

CBI Vs. Abhishek Tiwari & Ors.
FIR No. RC2182021A0005
PS CBI/AC-III/New Delhi

22.12.2021

Present : Sh. V. K. Pathak, Ld. PP for CBI along with DSP Sushil Dewan and IO/DSP M. K. Pathak.

Accused persons Abhishek Tiwari (A-1), Anand Dilip Daga (A-2) and Vaibhav Gajendra Tumane (A-3) have been produced from JC.

Sh. Meenesh Dubey, Ld. Counsel for accused Abhishek Tiwari (A-1).

Sh. Vaibhav Suri along with Sh. Rohan Thawani, Sh. Iqram Govind Singh and Ms. Gunjan Ahuja, Ld. Counsel(s) for accused Anand Dilip Daga (A-2).

Sh. K.B. Upadhyay along with Sh. Maruti Nandan, Ld. Counsel(s) for the accused Vaibhav Gajendra Tumane (A-3).

1. As per the report of the Ahlmad dated 09.12.2021, all the documents and statements in respect of charge sheet have been filed by the IO. I have perused the same. The present case be registered, as per rules.

2. Brief facts of the case as per the charge-sheet are as follows :-

a) This Regular Case RC2182021A0005 was registered by the CBI on 31.08.2021 on the basis of a complaint submitted by Shri Kiran S.

Supdt. of Police, CBI, AC-V, New Delhi against (i) Shri Abhishek Tiwari, Sub Inspector, CBI, AC-V, New Delhi, (ii) Shri Anand Dilip Daga, Advocate, R/o -97/1, Civil Lines, Temple Road, Nagpur and (iii) Unknown others, under section 120-B, 409 of Indian Penal Code and section 7 and 8 of Prevention of Corruption Act, 1988 (as amended in 2018).

b) It was alleged in the FIR that a PE 2232021A0001 was registered on 06.04.2021 in compliance of the order dated 05.04.2021 of the Hon'ble High Court of Mumbai. For conducting the enquiry, a team of officers led by the Enquiry Officer Shri R S Gunjiyal, Dy. SP, CBI alongwith Shri Abhishek Tiwari (A-1), Sub Inspector, CBI left for Mumbai on 06.04.2021. During the enquiry, the team members examined witnesses including Shri Anil Deshmukh, the then Home Minister, Maharashtra, who was examined on 14.04.2021.

c) It was further alleged that consequent upon the enquiry, the Enquiry Officer submitted his report dated 16.04.2021. Shri Abhishek Tiwari (A-1) had assisted the Enquiry Officer in the preparation of the said report and had been in possession of case sensitive documents. Pursuant to the comments and opinion of senior officers and after approval by the competent authority, RC 2232021A0003 was registered by the CBI on

21.04.2021 u/s 7 of PC Act, 1988 (as amended in 2018) and 120-B of IPC against Sh. Anil Deshmukh, the then Home Minister of Maharashtra & unknown others, the investigation of which is in progress.

d) It was further alleged that the case sensitive and confidential documents pertaining to the enquiry and investigation were disclosed to unauthorized person. Shri Abhishek Tiwari (A-1) had come in contact with Advocate Shri Anand Dilip Daga (A-2), Lawyer of Shri Anil Deshmukh, during the course of enquiry and had been in regular contact with him since then.

e) It was further alleged that Shri Abhishek Tiwari (A-1) had visited Pune in connection with investigation of the said RC, where Advocate Shri Anand Dilip Daga (A-2), met him and handed over to him an iPhone 12 Pro as illegal gratification in lieu of passing details regarding the said enquiry and investigation, thereby causing improper performance of public duty. He had been obtaining illegal gratification from Shri Anand Dilip Daga (A-2) at regular interval.

f) It was further alleged that Shri Abhishek Tiwari (A-1) shared copies of documents like memorandum of proceedings, sealing-unsealing memorandum, statements, seizure memos etc., related to the investigation of the case

with Shri Anand Dilip Daga (A-2) through WhatsApp on many occasions and thus, Shri Abhishek Tiwari (A-1) who was entrusted with the possession of case sensitive documents as part of the enquiry and investigation in his capacity as a Sub-Inspector, has committed criminal breach of trust in respect of said property. He entered into criminal conspiracy with Shri Anand Dilip Dagar (A-2) and Unknown others and disclosed case sensitive and confidential documents to unauthorized persons, for the purpose of subverting investigation of RC2232021A0003, in lieu of undue advantage and illegal gratification to himself.

g) Investigation has established that Shri Abhishek Tiwari was associated with the PE2232021A0001 and RC2232021A0003 of AC-V Branch of CBI and was privy to the case sensitive documents and strategy of the case.

h) Investigation has established that Shri Abhishek Tiwari (A-1) in conspiracy with Shri Anand Dilip Daga (A-2), advocate of Shri Anil Deshmukh, leaked the case sensitive and secret documents to Shri Anand Dilip Daga (A-2) in order to subvert the investigation of RC2232021A0003 of AC-V Branch of CBI.

i) During investigation, it is established that a Preliminary Enquiry Registration Report vide PE2232021A0001 was registered by AC-V

Branch, CBI on 06.04.2021 against Shri Anil Deshmukh, the then Home Minister, Govt. of Maharashtra & Unknown others for enquiry, in compliance of the order dated 05.04.2021 passed by the Hon'ble High Court of Maharashtra in PIL No. 06/2021 and batch of connected PILs in the matter of Shri Param Bir Singh Vs. the State of Maharashtra & others, whereby, the Hon'ble High Court had directed the CBI to initiate a Preliminary Enquiry into the complaint of Dr. Jaishri Laxmanrao Patil (Advocate). The Enquiry of the PE was entrusted to Shri R. S.Gunjyial, Dy. SP, CBI.

j) It is also mentioned in the charge sheet that accused Abhishek Tiwari along with other senior officers, CBI visited Mumbai and camped at DRDO Guest House, Santa Cruz, Mumbai along with the Enquiry Officer Sh. R. S. Gunjyial, Dy. SP during the period 06.04.2021 to 15.04.2021 and assisted in the enquiry and also during the recording of the statement of the witnesses and preparation of Enquiry Report after return to Delhi with him on 15.04.2021. Thereafter, Sh. R. S. Gunjyial had submitted the Enquiry Report (i.e. Final Report-I) in the PE on 16.04.2021. Therefore Abhishek Tiwari had access to complete documents related to PE2232021A0001 of AC-V Branch, CBI.

k) The investigation has also revealed that

Anand Dilip Daga had accompanied Shri Anil Deshmukh on 14.04.2021 during his examination by CBI at DRDO Guest House Santa Cruz, Mumbai in connection with the above PE2232021A0001.

l) It is also mentioned that the above PE2232021A0001 culminated into registration of a regular case vide RC2232021A0003 by AC-V Branch of the CBI on 21.04.2021 u/s. 120-B of IPC and Section 7 of PC Act, 1988 (as amended in 2018) against Shri Anil Deshmukh, the then Home Minister of Maharashtra and unknown others.

m) Thereafter, a number of CBI officials including the investigating officer Sh. Mukesh Kumar, Dy, SP and Abhishek Tiwari, Sub Inspector (A-1) etc. undertook official tours and camped outstation from time to time. The said Abhishek Tiwari was also part of the team planning the searches along with the IO.

n) It is also mentioned in the charge sheet that (A-2) Anand Dilip Daga was one of the lawyers for petitioner Sh. Anil Deshmukh before the Hon'ble Supreme Court and also before the Hon'ble High Court. It is also revealed that (A-1) and (A-2) met at Delhi, Mumbai and Pune physically and had been in regular touch through whatsapp calls / messages and SMS after 14.04.2021 and from the search of (A-1) on 01.09.2021, certain electronic devises including his

mobile phones, laptop and pen drives were seized. One apple i-Phone was also seized on 01.09.2021.

o) Anand Dilip Daga (A-2) was arrested on 01.09.2021 and his mobile phone was also seized. The imaging of mobile phone was done and data was extracted and the files related to PE2232021A0001 and RC2232021A0003 of AC-V branch of CBI were retrieved from the mobile phone of (A-2). The dates of creation of files in the phone of (A-2) indicates the dates of leakage of corresponding documents. The hash value of the above files were also analysed during investigation and it matches with the corresponding hash value of the documents recovered from the Samsung mobile phone and from the pendrive of Abhishek Tiwari (A-1), details of which have been mentioned in the charge sheet.

p) It is also mentioned that the statement of Sh. Subodh Kumar Jaiswal, the then Director General, CISF was recorded telephonically by Sh. Mukesh Kumar, DySP(IO) on 06.05.2021 and was saved in his external hard disk. No other member of the investigation team, except Sh. Mukesh Kumar, DySP was aware of this fact. The said statement was found saved in the pen driver of (A-1) on 01.08.2021 and also in the mobile phones of (A-2) on 05.08.2021, which he had unauthorisedly accessed and leaked the said documents to Anand Dilip Daga (A-2) and the contents of statement of

Sh. Subodh Kumar Jaiswal u/S. 161 CrPC dated 06.05.2021 in RC2232021A0003, extracted from the phone of (A-2) and '161 CrPC statement' extracted from the phone of (A-1) is precisely matching, as the hash value of both of them is the same.

q) The investigations also revealed that (A-1) who was sent to Pune on 26.07.2021 to coordinate searches there while in Pune met (A-2), who visited Pune through vehicle no. MH 31 ER 7000, as Abhishek Tiwari stayed at HAL Guest House, Pimpri, Pune and Anand Dilip Daga met him there, which was confirmed by vehicle entry register maintained at the gate of HAL Guest House.

r) The investigations also revealed that (A-2) got an I-Phone 12 Pro purchased through one Sh. Satyajeet Wayal on 27.07.2021 for accused Abhishek Tiwari, which was purchased for Rs. 95,000/-, which is corroborated by whatsapp chats between (A-2) and Sh. Satyajeet Wayal, which was handed over to (A-1) on 07.08.2021 and same was seized during the search of office cabin of (A-1) on 01.09.2021.

s) Thereafter, it was revealed that the illegally accessed / obtained Enquiry Report of PE2232021A0001 was already available with (A-2), which he in conspiracy with Vaibhav Gajendra Tumane (A-3), Social Media Handler of Sh. Anil

Deshmukh got circulated / posted with a note on the background of the Preliminary Enquiry to a number of addressees, as a part of their larger conspiracy to subvert the investigation of RC2232021A0003 for which (A-3) roped in services of Sh. Rahul Chakranarayan (a care taker at the residence of Sh. Anil Deshmukh) and other persons. Therefore, it is stated that all the accused persons were acting in conspiracy with each other.

3. After the perusal of the FIR, charge sheet, statement of the witnesses u/S. 161 CrPC, sanction u/S. 19 of PC Act, 1988 qua the accused Abhishek Tiwari by the competent authority dated 30.11.2021 and other documents on the record, **I hereby take cognizance of the offence(s) u/S. 120B r/w. 201, 379, 409, 411 of Indian Penal Code r/w. 7 & 8 of Prevention of Corruption Act 1988 (as amended in 2018) r/w. Section 43 r/w. Section 66 & 66B of Information Technology Act 2000 and substantive offences thereof.**

4. Further from the reading of the chargesheet as a whole, and relevant record, it appears that accused persons i.e. A-2 and A-3 were closely associated with Sh. Anil Deshmukh (Ex Home Minister Maharashtra) and may have been acting in tandem with him, who may be the controlling mind of the larger conspiracy, whereas A-1, A-2 and A-3 may only be hands, as he would have been and was the main beneficiary from the leakage of the contents of above PE (preliminary Enquiry) and RC, the common objective of the conspiracy appears to be to get access

to the above PE and investigation done in afore RC somehow, **albeit** in illegal and clandestine manner, thereafter to use and circulate it, and for obtainment of the same, series of conspiratorial acts were seemingly performed by above accused persons.

5. The CBI seems to have left the engine / horse pulling the cart, thereby only arraigning those travelling in cart, as without pull of engine or horse the ride of cart or conspiracy would not have been possible, despite mountain of apparent evidence, CBI seems to have forsaken the man pulling the strings or the controlling mind or master mind or head while only chargesheeting the hands, for reasons best known, therefore CBI / investigating agency is directed to discreetly and thoroughly further investigate the role of Sh. Anil Deshmukh (Ex Home Minister Maharashtra) in present matter or RC with utmost alacrity, in a time bound manner, and are directed to file a status report in this regard within four (4) weeks of this order without fail.

6. Copies of the charge sheet have been supplied to the above accused persons, who are present in the Court today from judicial custody.

7. Put up for scrutiny of documents / arguments on the point of charge(s) qua the above accused persons on **10.01.2022** and for filing of status report on the above aspect of further investigations, the matter may be listed on **22.01.2022**.

8. IO / HIO is directed to appear on both the above dates of hearing.

Copy of this order be given dasti to the prosecution, as prayed.

(Sanjeev Aggarwal)
Special Judge (PC Act)(CBI)-02
Rouse Avenue District Court
New Delhi/22.12.2021