

CBI - 3 Questions

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,

LUCKNOW BENCH LUCKNOW.

Criminal Revision No. 463 of 2012

Dr. Ketan Desai

---Revisionist.

Versus.

State through C.B.I. and another. ---Opp. Parties.

I N D E X

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3.	I.D. PROOF.	

Lucknow

Dated , 2014

(Bireswar Nath)

Advocate,

Counsel for the Opp. Party/C.B.I.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW.

Supplementary Affidavit in Criminal Revision No. 463 of 2012

Dr. Ketan Desai.

----- Revisionist.

Versus

State through C.B.I.
and another

----- Opposite Parties.

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Counter Affidavit on behalf of
opposite party/(C.B.I.)

I, Rajiv Kumar, Religion/Caste - Hindu/ Kaysth,
Qualification - Post Graduate, Profession - Deputy
Superintendent of Police, CBI/ACB, Lucknow, aged about 42
years, son of Dr. Anil Chandra Sinha, resident of 3/54, Vipul
Khand, Gomti Nagar, Lucknow, the deponent, do hereby
solemnly affirm and state on oath as under:-

1. That the deponent is the Investigating Officer of the
instant case and, as such, well conversant with the facts of
case deposed hereunder:

2. That the deponent has read and understood the contents of Supplementary Affidavit filed in Criminal Revision and its affidavit and is replying to the same as hereunder :-

3. That the present revision petition No.463 of 2012 has been filed against the order dated 24.11.2012 passed by Special Judge, CBI, Anti-Corruption, Court No.4, Lucknow, whereby the discharge application filed by the accused Dr. Ketan Desai was dismissed.

4. That in the case RC0062010A0015, CBI filed chargesheet on 31.05.2012 against 05 accused persons namely Dr. Ketan Desai, the then President, Medical Council of India (MCI), New Delhi; Dr. Suresh C. Shah, the then Additional Inspector, Medical Council of India, New Delhi and private accused persons i.e. Shri Dev Murti, Chairman; Shri Aditya Murti, Director (Admn.) and Dr. Ved Prakash Shrotriya, Dean, all of Shri Ram Murti Smarak Institute of Medical Sciences (SRMSIMS), Bareilly, u/s 120-B r/w 420, 468, 471-IPC and 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988 and substantive offences thereof. Learned Court of Special Judge, Anti-corruption, CBI, No.4, Lucknow took cognizance in the

case on 21.06.2012 and passed an order summoning the accused persons including the revisionist Dr. Ketan Desai. The revisionist moved an application for discharge along with his bail application in the Court of Special Judge, Anti-Corruption, CBI, Court No.4, Lucknow on 22.11.2012. The Learned Court of Special Judge, Anti-Corruption, CBI, Court No.4, Lucknow vide its order dated 24.11.2012 rejected the discharge application on the ground that the only thing to be seen at the stage of framing of charge is whether or not prima facie a case is made out. Further, the court held that at this stage the court was not required to analyze and assess the prosecution evidence in great detail, and if it is satisfied that prima-facie case is made out, it can frame the charges against accused persons. In this light, the court ordered for framing of charge against him.

5. That Dr. Ketan Desai, and other accused in the instant case preferred revision petitions in this Honble Court, against the order of the trial court rejecting their request for discharge.

6. That a para-wise counter affidavit was filed by CBI on 01.04.2013 in compliance of the orders dt. 7.02.2013 passed by

this Hon'ble Court directing CBI to file counter affidavit within two weeks disclosing the material against the petitioner on the basis of which the order to frame the charge was passed by the trial Court.

7. That instant supplementary affidavit dated 09.02.2014 has been filed by the revisionist Dr. Ketan Desai contending that in the counter affidavit filed by CBI on 04.04.2013, the particular material against the deponent revisionist has not been disclosed, and the reply is not as per orders of this Hon'ble Court passed on 18.12.2013 and 07.02.2013, and as such CBI may file an affidavit along with necessary documents as desired by the Hon'ble Court in its order dated 18.12.2013.

8. That the allegations made against CBI in the supplementary affidavit are totally false, hence denied and it is submitted that in the counter affidavit filed by CBI on 04.04.2013, all materials and evidence available against the deponent revisionist have been incorporated. The reply to the main contentions raised by the revisionist are as under:-

(i) Whether there is any evidence of meeting of mind or criminal conspiracy against the accused Dr. Ketan Desai with other co-accused persons?

There is no direct evidence of meeting of mind or criminal conspiracy of Dr. Ketan Desai with other co-accused persons.

The circumstantial evidence in this regard has been detailed in the counter affidavit filed by CBI on 04.04.2013.

(ii) Whether there is any evidence of quid-pro-quo against the accused Dr. Ketan Desai?

There is no evidence of quid-pro-quo against the revisionist Dr. Ketan Desai in the instant case.

(iii) Whether there is any evidence against the accused Dr. Ketan Desai in respect of demand/acceptance/obtainment of any valuable thing/pecuniary advantage?

There is no evidence against accused Dr. Ketan Desai in respect of demand/acceptance/ obtainment of any valuable thing/pecuniary advantage for himself. As regards the pecuniary advantage caused to the said private medical college mention has been made in the counter affidavit filed by CBI on 04.04.2013.

9. That it is respectfully submitted before this Hon'ble Court that the Criminal Revision of the aforesaid accused revisionist may please be rejected in the light of the facts and circumstances of the case mentioned above, in the interest of justice.

Lucknow, dated,
03.03.2014


Deponent

VERIFICATION

I, the deponent above named do hereby verify that the contents of paragraphs 1 and 2 of this affidavit are true to my own knowledge, those of paragraph 3, 4, 5, 6, 7, 8 and its subparagraphs are true to my information derived from the records and those of paragraph 9 are believed by me to be true on legal advice and no part of it is false and nothing material has been concealed, so help me God.

Lucknow, dated,
03.03.2014.


Deponent

I identify the deponent who
has signed before me.

Advocate

Solemnly affirmed before me on
at a.m./p.m. by
the deponent who of identified by

Shri

Advocate High Court, Lucknow Bench, Lucknow.

I have satisfied myself by examining the deponent

That he understands the contents of this affidavit which

Have been read over and explained to him by me.