



A student of Fine Arts of Dhaka University painting a mural on a wall near the Central Shaheed Minar yesterday. The nation observes Amar Ekushey today. PHOTO: AMRAN HOSSAIN

Flimsy evidence, flawed probe

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available on the website of the Canadian Legal Information Institute (CanLii).
The ruling that the intercepted private communications cannot be used as evidence at the trial ultimately led to the acquittal of the three accused on February 10, even before the case could actually go on trial.
The acquittal order was given after the prosecution decided to drop the case, saying it had no other evidence or witness to call, the Globe and Mail journalist Janet McFarland, who covered the proceedings, told The Daily Star.
To be clear, the court dealt only with the legality of the wiretap evidence. It also did not review the wiretap evidence submitted by the RCMP. The content of the wiretap evidence has not been made public.
"I have specifically not reviewed the information provided from the intercepted communications so as to not fall, inadvertently, into an 'ends justify the means' analytical trap," said Justice Ian Nordheimer, who is a veteran judge specialising in business laws, in his ruling.

The RCMP declined to comment on the matter.

The three acquitted are Ramesh Shah, Kevin Wallace and Zulfiqar Ali Bhuiyan. Shah and Kevin were former employees of Canadian construction firm SNC Lavalin, which was alleged to have been at the centre of the "scheme to bribe some Bangladeshi officials and individuals to win a \$50 million construction supervision job". Zulfiqar is a Bangladeshi-Canadian citizen.

MYSTERIOUS TIPSTERS

Five companies were shortlisted for construction supervision job of the 6.2km bridge over the Padma river. The technical qualification of these firms was assessed in December 2010 and the financial aspects of their proposals in March 2011. SNC-Lavalin came out second in both aspects.

In March 2011, the WB contacted the RCMP, saying it received allegation of possible corruption involving SNC Lavalin and the Padma bridge project, according to the court ruling, which was made public on February 10.

The WB, which cancelled its \$1.2 billion loan for the project citing "proof" of a corruption conspiracy, received the allegations from four tipsters via emails.

Paul Haynes, then an investigator within the WB's Vice Presidency for Integrity (INT) who raised the allegation to the RCMP, did not meet or know the identity of tipsters 1 and 3, but knew the identity of tipster 2.

However, at the request of tipster 2, he refused to reveal his/her identity to the RCMP. Haynes also knew the identity of tipster 4 and he revealed that identity to the RCMP.

It later turned out that the information from tipster 4 was very general in nature and was irrelevant to the allegations.

None of these tipsters provided any information to the police or the WB in the past, meaning their credibility has never been tested.

The information provided by three tipsters had, in turn, been received by the tipsters from other sources and that the RCMP and the INT knew the identity of some of these sources.

But the RCMP did not independently verify any of these allegations; did not talk to any of the persons identified by the tipsters as being in a position to provide direct information regarding the allegations; and did not meet any tipster or even speak with tipster 1 or tipster 3.

The RCMP opened its investigation in April 2011 and applied for three authorisations to tap the private communications of the accused between May and August 2011.

"It is these authorisations that are the subject of this challenge [by the accused]," the court said.

'RUMOURS'

While applying for such authorisations police must make "full, frank, and fair disclosure" of the information

available, but the RCMP did not do so. At times it gave "misleading" information, such as about the travel record of Wallace and Shah, or withheld known facts.

Police did not even dig out the motive of any of the tipsters.

In one of his own emails to the WB, tipster 1 said, "We have heard many rumours of corruption in the evaluation process for the CSC [Construction Supervision Contract] proposals submitted from five different shortlisted consultants. The latest rumours seem to be based on evidence, which we have not yet seen. If they are true, then it seems that the evaluation done by the special committee that was set up by the Bangladesh Government has not been done correctly."

In some of his/her emails, this tipster directed the WB to specific people by name. The tipster also said the WB could contact to confirm the information that s/he was providing. But there is no evidence that the WB spoke to any of those people, the court said.

Also, while the police spoke with tipster 2 by phone twice, there is no evidence that the police or the WB probed his/her credibility.

Interestingly, the WB knew that tipster 2 had been involved in corrupt practices in the same bidding process with another bidder.

The court agreed to some degree that someone involved in corruption can be a source of information about similar corrupt practices, but that cannot be the sole justification for his/her credibility and reliability.

Tipster 3, whose identity was also unknown, sent only one email to the WB. "It is known to all that the technical evaluations are manipulated by the evaluation committee," the email said, adding, "SNC is promising hefty corrupt payments."

The court noted there was no indication how tipster 3 knew this. And given his/her anonymity, there is no reason to believe that s/he was in a position to know it.

Hearsay statements of an informant can provide reasonable and probable grounds to justify a search, but evidence of a tip from an informer, by itself, is insufficient to establish reasonable and probable grounds for that, it said.

"I repeat that there is a high standard to be applied to satisfy the constitutional requirements for an authorisation to issue to intercept private communications. Mere suspicion of criminal activity is not sufficient," the judge said.

THE THREE Cs

The court referred to a "three Cs" investigative approach when informants are involved. The "three Cs" stand for compelling, credible and corroborator.

To justify a warrantless search, the court said, it must be considered if the information is compelling, if the source is credible and if the tip has been corroborated by police investigation before making the decision to conduct the search.

In the present case, the information was not compelling because, first, the police did not know the identity of three informants and, second, the information they provided was not their first-hand knowledge. It was either based on general perception or something heard from other people.

The credibility of the sources was not established because they are from outside the police and never provided information to police.

Citing two previous judgments, the police argued that informants need not have a track record to be credible and that even anonymous sources may be relied upon.

The court dismissed such line of arguments, since in both of those cases the anonymous informant was found to be reliable because the police had independently confirmed some aspects of the information they provided.

Police also claimed they were able to confirm substantial portion of the tips.

For example, they corroborated information such as corruption is a problem in Bangladesh; SNC has engaged in corrupt practices in the past; and Mashur Rahman is prime minister's financial adviser.

But the court said this was nothing but a recitation of publicly known information. "In one sense, it might be seen as confirming nothing more than the tipsters had access to the Internet."

And the alleged corrupt practices by SNC Lavalin in the past do not relate to the present case -- those allegedly took place in Africa and India, both 20 years ago.

VIOLATION OF CONSTITUTIONAL RIGHTS

The wiretap application can be made if other investigative procedures have been tried and have failed or other investigative procedures are unlikely to succeed or the urgency of the matter is such that it would be impractical to carry out the investigation using other investigative methods, it said.

While the contents of the applications for authorisations failed to establish that there were no other reasonable ways to investigate the allegations made by the tipsters, the authorisations to intercept private communications lacked the requisite grounds for their issuance, the court added.

"The authorising judge had to be satisfied that other investigative procedures were 'unlikely' to succeed... the authorising judge must... remember that the citizens of his country must be protected against unwanted fishing expeditions by the state and its law enforcement agencies.

"Consequently, the authorisations were issued in violation of the applicants' s.8 Charter right to be free from unreasonable search. As a consequence, an order is made excluding all of the private communications intercepted under the authorisations from the evidence to be tendered at trial," concluded the judge.

THE ACQUITTAL

On February 10, the three accused were produced before the same Ontario Superior Court.

The Crown attorney, Tanit Gilliam, told the court that since they could not use wiretap evidence, the Crown would be calling no witnesses or evidence in the case.

She then invited the judge to acquit the accused, Janet McFarland, the Globe and Mail journalist, told this newspaper.

The judge then said they were all acquitted.

Bangladesh was not a party to this case.

Bangladesh had its own investigation into the allegation, which led to the resignation of communications minister Syed Abul Hossain, who was alleged to have been involved in the scam. Also, bridges division secretary Mosharruf Hossain Bhuiyan was sent to jail and Mashur Rahman was sidelined.

After about three years' probe, the Anti-Corruption Commission cleared all the seven accused in September 2014, saying it found no evidence of corruption against them.

About a month later, a Dhaka court acquitted them all -- Wallace, Shah, a local agent of SNC Lavalin and four Bangladeshi officials, including Mosharruf.

Contacted for comment yesterday, Mehrin A Mahub, head of corporate communications of WB's Dhaka office, referred to the previous response by Qimiao Fan, WB County Director for Bangladesh, Bhutan, and Nepal:

"The World Bank takes allegations of fraud and corruption impacting Bank-financed projects very seriously. Once a World Bank investigation is concluded, we share findings with national authorities to determine whether or not there was a violation of national legislations. The status of referral actions is published in INT's annual report. How each referral is handled is always left up to each national authority."

Earn trust

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Huda said the Election Commission would try its best to perform its constitutional responsibility bestowed on them sincerely and transparently.

The CEC also expressed its determination to carry out their duties properly and in a responsible manner to win people's confidence.

During the meeting, Nurul sought all-out cooperation from the president to discharge their duties properly.

Four election commissioners -- Mahub Talukder, Rafiqul Islam, Kabita Khanam and Brig Gen (ret'd) Shahadat Hossain Chowdhury -- and EC Secretary Md Abdullah were, among others, present at the meeting.

Elephant blows

FROM PAGE 16
When the circus was forced to shut down, they offered him \$300,000 for Trompita, "but I would have felt like Judas. I couldn't sell her."

"She's a very sweet elephant, very calm and she's very well cared-for here," he added, noting that they've shared all sorts of experiences together.

"I even play soccer with her and she does it super well. She's better than all other players in the world, even (Argentine soccer icon Lionel) Messi," he said.

After 48 years together, Lopez said that Trompita often just has to look at him and "she knows what's going on."

She devoured her birthday cake and threw dirt on her back with her trunk to protect herself from the sun.

Trompita eats an average of 400 pounds of fruits and vegetables each day, and it is expected that she could live to age 70 in captivity, although elephants in the wild have a tough time making it to 60.

Schoolteacher

FROM PAGE 2
This correspondent could not contact one of the alleged attackers, Rokonzaman, as his mobile phone was switched off.

Maqbul Hossain, officer-in-charge of Kaligonj Police Station, said police raided the village to arrest the attackers yesterday noon, but they went into hiding after the incident.

Action would be taken against the schoolteachers' attackers, he added.

MP Liton's killers

FROM PAGE 16
Police-1 in Savar's Ashulia, on the capital's outskirts.

Four unknown assailants on two motorcycles arrived at the Gaibandha-1 MP's Sundarganj residence after Maghrib prayers on December 31 last year seeking to meet him, said Liton's brother-in-law Bedarul Ahsan.

With faces covered, they later stormed the guest room and shot Liton at close range said Bedarul. The MP's sister filed a murder case the next day with Sundarganj Police Station accusing unnamed people.

Jamaat-e-Islami's Sundarganj upazila (east) unit ameer, Shahidul Islam Mondal, 50, was arrested on January 8 and taken on remand. Six others affiliated with the unit were arrested the day before.

Liton had drawn widespread flak after allegedly shooting a 10-year-old boy, Sourav Mia, in both legs at Gopalcharan village in Gaibandha on October 2, 2015.

Sourav's father Sazu Miah filed an attempted murder case against Liton the following day. Liton was arrested on October 14 in the capital's Uttara.

PM blasts

FROM PAGE 2
would inspire the future generation to accomplish major works for people.

She sought cooperation from all in collecting the names of learned and wise men who made contributions to various sectors and played a supporting role for the country's development so that the government could honour them properly.

Cabinet Secretary Shaiful Alam conducted the programme, with Minister for Cultural Affairs Asaduzzaman Noor in the chair.

HC asks Baufal

FROM PAGE 5
conduct over the incident of torture on Hafizur, Deputy Attorney General Tapas Kumar Biswas told The Daily Star.

The bench of Justice Quazi Reza-Ul Hoque and Justice Mohammad Ullah came up with the rule and order after hearing a writ petition filed by Hafizur's mother Josna Begum seeking necessary directives on the responsible police personnel.

She submitted the writ petition to the HC annexing a report published on the daily Janakantha on February 14 over the incident of police torture on Hafizur.

According to the report, the sub-inspector Ferdous arrested Hafizur and brought him to the custody of Baufal Police Station on February 12 evening.

At midnight, Hafizur was brought to the office room of the OC and beaten with sticks, the report said, adding that OC Azam Khan was not in the office at that time.

OC Azam Khan told the newspaper that ASP Saiful Islam interrogated Hafizur at his (OC) office room but did not torture him.

Convicted planner

FROM PAGE 1

A CTTC team followed Rana from the airport and arrested him along with his associate Ashraf in Uttara West Police Station area, he added.

At one stage of his stay in Malaysia, Rana came in contact with Junnun Shikder, a militant suspect who was once arrested by law enforcers in Bangladesh but got bail and fled the country.

"Although Rana was an organiser of banned militant outfit Ansarullah Bangla Team for several years, he was attracted to Islamic State being motivated by Junnun Shikder and took baiyat [oath of allegiance] to the global terror body," Monirul said while briefing journalists at the Central Shaheed Minar about the security arrangement of Ekushey February.

According to the CTTC chief, Junnun is now in Syria. Rana also tried to go to the war-torn country from Malaysia but failed.

Later, Rana along with Ashraf contacted Philippines-based violent jihadist organisation Abu Sayyaf to visit Philippines and take militant training. But before leaving for Philippines, they got arrested by Malaysian detectives.

Rana, who is from Feni, mentioned Gazipur as his present and permanent addresses in his fake passport used for Malaysia trip, Monirul said.

The number of his original passport was "blocked" by law enforcers so that he got caught at the immigration. But how he managed the fake passport is not known and it is under investigation.

RISE OF RANA & ABT

ABT was formed with Rana as its leader in 2013. He along with some other NSU students formed different cells and carried out operations. One of such cells killed Rajib Haider.

Another cell attempted to murder blogger Asif Mohiuddin in January 2013, leaving him severely wounded. Rana, who masterminded the attack, is

a charge-sheeted accused in the case filed in this connection.

Rana, now 34, is also a charge-sheeted accused in another case filed for planning to kill an assistant headmaster of Monipur High School in the capital at the end of 2013.

Law enforcers intercepted two ABT members while they were on their way to kill the teacher. One was arrested while the other managed to flee.

"The arrested ABT man later identified Rana through his photograph and admitted that Rana assigned them to carry out the attack," Monirul said, adding both the cases are under trial.

The DMP in March 2015 announced a Tk 5 lakh bounty on Rana.

Monirul said Rana might have links to some incidents that took place in Bangladesh before he was attracted to IS in 2015.

"We think that from Malaysia, he continued his militant activities and played roles in different terrorist attacks [in Bangladesh]."

Asked whether Rana has any connection with Ansar al Islam's military commander Maj (sacked) Syed Ziaul Haq, Monirul said they would place him before a court today, appeal for his remand in a case to be filed later in the day under Anti-Terrorism Act and interrogate him to know whether he has any links with Zia.

He also said they would also try to know whether he had any links with one of the Gulshan café attackers, Nibras Islam, who once studied at a Malaysian university.

Ansar al Islam was previously called Ansarullah Bangla Team.

As a rising militant outfit, ABT wanted to launch al-Qaeda in Bangladesh (AQIB) like al-Qaeda in Indian Sub-Continent (AQIS). But the AQIS headquarters in Pakistan did not approve the idea and suggested Ansarullah be renamed Ansar al Islam and work as the Bangladesh chapter of AQIS.



Two cars the World Bank's Bangladesh office handed over to the Customs Intelligence and Investigation Directorate (CIID) are parked outside the CIID's Kakrail office in the capital. The vehicles were turned over to the CIID yesterday after it sought information on 16 vehicles owned by the global lender's staff. PHOTO: STAR

WB hands in

FROM PAGE 1

The National Board of Revenue (NBR) in 2003 framed a rule that allowed foreigners, who work at the local offices of the WB, International Monetary Fund, Asian Development Bank and other international development agencies, to import durables at zero duty.

The durables brought in under the facility must be listed on a passbook. The foreigners should return the passbooks to the NBR before leaving Bangladesh on expiry of their job tenure.

The foreign nationals can either choose to take back the durables with them or sell those to people with same status. However, the NBR must be informed about their choice of action.

The rule stipulates that if any privileged person flouts the rule, the head of the organisation concerned would be held responsible for it.

Following an investigation, the CIID on February 15 sent a letter to the WB's Dhaka office seeking information about the 16 duty-free vehicles.

Qimiao Fan, World Bank country director for Bangladesh, Bhutan, and Nepal, said his office was fully cooperating with the NBR and the CIID to

address the issue of the outstanding passbooks.

The WB provided the CIID with detailed information on the 16 passbooks and shared vehicle transfer documents of 11 of them, including NBR's permission and customs clearance to transfer vehicles to another privileged person, Qimiao told The Daily Star.

The WB in the previous two months returned 35 passbooks, including nine mentioned in the CIID's letter. The bank has sought clarification on one name, which it said was not in its staff directory.

Qimiao said his organisation was committed to fully cooperate with the NBR and CIID to address any non-compliance issue.

"We are also reviewing the administrative procedures of the World Bank Dhaka Office to ensure full compliance with national law and regulations," he added.

The bank sought six months to report to the CIID on four duty-free vehicles.

On Sunday, the ILO country office in Dhaka handed over a sedan, brought in Bangladesh duty-free, to CIID officials.

Iraqi forces converge

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encounter populations that are wary or hostile," said Patrick Martin, Iraq analyst at the Institute for the Study of War.

STRATEGIC HILL

Yet after a lull in the four-month-old operation, optimism was high on the front lines.

"I don't expect a very difficult fight: their end has arrived," Hakem Gassem Mohammed, an officer with the interior ministry's Rapid Response force told an AFP reporter south of Mosul.

The first day of the rekindled offensive saw forces advance in sparsely populated areas just south of the city itself and retake at least 15 villages.

The main focus of yesterday's operations was to secure an area south of the airport called Al-Buseif.

"It's a strategic location because it is on a hill. We have to seize today because IS fighters can fight back from there," Jawdat told AFP near the front line.

CTS forces, who have urban warfare experience and did most of the fighting in east Mosul, were seen heading across the desert to the western side of Mosul.

The new Pentagon chief, James Mattis, arrived in Baghdad yesterday to show support for the Iraqi security forces, more than 80,000 of whom have also received training from the coalition since 2014.

Before landing in the Iraqi capital, he told reporters that the United States was not about to plunder Iraq's oil reserves.

US President Donald Trump repeatedly said both while campaigning and since his election that America, whose troops occupied Iraq for years, should have "taken" the oil.

General

FROM PAGE 2
The cabinet also approved another proposal for relaxation of a provision for preserving the vacant posts of the priority quota only for the 36th BCS exams, he said, adding that as the priority quota has been relaxed, those posts would be filled from the merit lists of general candidates.

The meeting endorsed another proposal to appoint 302 candidates as the Ansar and VDP circle adjutant and 600 nurses from those who passed the 35th BCS exams, but were not picked for cadre services.

There are 56 percent quotas in the BCS, including 30 percent for dependents of freedom fighters.

Earlier in 2010, the government decided to keep the posts vacant under the freedom fighters quota if eligible candidates were not found.