

CBI 22/2020

CBI Vs. A B Bofors Swedon And Ors.

11.02.2025

Present: Mr. Chandan Singh, Ld. SrPP for CBI.
Mr. Bivesh Kumar, IO in person.

1. An application, filed on behalf of CBI u/s 166-A CrPC, seeking issuance of Letter Rogatory to the Competent Authority of United States of America, for investigation and collection of evidence, is pending consideration.

2. It is submitted by the IO as well as Ld. Sr PP, that CBI conducted an investigation pertaining to the alleged bribery by M/s AB Bofors, Sweden, regarding procurement of a contract for supply of arms to India, during the year 1986-87, vide the present case i.e. RC No. 1-A/1990, ACU-IV dated 22.01.1990. In this regard, an interview of Mr. Michael Hershman of a private investigation group, Fairfax, USA was broadcast on Republic TV, on 17.10.2017. During the course of the interview, Mr. Michael Hershman had stated that during the year 1986, he had been appointed by the Ministry of Finance, Govt. of India, for investigation of violation of currency control laws/money laundering, by Indians abroad and tracking of such assets outside India and some of them pertained to the Bofors deal, as per his claims, during the interview.

3. During the course of further investigation, CBI had requisitioned relevant documents from the Ministry of Finance, Govt. of India, but the documents pertaining to engagement of Mr. Michael Hershman, by the Ministry of Finance or any report submitted by him to the Ministry, is currently not available with the Ministry of Finance, as the matter is very old. Further, a request was also sent through the INTERPOL channel, seeking information/documents, useful for investigation of the present case. However, the reply from INTERPOL is still awaited. It is requested that in order to collect both documentary as well as oral evidence, for ascertaining the fact relating to the claims made by Michael Hershman, in the above-mentioned interview, it is necessary to conduct investigation in the United States of America. Accordingly, the IO has moved an application for issuance of Letters Rogatory to the competent authority in USA.

4. It is submitted that the “agreement between the Government of the Republic of India and the Government of USA on Mutual Assistance in Criminal Matters dated 17th October 2001” is in existence, which enables the Government of India for seeking assistance of the United States of America. Further, concurrence has been given by the Ministry of Home Affairs, Govt. of India, vide Letter Reference No. MHA UO No. P-03/2025/ALR010481016970240009, dated 14.01.2025, a copy of which is enclosed with the application.

5. Submissions heard. Record perused.

6. Section 166-A CrPC empowers a Criminal Court, to issue a Letter of Request/Letter Rogatory to any Court or authority, in any country or place competent to deal with such request, so as to facilitate the smooth conduct of investigation and the same is deemed to be the evidence collected during the course of investigation, as per Section 166-A(3), CrPC.

7. In the present case, an interview was given by a US citizen to a TV channel in India, regarding the alleged irregularities in the Bofors deal and in order to ascertain the veracity of the claims made during the interview, it is deemed necessary to conduct investigation in United States of America.

8. Considering the aforesaid facts and circumstances including the submissions made by Ld. PP for the CBI and the IO, the instant application is allowed, as per rules, for the purpose of facilitating expeditious investigation. Consequently, Letter Rogatory be issued u/s 166A CrPC to the Competent Judicial Authority, United States of America, with a request to the concerned authority/ies in the United States of America for collection of documents, recording statements of the person concerned and conducting investigation on points as mentioned in **Para 6 and Annexure XVIII of the Letter Rogatory**, subject to filing of requisite documentation by the IO.

9. **The application, accordingly stands disposed of, as allowed.**

10. Copy of this order be given dasti to the IO.

(Jyoti Maheshwari)
Addl. Chief Judicial Magistrate-05
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11. At this stage, requisite documents i.e. Letter Rogatory to the competent authority of United States of America, for legal assistance in the instant case, alongwith Annexures I to XXI, have been filed on record by the IO.

12. Perused.

13. The undersigned has affixed her signatures, on the Letter Rogatory addressed to the Competent Judicial Authorities, United States of America from page no. 1 to 52 and original of the same alongwith the annexures has been returned to IO, against due acknowledgement for doing the needful as per rules. Copy of the same be retained on record for future references, if any.

14. Copy of the order be given dasti to the IO, as prayed for.

(Jyoti Maheshwari)
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