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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A.663/2005

% *Judgment dated 3rd October, 2013*

MANJIT SINGH ALAG

..... Appellant

Through : Mr.K.B. Andley, Sr. Advocate with
Mr.M.L. Yadav, Advocate

versus

CBI

..... Respondent

Through : Mr.R.V. Sinha and Mr.A.S. Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. The preset appeal is directed against the judgment of conviction dated 26.7.2005 and the order on sentence dated 28.7.2005. The necessary facts of this case as noticed by the trial court are:

“Briefly stating the case of the prosecution is that the case bearing RC No.56(A)/91 was registered against accused M.S. Alag, Ascota Machine Operator (AMO) and two other persons namely R.K. Saini and D.K. Chabra, Officers of Punjab & Sind Bank, H-Block, Connaught Place, New Delhi as well as one private person Sh.Ravi Bhushan, proprietor of M/s.Ravi Travels, Gali No.13/1157, Govind Puri, Kalkaji, New Delhi on the allegation that all the above named persons entered into a conspiracy, pursuant to which accused M.S. Alag opened an account No.4630 on 15.5.91 in the assumed name of Harjeet Singh, proprietor of M/s.M.S. Enterprises, New Delhi. Sh.Ravi Bhushan introduced the account holder and Sh.D.K. Chabra accepted the account opening form. However, only accused

M.S. Alag had been sent to face trial in this case for the offences punishable under Sec. 409, 419, 467, 468, 471, 477-A IPC and under Sec. 13(2) r/w. 13(1)(c) & (d) of PC Act whereas Sh.D.K. Chabra and Sh.R.K. Saini, Officers of P&S Bank were put in column No.2 and Sh.Ravi Bhushan who introduced the account opening form of Harjeet Singh has been cited as a witness for the reason that investigation revealed that he signed as introducer on the request of accused M.S.Alag that Harjeet Singh is his brother who had left the bank for some work after signing the account opening form.

2. As per allegation in the FIR, in pursuance of the conspiracy accused M.S. Alag had falsely shown a receipt of Rs.3.5 lacs in the said account and withdrew an amount of Rs.3 lacs from the said account by issuing cheques in the name of various fictitious parties thereby causing loss to the bank. Investigation revealed that there was only one post of AMO in the said branch whose services were utilised for preparation of current account ledger in respect of statement of account to be sent to the party for maintaining ledger sheet of FD account and for the purpose of maintaining master ledger in the bank and the procedure was that three sheets, each of master ledger, account ledger and party statement of account are stitched together and put in the machine and after entry are made through machines, the sheets are separated. All the transactions in each current account was done by the accused through this machine daily and not manually. Accused was recording the entries on the aforesaid sheets on the basis of vouchers duly passed by bank officers and after the entries were recorded in the sheets, Sh.R.K. Saini as Officer Incharge, Current Account used to initial the

account sheets of FD account along with a voucher relating to the transaction of the bank of the day and would also total up the transaction in master ledger at the end of the day.

3. Accused M.S. Alag filled in a form in the name of Harjeet Singh, proprietor of M/s.M.S. Enterprises, got the same introduced from one Sh.Ravi Bhushan who was having current account No.4107 and requested Sh.D.K. Chabra who was officiating officer in the absence of Sh.R.K. Saini who happened to be on leave, that his brother wanted to open a current account and he has left as he was in hurry. Sh.D.K. Chabra, believing the accused, allowed opening of the account which was opened with initial deposit of Rs.500/- and given account No.4630.

4. As per prosecution, Mrs.Satinder Kaur, wife of the accused opened another account bearing No.4069 in the name of M/s.Sunny Enterprises as its proprietor with the initial deposit of Rs.500/-. The accused M.S. Alag had also opened a current account in his own name bearing No.4130 which was introduced by him as an employee of the bank. Investigation revealed that a fraud has been committed by the accused M.S. Alag which is restricted to account No.4630 of M/s.M.S. Enterprises and 4069 of M/s.Sunny Enterprises. The stamp of Sunny Enterprises was recovered during house search of the accused on which expert has also given positive opinion. In account of M/s.M.S. Enterprises a cheque of Rs.600/- dated 16.5.91 was deposited on 15.5.91 i.e. the day of opening of account, thus, there was a balance of Rs.1100/- in this account on 16.5.91.

5. The accused M.S. Alag started abusing his position as AMO and inserted false credit entry for a sum of Rs.3,92,850/- through

clearing from 16.5.91 itself, the details of such entries made in account No.4630 are as under:

<u>Dated</u>	<u>Amount</u>
17.5.91	23599/-
25.5.91	10000/-
25.5.91	9252/-
4.6.91	45000/-
7.6.91	40000/-
15.6.91	50000/-
15.6.91	45000/-
24.6.91	50000/-
27.6.91	40000/-
27.6.91	30000/-
27.6.91	50000/-

6. The accused has also forged the initials of Sh.R.K. Sainin in the said current account ledger sheet of account No.4630 and withdrew the amount from time to time by issuing cheques payable to 'self' as well as to other parties with whom he was having business dealings for purchase of shares etc. The accused also allegedly dishonestly received the payment which was otherwise to be paid by the bank to Sh.Prabhjit Kaur, Kanwaljeet, Satinder Kaur, H.S. Rakhi etc.

7. Investigation revealed that the accused also dishonestly and fraudulently inserted false credit entries in the account of M/s.Sunny Enterprises opened by his wife by making false credit on 4.6.91 and 3.7.91 for an amount of Rs.30,000/- and Rs.40,000/- in the ledge sheet of said account No.4069. A sum of Rs.59,486/- was also withdrawn from this account from time to time. Some payment from account No.4630 withdrawn by accused M.S. Alag

under the forged signature of Harjeet Singh were credited in the account of M/s.Sunny Enterprises as well as in the real account of accused M.S. Alag in the said branch.

8. As per report of handwriting expert, it was accused M.S. Alag who had opened the account in the name of Harjeet Singh in his capacity as proprietor of M/s.M.S. Enterprises. No criminal motive could be attributed to Sh.R.K. Saini and Sh.D.K. Chhabra, officers of the Punjab & Sind Bank as well as Sh.Ravi Bhushan who introduced the account of Harjeet Singh, hence, they were not charge sheeted as they were not involved in any conspiracy with the accused. Accused M.S. Alag allegedly abused his position as public servant by defrauding Punjab & Sind Bank to the extent of Rs.3,92,850/- and Rs.59,486/- respectively hence he was sent to face trial for committing the offence punishable under Section 409, 419, 467, 468, 471, 477A IPC and under Section 13(2) r/w. 13(1) (c) and (d) of PC Act.

9. After copies were supplied to the accused, a charge for the offence punishable under Sec.409, 419, 467, 468, 471 and 477-A IPC and Sec. 13(2) r/w. 13(1) (c) & (d) of PC Act was framed against the accused to which the accused pleaded not guilty and claimed trial.”

2. After some hearing in the matter, Mr.K.B. Andley, learned senior counsel assisted by Mr.M.L. Yadav, advocate submits that he does not wish to argue the appeal on merit, however, prays that a lenient view be taken in the matter and the sentence awarded be reduced as the appellant is now a senior citizen; he has faced trial for about 22 years; he is suffering from various ailments, including diabetes, hypertension; the appellant has also

deposited a sum of Rs.5.18 lacs with the bank as also the amount of fine; and also the services of the appellant have been terminated by the bank.

3. I have heard counsel for the parties and considered their rival submissions.
4. Having regard to the fact that the appellant has faced trial for about 22 years; appellant is now a senior citizen; he is suffering from various ailments, including diabetes, hypertension; appellant has also deposited a sum of Rs.5.18 lacs with the bank as also the amount of fine; and also the services of the appellant have been terminated by the bank, the appeal is partly allowed and the sentence awarded to the appellant is reduced from two years to one year.
5. Appeal stands disposed of, in above terms. Appellant is directed to surrender by 5.11.2013.

G.S.SISTANI, J

OCTOBER 03, 2013

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