

SANTOSH SNEHI MANN
Special Judge (FC Act)/CBI-03
Court No. 3, Main Building
Patiala House Courts, New Delhi

**IN THE COURT OF MS. SANTOSH SNEHI MANN,
SPECIAL JUDGE (PC ACT) – 03 : CBI : PHC : ND**

CC No. 03/2018
CIS No. 54/2018
CBI Vs. Upendra Rai & Ors.

17.12.2018

Present: Mr. V. K. Ojha, substitute PP for Mr. K. K. Goel, Sr. PP
with Mr. K. K. Sahu, PP for CBI and IO/DSP Ashish Pareek.

Accused Upendra Rai (A-1) produced from judicial
custody.

Accused Alok Sharma (A-3) & accused Rahul
Rathore (A-4) present on bail, though they have not been
formally summoned as yet.

Remaining 02 accused are M/s Air One Aviation Pvt.
Ltd. (A-2) and accused Abhishek Kumar Singh (A-5), who have
also not been summoned as yet.

Mr. Akshay Anand, counsel for accused Alok Sharma
(A-3).

Report is filed by IO forwarded by the PP, CBI
submitting that a request has been made to CVC on 13.12.2018
for reconsideration of its advice and for convening a joint
meeting of Prosecuting Agency and Sanctioning authority to
resolve the difference of opinion. It is submitted that response of

C is awaited.



An application is filed on behalf of accused Upendra
Rai (A-1) for return of charge-sheet.

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Heard. Record perused.

FIR was registered under Sections 120-B/420 IPC and sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (PC Act) alleging involvement of public servants and private persons.

Charge-sheet was filed on 31.07.2018 u/s 120-B r/w 420/467/468 & 471 IPC and u/s 13(2) r/w 13(1)(d) of the PC Act against 05 persons including Rahul Rathore (A-4), the sole public servant charge-sheeted. Cognizance was not taken pending sanction for prosecution against the public servant.

On 07.12.2018, report was filed by SP, CBI, AC-II, New Delhi that sanction has been declined by the competent authority. Photocopy of the letter of the Under Secretary to Government of India dated 06.12.2018 addressed to the CBI was also filed.

This is a designated Court to try offences under the PC Act involving public servants. The sanction for prosecution of accused Rahul Rathore (A-4), the lone public servant charge-sheeted, has not been granted. Therefore, this Court does not have the jurisdiction to try the matter.

Besides, offences under the PC Act, charge-sheet is filed for the offences u/s 120-B r/w 420/467/468 & 471 IPC, which are triable by the Court of Metropolitan Magistrate.

File is sent to the Chief Metropolitan Magistrate, New Delhi to either try the matter himself or to assign it to another Metropolitan Magistrate.



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Accused Upendra Rai (A-1) be produced before the
Chief Metropolitan Magistrate, New Delhi.

Ahlmad to send the file complete in all respect.

Copy of the order be given dasti to the CBI as well as
to the defence counsels.



Sd,
(Santosh Snehi Mann)
Special Judge (PC Act)-03/
CBI/PHC / ND : 17.12.2018
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PHC New Delhi