of sentence is not abused and turned into an instrument for unduly protracting the proceedings. The claim of due and proper hearing would have to be harmonised with the requirement of expeditious disposal of proceedings.” (p. 196)

19. Sentencing justice is a facet of social justice, even as redemption of a crime-doer is an aspect of restoration of a whole personality. Till the new Code recognised statutorily that punishment required considerations beyond the nature of the crime and circumstances surrounding the crime and provided a second stage for bringing in such additional materials, the Indian Courts had, by and large, assigned an obsolescent backseat to the sophisticated judgment on sentencing. Now this judicial skill has to come of age.

12. At this stage, it is necessary to refer to the principles laid down in the following decisions, in V.K. Verma v. CBI (supra) wherein it was held that long delay before Court while taking final decision would be a mitigating factor to be considered while determining quantum of sentence. The relevant extract is reproduced hereunder:-

“8. The long delay before the courts in taking a final decision with regard to the guilt or otherwise of the accused is one of the mitigating factors for the superior courts to take into consideration while taking a decision on the quantum of sentence. As we have noted above, the FIR was registered by CBI in 1984. The matter came before the Sessions Court only in 1994. The Sessions Court took almost ten years to conclude the trial and pronounce the judgment. Before the High Court, it took another ten years. Thus, it is a litigation of almost three decades in a simple trap case and that too involving a petty amount.

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10. In Sharvan Kumar v. State of U.P. [(1985) 3 SCC 658 : 1985 SCC (Cri) 437], the commission of offence was in 1968 and the judgment was delivered in 1985. The conviction was under Sections 467 and 471 IPC. In



that case also, the long delay in the litigation process was one of the factors taken into consideration by this Court in reducing the sentence to the period already undergone.”

13. In Surendra Kumar v. CBI (Supra), a Co-ordinate bench of this Court, after discussing the principles of sentencing, held that prolonged pendency of trial and advanced age and ailments of the accused were held to be mitigating factors, and it was held as under:-

“19. In criminal jurisprudence, sentencing is not merely a mechanical exercise but involves a careful balancing of aggravating and mitigating factors. While aggravating circumstances highlight the gravity and impact of the offence, mitigating factors provide insight into the personal circumstances of the offender which may require a lesser punishment.

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22. From the aforesaid judgment(s) it is clear that the objective of sentencing has to be a combination of deterrence and rehabilitation. Both have to coexist and in the absence of one, the purpose of the other cannot be achieved. The list of mitigating factors has been enumerated above and the same are only illustrative and not exhaustive. No hard and fast formula or mechanism for combining deterrence with rehabilitation can be laid down, but the same has to be worked out on individual and case to case basis.

23. Coming to the facts of the present case, the incident took place on 04.01.1984, and since then the proceedings have been continuing for over four decades — with the trial itself taking nearly 19 years to conclude, and the present appeal remaining pending for more than 22 years. Such inordinate delay is plainly at odds with the constitutional mandate of a speedy trial envisaged under Article 21 of the Constitution of India. The ‘Sword of Damocles’ and uncertainty qua the fate of the case of the appellant have been uncertain for a period of nearly 40 years and that by itself is a mitigating factor.

24. A vital mitigating factor in considering the sentence is the appellant's advanced age. At 90 years old, suffering from serious health ailments, he is highly vulnerable to the physical and psychological impact of incarceration. Any such imprisonment would risk causing irreversible harm and would defeat the very objective of mitigating the sentence. The appellant was a senior officer with STC and has already suffered incarceration for one day. The appellant has not challenged his conviction and the fact that the appellant was found guilty for offences under Sections 5(l)(d) read with Section 5(2) of the PC Act and section 161 IPC shall remain with the appellant for his entire life. The appellant has duly prosecuted his appeal till today i.e. for more than 40 years there has been no other FIR or criminal



case of any kind registered against the appellant. Even prior to 04.01.1984 (the date of the offence), the appellant did not have any criminal antecedents and the incident in question was his first and only offence. Additionally, the record shows that the appellant has already deposited the fine of Rs. 15,000/- imposed by the learned Special Judge on 24.10.2002.

25. Considering the above circumstances, I am of the view that this is a fit case for reducing the quantum of sentence of the appellant considering the mitigating circumstances. Hence, the sentence of the appellant is reduced to the time already served."

14. In B.G. Goswami (supra), the Supreme Court held that even under Section 5(1)(d) read with Section 5(2) of the PC Act (where a minimum sentence of rigorous imprisonment of 1 year is prescribed), the Court retains discretion to reduce the sentence below the statutory minimum, upon recording special reasons. The Court held as under:-

10. ...The only question which arises is that under Section 5(1)(d), read with Section 5(2) of the Prevention of Corruption Act the minimum sentence prescribed is rigorous imprisonment for one year and there must also be imposition of fine. The sentence of imprisonment can be for a lesser period but in that event the court has to assign special reasons which must be recorded in writing. In considering the special reasons the judicial discretion of the court is as wide as the demand of the cause of substantial justice. Now the question of sentence is always a difficult question, requiring as it does, proper adjustment and balancing of various considerations which weigh with a judicial mind in determining its appropriate quantum in a given case. The main purpose of the sentence broadly stated is that the accused must realise that he has committed an act which is not only harmful to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. Punishment is designed to protect society by deterring potential offenders as also by preventing the guilty party from repeating the offence; it is also designed to reform the offender and reclaim him as a law abiding citizen for the good of the society as a whole. Reformatory, deterrent and punitive aspects of punishment thus play their due part in judicial thinking while determining this question. In modern civilized societies, however, reformatory aspect is being given somewhat greater importance. Too lenient as well as too harsh sentence both lose their efficaciousness. One does not deter and the other may frustrate, thereby making the offender a hardened criminal. In the present case, after weighing the considerations already noticed by us and the fact that to



send the appellant back to jail now after seven years of the agony and harassment of these proceedings when he is also going to lose his job and has to earn a living for himself and for his family members and for those dependent on him, we feel that it would meet the ends of justice if we reduce the sentence of imprisonment to that already undergone but increase the sentence of fine from Rs 200 to Rs 400. Period of imprisonment in case of default will remain the same.

15. In view of the settled principles laid down by the decisions mentioned above, where prolonged pendency, advanced age, medical fragility and the absence of subsequent criminal conduct have been recognised as compelling mitigating circumstances justifying a reduction of sentence, this Court is persuaded to adopt a similar approach. The present matter arises out of an incident pertaining to 1983, with the appellant facing prosecution for more than 40 years. The appellant, now 84 years old, has been facing the strain of criminal proceedings for over four decades, suffers from chronic ailments, has already deposited the fine imposed by the Trial Court, and has no criminal antecedents.

16. Accordingly, the conviction of the appellant is upheld. However, the substantive sentence imposed upon the appellant is modified to the period already undergone.

17. The appeal stands partly allowed and disposed of in the above terms.

18. The bail bonds furnished by the appellant stand cancelled and his sureties are discharged.

19. A copy of this judgment be sent to the concerned Trial Court and concerned Jail Superintendent for information and compliance.

MANOJ KUMAR OHRI, J

NOVEMBER 18, 2025/kb