

THE SPECIAL COURT FOR NIA CASES, ERNAKULAM, KERALA

Present:-

Shri. Kamanees.K, Judge, Special Court for NIA Cases, Ernakulam

Friday, the 4th day of November, 2022/ 13th Karthika, 1944.

SESSIONS CASE NO. 1/2020/NIA

(R.C. No.3/2019/NIA/KOC)

- Complainant : Union of India represented by
National Investigation Agency,
Kochi, Ernakulam.
- By Shri.Arjun Ambalapatta
Sr. Public Prosecutor, NIA
- Accused 1. Shri. Sumit Kumar Singh (A1),
aged 22/2020, S/o.Pramod Kumar Singh,
Ward No.13, Milki, Banahara, Gangta,
Munger District, Bihar – 811 213.
2. Shri. Daya Ram (A2),
aged 22/2020, S/o.Bhanwar Lal,
Ward No. 17,Jogiasan, Nohar,
Hanumangarh District, Rajasthan – 335523.
- By Adv. Shri. John.S.Ralph
- Charges : Offences punishable under sections 120B(1), 201,
461, 454, 380 read with section 34 of IPC,
besides section 66F(1)(B) of the Information
Technology Act.
- Plea of the accused : Guilty.
- Finding of the Judge : The accused persons 1 and 2 are convicted of the
offences under section 120B(1) of the offences
under sections 201, 461, 454, 380 read with
section 34 of IPC and section 66F (1)(B) of the
Information Technology Act. He is also
convicted of the offences under sections 201,
461, 454, 380 read with section 34 of IPC and
section 66F (1)(B) of the Information
Technology Act.

- Sentence or Order : (1) **The accused No.1** is sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 2 months under section 120B(1) IPC of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F(1)(B) of the Information Technology Act.
- (2) He is also sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.10,000/-with default rigorous imprisonment for 1 month under section 201 of IPC.
- (3) He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 461 of IPC.
- (4) He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 454 of IPC.
- (5) He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 2 months under section 380 of IPC.
- (6) He is also sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 3 months under section 66F(1) (B) of Information Technology Act.

(7) **The accused No.2** is sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.50,000/-with default rigorous imprisonment for 2 months under section 120B(1) IPC of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act.

(8) He is also sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.10,000/- with default rigorous imprisonment for 1 month under section 201 of IPC.

(9) He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 461 of IPC.

(10) He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 454 of IPC.

(11) He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 2 months under section 380 of IPC.

(12) He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 3 months under section 66F(1) (B) of Information Technology Act.

(13) All the sentences imposed on the convicts shall run concurrently.

(14) The convicts are entitled to get set off under section 428 of the Cr.PC for the entire period during which he was detained in this case.

(15) With respect to the orders of destruction of property, separate orders shall follow.

DESCRIPTION OF THE ACCUSED

Sl. No	Name of Accused	Father's Name	Occupation	Age	Residence
1.	Sumit Kumar Singh (A1)	Pramod Kumar Singh	Painter	24	Ward No.13, Milki, Banahara, Gangta, Munger District, Bihar – 811 213.
2.	Daya Ram (A2)	Bhanwar Lal	Painter	25	Ward No. 17, Jogiasan, Nohar, Hanumangarh District, Rajasthan – 335523.

Date of

Occurrence	Complaint	Apprehension	Release on bail	Commitment / Date of filing
Between 29/08/2019 & 13/09/2019	16/09/2019	A1-10/06/2020 A2-10/06/2020	A1- NA A2-19/11/2020	04/09/2020

Commence-ment of trial	Close of trial	Date of Judgment	Sentence /order	Service of copy of judgment for finding on accused	Explanation for delay
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This case came up on for final hearing before me on 04.11.2022 and after hearing the Public Prosecutor and the Counsel for the accused, I do adjudge and deliver the following :-

JUDGMENT

1. The gist of the prosecution case against the accused persons is that during late May 2019, the accused No. 1 and 2 had been engaged in painting work at 'V' and 'W' rings of the Indigenous Aircraft Carrier (IAC), berthed at the A3 Berth of Cochin Shipyard. They identified the computers installed and functioning on the Multi-Function Consoles (MFCs), those form part of the Integrated Platform Management System of the Naval warship. In mid June 2019, the accused No.1, being self trained in computer hardware components, without any authorisation, trespassed and opened the Central Processing Unit (CPU) of MFC in 5Q Ring of the IAC and learned about the hardware components. They conspired to commit theft of critical hardware components including Solid state Drives (SSD), Processors and Random Access Memory from the MFC, for monetary gain. In furtherance of the criminal conspiracy and common intention with dishonest motive, in the second week of July 2019, they trespassed into the 'Section Base' at 5Q Ring of IAC, where the MFC No. 29 was installed, knowing that it was a computer resource containing data pertaining to the security of the nation and restricted for that reasons. The

allegation is that the accused No. 1 broke open the system without authorisation, accessed the CPU of the MFC No.29/WM SB4 computer, installed in the room called 'Section Base' at 5Q Ring of 5th deck and committed theft of two RAMs, one Processor and one 256GB SSD with data. The accused No. 2 stood in watch at the entrance of 5Q Ring to alert the accused No.1, if anybody came towards the Ring and thus the theft was facilitated. The accused No.1 threw two cooling fans removed from the MFC, while committing the theft, into the waters from the starboard side of the IAC and the side cover removed from the CPU was kept concealed over the air conditioning duct for disappear of evidence. The stolen property was concealed by the accused No.1 in his boiler suit and they concealed the critical computer hardware component in their room. There are also allegations that in the last week of July 2019, they trespassed into 4R Ring of IAC and committed theft of 2 RAMs, one Processor and one 256GB SSD with data observing the same modus operandi. The next incident is alleged to have happened in 1st week of August 2019, when they trespassed into 5N Ring of IAC where MFC No.28 was installed and committed theft of 2 RAMs, one Processor and one 256GB SSD with data, the modus operandi being the same. The next was trespassing into the 7P Ring of IAC where MFC No.25 was installed knowing that it was a computer resource containing data pertaining to the security of the nation and committed theft of 2 RAMs, one Processor where MFC No.25 was installed.

The next operation in furtherance of the criminal conspiracy happened in 1st week of September 2019 when they committed theft of 2RAMs, one Heat Sink, one Processor and one 256GB SSD from 5M Ring where MFC No.13 was installed. The critical computer hardware components stolen were worth Rs.2,50,420/- and there was damage worth Rs.25,77,823.50/- besides the delay in the timeline of the defence project. Each time the data had been accessed which compromises security concerns of the nation and therefore the offences alleged.

2. After hearing the accused persons, a formal charge was framed against the accused persons respectively as follows :

a) Against accused No.1 - Sections 120B(1), 201, 461, 454, 380 read with section 34 of IPC, besides section 66F (1)(B) of the Information Technology Act.

b) Against accused No.2 - sections 120B(1), 201, 461, 454, 380 read with section 34 of IPC, besides section 66F(1)(B) of the Information Technology Act.

3. Today, when the accused persons appeared, charge was read over to them and explained to them in Hindi. Both the accused persons were represented by their lawyer Adv. Shri.John S.Ralph who was also present.

4. The accused persons seemed to have understood the contents of the charge. They had enough and more time for legal consultation and they

appeared to be normal in their composure. There is nothing to feel that they did not understand the contents of the charge, nor are there any circumstances revealed to the effect that they have been carried away by any misunderstanding or having presence of any elements to vitiate their logic and reasonable thinking.

5. Their pleas are recorded and they are accepted. Accordingly, they are convicted of the following offences :

a) The accused No.1 is convicted of the offences under section 120B(1) of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act. He is also convicted of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act.

b) The accused No.2 is convicted of the offences under section 120B(1) of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act. He is also convicted of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 4th day of November, 2022.

Sd/-
Kamanees.K
Judge

6. I have heard the accused persons on the question of sentence. The accused persons 1 and 2 would state that they had been only 21 years at the time when the offence was committed. Both of them pleaded that they hail from poor families and they are the ones to support their respective families. Both of them state that if a chance is given to them, they will lead a decent life.

7. Looking into the factual matrix as revealed from the prosecution records, it is revealed that the prime accused had been the accused No.1 and the accused No.2 in fact had only been privy to all his misdeeds. The greater design came up from the accused No.1. Theft had been committed of high end digital devices from an Indian warship which had been the symbol of national pride, and these instances had been carried out over a period of time. After the theft had been revealed, the same had caused delay to accomplishment of the national project. The vulnerable data contained in the device had been compromised in the diction of security and that reveals a very serious face of it. These are the aggravating circumstances while considering the question of sentence to be imposed.

8. The facts on record equally show that the accused persons had been of youthful age, not proved to have undergone any previous convictions and they had been migrant labourers hailing from a northern state of India. There may be circumstances equally possible that these accused persons might not have given much regard for the gravity of the crime they had been into. A

probability of reformation may have to reflect in the diction of sentencing. Both these accused persons are yet to commence a family life. These are the mitigating circumstances revealed.

9. The duty of the court is now to consider both these aspects, balance them and to award sentence. Considering the aggravating circumstances as well as mitigating circumstances, I find that in awarding sentence rigor should reflect more in the case of the accused No.1 than the accused No.2. At the same time, the punishment shall not be trivial considering the national interest involved in the matter.

10. I find it sufficient sentencing the accused No.1 to rigorous imprisonment for a period of 3 years and ordering him to pay a fine of Rs.50,000/- shall be sufficient for the offence under section 120B(1) IPC and in default of payment of fine, he shall undergo rigorous imprisonment for a period of 2 months. Under section 201 IPC, the accused No.1 shall be sentenced to rigorous imprisonment for one year and to pay a fine of Rs.10,000/- and in default payment, rigorous imprisonment for a period of one month. Under section 461 IPC, the accused No.1 shall be sentenced to rigorous imprisonment for two years and to pay a fine of Rs.20,000/- and in default payment, rigorous imprisonment for a period of one month. Under section 454 IPC, the accused No.1 shall be sentenced to rigorous imprisonment for two years and to pay a fine of Rs.20,000/- and in default payment, rigorous imprisonment for a period

of one month. Under section 380 IPC, the accused No.1 shall be sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.30,000/- and in default payment, rigorous imprisonment for a period of two months. Under section 66F(1)(B) of Information Technology Act, the accused No.1 shall be sentenced to rigorous imprisonment for five years and to pay a fine of Rs.50,000/- and in default payment, rigorous imprisonment for a period of three months.

11. I find it sufficient sentencing the accused No.2 to rigorous imprisonment for a period of 3 years and ordering him to pay a fine of Rs.50,000/- shall be sufficient for the offence under section 120B(1) IPC and in default of payment of fine, he shall undergo rigorous imprisonment for a period of 2 months. Under section 201 IPC, the accused No.2 shall be sentenced to rigorous imprisonment for one year and to pay a fine of Rs.10,000/- and in default payment, rigorous imprisonment for a period of one month. Under section 461 IPC, he shall be sentenced to rigorous imprisonment for two years and to pay a fine of Rs.20,000/- and in default payment, rigorous imprisonment for a period of one month. Under section 454 IPC, the accused No.2 shall be sentenced to rigorous imprisonment for two years and to pay a fine of Rs.20,000/- and in default payment, rigorous imprisonment for a period of one month. Under section 380 IPC, the accused No.2 shall be sentenced to rigorous imprisonment for three years and to pay a fine of Rs.20,000/- and in default

payment, rigorous imprisonment for a period of two months. Under section 66F(1)(B) of Information Technology Act, the accused No.2 shall be sentenced to rigorous imprisonment for three years and to pay a fine of Rs.50,000/- and in default payment, rigorous imprisonment for a period of three months.

In the result,

1. **The accused No.1** is sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 2 months under section 120B(1) IPC of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act.
2. He is also sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.10,000/-with default rigorous imprisonment for 1 month under section 201 of IPC.
3. He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 461 of IPC.
4. He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 454 of IPC.

5. He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 2 months under section 380 of IPC.
6. He is also sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 3 months under section 66F(1)(B) of Information Technology Act.
7. **The accused No.2** is sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.50,000/-with default rigorous imprisonment for 2 months under section 120B(1) IPC of the offences under sections 201, 461, 454, 380 read with section 34 of IPC and section 66F (1)(B) of the Information Technology Act.
8. He is also sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.10,000/- with default rigorous imprisonment for 1 month under section 201 of IPC.
9. He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 461 of IPC.
10. He is also sentenced to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 1 month under section 454 of IPC.

11. He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.20,000/- with default rigorous imprisonment for 2 months under section 380 of IPC.
12. He is also sentenced to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.50,000/- with default rigorous imprisonment for 3 months under section 66F(1)(B) of Information Technology Act.
13. All the sentences imposed on the convicts shall run concurrently.
14. The convicts are entitled to get set off under section 428 of the Cr.PC for the entire period during which he was detained in this case.
15. With respect to the orders of destruction of property, separate orders shall follow.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 4th day of November, 2022.

Sd/-
Kamanees.K
Judge

APPENDIX

Nil

//True copy//

Id/-
Judge
(By order)

Sheristadar
Judgment in
S.C. No. 1/2020/NIA
Dated 04/11/2022