

News

In an Official Secrets Act case, the Delhi High Court permits the CBI to record a US witness's testimony through VC.



The Court stated that OSA does not forbid electronic recording of trials or evidence as long as sufficient safeguards are in place.

In an Official Secrets Act (OSA) case involving arms dealer Abhishek Verma, the Delhi High Court on Wednesday permitted the Central Bureau of Investigation (CBI) to videoconference the testimony of American businessman C Edmonds Allen from the Indian Consulate in New York [Central Bureau of Investigation v Sh Abhishek Verma & Ors].

Verma was charged in 2012 on suspicion of having access to confidential Ministry of Defense data, such as the Air Force's purchase plans and Defense purchase Council meeting minutes. After Allen, Verma's former US lawyer, wrote to the then-defense minister and attached confidential documents he said he had received from Verma, the investigation got underway.

Because discussing secret materials with a witness in the United States could violate secrecy requirements and risk unauthorized publication, the trial judge denied the CBI's appeal to interview Allen via video link. Additionally, it referenced procedural guidelines that demand the accused's approval before allowing remote testimony.

After pointing out that the OSA does not forbid electronic recording of trials or evidence as long as sufficient protections are in place, Justice Sanjeev Narula overturned this ruling.

"Although the Trial Court's concern that using video conferencing could lead to the disclosure of classified information cannot be written off as unrealistic, the legal solution is not ban but rather regulation in a fair and just way with sufficient safeguards. OSA specifies how delicate proceedings must be conducted; it does not dictate how trials should be conducted. When combined with Section 327 of the CrPC, Section 14 of the OSA gives the Court the authority to shield the proceedings from the public eye and to enforce confidentiality-preserving requirements. Therefore, managing risk while maintaining the integrity of the process is the appropriate judicial response, the Court stated.

Additionally, it stated that Allen, who is 79 years old, has orthopedic and heart conditions, and is allegedly threatened, making travel to India risky.

The Court recognized these **"compelling equities"** and stated that the Consulate's video testimony strikes the ideal balance between guaranteeing a fair trial and preserving national security.

Invoking the High Court's unique authority under Rule 18 of the Delhi High Court Video Conferencing Rules, 2020, Justice Narula waived the need for the accused's assent.

Nonetheless, the Court stipulated that confidential papers must be kept at the court and that the VC must be conducted in camera over a secure, encrypted connection.

Abhishek Verma was represented by Senior Advocate Maninder Singh, as well as attorneys Dinhar Takiar, Sanjana Nair, Anurupita Kaur, Mudit Maruah, and Karan Tomar.

For a respondent, attorneys Sarim Naved and Zeeshan Ahmad made an appearance.

C Edmons Allen was represented by advocates Harshvardhan Jha and Aman Pathak.

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