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

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Judgment Reserved on: 30.04.2026
Judgment pronounced on: 05.05.2026

+ **CRL.A. 1063/2006**

SUBE SINGH

.....Appellant

Through: Mr. Mukesh Birla, Mr. Parveen
Kumar, Mr. Nizamuddin and Mr.
Sube Singh, Advocates.

versus

C.B.I.

.....Respondent

Through: Mr. Atul Guleria, SPP with Mr.
Aryan Rakesh, Advocate.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374(2) of the Code of Criminal Procedure, 1973, (the Cr.P.C.), accused no. 1 (A1) in C.C. No. 60/2001 on the file of the Court of Special Judge (CBI), Delhi, assails the judgment dated 10.11.2006 and order on sentence dated 13.11.2006 as per which he has been convicted and sentenced for the offences punishable under Section 120-B of the



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Indian Penal Code (the IPC) and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The case of the prosecution is that in the year 1993, the accused persons four in number entered into a criminal conspiracy to get passports of A3 and A4 issued, by furnishing false information and forging documents. A2 filled up the passport application forms of A3 and A4 wherein the accused persons mentioned different and false addresses and submitted the said forms to the passport authorities. At that time A1 was posted as Assistant Sub Inspector (ASI), Special Branch, Delhi Police and was assigned the task of conducting detailed police verification of the personal particular forms of A3 and A4. A1 in continuation of the conspiracy above-mentioned, prepared and submitted false verification reports certifying that the particulars mentioned in the forms were correct and accordingly passports were issued on the basis of forged ration cards and the fictitious verification report



prepared by A1.

3. On 26.04.1995, the Central Bureau of Investigation (CBI) received secret information based on which RC No. 33(A)/95-DLI, that is, Ext. PW18/A FIR was registered alleging the commission of offences punishable under Sections 120-B read with 420, 467, 468, 471 IPC, Sections 13(2) read with 13(1)(d) of the PC Act and Section 12 of the Passport Act.

4. PW17, Deputy Superintendent of Police (DSP), Anti-Corruption Unit, CBI-VI, New Delhi, conducted investigation into the crime and on completion of the same, filed the charge-sheet/ final report on 19.12.1997 alleging commission of the offences punishable under the aforementioned Sections.

5. No sanction for prosecuting A1 was taken under Section 19 of the PC Act as he had already been dismissed from service on 31.10.1995. The final report/chargesheet was submitted on 19.12.1997.

6. When A1 to A3 on receipt of summons appeared before



the trial court, the Court complied with the formality contemplated under Section 207 Cr.P.C. A4 was declared Proclaimed Offender (PO) as per order dated 17.05.1999. *Vide* order dated 04.02.2002, A2 was discharged whereas Charge against A1 and A3 for the offences punishable under Sections 120-B read with 420, 467, 471 IPC and Section 13(1)(d) read with 13(2) of the PC Act was framed, which was read over and explained them to which they pleaded not guilty.

7. On behalf of prosecution, PW1 to PW18 were examined and Ext. PW18/A, PW16/A, PW16/Q24 to Q30, PW16/Q55 to Q56, PW16/Q15 were marked in support of the case.

8. After the closure of the prosecution evidence, A1 and A3 were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. A1 and A3 denied all those circumstances and maintained their innocence.



9. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court *vide* the impugned judgment dated 10.11.2006, acquitted A3, but held A1 guilty of the commission of offences punishable under Section 120-B IPC and Section 13(1)(d)(ii) read with 13(2) of the PC Act and accordingly, sentenced him to undergo rigorous imprisonment for a period of one year and fine of ₹500/- under Section 120-B IPC, and in default of payment of fine to undergo simple imprisonment for fifteen days. A1 has also been sentenced to rigorous imprisonment for a period of two years and fine of ₹1,000/- under Section 13(1)(d)(ii) of the PC Act, and in default of payment of fine to undergo simple imprisonment for thirty days. The substantive sentences imposed have been directed to run concurrently. Aggrieved, A1 has preferred the present appeal.

10. The learned counsel for the appellant/A1 submitted that during the questioning under Section 313(1)(b) Cr.P.C., all incriminating circumstances in the evidence of the prosecution



were not put to A1. No question regarding the alleged conspiracy was put or that A1 had abused his official position. All incriminating material will have to be put to the accused, if not, great prejudice would be caused to him. It was further submitted that the report A1 prepared and submitted was correct as he had personally gone to the address mentioned in the documents and verified the same. Lastly, it was also submitted that sanction under Section 197 Cr.P.C. ought to have been taken which has not been done. The materials on record are unsatisfactory to hold A1 guilty of the offences charged and hence, he is entitled to be acquitted.

11. *Per contra*, the learned Special Public Prosecutor for the respondent/CBI submitted that the materials on record fully establish the prosecution case and that there is no ground for interference.

12. Heard both sides and perused the records.

13. The only question that arises for consideration in this appeal is whether there is any infirmity in the impugned judgment



calling for an interference by this court.

14. I shall first refer to the oral and documentary evidence relied upon by the prosecution to establish the case against A1.

15. PW1, retired Assistant Passport Officer, testified regarding the general process of issuance of a passport. According to him, after filling the form, the application is submitted at the counter and the counter clerk checks all the papers submitted by the applicant and accepts the necessary fees for the issuance of the passport. The counter clerk sends the papers to the Circle Inspector for verification of the applicant's antecedents. Thereafter, the application is sent for indexing. After receiving the police verification report and the index, the clerk concerned puts up the file to the officer concerned for orders regarding the issuance of the passport. On obtaining the order, the passport is issued. PW1 further deposed that he had not dealt with any of the files relating to the passport files which are the subject matter in this case. PW1 on being shown the file deposed that the orders for issuance of



passport of A3 and A4 had been issued by Sh. P.K. Kapur. PW1 in his cross-examination, deposed that after the application is submitted, the applicant will have no role in the sanctioning of the passport. He will not have any access to the application form or other relevant papers. The applicant also does not have any role to play in the police verification.

16. PW2, resident of 10, Kalyan Vihar, Delhi, deposed that he had been residing at the said address since 1979. He has seen a passport application in the name of Sukhjinder Singh (A4). But he does not know anyone by that name. PW2 was also unable to identify the person seen in the photograph affixed in the application form shown to him. According to PW2, no police officer had ever come to his residence for verification about the said person, whose name has been recorded as Sukhjinder Singh (A4). PW2 in his cross-examination, denied that he had ever rented out any portion of his house to Sukhjinder Singh (A4).

17. PW12, father of PW2, deposed that he had been



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residing in 10, Kalyan Vihar, Delhi, from the year 1994. He had never rented his house to anyone. He does not know anyone by the name of Lakhwinder Singh or Sukhwinder Singh (A4). PW12 in his cross-examination, deposed that he has only one son by the name Sukhpreet Singh (PW2) and that he has no friend to whom he has ever rented out any portion of his house. PW2 denied having ever let out his house to Lakhwinder Singh or Sukhwinder Singh.

18. PW3, resident of 10/102, Sector-6, Dr. Ambedkar Nagar, Dakhsin Puri, New Delhi, deposed that she had been residing at the aforesaid address since 1979 and that a person named Sukhjinder Singh (A4) had never resided in her house at any point of time and that she does not know him. PW3 in her cross-examination deposed that she had never resided in Kalyan Vihar, and hence cannot say whether Sukhjinder Singh (A4) had resided at 10, Kalyan Vihar, Model Town, Delhi.

19. PW4, Inspector, (Special Branch), North-West Zone,



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deposed that A1 was working under him and that it was his duty to distribute the police verification reports received from Police Headquarters (PHQ) amongst the staff working under him. PW4 identified the signature of A1 on Ext. PW4/D passport verification report of Sukhjinder Singh (A4). PW4 in his cross-examination, admitted that on submission of the verification report by A1, he also used to satisfy himself about the correctness of the report by making endorsement on the said report, which is at point 'X' as Ext. PW4/A.

20. PW8, Postman, deposed that he had delivering *daak* to the residents of Kalyan Vihar during the period from 1982 to 2000, including the address 10, Kalyan Vihar, Delhi. According to PW8, the said house belong to Pratap Singh Sethi (PW12) who resided there with his family. He had never seen any tenant in the said house. He had never delivered any postal article in the name of Surender Singh at 10, Kalyan Vihar. When PW8 was shown the photograph on the personal particular form of Surender Singh



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marked A1, he answered that he had never seen the said person in the aforesaid address. PW8 in his cross-examination, deposed that he used to deliver letters only after checking the house numbers; that there was one other postman apart from him and that about 90% of the residents of the area were known to him. PW8 denied the suggestion that Sukhjinder Singh (A4) had resided at 10, Kalyan Vihar, Delhi.

21. The testimony of PW1 shows that passport had in fact been issued to A4. The address in the form shown is the address of PW12 and his son PW2, who in quite categorical terms deposed that no person by the name Lakhwinder or Sukhwinder or Surendar had ever resided in their residence, i.e., at 10, Kalyan Vihar, Delhi. They also asserted in categorical terms that no part of their house had ever been rented to such a person. The testimony of PW2 and PW12 have not been discredited in any way. Likewise, PW8, the postman, also deposed that he was the person who was delivering *daak* in the said area. He also supported the



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version of PW2 and PW12. On going through their testimonies, I do not find any reasons to disbelieve them. If that be so, the question is how the address of PW12 was given in the application form by A4 in his application for passport and how the passport of A4 was issued at the said address?

22. Admittedly, A1 was the officer who was entrusted with the task of verification of the details and antecedents of A4. It is admitted by A1 that he had in fact given Ext. PW4/D report. According to A1, he had gone to the spot and conducted the necessary verification. This explanation is apparently wrong in the light of the testimony of PW2, PW12 and PW8. Therefore, it is apparent that a false report had been given by A1 on the basis of which the passport was issued. Therefore, the offence under Section 13(1)(d)(ii) of the PC Act is clearly made out.

23. Now, coming to the offence of criminal conspiracy as contemplated under Section 120-B IPC. As rightly pointed out by the learned counsel for the CBI, it is seldom possible to give direct



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evidence to prove a case of criminal conspiracy. As per Section 120-B IPC, when two or more persons agree to do or cause to be done an illegal act or an act which is not illegal by illegal means, such agreement would amount to a criminal conspiracy. The essential ingredient of the offence of conspiracy is the agreement to commit an offence. The agreement may be expressed or implied or in part expressed and in part implied. As rightly held by the trial court, it is not always possible to give affirmative evidence about the date of formation of the conspiracy or about the persons who took part in the formation of conspiracy or about the object which the conspirators set before themselves as the object of conspiracy and about the manner in which the object of the conspiracy was to be carried out. All these are necessarily a matter of inference. The essence of criminal conspiracy is an agreement to do an illegal act. Such an agreement can be proved either by direct evidence or by circumstantial evidence or by both. The trial court has relied on the dictums in **Shiv Narayan Laxmi Narayan Joshi v. State of**



Maharashtra, AIR 1980, SC 439 and Mohammad Usman Mohammad Hussain Maniyar & Anr. v. State of Maharashtra, AIR 1981 SC 1062, to hold that as a conspiracy is always hatched in secrecy, therefore it is impossible to adduce direct evidence of the same. The offence can be only proved largely from inference drawn from the acts of illegal omissions committed by the conspirators in pursuance of a common design. The prosecution to prove an offence under Section 120-B IPC need not necessarily prove that the perpetrator expressly agreed to do or caused to be done an illegal act, the agreement may be proved by necessary implication (See also **Ram Narain Popli v. Central Bureau of Investigation AIR 2003 SC 2748**).

24. In the case on hand, it is true that there is no direct evidence of any criminal conspiracy between A1 and A4. But as held by the Apex Court in the aforesaid decisions, conspiracy can be inferred from the circumstances also. It is evident from Ext. PW4/D that there was in fact a criminal conspiracy between A1



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and A4 in pursuance of which A1 apparently has helped A4 in obtaining a passport using wrong details. Therefore, the ingredients of the offence under Section 120-B IPC are also made out. That being the position, I find no infirmity in the impugned judgment calling for an interference by this court.

25. In the result, the appeal, *sans merit*, is dismissed.

26. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 05, 2026
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