

Central Bureau Of Investigation vs A.Raja & Ors on 23 November, 2020

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.L.P. 185/2018 and

CRL.M.A.4904/2019;CRL.M.A.4907/2019: CRL.M.A. 4940/2019;
CRL.M.A. 39238/2019

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Mr.Sanjay Jain ASG with Ms.

Sonia Mathur, Senior Advocate &
Special Public Prosecutor with
Mr. Ripu Daman Bhardwaj, Special
Public Prosecutor with Mr. Rishi
Raj Sharma, Mr. Arkaj Kumar, Mr.
Padmesh Mishra & Ms. Noor
Rampal, Advocates with DSP CB
Ojha, HIO

Versus

A.RAJA & ORS.

.... Respondents

Through: Mr. Siddharth Luthra, Senior
Advocate with Mr. Vedanta Varma,
Mr. Sanat Tokas, Ms. Ankita
Tiwari & Mr.Ayush Kaushik,
Advocates for respondent No.2.
Mr. Vijay Aggarwal, Mr. Mudit
Jain, Mr. Ashul Aggarwal, Mr.
Shailesh Pandey, Ms. Barkha
Rastogi, Mr. Deepanshu Choithani,
Mr. Shekhar Pathak, Mr. Yugant
Sharma, Mr. Hardik Sharma,
Advocates for respondents No. 3,4,
13 & 14.
Mr. Mahesh Agarwal, Mr. Rishi
Agrawala, Ms. Niyati Kohli, Mr.
Pratham Vir Agarwal Advocates
for respondent No.5.

CrL.L.P.185/2018

Signature Not Verified

Digitally Signed

By: PRADEEP SHARMA

Signing Date: 24.11.2020

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Mr. D. P. Singh, Ms. Sonam Gu
& Ms. Ishita Jain, Advocates f

respondent No.8-M/s Unit
Wireless.
Mr. Mohit Kumar Auluck & Mr.
Pramod Sharma, Advocates for
respondent Nos. 9 and 11.
Mr. B.K. Aggarwal & Ms. Stuti
Gujral, Advocates for responde
No.11.
Ms.Manali Singhal, Mr. Santosh
Sachin, Mr. Deepak S Rawat & M
Aanchal Kapoor, Advocates for
respondent No.12-M/s Reliance
Telecom Ltd.
Mr. Balaji Subramanian & Ms.
Ishani Banerjee, Advocates for
respondent No.16.
Dr. Joseph Aristotle S. & Ms.
Sneha, Advocates for responden
No.17.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

% 23.11.2020

1. The hearing has been conducted through video conference. Crl.M.A.1731/2020 (by respondent No. 2- Siddharth Behura) Crl.M.A.1820/2020 (by respondent No. 3-R.K.Chandolia) Crl.M.A.14230/2020 (by respondent No. 5- Vinod Goenka) Crl.M.A.13784/2020 (by respondent No. 15- Karim Morani) Vide separate detailed order of even date, these applications stand disposed of.

CRL.L.P. 185/2018 and CRL.M.A.4904/2019;CRL.M.A.4907/2019:

CRL.M.A. 4940/2019; CRL.M.A. 39238/2019 & Crl.M.A. 13706/2020

2. The instant leave petition was first listed before this Court for hearing on 24th October, 2019 and this Court heard part arguments and further listed this matter as "part heard" on very short adjournments for further hearing. The hearing in the petition continued till 5th March, 2020. However, thereafter, due to covid lockdown the hearing could not take place on 24th, 25th and 26th March, 2020 on the dates fixed.

3. On 31st August, 2020, petitioner/CBI filed applications for early hearing, which was listed for hearing on 10th September, 2019. The plea of petitioner/CBI raised in the applications for early hearing was that since this Court is to demit the office on 30th November, 2020 and arguments on behalf of petitioner in Crl.L.P. 185/2020 stand concluded and part arguments on behalf of respondents have already been advanced, the leave petitions should, therefore, be heard expeditiously and in case the arguments remain inconclusive, the petitioners will have to address all the arguments afresh.

4. Vide detailed order of 29th September, 2020, the said application was allowed by this Court while observing as under:-

"45. This Court is of the opinion that with the assistance and cooperation of learned counsels, all endeavours should be made to hear the matter as early as possible. Though this Court has limited time, yet no one should carry an impression that he will not get a fair opportunity of hearing. This Court assures that everyone will be given an effective hearing. However, at the same time it goes without saying that irrelevant and repetitive arguments need to be avoided.

46. In the end, this Court has only one thing to say that no doubt there may be delay in filing the applications for early hearing; no doubt the documents are voluminous in nature; no doubt the evidence runs into thousands of pages; no doubt one of the judgment also runs into 1552 pages, but that does not mean that this should deter this court in hearing the criminal leave petitions. The judicial discipline demands that the Judge should do his duty and must not succumb to pessimism and it is not expected from him to sit leisurely with his pen down and to say that he will not hear the cases because the record is voluminous and the time at his disposal is limited. It will be a folly not to make an attempt and to sit idle abdicating one's duty. It is advisable to perform one's duty irrespective of the fact whatever conclusion the petitions reach. This Court, therefore, will not fail in its duty and expects all the learned counsels to cooperate and assist this Court in deciding the matters expeditiously.

47. In view of the above discussion, the applications moved for early hearing of the leave petitions are allowed. Let the petitions be listed on 5th October, 2020 at 02:30 P.M. for hearing on day to day basis till further orders."

5. Accordingly, this petition was set down for day to day hearing from 5th October, 2020.

6. On 5th October, 2020 itself, Crl.M.A. 13703/2020 was filed on behalf of respondent No.13 for issuance of direction to petitioner/CBI to furnish copy of mandatory approval obtained under Section 378(2) Cr.P.C. with concerned note sheets, reports, drafts, letters and correspondence to file the present appeal. On 12th October, 2020, one another supplementary application, Crl.M.A. 14091/2020 was filed by respondent No.13 for more or less similar relief. Extensive arguments were addressed by both the sides on these applications and these applications were reserved for orders on 12th October, 2020.

7. On the said date, i.e. 12th October, 2020, learned counsel appearing for respondents insisted that this Court should first hear the question of applicability of Prevention of Corruption (Amendment) Act, 2018 to the case in hand and pressed for hearing of Crl.M.A.1731/2020 and 1820/2020 pending before this Court. This Court had heard arguments on the said applications and arguments on behalf of petitioner/CBI already stood concluded and part arguments on behalf of respondents were also addressed. However, further hearing was deferred in March, 2020 because of lock down due to

Covid-19. This Court resumed hearing in these applications.

8. During the hearing of the three applications [Crl.M.A.1731/2020, 1820/2020 and 13784/2020], another application [Crl.M.A.14230/2020] seeking the same relief was filed by respondent No.5 on 14 th October, 2020 and arguments were heard on the said application as well.

9. Thereafter, on 20th October, 2020, two writ petitions [W.P.(C) No. 7978/2020 and W.P.(C) No.8071/2020] were filed before this Court and the relief sought in these writ petitions was more or less similar to the applications Crl.M.A.1731/2020, 1820/2020, 13784/2020 and Crl.M.A.14230/2020, which were already in the process of hearing. This Court had to hear these two writ petitions along with these applications as well.

10. On 3rd November, 2020, two more writ petitions [W.P.(C) No. 8617/2020 and W.P.(C) No.8620/2020] for the same relief were filed by respondent No.3 and 16 before this Court. This Court heard arguments in these writ petitions as well, not only by writ petitioners, but also by other respondents who had not even filed any formal application or petition but claimed similar relief. The arguments were heard in detail in the applications and writ petitions and these were reserved for order on 6th November, 2020. It may be mentioned that during the course of hearing of the applications/ writ petitions, some documents and written submissions were sent through e-mail, which were taken on record.

11. Since the subject matter of the above mentioned applications and writ petitions required thorough examination, this Court made an earnest effort to hear and decide them expeditiously. However, this Court has to say with a heavy heart that limited time available at its disposal was consumed in hearing and disposal of miscellaneous applications and petitions, which were filed one after another on behalf of the respondents and this Court could not hear and decide the instant leave to appeal. All the above referred applications and writ petitions have been dismissed by this Court by passing very detailed orders of even date.

12. Though this Court had started hearing arguments in the leave to appeal on 9th November, 2020 but since I have to demit the office on 30th November, 2020, and last working day of the month is 27th November, 2020, and due to paucity of time, it would not be possible to hear and decide the petition, the same is accordingly released from 'part heard'.

13. In these circumstances, subject to the order of Hon'ble the Chief Justice, list this petition before another Bench on 1 st December, 2020.

14. The order be uploaded on the website of this Court forthwith.

BRIJESH SETHI, J NOVEMBER 23, 2020 r