C.C. No. 480/PW/2023 **Exh. 34**

P.W. No. 12 on S.A. :

State V/s. Sanjay Agarwal and others

Name : Sarveshkumar Chandrabhanu Sharma.
Age : 52 years.
Occupation : Inspector, Delhi Police.
Residing at : Vikas Puri, New Delhi.

Examination-in-chief by Ld. A.P.P. Smt. P. S. Patil for the State :-

1. I was posted at Connaught Place Police station as a PSI from 2001 to 2003. On 4th May, 2002 informant Triveni Singh, Senior Executive Legal Cell of M/s. Bajaj Capital Limited lodged report with Cannot Place Police Station. On the basis of said report C.R.No.280/2002 came to be registered for the offences punishable under Sections 409 and 120B of Indian Penal Code. Said report was against directors of Home Trade Limited namely Sanjay Agarwal, Ketan Sheth etc. After perusal of report I found that accused have not delivered Government Securities around Rs.1,42,00,000/- to the informant company. I put endorsement on the report and registered FIR. FIR (**Exh-35**) now shown to me is same. It bears signature of Duty Officer Head Constable Gurucharan Singh. I know his signature as I worked with him. During the course of investigation I collected documents from informant Triveni Singh under letter (Exh-PW1/G dated 05.05.2016). Those documents consisting of copies of bills, original contract notes and fax copy of Form B. Contract Notes (Exh-PW1/I, P.W.1/K and P.W.1/M) Form B (Exh-P.W.1/J, P.W.1/L). Then I collected documents from Canara Bank and prepared seizure memo (Exh P.W.4/B). Vide said seizure memo I seized

reply to Notice (Exh-P.W.4/A) addressed to it under Section 91 of Cr.P.C, Photo copy of bank statements pertaining to Bajaj Capital Limited (Exh P.W.4/C-1 to C-5), Photo copy of cheques (Exh-P.W.4/D-1 to D-2). I have collected documents from UTI Bank under letter (**Exh-36**). I collected bank statement (**Article A**) from UTI Bank. I had addressed letter (**Exh-27**) to RBI. I have received reply (**Exh-37**) from UTI Bank, Kolkatta. Copy of resolution (**Article B**) passed by Home Trade Limited submitted to me by UTI Bank. Photo copies of cheques (**Article C and D**), bank statement (**Article E**), photo copy of account opening form (**Article F**) of account opening of Home Trade Limited and attached documents, photo copy of Article of Association (**Article G**), photo copy of Memorandum of Association (**Article H**) of HTL. Account statement (**Article I**) of UTI, Reply (**Exh-38**) submitted to me by Citi Bank. Account statement (**Article J**), original account opening form (**Exh-39**) of LLoyds Brokerage Limited. Photo copy (**Article K**) of Customer's Identification Form of Citi Bank. Change in name certificate (**Article L**). Letter for change in name of company (**Exh-40**) addressed by Euro Asian Securities Limited company to change it name to Home Trade Limited. Photo copy (**Article M**) of certificate of resolution. Photo copy (**Article N**) of authorized signatory card. Photo copy of cheque (**Article O**). Signature Verification of Director Form (**Article P**). Photo copy (**Article Q**) of change in name certificate. I seized documents under seizure memo (**Exh-41**) which were produced before me by representative of Citi Bank. Under said seizure memo (Exh-41) I seized authority letter (**Exh-42**) of the authorization given to Balkisan by Citi Bank. Reply letter (**Exh-43**) addressed by Citi Bank to me. Deposit slip (**Exh-44**), cheques (**Exh-45 to 56**) and deposit slips (**Exh-57 to 63**), [<u>Learned advocate Mr. Wani for accused No.3 raised objection for exhibiting those cheques stating that witness is not author of those cheques and deposit slips. Objection is overruled for the reason that those documents were seized by present witness from the bank officer who has produced the same before him</u>] Closure of account request (**Exh-64**), certified true copy of resolution (**Exh-65**), Change of name certificate (**Exh-66**). Carbon copy of Production warrant (**Exh-67**) moved to Patiala House Court against Sanjay Agarwal and Ketan Sheth. Thereafter I recorded statement of witnesses as per their say. Thereafter I got transferred, hence, I transferred case papers to Record Moharar. During the course of investigation, it was transpired to me that HTL had made commitment to hand over physical Government Securities and Bonds to informant company. Accused neither issued Government Securities nor returned back amount around Rs. 1,42,00,000/- and as such misappropriated the amount.

2. Reply (Exh-5) was addressed to me by IDBI Bank.

Cross examination by Adv. Poonam Ankeshwari for accused No.2 :-

3. Report was handed over to me on 04.05.2002.

(Cross-Examination deferred due to recess)

R. O. & A. C.

Sd/-

(S.P. Shinde)
Addl. C. J. M., 47th Court,
Esplanade, Mumbai.

Date : 29.08.2024

Further cross examination resumed on oath by Adv. Poonam Ankeshwari for accused No.2 :-

4. It is not true to say that no specific role is assigned to any of the accused in report (Exh-P.W.1/B). after going through report, I deposed that no specific role is assigned to any particular accused in said report. I voluntarily state that except the word 'Directors of Home Trade Limited'. I had not conducted any inquiry prior to taking report. Crime (FIR) came to be registered on the day on which report was forwarded to me.

5. I do not know that Independent Directors or Additional Directors of the company do not involve in the day to day business of the company. In order to ascertain role of accused I did discussion with informant. Noting on last page of report (Exh-PW1/B) is put by me. As per said noting, date of occurrence is from 18.01.2002 to 21.02.2002. As per Form 32 (**Exh-68**) Ketan Shah was appointed as an Additional Director of Home Trade Limited. As per Form 32 (**Exh-69**) Ketan Sheth was resigned from HTL on 15.05.2001. As per document accused No.2 was not director of HTL from 18.01.2002 to 21.02.2002.

Cross-Examination by Advocate B.B. Tiwari for accused No.3.

6. FIR came to be registered on the basis of report (Exh-PW1/B) dated 03.05.2002. It is not mentioned in report (Exh.PW.1/B) that accused No.3 had received any amount from informant company. Report (Exh-PW1/B) is against Home Trade

Limited and its associates. As per investigation and seizure memo all the money was withdrawn by accused No.3 as an authorized signatory. I do not recollect whether I did investigation to find out whether withdrawn amount was deposited by accused No.3 in his personal account. I did not take house search of residence of accused No.3. I do not recollect whether I did investigate bank accounts of accused No.3.

7. I do not recollect number of Government Securities regarding which transactions were between HTL and Bajaj Capital Limited. I do not recollect whether I did investigate about the amount of transactions took place between HTL and Bajaj Capital Limited. I recorded statements of around 8 to 10 witnesses. I do not recollect whether any supplementary complaint had come on record in the present matter. There is no signature and thumb impression of informant on format of FIR. I voluntarily state that this being my copy (copy of I.O.), it does not bear thumb impression of informant. Duty officer would be only person to say Whether copy of FIR was sent to Court or not. It is not true to say that during the course of investigation done by me I do not find role of accused No.3 in the said matter. In cheques (Exh-45 to 56) accused No.3 is not shown as beneficiary. It is not true to say that there is no evidence against accused No.3 that he gave inducement to Bajaj Capital Limited.

Cross-Examination by accused No.4 in person

8. I have completed my graduation in Arts. I have not served with EOW F.C. Wing. I do not recollect whether I did investigation regarding default Securities. I do not know who is the main I.O. of this case. It is nowhere mentioned in the report (Exh.P.W1/B) that any amount was paid/entrusted by informant to accused No.4. I do not remember on which customers behalf Bajaj Capital had entered into said transaction. I do not remember whether I had inquired with Bajaj Capital Limited to verify whether it has any licence to do brokerage business. I do not remember whether any Deal Confirmation note was issued by Bajaj Capital Limited in the name of accused No.4 and whether it was approved by accused No.4. I do not remember whether any contract note is signed by accused No.4. During the course of investigation, I had gone through Contract Notes. Contract note (Exh-P-8) was issued by HTL as member of Pune Stock Exchange. As per contract note (Exh-P-8) transaction was principal to principal basis and Securities were sold to Bajaj Capital Limited and name of third party is not involved in it and period of delivery is also not mentioned in it. I had not recorded statement of any official of Pune Stock Exchange. I do not remember that Bajaj Capital Limited was not member any stock exchange when said deal was taken place. I do not remember difference between amount paid and amount shown as cheated. I do not know that

none of the cheque was issued under signature of accused No.4. I do not remember whether reference of third party was made in Deal Confirmation Note. I do not remember whether I had inquired with Bajaj Capital Limited about the stage at which money was being transferred. I recorded statement of Triveni Singh and one another lady who was Senior Manager of Bajaj Capital Limited. Memorandum of Association and Article of Association of public documents. In Article of Association (**Exh-70**) role and responsibilities of Secretary are specifically mentioned and as per the same the Secretary has to perform his duties under Companies Act-1956. It is not true to say that I have simply collected documents and not applied mind. I do not remember that simultaneously I was investigating another matter related to Home Trades Limited. I had not seized any paper from Nagpur during my investigation. It is not true to say that accused No.4 never met to any of the office bearer of Bajaj Capital Limited. I do not remember that Bajaj Capital Limited had never entrusted any money to accused No.4. I do not remember that none of the contract note in the matter is issued under the signature of accused No.4. I do not remember that none of the Deal Confirmation note is signed by accused No.4. I have not filed final report. It is not true to say that today I am deposing false against accused No.4.

Cross-Examination by Advocate Mane for accused No.1

9. Adopted cross-examination conducted by accused No.2 to 4.

Re-Examination: Nil

R. O. & A. C.

Sd/-

(S.P. Shinde)
Addl. C. J. M., 47th Court,
Esplanade, Mumbai.

Date : 29.08.2024

C.C. No.   Exh.

P.W. No. on S.A. :

State V/s.

Name :
Age : years.
Occupation :
Residing at :

Examination-in-chief by Ld. A.P.P. Smt. P. S. Patil for the State :-

Witness is not supporting the prosecution, so Learned A.P.P. sought permission to put the leading questions to the witness. Permission granted.

Cross examination by Adv.   for accused No. :-

Re-examination-Nil.

R. O. & A. C.

(S.P.Shinde)
Addl. C. J. M., 47th Court,
Esplanade, Mumbai.

Date :