

**IN THE COURT OF SH. ARUN BHARDWAJ,
SPECIAL JUDGE (PC ACT) CBI, COAL BLOCK CASES-01,
ROUSE AVENUE DISTRICT COURT, NEW DELHI.**

**CNR No. : DLCT11-001154-2019
Case No. : CBI/296/2019 (Old CC No. 06/14 & 78/2016)
RC No. : 219 2012 (E) 0013
Branch : CBI/EO-I/New Delhi
U/s : Section 120-B/409/420 IPC and
Section 13(1)(c)/13(1)(d) of P.C. Act, 1988**

In the matter of:-

CBI

Versus

- 1. M/s Grace Industries Limited,
Nagpur through its AR Sh. Jasvant Sinh Parmar,
Address: A-23, MIDC, Tadali Growth Centre,
Distt- Chandrapur, Maharashtra (Convict No. 1)**
- 2. Mukesh Gupta, Ex-Director,
M/s Grace Industries Limited, Nagpur,
S/o Shri Deodutta Mahadeoprasadji,
R/o Gupta Bhawan, House No. 28,
Near Hope Hospital, Dhantoli,
Nagpur, Maharashtra (Convict No. 2)**
- 3. H.C. Gupta, Ex. Secretary, Ministry of Coal,
Chairman of the 34th Screening Committee meeting,
S/o Late Sh. K.L. Gupta,
R/o 377, Sector-15-A, NOIDA,
Uttar Pradesh-201301 (Convict No. 3)**
- 4. K.S. Kropha, Ex. Joint Secretary,
Ministry of Coal,
Member-Convener of the 34th Screening Committee meeting,
S/o Late Sh. S.D. Kropha,
R/o D-1/39, Bharti Nagar,
New Delhi-110003 (Convict No. 4)**

ORDER ON SENTENCE

1. Today, the case is listed for arguments on sentence.
2. Submissions made by Sh. Sanjay Kumar learned DLA for CBI, Sh. Akshay Ringe learned counsel for Convict No. 1 M/s. Grace Industries Ltd, Sh. K.K. Patra Amicus Curie and learned counsel for convict No. 2 Mukesh Gupta and Sh. Rahul Tyagi learned counsel for Convict No. 3 H.C. Gupta and Convict No. 4 K.S. Kropha have been considered.
3. It is submitted on behalf of Sh. Sanjay Kumar, learned DLA for CBI that as per the report of the Comptroller and Auditor General of India, a loss to the tune of Rs. 1.86 Lakh crores was caused to the Government exchequer due to this coal block allocation scam. He has submitted that due to this scam, the Hon'ble Supreme Court of India vide order dated 24.09.2014 had to cancel the allocation of 214 coal blocks allocated to different companies. He has submitted that the impact of this scam is such that now companies are not coming forward to mine the coal blocks and despite availability of ample coal provided by the mother Earth, there is shortage of coal supply and coal is to be imported from outside. He has submitted that convict H.C. Gupta is a previous convict and has been previously convicted in three cases namely CBI versus M/s. Vikash Metals and Power Ltd and Others, CBI versus M/s. Kamal sponge steel and Power Ltd and others and CBI versus M/s. Vini Iron and steel Udyog Ltd and others. He has submitted that convict K.S. Kropha is also a previous convict and has been convicted in two cases namely CBI versus M/s. Vikash Metals and Power Ltd and

Others, CBI versus M/s. Kamal sponge steel and Power Ltd. He has relied on Nimmagadda Prasad vs CBI, Hyderabad [SLP (Crl.) No. 9706 of 2012] judgment of the Hon'ble Supreme Court of India, Rekha Sharma vs CBI decided by the Hon'ble Delhi High Court on 05.03.2015, Shanti Lal Meena versus State of NCT of Delhi decided by the Hon'ble Supreme Court on 07.04.2015, State of Himachal Pradesh versus Nirmala Devi, 2017 Criminal Law Journal 2886, State of Madhya Pradesh Vs. Pappu @ Ajay, SLP (Criminal) No. 1166 of 2006, Dhananjay Chatterjee versus State of West Bengal, 1994 SCC (Criminal) 358, State of Karnataka versus Sharanappa Basugonda Aregonda, 2002 CrL. L.J. 2020 (SC), State of Karnataka vs Krishna @ Raja, 1987, CrL. L.J, 776 (SC), State of M.P. vs Saleem, 2005 CrL. L.J. 3435 (SC), Siddarama and Others vs. State of Karnataka, 2006 IV AD (Crl.) (SC), 78, Ram Narain Popli vs Central Bureau of Investigation (Decided on 14 January, 2003), Ankush Maruti Shinde and others vs State of Maharashtra (C.A. No. 881-882 of 2009) (Arising out of SLP (Crl.) No. 8457-58 of 2008 decided on 30.04.2009) to submit that maximum punishment may be awarded to the convicts and heaviest amount of fine may be imposed upon them and that the punishment so awarded to the convicts, may be ordered to run consecutively, in the interest of justice.

4. Sh. Akshay Ringe, the learned counsel for Convict No. 1 M/s. Grace Industries Ltd, has submitted that not even a single gram of coal was mined, no loss was occasioned due to the offence of the convict company. He has referred to the evidence of IO of the case recorded on 11.01.2019, Page 3 where the IO has stated "During

the course of investigation, it did come to my notice that on account of allocation of coal block to M/s. GIL, pecuniary benefit did take place as at the time of sale of the company an additional valuation of around Rs.20 crores was arrived at on account of allocation of coal block to the company. It is correct that the said pecuniary benefit was extended to the erstwhile directors and not to the company". He has submitted that the benefit of the offence was received by the earlier directors of the company. Therefore, he has submitted that leniency be shown while awarding fine on the company.

5. Sh. K.K. Patra learned Amicus Curie for Convict No. 2 Mukesh Gupta has submitted that the convict is 65 years of age, and he has lost everything due to this case. He has submitted that all the assets of Mukesh Gupta have been attached. He has submitted that the management of M/s. Grace Industries Ltd has also gone out of his hands. The conduct of the convict during trial was above board and he has never delayed the trial of the case by seeking adjournment. He has submitted that the Government had appointed the said convict as Special Executive Magistrate. He has submitted that the convict is financially ruined and deserves leniency of the court.
6. Sh. Rahul Tyagi learned counsel for Convict No. 3 H.C. Gupta and Convict No. 4 K.S. Kropha has submitted that there was no allegation at any stage against these two public servants that they ever sought or received any personal benefits from Convict No. 1 company M/s Grace Industries Ltd or from its Director Convict No.2 Mukesh Gupta. He has submitted that H.C. Gupta was appointed to the Competition Commission, but he had resigned himself when he

was summoned in the case. He has submitted that the loss suffered by the country, as referred by Sh. Sanjay Kumar learned DLA for CBI during his submissions, was due to refusal of the Government to agree to the proposal of officers of Ministry of Coal to introduce bidding for the purposes of allocating coal blocks. He has submitted that H.C. Gupta is today 75 years of age. He is a diabetic patient and taking injectable insulin for the last 15 years. Similarly, K.S. Kropha is also a senior citizen. Both have attended each date of hearing regularly and have never sought any adjournment for delaying the trial. He has submitted that both the convicts are not flight risk. He has submitted that both the convicts are retired and financially in a precarious situation and has therefore prayed that leniency be shown while awarding sentence upon them.

7. Submissions made on behalf of prosecution and the convicted persons have been considered.
8. Sentencing is the most important stage after conclusion of the trial in a criminal case. At this stage, the mitigating circumstances as well as aggravating circumstances have to be considered by the court before deciding the sentence and there cannot be any standard formula which the courts can apply even in the case of convictions for similar offence by different convicts in same case/in different cases. Circumstances of each convict, most of the time, are peculiar and unique. Sentencing should neither be too lenient otherwise the law loses its deterrence, nor it should be harsher than required.
9. **Convict No. 1 M/s Grace industries Ltd:** So far as sentencing M/s. Grace Industries Ltd is concerned, its shareholding had gone out of

the hands of Convict No. 2 Mukesh Gupta after allocation of coal block in favour of M/s Grace Industries Ltd as the said convict and other shareholders of the company had sold their shares at a premium to other persons who are presently the shareholders/ management of the said company. The company could not make monetary gain by allocation of Lohara east coal block in its favour jointly with M/s. Murli Agro Products Ltd as the coal block was deallocated by Ministry of Coal as M/s. Murli Agro Products Ltd had not submitted the required bank guarantee with Ministry of Coal. Considering the entirety of facts and circumstances, the convicted company is awarded a fine of Rs. 1,00,000/- each for both the offences i.e., Rs. 1,00,000/- for the offence under section 420 of IPC and Rs. 1,00,000/- for the offence under section 120-B, 120-B read with section 420 of IPC read with section 13 (2) read with section 13 (1) (2) (d) of the Prevention of Corruption Act, 1988.

10. **Convict No. 2 Mukesh Gupta:** The next convict to be awarded sentence is Mukesh Gupta. During trial, this convict had expressed his inability to continue to engage the defence counsel who was defending him up till that stage due to his precarious financial conditions. On the request of the court, Sh. K.K. Patra learned counsel who was defending some other accused in other cases pertaining to coal block allocations had agreed to be the amicus curie for this accused. This convict Mukesh Gupta is also facing prosecution before this court for the offence under section 3 and 4 of the Prevention of Money Laundering Act, 2002. However, arguments on order on charge are yet to be addressed in the said complaint. The Enforcement Directorate has attached various properties

belonging to the convict Mukesh Gupta. It appears from complaint case pending before this court titled as ED versus M/s. Grace Industries Ltd that as per Provisional Attachment Order No. 03/2015 dated 08.12.2015 issued in ECIR No. 04/NGPSZ0/2013, 14 immovable properties whose market value was Rs. 24,92,14,700/- have been attached by Enforcement Department. However, it is also proved on record that but for deallocation of coal block by Ministry of Coal for reasons beyond the control of this convict, Mukesh Gupta and other shareholders of M/s. Grace Industries Ltd had succeeded in making a profit of Rs. 18 crores (which amount was returned after deallocation of the coal block) by transferring all the shares of M/s Grace Industries Ltd held by them in favour of 3rd person. It shows that M/s. Grace Industries Ltd, controlled by this convict Mukesh Gupta, was least interested from very beginning in mining the coal from the allocated coal block. The company under management of Mukesh Gupta was on the verge of being declared Non-Performing Asset (NPA). It had incurred huge financial liabilities which it was unable to return. This convict had given application for allocation of a coal block mentioning that net worth of M/s. Grace Industries Ltd was Rs. 120 crores whereas the net worth was not even 1/10 of that. This convict misrepresented availability of number of kilns. He also misrepresented production capacity of M/s Grace Industries Ltd which misrepresentation continued up to the office of Prime Minister who was the Minister of Coal at that time. When this company M/s. GIL under the management of this convict received allocation letter allocating more coal than even applied for by the company, Mukesh Gupta had remained silent hopeful of enjoying the bonanza and

windfall procured from Ministry of Coal. The PIL petitioners i.e., Manohar Lal Sharma and Common Cause, in leading case Writ Petition (Crl.) No. 120 of 2012 had submitted before the Hon'ble Supreme Court (which is recorded in para 75 of the order dated 25.08.2014) that "It is no co-incidence that a large number of allottees are either powerful corporate groups or shady companies linked with politicians and ministers or those who came with high profile recommendations." The evidence in this case has shown that M/s. Grace Industries Ltd under management of this convict Mukesh Gupta was indeed one such "shady company." Mukesh Gupta had all pervading control over M/s. Grace Industries Ltd when the company got allocated a coal block in its favour. He was the mastermind behind conspiracy and cheating. This court is unable to find any reason to be lenient on him. His prosecution by Enforcement Department under Prevention of Money Laundering Act, 2002/attachment is not a mitigating factor. The law permits prosecution for predicate offence as well as for the offence of money laundering. Moreover, the convict has only been summoned as an accused in the complaint filed by Enforcement Department and is not even charged so far with the offence under the Act of 2002. He will have all his remedies available in law at the time of arguments on charge for his prosecution under the PML Act. The de-allocation of coal block is also not a mitigating factor in as much as the same was de-allocated for reasons beyond the control of this convict. Otherwise, he had succeeded in securing allocation of a coal block in favour of M/s Grace Industries Ltd without having any intention to do any mining. Therefore, in the considered opinion of this court, the

ends of justice would be met by awarding him sentence of four years rigorous imprisonment for the offence under section 420 of IPC and the sentence of 3 years rigorous imprisonment for the offence under section 120-B, 120-B read with 420 IPC read with 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988. It is not a fit case for awarding consecutive sentencing. Therefore, the sentences shall run concurrently. The convict will have benefit of section 428 of CrPC and period of detention, if any, undergone by the convict shall be set off against sentence of imprisonment. However, considering his strained financial condition, which is clear from the fact that he could not afford the services of his defence lawyer whom he had engaged earlier till the conclusion of the trial and had to seek the help of an amicus curie, the convict is sentenced a fine of Rs. 1,00,000/- for the offence under section 420 of IPC and Rs. 1,00,000/- for the offence under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. In the event of failure to deposit the fine, he will suffer simple imprisonment for a period of one month each for both the offences, i.e., one month for the offence under section 420 of IPC and another month for the offence under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988.

11. **Convict No. 3 H.C. Gupta:** H.C. Gupta, like Convict No. 2 Mukesh Gupta, is also convicted for criminal conspiracy under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. Mukesh

Gupta has been awarded sentence of three years rigorous imprisonment for his conviction under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. No special circumstance has been shown to differ in awarding sentence to H.C. Gupta from the sentence awarded to Mukesh Gupta. Therefore, it is directed that H.C. Gupta shall also undergo rigorous imprisonment for three years for his conviction under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. He is also directed to pay a fine of Rs. 50,000/-. In the event of failure to pay the fine, he will undergo further simple imprisonment of one month.

12. So far as conviction of H.C. Gupta under section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988 is concerned, it is to be noted that w.e.f. 16.01.2014, the minimum imprisonment provided in the Act is four years and maximum imprisonment provided is ten years. However, during the time when the offence was committed, the minimum imprisonment provided in the Act was one year and maximum imprisonment provided was seven years. Considering the overall facts and circumstances, in the opinion of this court, ends of justice would be met by awarding H.C. Gupta rigorous imprisonment for a period of three years for the offence under section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. Additionally, the convict shall pay a fine of Rs. 50,000/-. In the event of failure to pay the fine, the convict shall undergo simple imprisonment for a period of one month. The sentences shall run concurrently and not consecutively.

The convict shall also be given the benefit of section 428 of CrPC and period of detention, if any, undergone by the convict shall be set off against sentence of imprisonment.

13. **Convict No. 4 K.S. Kropha:** So far as this convict K.S. Kropha is concerned, he was the Joint Secretary at the relevant time. Indeed, it was an important position, but he was working under the other convict H.C. Gupta who was Secretary at the relevant time in the Ministry of Coal. This convict was the Member Convener of the Screening Committee whereas H.C. Gupta was the Chairman. Whereas the role of this convict is confined to the working of Ministry of Coal, the role of H.C. Gupta is wider by virtue of his status being the Secretary of the Ministry in as much as the note put up before the Prime Minister by the Special Secretary to PM was prepared after discussions with H.C. Gupta. In this note, which was placed before the Prime Minister, reference was made to inter se priority for deciding allocation of coal blocks among competing applicant companies whereas no inter se priority was decided among applicant companies by MoC/Screening Committee. In this note, contrary to the facts, it was mentioned that allocation in favour of M/s Grace Industries Ltd was for 125 MW power project in addition to allocation for 1.5 MTPA Sponge Iron Plant. This is despite the fact that there was no recommendation by the Screening Committee for allocation of coal block for 125 MW power project. In this note, reference to Ministry of Steel was omitted because the application of M/s. Grace Industries Ltd was not sent to the said Ministry for its recommendations. K.S. Kropha had no role in preparing this note. This note was prepared by the Special Secretary to the Prime

Minister after discussions with H.C. Gupta. Therefore, in the opinion of this court, the ends of justice would be met by awarding K.S. Kropha two years rigorous imprisonment for the offence of criminal conspiracy under section 120-B, 120-B read with section 420 IPC read with section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. The convict shall pay a fine of Rs.25,000/- and in the event of failure to pay the fine shall undergo simple imprisonment for a period of one month. So far as the offence under section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988 is concerned, K.S. Kropha is awarded rigorous imprisonment for a period of two years and a fine of Rs.25,000/-. In the event of failure to pay the fine, he will undergo simple imprisonment for a period of one month. The sentences shall run concurrently and not consecutively. The convict shall be given the benefit of section 428 of CrPC and period of detention, if any, undergone by the convict shall be set off against sentence of imprisonment.

14. **Conclusion:** The sentence awarded to the convicts is as under:

S.No.	Convict	Offence	Sentence	Remarks
1.	M/s Grace Industries Pvt. Ltd.	Section 420 IPC Section 120-B, 120-B r/w Section 420 IPC r/w Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Rs.1,00,000/- Rs.1,00,000/-	
2.	Mukesh Gupta	Section 420 IPC	Four years rigorous	In the event of failure to pay

			imprisonment and fine of Rs.1,00,000/-	the fine, the convict shall undergo simple imprisonment of one month.
		Section 120-B, 120-B r/w Section 420 IPC r/w Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Three years rigorous imprisonment and Fine of Rs.1,00,000/-	In the event of failure to pay the fine, the convict shall undergo simple imprisonment of one month. Note: The sentences shall run concurrently. Benefit of Section 428 Cr.P.C. shall also be given.
3.	H.C. Gupta	Section 120-B, 120-B r/w Section 420 IPC r/w Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Three years rigorous imprisonment and fine of Rs.50,000/-	In the event of failure to pay the fine, the convict shall undergo simple imprisonment of one month.
		Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Three years rigorous imprisonment and fine of Rs.50,000/-	In the event of failure to pay the fine, the convict shall undergo simple

				imprisonment of one month. Note: The sentences shall run concurrently. Benefit of Section 428 Cr.P.C. shall also be given.
4.	K.S. Kropcha	Section 120-B, 120-B r/w Section 420 IPC r/w Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Two years rigorous imprisonment and fine of Rs.25,000/-	In the event of failure to pay the fine, the convict shall undergo simple imprisonment of one month.
		Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988	Two years rigorous imprisonment and fine of Rs.25,000/-	In the event of failure to pay the fine, the convict shall undergo simple imprisonment of one month. Note: The sentences shall run concurrently. Benefit of Section 428 Cr.P.C. shall also be given.

15. A copy of the judgment is already provided to the convicts. A copy of this order be also provided free of cost/dasti to the convicts and their Ld. Counsels immediately. The order be also uploaded on the website of the court forthwith.

Announced in the Open Court
on **08th day of August, 2022**

(Arun Bhardwaj)
Special Judge (PC Act) CBI
Coal Block Cases-01
Rouse Avenue District Court
New Delhi