

HIGH COURT OF TRIPURA
AGARTALA

Crl. A(J) No.04 of 2022

Dr. Mrinmoy Barman,

Son of Lt. Upendra Chandra Barman, resident of Lalchara Hospital,
Khowai, PS Khowai, P.O Khowai Court, Dist Khowai, Tripura.

..... **Appellant(s)**

- V e r s u s -

The State of Tripura,

..... **Respondent(s)**

For the Appellant(s) : Mr. P. Roy Barman, Senior Advocate.
Mr. K. Nath, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.

Crl. A(J) No.06 of 2022

Mrs. Rasmani Biswas, legal heirs of deceased Dr. Krishnadhan Biswas,

Wife of Lt. Krishnadhan Biswas, resident of Amtali (near Cold Storage), P.S. Amtali, District West Tripura, presently residing at Ramnagar Road No.8, P.O. Ramnagar, P.S. West Agartala, District West Tripura.

..... **Appellant(s)**

- V e r s u s -

The State of Tripura,

..... **Respondent(s)**

Crl. A(J) No.07 of 2022

Sri Shiba Prasad Sengupta,

Son of Late Sachindra Sengupta, resident of Abhoynagar, P.S. East Agartala, District West Tripura.

..... **Appellant(s)**

- V e r s u s -

The State of Tripura,

..... **Respondent(s)**

For the Appellant(s) : Mr. P.K. Biswas, Senior Advocate.
[Crl. A(J) 06/2022 & Crl.A(J) 07/2022] Mr. P. Majumder, Advocate.
Mr. R. Nath, Advocate.

For the Respondent(s) : Mr. Raju Datta, P.P.

Date of hearing : **20th March, 2025.**

Date of delivery
of Judgment & Order : **23rd April, 2025.**

Whether fit for reporting	YES	NO
	√	

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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

Introduction:

All the three appeals arise out of the judgment dated 23.02.2022 and sentence passed thereupon by learned Special Judge, West Tripura, Agartala in Special (PC) No.22 of 2004 whereby Shibaprasad Sengupta, Krishnadhan Biswas and Mrinmoy Barman were convicted under Sections 409 and 477A of Indian Penal Code

(for short IPC) read with Section 34 IPC and also under Section 13(2) of the Prevention of Corruption Act. Other two charge-sheeted persons namely, Sankar Dey and Dr. Tushar Kanti Sengupta died during pendency of the case before the learned Trial Court. All the three convicted persons were sentenced to suffer rigorous imprisonment for 5 years and to pay a fine of Rs.5000/- each under Section 409 read with Section 34 IPC and also to suffer RI for 5 years and to pay fine of Rs.5000/- each under Section 477A read with Section 34 IPC. They were further sentenced to suffer rigorous imprisonment for 5 years and to pay fine of Rs.1,00,000/- each under Section 13(2) of the Prevention of Corruption Act. All the sentences were directed to run concurrently. Krishnadhan Biswas later on expired and the connected appeal has been preferred by his legal representative-wife.

[2] The FIR was lodged by one Banamali Sinha (PW-31), the then Director of Animal Resource Development Department, Government of Tripura, Agartala on 11.12.1996 (FIR signed by him on 06.12.1996) to the O/C, East Agartala police station alleging, inter alia, that S.P. Sengupta worked as Deputy Director (West) of Animal Husbandry Department from 07.07.1989 till 24.05.1993 and thereafter, Dr. Paritosh Majumder worked in that post from 24.05.1993 to 11.01.1995 and during that period both of them also discharged the function of the DDO and Head of Offices and Sankar Dey was the cashier of the said office from 17.12.1979 to 26.08.1994. It was also stated in the FIR that there were many Implementing Officers/staff under said Deputy Director during the

period from 1988-89 to 1993-94 for implementation of different beneficiary schemes. It was further stated that K.D. Biswas was the Assistant Director, Sonamura from 24.05.1988 to 19.07.1995 and during his said tenure, Mrinmoy Barman and Tushar Kanti Sengupta were also the Implementing Officers of Sonamura Sub-Division and during the period from 1988-89 to 1993-94, an amount of Rs.88,98,109.40/- was disbursed by Sankar Dey, cashier to the Implementing Officers of Animal Husbandry Department against various beneficiary schemes for distribution to the beneficiaries out of total amount of Rs.89,56,191/- drawn during said period against grant-in-aid bills during the tenure of Dr. Sengupta. It was also alleged that out of said amount, a sum of Rs.46,23,998/- was sanctioned to Dr. K.D. Biswas for implementation of various beneficiary scheme and actually Dr. Biswas received only Rs.16,75,862/- and said Sankar Dey, cashier failed to show in support of receipt of rest amount of Rs.29,48,136/- by Dr. K.D. Biswas. Further allegation was that huge amount of money shown to be disbursed to the beneficiaries by the Implementing Officers, appeared to be defalcated by the Implementing Officers and fictitious adjustment vouchers submitted by them were also accepted by Dr. Sengupta. In most of the cases, the adjustment vouchers were without complete address of the beneficiaries and in majority cases of Sonamura Sub-Division, either only the name or the thumb impression of the beneficiaries were available and moreover, Dr. K.D. Biswas submitted excess adjustment amount of Rs.9,972/- which created doubt about the veracity of the adjustment vouchers. It has been also alleged that only in Sonamura Sub-Division, 50% of the

adjustment vouchers appeared to be fictitious and in Sadar and Khowai Sub-Division, the payment to the beneficiaries were made in partial manner in many cases.

[3] As stated in the FIR, an internal inspection team thereafter made physical verification on 09.04.1994 while Dr. Paritosh Majumder was the Deputy Director and Sankar Dey was the cashier and a shortage of Rs.1,31,210.93/- in liquid cash in the office of Deputy Director was found. Said inspection team also found discrepancy of Rs.1,79,741.40/- for the period of 1988-89 to 1993-94 between the cash book and the PL account required to be shown and actually shown. Said inspection team also found that the sale proceeds of cow growth milk received from different sub-centres on different dates were not deposited to the treasury and was kept in cash without assigning any reason. Thereafter, Sankar Dey, cashier showed adjustment of Rs.1,44,024/- by producing 6(six) nos. of vouchers on 04.08.1994 containing the signatures of Dr. Mrinmoy Barman, Dr. K.D. Biswas, Dr. T.K. Sengupta and others for which no money was drawn from the treasury against grant-in-aid bills but the money was handed over to Dr. Biswas from the cash. Dr. Biswas denied the receipt of the money and on verification, the vouchers were also found fictitious. It was also alleged that said Sankar Dey had also disbursed an amount of Rs.4,83,587/- directly to the beneficiaries and an amount of Rs.35,625/- to the APS to the Ministers against various beneficiary schemes beyond the norms. Discrepancies were also found in the PL account of the office of

Deputy Director and consequently, the FIR was lodged against aforesaid officers, employees and other Implementing Officers.

[4] The East Agartala Police Station registered the FIR as East Agartala PS case No.200 of 1996 under Section 409,468,477 IPC and Section 13 of Prevention of Corruption Act, 1988. Initially, the case was endorsed to Sub-Inspector Kajal Ghosh for investigation but later on, some other officers of the rank of DSP continued the investigation and ultimately PW-54, Sri Tapan Goswami, DSP, CID submitted charge-sheet against Dr. S.P. Sengupta, Dr. K.D. Biswas, Dr. Mrinmoy Barman, said T.K. Sengupta and Sankar Dey under Section 409,468 and 471 of IPC and Section 5 and 13 of the Prevention of Corruption Act.

[5] The following charges were, thereafter, framed against all the accused persons by learned Special Judge, West Tripura, Agartala:

"Firstly, that in between April, 1990 to March, 1991 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Public Servants of the office of the Deputy Director, West Tripura of Animal Husbandry Department, subsequently renamed as Animal Resource Development Department, being entrusted with and having dominion over Government Money of Rs.15,56,743/- (Rupees fifteen lakhs fifty six thousand seven hundred forty three) in different beneficiary schemes in your respective capacity of as such Public Servant committed Criminal breach of trust in respect of that property and for that all of you thereby committed an offence punishable U/s 409 read with Section 34 of the Indian Penal Code and within my cognizance;

Secondly, that within the said period of April, 1990 to March, 1991 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Deputy Director, Assistant Director, Veterinary Assistant Surgeon (VAS), Dairy Officer and Cashier respectively of the office of the Deputy Director, West Tripura, Animal Husbandry Department subsequently renamed as Animal Resource Development Department acting in your respective official capacity with intent to defraud, falsified vouchers and book of accounts of the said office which

documents were under your custody being such Public servants and for that all of you thereby committed an offence punishable U/s 477A read with Section 34 of the Indian Penal Code and within my cognizance;

Thirdly, that during the said period from April, 1990 to March, 1991 on different dates and time all of you in a conspiracy being public servants as Deputy Director, Assistant Director, Veterinary Assistant Surgeon (VAS) Dairy Officer and Cashier, respectively of the Office of the Deputy Director, West Tripura, Animal Husbandry Department subsequently renamed as Animal Resource Development Department dishonestly and fraudulently misappropriated Government fund of Rs.15,56,743/- (Rupees fifteen lakhs fifty six thousand seven hundred forty three) by creating false vouchers and documents, which amount was under your control and dominion as such Public servants and for that all of you have committed an offence punishable U/s 13(c) of the Prevention of Corruption Act, 1988 and within my cognizance;

And I hereby direct that all of you be tried on the said charges by this Court."

"Firstly, that in between April, 1988 to March, 1989 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Public Servants of the office of the Deputy Director, West Tripura of Animal Husbandry Department, subsequently renamed as Animal Resource Development Department, being entrusted with and having dominion over Government Money of Rs.2,25,050/-(Rupees two lakhs twenty five thousand and fifty) in different beneficiary schemes in your respective capacity of as such Public Servant committed Criminal breach of trust in respect of that property and for that all of you thereby committed an offence punishable U/s 409 read with Section 34 of the India Penal Code and within my cognizance;

Secondly, that within the said period of April, 1988 to March, 1989 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Deputy Director, Assistant Director, and Cashier, respectively, of the office of the Deputy Director, West Tripura, Animal Husbandry Department subsequently renamed as Animal Resource Development Department acting in your respective official capacity with intent to defraud, falsified vouchers and book of accounts of the said office, which documents were under your custody being such Public servants and for that all of you thereby committed an offence punishable U/s 477A read with Section 34 of the Indian Penal Code and within my cognizance;

Thirdly, that during the said period from April, 1988 to March, 1989 on different dates and time all of you in a conspiracy being public servants as Deputy Director, Assistant Director, and Cashier, respectively of the office of the Deputy Director, West Tripura, Animal Husbandry Department, subsequently renamed as Animal Resource Development Department dishonestly and fraudulently misappropriated Government fund of Rs.2,25,050/- (Rupees two lakhs twenty five thousand and fifty) by creating false vouchers and documents, which amount was under your control and dominion as such Public servants and for that all of you have

committed an offence punishable U/s 13(c) of the Prevention of Corruption Act, 1988 and within my cognizance;

And I hereby direct that all of you be tried on the said charges by this Court."

.....

"Firstly, that in between April, 1991 to March, 1992 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Public Servants of the office of the Deputy Director, West Tripura of Animal Husbandry Department, subsequently renamed as Animal Resource Development Department, being entrusted with and having dominion over Government Money of Rs.13,82,376/- (Rupees thirteen lakh eighty two thousand three hundred seventy six) in different beneficiary schemes in your respective capacity of as such Public Servant committed Criminal breach of trust in respect of that property and for that all of you thereby committed an offence punishable U/s 409 read with Section 34 of the Indian Penal Code and within my cognizance:

Secondly, that within the said period of April, 1991 to March, 1992 on different dates and time all of you in a conspiracy in furtherance of common intention of you all being Deputy Director, Assistant Director, Veterinary Assistant Surgeon (VAS), Dairy Officer and Cashier, respectively of the office of the Deputy Director, West Tripura, Animal Husbandry Department subsequently renamed as Animal Resource Development Department acting in your respective official capacity with intent to defraud, falsified vouchers and book of accounts of the said office, which documents were under your custody being such Public servants and for that all of you thereby committed an offence punishable U/s 477A read with Section 34 of the Indian Penal Code and within my cognizance:

Thirdly, that during the said period from April, 1991 to March, 1992 on different dates and time all of you in a conspiracy being public servants as Deputy Director, Assistant Director, Veterinary Assistant Surgeon (VAS) Dairy Officer and Cashier, respectively of the Office of the Deputy Director, West Tripura, Animal Husbandry Department, subsequently renamed as Animal Resource Development Department dishonestly and fraudulently misappropriated Government fund of Rs.13,82,376/-(Rupees thirteen lakh eighty two thousand three hundred seventy six) by creating false vouchers and documents, which amount was under your control and dominion as such Public servants and for that all of you have committed an offence punishable U/s 13(c) of the Prevention of Corruption Act, 1988 and within my cognizance;

And I hereby direct that all of you be tried on the said charges by this Court."

[6] The prosecution examined total 54 (fifty four) nos. of witnesses and also proved several documents including vouchers,

cash books etc. to substantiate the charges and finally decision of the learned Trial Court came in the form of conviction as stated above.

[7] Mr. P.K. Biswas, learned senior counsel representing the appellants S.P. Sengupta and Lt. Krishnadhan Biswas and Mr. P. Roy Barman, learned senior counsel representing Dr. Mrinmoy Barman raise different points challenging the impugned judgment which are reflected hereunder:

Arguments on behalf of Shiba Prasad Sengupta and K.D. Biswas:

[8] Mr. P.K. Biswas, learned senior counsel submits that S.P. Sengupta was the Dy. Director of the institution and actual disbursements were made by the Implementing Officers to the beneficiaries wherein the appellant S.P. Sengupta had no role to play. He only acted as DDO and the sanctioning authority was the Director of Animal Husbandry Department who would sanction the money and based on such sanction order, sanctioned amount would be handed over by the cashier to the Implementing Officers. Referring to the evidence of PW-48 and PW-49, learned senior counsel contends that list of beneficiaries were prepared by said two witnesses under pressure from two Ministers of that period, hence there was no justified reason to implicate the appellants in criminal trial. Mr. Biswas, learned senior counsel also argues that preparation of fake lists of beneficiaries, if any, was done at Block level and not by the Dy. Director or the Assistant Director and the list would be sent to the Director for final approval and the cashier would disburse the money based on such sanction memos to the Implementing Officers for disbursement to the beneficiaries on their identification and the

Assistant Director or the Dy. Director were mainly file despatching officers who would process the file as a matter of routine work.

[9] The next point as argued by Mr. Biswas, learned senior counsel is that Paritosh Majumder (PW-1) is the key witness of the case who was an FIR named accused and as such without complying the provision of Section 306 Cr.P.C, he could not be made a witness in the case. If the evidence of PW-1 is rendered inadmissible, Mr. Biswas, learned senior counsel submits, the entire foundation of the case would fall. Learned senior counsel also submits that 6 (six) nos. of unauthenticated APRs/money receipts (Ext.15 series) based on which the enquiry was started at the very initial stage, are simply photocopies of documents having no evidential value. Learned senior counsel further contends that as per PW-1, all the entries were made by Sankar Dey in the cash book and therefore, the present appellants had no responsibility in respect of any fake entry made in any such cash book. Next point of his argument is that there was charge of conspiracy against the appellant whereas no such evidence of conspiracy was established.

[10] Learned senior counsel also contends that in all the money receipts identification of beneficiaries were made by Chairmen of Development Committees and based on such identification, money was disbursed to the beneficiaries but they were not impleaded as accused in the case. To support his submission learned senior counsel also refers to the money receipts marked under **Ext.34 series** which contain signature of Chairman, Block Development Committee, Bejimara Gaon Sabha as identifier of the beneficiaries. Learned senior

counsel also refers to a sanction memo for Rs.33,300/- (**Ext.38**) signed by Addl. Director, Animal Husbandry along with attached list of beneficiaries (**Ext.39**) signed by said Addl. Director and the related money receipts under **Ext.40 series** wherein also similarly all the beneficiaries were identified by the Chairman, Block Development Committee of concerned Gram Panchayat. Learned senior counsel submits that not a single money receipt was signed by Shiba Prasad Sengupta. Learned senior counsel further refers to one sanction memo of Rs.17,734/- (**Ext.30**) signed by Shiba Prasad Sengupta for sanctioning said amount for disbursement to ten beneficiaries of Melaghar Block for poultry development along with one list of beneficiaries under **Ext.31** containing names and addresses of said ten nos. of beneficiaries (signed by only Shiba Prasad Sengupta) and related grant-in-aid bill for said amount signed by Shiba Prasad Sengupta (**Ext.29**) and submits that the role of Shiba Prasad Sengupta was only to sign the grant-in-aid bills and sanction memo and he had nothing to do with the disbursement phase.

[11] Learned senior counsel also raises the plea that all the money receipts under **Ext.72 series** regarding disbursement of money to the beneficiaries @Rs.666/- each, one Assistant Veterinary Surgeon also signed the vouchers and the beneficiaries were identified by Chairman, Development Committee, Boxanagar Gram Panchayet and Putia Gram Panchayet but said Assistant Veterinary Surgeon or the Chairman of the Development Committee were not charge-sheeted in the case and there was also no explanation from the prosecution as to why they were not made accused in the case.

[12] Mr. Biswas, learned senior counsel further submits that the report of fingerprint expert was not proved into evidence and therefore, adverse inference is required to be taken against the prosecution. Learned senior counsel gave much stress on his submission that the real culprits were not booked in the case and the appellants fell prey of biased investigation and therefore, benefit of doubt ought to have been given to the present appellants. Learned senior counsel also contends that separate charges were framed against the accused persons and the first three counts of charges were covering the period April, 1988 to March, 1989 against S.P. Sengupta, K.D. Biswas and Sankar Dey. Further three counts of charges were framed against 5 accused persons covering period 1990 to 1991 and then three counts of charges were further framed covering from the period of 1991 to 1992, i.e. for the period much more than 12 months in violation of provision of Section 219 Cr.P.C. Finally learned senior counsel prays for acquittal of both the above said two convicted persons.

[13] Mr. Biswas, learned senior counsel also relies on a decision of the Hon'ble Apex Court in case of **Narbada Devi Gupta vs. Birendra Kumar Jaiswal and another; (2003) 8 SCC 745**, wherein the principle that mere production and marking of a document as exhibit by the Court cannot be held to be due proof of its contents, was reiterated. The relevant paragraph no. 16 is extracted thus:

"16. Reliance is heavily placed on behalf of the appellant on the case of Ramji Dayawala & Sons (P) Ltd. (1981) 1 SCC 80. The legal position is not in dispute that mere production and marking of a document as exhibit by the court cannot be held to be

a due proof of its contents. Its execution has to be proved by admissible evidence, that is, by the "evidence of those persons who can vouchsafe for the truth of the facts in issue". The situation is, however, different where the documents are produced, they are admitted by the opposite party, signatures on them are also admitted and they are marked thereafter as exhibits by the court. We find no force in the argument advanced on behalf of the appellant that as the mark of exhibits has been put on the back portions of the rent receipts near the place where the admitted signatures of the plaintiff appear, the rent receipts as a whole cannot be treated to have been exhibited as admitted documents."

Arguments on behalf of Dr. Mrinmoy Barman:

[14] Both Mr. P.K.Biswas and Mr. P. Roy Barman argue that the above said three accused persons were gazetted officer holding the post of Veterinary Surgeon or above and acted in discharge of their official duties and therefore, sanction under Section 197 Cr.P.C. was required to be obtained which was not done in this case. Further Mr. Roy Barman, learned senior counsel adds that the beneficiaries of 6(six) disputed vouchers based on which the intra-departmental inquiry was conducted and finally FIR was lodged, were very vital witnesses in the case, but they were not examined. He also submits that Mrinmoy Barman was the implementing officer only for the period from 1990-91 and not beyond that and therefore, he had no responsibility beyond such period. Learned senior counsel also refers to the cross-examination of the investigation officer (PW-54) wherein said witness admitted that he did not receive any letter that any cheque was disbursed to Mrinmoy Barman by the DDO or that Mr. Barman withdrew any amount or disbursed the same to any beneficiary. Therefore, according to learned senior counsel, no criminal liability can be attached to Mr. Barman.

[15] Learned senior counsel also refers to the cross-examination of Sri Banamali Sinha (PW-31) (informant of the case) wherein Mr. Sinha stated that there must have been some guidelines by way of circular as to how the schemes were to be implemented but he did not personally enquire whether any such circular was communicated to the officers or not. Said witness also admitted that in the vigilance report, name of Dr. Mrinmoy Barman was not transpired and said report was submitted by SP(Vigilance) namely, Dr. Rakesh Ranjan. As submitted by Mr. Roy Barman, PW-31 also admitted that in the letter dated 31.03.1993 issued by Asst. Director addressed to Dy. Director with a copy to Dr. Mrinmoy Barman, said Asstt. Director mentioned that good numbers of prescribed formats which were under the stage of preparation in connection with such beneficiary scheme and out of which few were signed by the member of purchase committee without mentioning the date and seal and same were either lost or missing. Said witness also admitted that in the article of charge of Departmental enquiry, it was mentioned that no money was drawn from cash or treasury by Dr. Mrinmoy Barman.

[16] Mr. Roy Barman, learned senior counsel further contends that Sultan Miah (PW-17), Muslem Miah (PW-18), Mostafa Miah (PW-22) and Billal Miah (PW-23) were never examined by investigating officer and first time they were produced before the Court, but learned Trial Court missed that aspect. Learned senior counsel also argues that learned Trial Court granted clean chit to PW-1 though as per the vigilance report (**Ext.223**), he was the main culprit. Mr. Roy Barman, learned senior counsel also submits that if the memorandum

of examination of Dr. Mrinmoy Barman under Section 313 Cr.P.C. is seen, it will be found that there was no incriminating materials against him and in Departmental proceeding also no charge of any defalcation was framed against him. Learned senior counsel argues that no entrustment or dominion over the property was proved against Mrinmoy Barman and no evidence was also there against him regarding misappropriation of any property by him or falsification of any record made by him. Learned senior counsel further submits that there was un-explained delay in lodging the FIR.

[17] Like Mr. P.K. Biswas, learned senior counsel, Mr. Roy Barman, learned senior counsel also argues that the contents of the documents as relied on by the prosecution were also not proved in accordance with law. Mr. Roy Barman, learned senior counsel further submits that learned Trial Court heavily relied on evidence of PW-44 namely, Mantaj Miah but he did not say anything against Mrinmoy Barman.

[18] In the matter of entrustment, learned senior counsel also refers a decision of the Hon'ble Apex Court in case of ***N. Raghavender vs. State of Andhra Pradesh, CBI; MANU/SC/1242/2021***, and the relevant paragraphs of the said decisions are excerpted below for reference:

"42. The entrustment of public property and dishonest misappropriation or use thereof in the manner illustrated Under Section 405 are a sine qua non for making an offence punishable Under Section 409 Indian Penal Code. The expression 'criminal breach of trust' is defined Under Section 405 Indian Penal Code which provides, inter alia, that whoever being in any manner entrusted with property or with any dominion over a property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property contrary to law, or in

violation of any law prescribing the mode in which such trust is to be discharged, or contravenes any legal contract, express or implied, etc. shall be held to have committed criminal breach of trust. Hence, to attract Section 405 Indian Penal Code, the following ingredients must be satisfied:

- (i) Entrusting any person with property or with any dominion over property;
- (ii) That person has dishonestly mis-appropriated or converted that property to his own use;
- (iii) Or that person dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation of any direction of law or a legal contract.

.....

45. Accordingly, unless it is proved that the Accused, a public servant or a banker etc. was 'entrusted' with the property which he is duty bound to account for and that such a person has committed criminal breach of trust, Section 409 Indian Penal Code may not be attracted. 'Entrustment of property' is a wide and generic expression. While the initial onus lies on the prosecution to show that the property in question was 'entrusted' to the Accused, it is not necessary to prove further, the actual mode of entrustment of the property or misappropriation thereof. Where the 'entrustment' is admitted by the Accused or has been established by the prosecution, the burden then shifts on the Accused to prove that the obligation vis-à-vis the entrusted property was carried out in a legally and contractually acceptable manner.

.....

Ingredients necessary to prove a charge Under Section 477-A Indian Penal Code:

49. The last provision of Indian Penal Code with which we are concerned in this appeal, is Section 477A, which defines and punishes the offence of 'falsification of accounts'. According to the provision, whoever, being a clerk, officer or servant, or employed or acting in that capacity, wilfully and with intent to defraud, destroys, alters, mutilates or falsifies any book, electronic record, paper, writing, valuable security or account which belongs to or is in possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud, or if he abets to do so, shall be liable to be punished with imprisonment which may extend to seven years. This Section through its marginal note indicates the legislative intention that it only applies where there is falsification of accounts, namely, book keeping or written accounts.

50. In an accusation Under Section 477A Indian Penal Code, the prosecution must, therefore, prove--(a) that the Accused destroyed, altered, mutilated or falsified the books, electronic records, papers, writing, valuable security or account in question; (b) the Accused did so

in his capacity as a clerk, officer or servant of the employer; (c) the books, papers, etc. belong to or are in possession of his employer or had been received by him for or on behalf of his employer; (d) the Accused did it wilfully and with intent to defraud.”

[19] Mr. Roy Barman, learned senior counsel in the matter of sanction under section 197, Cr.P.C. also relies on another decision of the Apex Court in the case of **A. Srinivasulu vs. The State Rep. by the Inspector of Police; MANU/SC/0723/2023**, and the relevant paragraphs of the decision as relied on are as follows:

“38. In *Matajog Dobey v. H.C. Bhari* MANU/SC/0071/1955 : (1955) 2 SCR 925 a Constitution Bench of this Court was concerned with the interpretation to be given to the words, “any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty” in Section 197 of the Code. After referring to the decision in *Dr. Hori Ram Singh*, the Constitution Bench summed up the result of the discussion, in paragraph 19 by holding: “There must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the Accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.”

39. In *State of Orissa through Kumar Raghvendra Singh v. Ganesh Chandra Jew* MANU/SC/0264/2004 : (2004) 8 SCC 40, a two Member Bench of this Court explained that the protection Under Section 197 has certain limits and that it is available only when the alleged act is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. The Court also explained that if in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection.

40. The above decision in *State of Orissa* (supra) was followed (incidentally by the very same author) in *K. Kalimuthu v. State by DSP* MANU/SC/0248/2005 : (2005) 4 SCC 512 and *Rakesh Kumar Mishra v. State of Bihar* MANU/SC/0200/2006 : (2006) 1 SCC 557.

41. In *Devinder Singh v. State of Punjab through CBI* MANU/SC/0450/2016 : (2016) 12 SCC 87, this Court took note of almost all the decisions on the point and summarized the principles emerging therefrom, in paragraph 39 as follows:

“39. The principles emerging from the aforesaid decisions are summarised hereunder:

39.1. Protection of sanction is an assurance to an honest and sincere officer to perform his duty honestly and to the best of his ability to further public duty. However, authority cannot be camouflaged to commit crime.

39.2. Once act or omission has been found to have been committed by public servant in discharging his duty it must be given liberal and wide construction so far its official nature is concerned. Public servant is not entitled to indulge in criminal activities. To that extent Section 197 Code of Criminal Procedure has to be construed narrowly and in a restricted manner.

39.3. Even in facts of a case when public servant has exceeded in his duty, if there is reasonable connection it will not deprive him of protection Under Section 197 Code of Criminal Procedure. There cannot be a universal Rule to determine whether there is reasonable nexus between the act done and official duty nor is it possible to lay down such rule.

39.4. In case the assault made is intrinsically connected with or related to performance of official duties, sanction would be necessary Under Section 197 Code of Criminal Procedure, but such relation to duty should not be pretended or fanciful claim. The offence must be directly and reasonably connected with official duty to require sanction. It is no part of official duty to commit offence. In case offence was incomplete without proving, the official act, ordinarily the provisions of Section 197 Code of Criminal Procedure would apply.

.....
42. In *D. Devaraja v. Owais Sabeer Hussain* MANU/SC/0490/2020 : (2020) 7 SCC 695, this Court explained that sanction is required not only for acts done in the discharge of official duty but also required for any act purported to be done in the discharge of official duty and/or act done under colour of or in excess of such duty or authority. This Court also held that to decide whether sanction is necessary, the test is whether the act is totally unconnected with official duty or whether there is a reasonable connection with the official duty."

[20] Mr. Roy Barman, learned senior counsel regarding examination of witness for the first time in the Court, further relies on another decision of the Hon'ble Apex Court in the case of ***Gurdeep Singh vs. State of Punjab and others; (2011) 12 SCC 408***, wherein at Para 15, the followings were observed:

"15. In the alternative, even assuming that no statements of PWs 2 and 3 had been recorded under Section 161 CrPC, this factor destroys the substratum

of the prosecution story in a far greater measure as it must then be taken that their statements were being recorded for the first time in court which would rob them of much of their evidentiary value. In this case, we find that the two witnesses are none other than the brother and the father of the deceased."

Arguments on behalf of State:

[21] Mr. Raju Datta, learned P.P., contends that all the accused persons signed all the related vouchers collectively to embezzle the money and therefore, each of them was responsible for commission of crime. Regarding the plea of defect in the charge as raised by Mr. P.K. Biswas, learned senior counsel, learned P.P. submits that even if charges were irregular, the defence has not been prejudiced thereby and therefore, they cannot raise the question now as the said issue ought to have been raised before the learned Trial Court, and even in the memo of appeal also no such plea was raised. To show complicity of S.P. Sengupta in the alleged crime, learned P.P. submits that if any public officer allows his subordinate to misappropriate the money, he is also liable to be convicted under Section 13 of the Prevention of Corruption Act and in the instant case, the sanction under the Prevention of Corruption Act was also obtained and proved into evidence. Against one issue as raised by Mr. Roy Barman, learned senior counsel that entire happening took place at Sonamura and trial was conducted in Agartala beyond jurisdiction, learned P.P. relies on a decision of Hon'ble Apex Court in the case of **Nasiruddin Khan vs. State of Bihar; (1973) 3 SCC 99** (Para 11) wherein it was observed that such objection is required to be raised either in the committing court or in the Trial Court. Learned P.P. also relies on the vigilance report and submitted that the judgment passed by learned Trial Court was exhaustive and well reasoned which requires no

interference. Learned P.P. to bolster the prosecution case relies on the following comparative chart as prepared and placed by learned Trial Court in the impugned judgment. As it appears, said chart was prepared by learned Trial Court on comparative study of the evidences of PW-1 and PW-54 (the last investigating officer) who deposed taking note of all the documents as seized during investigation.

Sl. No.	GIA Bill No.	F/Y	Name of Scheme	Sanction Date	No. of BEF.	Amount	Exbt. No.	C.B Ref	D.F. No.	Imple. Off.
1.	686/89	1989-90	Poultry	Nil	15	Rs.21,375/-	44/1	3/166	1	No sanction memo and money receipt available
2.	706/89	1989-90	Pig Production	26-10-1989	5	Rs.18,500/-	100	3/166	1	No money receipt available
3.	688/89	1989-90	Pig Production	26-10-1989	05	Rs.18,500/-	97	03/166	1	No money receipt available
4.	690/89	1989-90	Pig Production	26-10-1989	05	Rs.18,500/-	103	03/166	1	No money receipt available
5.	705/89	1989-90	Pig Production	26-10-1989	05	Rs.18,500/-	94	03/166	1	No money receipt available
6.	718/89	1989-90	Unemployed Youth	Nil	07	Rs.9,975/-	92	3/167	1	No sanction memo and money receipt available
7.	717/89	1989-90	Duckery Development	Nil	14	Rs.19,950/-	165	3/167	4	K.D. Biswas
8.	716/89	1989-90	Unemployed Youth	08-11-1989	14	Rs.19,950/-	166	3/167	4	K.D. Biswas
9.	715/89	1989-90	Duckery Development	25-10-1989	12	Rs.17,100/-	167	3/167	4	K.D. Biswas
10.	711/89	1989-90	Poultry Production	26-10-1989	14	Rs.19,950/-	168	3/167	4	K.D. Biswas
11.	704/89	1989-90	Poultry Development	26-10-1989	12	Rs.17,100/-	169	3/166	4	K.D. Biswas
12.	702/89	1989-90	Poultry Development	26-10-1989	14	Rs.19,950/-	170	3/166	4	K.D. Biswas
13.	703/89	1989-90	Unemployed Youth	26-10-1989	10	Rs.14,250/-	106	3/166	1	No money receipt available
14.	700/89	1989-90	Duckery Development	25-10-1989	14	Rs.19,950/-	171	3/166	4	K.D. Biswas
15.	699/89	1989-90	Piggery Development	26-10-1989	5	Rs.18,500/-	172	3/166	4	K.D. Biswas
16.	697/89	1989-90	Piggery Development	26-10-1989	6	Rs.22,200/-	173	3/166	4	K.D. Biswas
17.	695/89	1989-90	Piggery Development	26-10-1989	5	Rs.18,500/-	174	3/166	4	K.D. Biswas
18.	694/89	1989-90	Piggery Development	26-10-1989	5	Rs.18,500/-	175	3/166	4	K.D. Biswas
19.	714/89	1989-90	Duckery Development	25-10-1989	14	Rs.19,950/-	176	3/167	4	K.D. Biswas
20.	773/89	1989-90	Piggery Development	06-11-1989	5	Rs.18,500/-	177	3/176	4	APS to Minister
21.	1233/90	1990-91	Poultry Production	27-03-1991	20	Rs.7,500/-	50	1/55/156	1	No money receipt available but payment entered in C.B.
22.	1114/1990	1990-91	Duck Production	15-03-1991	50	Rs.33,300/-	69	1/45/184	1	K.D. Biswas M. Barman
23.	1178/90	1990-91	Duck Production	20-03-1991	10	Rs.6,660/-	53	1/53/156	1	K.D. Biswas
24.	1121/90	1990-91	Poultry Production	15-03-1991	25	Rs.35,300/-	61	1/45/159	1	K.D. Biswas T.K. Sengupta
25.	1115/90	1990-91	Duck Production	15-03-1991	50	Rs.33,300/-	65	1/53/202	1	K.D. Biswas M. Barman
26.	1084/90	1990-91	Poultry Production	Nil	20	Rs.28,240/-	73	1/43/173	1	K.D. Biswas M. Barman T.K.

										Sengupta
27.	1098/90	1990-91	Pig Production	15-03-1991	08	Rs.36,400/-	46	1/43/160	1	K.D. Biswas M. Barman
28.	1131/90	1990-91	Pig Production	15-03-1991	10	Rs.45,500/-	41	1/46/143	1	No money receipt available
29.	1122/90	1990-91	Poultry Production	28-03-1991	27	Rs.38,831/-	-	1/53/174	1	K.D. Biswas M. Barman
30.	1119/90	1990-91	Duck Production	15-03-1991	50	Rs.33,300/-	37	1/52/202	1	K.D. Biswas M. Barman
31.	1167/90	1990-91	Pig Production	20-03-1991	10	Rs.45,500/-	115	1/52/151	2	K.D. Biswas T.K. Sengupta
32.	1123/90	1990-91	Poultry Production	15-03-1991	25	Rs.35,300/-	116	1/52/159	2	K.D. Biswas T.K. Sengupta
33.	1238/90	1990-91	Poultry Production	27-03-1991	28	Rs.39,536/-	112	1/53/159	2	K.D. Biswas
34.	1237/90	1990-91	Poultry Production	27-03-1991	28	Rs.39,536/-	113	1/53/159	2	K.D. Biswas
35.	1175/90	1990-91	Poultry Production	20-03-1991	10	Rs.15,534/-	114	1/52/159	2	K.D. Biswas
36.	1166/90	1990-91	Poultry Production	27-03-1991	12	Rs.21,765/-	158	1/53/156	3	Related to Khowai
37.	1088/90	1990-91	Poultry Production	15-03-1991	20	Rs.32,240/-	157	1/43/178	3	K.D. Biswas M. Barman
38.	1086/90	1990-91	Poultry Production	15-03-1991	20	Rs.32,240/-	156	1/55/202	3	K.D. Biswas M. Barman
39.	1112/90	1990-91	Unemployed Youth	15-03-1991	15	Rs.36,285/-	138	1/45/178	3	K.D. Biswas M. Barman
40.	1110/90	1990-91	Unemployed Youth	15-03-1991	18	Rs.43,542/-	137	1/45/178	3	K.D. Biswas M. Barman
41.	1107/90	1990-91	Unemployed Youth	15-03-1991	20	Rs.48,380/-	136	1/55/178	3	K.D. Biswas M. Barman
42.	1108/90	1990-91	Unemployed Youth	Nil	07	Rs.11,284/-	130	1/45/182	3	K.D. Biswas M. Barman
43.	1085/90	1990-91	Unemployed Youth	15-03-1991	20	Rs.32,240/-	131	1/43/182	3	K.D. Biswas M. Barman
44.	1089/90	1990-91	Unemployed Youth	15-03-1991	20	Rs.32,240/-	132	1/45/178	3	K.D. Biswas M. Barman
45.	1100/90	1990-91	Unemployed Youth	15-03-1991	20	Rs.48,380/-	133	1/45/178	3	K.D. Biswas M. Barman
46.	1105/90	1990-91	Unemployed Youth	15-03-1991	20	Rs.48,380/-	134	1/45/178	3	K.D. Biswas M. Barman
47.	1106/90	1990-91	Unemployed Youth	18-03-1991	20	Rs.48,380/-	135	1/45/178	3	K.D. Biswas M. Barman
48.	1174/90	1990-91	Unemployed Youth	27-03-1991	15	Rs.24,180/-	142	1/55/156	3	K.D. Biswas M. Barman
49.	1095/90	1990-91	Piggery Development	15-03-1991	8	Rs.36,400/-	25/2	1/43/165	4	K.D. Biswas M. Barman
50.	1125/90	1990-91	Piggery Development	20-03-1991	10	Rs.45,500/-	25/8	1/55/151	4	K.D. Biswas
51.	1093/90	1990-91	Piggery Development	15-03-1991	8	Rs.36,400/-	25/12	1/45/160	4	K.D. Biswas M. Barman
52.	1133/90	1990-91	Piggery Development	15-03-1991	10	Rs.45,500/-	25/18	1/46/160	4	K.D. Biswas M. Barman
53.	1118/90	1990-91	Duckery Development	15-03-1991	30	Rs.30,000/-	164	1/45/184	4	K.D. Biswas M. Barman
54.	1140/90	1990-91	Piggery Production	20-03-1991	10	Rs.45,500/-	163	1/55/151	4	K.D. Biswas
55.	1142/90	1990-91	Piggery Production	20-03-1991	10	Rs.45,500/-	162	1/55/160	4	K.D. Biswas M. Barman
56.	1143/90	1990-91	Piggery Production	20-03-1991	10	Rs.45,500/-	161	1/55	4	K.D. Biswas
57.	1116/90	1990-91	Duckery Development	15-03-1991	21	Rs.21,000/-	160	1/45/184	4	K.D. Biswas M. Barman
58.	1139/90	1990-91	Piggery Production	15-03-1991	10	Rs.45,500/-	159	1/55/151	4	K.D. Biswas
59.	1132/90	1990-91	Duckery Production	18-03-1991	36	Rs.23,976/-	215	1/46/184	5	K.D. Biswas M. Barman
60.	1130/90	1990-91	Piggery Production	15-03-1991	10	Rs.45,500/-	214	1/46/143	5	M. Barman
61.	1120/90	1990-91	Poultry Production	15-03-1991	16	Rs.33,904/-	213	1/52/173	5	K.D. Biswas M. Barman
62.	939/91	1991-92	Unemployed Youth	25-03-1992	10	Rs.17,734/-	29	2/55/209	1	K.D. Biswas T.K. Sengupta
63.	1023/91	1991-92	Piggery	28-03-1992	6	Rs.22,740/-	57	2/63	1	K.D. Biswas
64.	946/91	1991-92	Pig Production	25-03-1992	5	Rs.22,750/-	80	2/56/218	1	K.D. Biswas M. Barman T.K. Sengupta
65.	952/91	1991-92	Pig Production	25-03-1992	5	Rs.22,750/-	76	2/56/218	1	K.D. Biswas M. Barman T.K. Sengupta
66.	929/91	1991-92	Duck Production	25-03-1992	10	Rs.10,000/-	84	2/55/218	1	K.D. Biswas M. Barman T.K. Sengupta
67.	942/91	1991-92	Poultry Production	25-03-1992	10	Rs.21,190/-	88	2/55/218	1	K.D. Biswas M. Barman T.K. Sengupta
68.	992/91	1991-92	Poultry Production	27-03-1992	5	Rs.7,060/-	128	2/59/219	2	K.D. Biswas M. Barman

										T.K. Sengupta
69.	1019/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	124	2/62/193	2	K.D. Biswas M. Barman T.K. Sengupta
70.	1050/91	1991-92	Poultry Production	28-03-1992	15	Rs.21,180/-	118	2/61/191	2	K.D. Biswas T.K. Sengupta
71.	1048/91	1991-92	Poultry Production	31-03-1992	17	Rs.24,004/-	119	2/63/219	2	K.D. Biswas M. Barman T.K. Sengupta
72.	1047/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	120	2/63/218	2	K.D. Biswas M. Barman T.K. Sengupta
73.	1033/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	121	2/63/219	2	K.D. Biswas M. Barman T.K. Sengupta
74.	1022/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	122	2/62/193	2	K.D. Biswas M. Barman T.K. Sengupta
75.	1020/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	123	2/62/193	2	K.D. Biswas M. Barman T.K. Sengupta
76.	1017/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	109	2/62/193	2	K.D. Biswas M. Barman T.K. Sengupta
77.	1030/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	125	2/63/193	2	K.D. Biswas M. Barman T.K. Sengupta
78.	1016/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	126	2/62/218	2	K.D. Biswas M. Barman T.K. Sengupta
79.	1014/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	127	2/62/218	2	K.D. Biswas M. Barman T.K. Sengupta
80.	1006/91	1991-92	Poultry Production	30-03-1992	17	Rs.24,004/-	129	2/62/218	2	K.D. Biswas M. Barman T.K. Sengupta
81.	988/91	1991-92	Poultry Production	27-03-1992	17	Rs.24,004/-	111	2/59/219	2	K.D. Biswas M. Barman T.K. Sengupta
82.	1001/91	1991-92	Poultry Production	27-03-1992	16	Rs.22,592/-	110	2/59/221	2	P. Deb
83.	1075/91	1991-92	Poultry Production	28-03-1992	10	Rs.14,120/-	152	2/62/218	3	K.D. Biswas T.K. Sengupta
84.	999/91	1991-92	Poultry Production	27-03-1992	16(only 1 money receipt available)	Rs.22,592/-	144	2/59/221	3	K.D. Biswas M. Barman
85.	1062/91	1991-92	Poultry Production	28-03-1992	10	Rs.14,120/-	147	2/61/191	3	K.D. Biswas T.K. Sengupta
86.	1061/91	1991-92	Poultry Production	28-03-1992	10	Rs.14,120/-	146	2/61/191	3	K.D. Biswas T.K. Sengupta
87.	997/91	1991-92	Poultry Production	27-03-1992	17	Rs.24,004/-	143	2/59/221	3	K.D. Biswas M. Barman
88.	1078/91	1991-92	Poultry Production	28-03-1992	15	Rs.21,180/-	155	2/62/191	3	K.D. Biswas T.K. Sengupta
89.	1077/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	154	2/62/218	3	K.D. Biswas T.K. Sengupta
90.	1076/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	153	2/62/218	3	K.D. Biswas T.K. Sengupta
91.	1073/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	151	2/62/219	3	K.D. Biswas T.K. Sengupta
92.	1067/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	150	2/61/224	3	K.D. Biswas T.K. Sengupta
93.	1064/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	149	2/61/219	3	K.D. Biswas M. Barman T.K. Sengupta
94.	1063/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	148	2/61/218	3	K.D. Biswas M. Barman T.K. Sengupta

95.	1055/91	1991-92	Poultry Production	28-03-1992	17	Rs.24,004/-	145	2/61/219	3	K.D. Biswas M. Barman T.K. Sengupta
96.	995/91	1991-92	Poultry Production	27-03-1992	17	Rs.24,004/-	141	2/59/221	3	K.D. Biswas M. Barman
97.	993/91	1991-92	Poultry Production	27-03-1992	15	Rs.21,180/-	140	2/59/179	3	K.D. Biswas M. Barman T.K. Sengupta
98.	989/91	1991-92	Poultry Production	27-03-1992	17	Rs.24,004/-	139	2/59/225	3	K.D. Biswas M. Barman T.K. Sengupta
99.	954/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	179	2/56/212	5	K.D. Biswas M. Barman
100.	982/91	1991-92	Piggery Development	27-03-1992	3	Rs.13,650/-	204	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
101.	983/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	203	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
102.	984/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	202	2/57	5	K.D. Biswas T.K. Sengupta
103.	991/91	1991-92	Poultry Development	27-03-1992	15	Rs.21,180/-	200	2/59/221	5	No money receipt available
104.	981/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	205	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
105.	979/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	207	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
106.	978/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	208	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
107.	977/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	209	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
108.	976/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	210	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
109.	975/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	211	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
110.	974/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	198	2/57/217	5	K.D. Biswas M. Barman T.K. Sengupta
111.	973/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	197	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
112.	972/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	196	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
113.	971/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	195	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
114.	970/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	194	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
115.	969/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	193	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
116.	968/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	192	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
117.	967/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	191	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
118.	966/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	190	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
119.	965/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	189	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
120.	964/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	188	2/57/218	5	K.D. Biswas M. Barman

										T.K. Sengupta
121.	963/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	187	2/57/218	5	K.D. Biswas M. Barman T.K. Sengupta
122.	962/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	186	2/57	5	K.D. Biswas M. Barman
123.	961/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	185	2/57/212	5	K.D. Biswas M. Barman
124.	960/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	184	2/57/212	5	K.D. Biswas M. Barman
125.	959/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	183	2/57/212	5	K.D. Biswas M. Barman
126.	958/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	199	2/57/212	5	No money receipt available
127.	957/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	182	2/57/212	5	K.D. Biswas M. Barman
128.	956/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	181	2/57/212	5	K.D. Biswas M. Barman
129.	955/91	1991-92	Piggery Development	27-03-1992	5	Rs.22,750/-	180	2/57/212	5	K.D. Biswas M. Barman
130.	1031/91	1991-92	Piggery Development	28-03-1992	5	Rs.22,750/-	201	2/57	5	No money receipt available
131.	1024/91	1991-92	Piggery Production	28-03-1992	6	Rs.24,260/-	212	2/63	5	K.D. Biswas M. Barman

[22] Regarding the challenge as to the absence of sanction under section 197 of Code of Criminal Procedure, learned P.P. also relies on a decision of Apex Court in case of ***Shambhoo Nath Misra vs. State of U.P. and others; (1997) 5 SCC 326***, and relevant paragraphs as relied on are extracted hereunder:

"4. Section 197 (1) postulates that "when any person who is ... a public Servant not removable from his office, save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him, while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction" of the appropriate Government/authority. The essential requirement postulated for the sanction to prosecute the public servant is that the offence alleged against the public servant must have been done while acting or purporting to act in the discharge of his official duties. In such a situation, it postulates that the public servant's act is in furtherance of the performance of his official duties. If the act/omission is integral to the performance of public duty, the public servant is entitled to the protection under Section 197(1) of CrPC. Without the previous sanction, the complaint/charge against him for the alleged offence cannot be proceeded with in the trial. The sanction of the appropriate Government or competent authority would be necessary to protect a public servant from needless harassment or prosecution. The protection of sanction is an assurance to an honest and sincere officer to perform his public duty honestly and to the best of his ability. The threat of prosecution

demoralises the honest officer. The requirement of the sanction by competent authority or appropriate Government is an assurance and protection to the honest officer who does his official duty to further public interest. However, performance of official duty under colour of public authority cannot be camouflaged to commit crime. Public duty may provide him an opportunity to commit crime. The Court to proceed further in the trial or the enquiry, as the case may be, applies its mind and records a finding that the crime and the official duty are not integrally connected.

5. The question is when the public servant is alleged to have committed the offence of fabrication of record or misappropriation of public fund etc. can he be said to have acted in discharge of his official duties. It is not the official duty of the public servant to fabricate the false records and misappropriate the public funds etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund etc. It does not mean that it is integrally connected or inseparably interlinked with the crime committed in the course of same transaction, as was believed by the learned Judge. Under these circumstances, we are of the opinion that the view expressed by the High Court as well as by the trial court on the question of sanction is clearly illegal and cannot be sustained."

On same issue, he also relies on another decision of the Apex Court (3-Judge Bench) in ***Shadakshari vs. State of Karnataka and another; 2024 SCC OnLine SC 48*** wherein the principle laid in ***Shambhoo Nath Misra (Supra)*** was reiterated and was further observed that Section 197 Cr.P.C. does not extend its protective cover to every act or omission of a public servant while in service and it is restricted to only those acts or omissions which are done by public servant in discharge of official duty.

[23] Learned P.P. further refers another decision of Apex Court in case of ***State of H.P. vs. Karanvir; (2006) 5 SCC 381*** wherein it was observed that the actual manner of misappropriation, it is well settled, was not required to be proved by prosecution. Once

entrustment is proved, it is for the accused to prove as to how the property entrusted to him was dealt with in view of Section 405 IPC.

[24] Learned P.P. also tries to mitigate the challenges of the appellants about the alleged error in the matter of framing of charges, by referring to a decision of Kerala High Court in the case of **XXX vs. State of Kerala Represented by Public Prosecutor, High Court of Kerala; 2022 SCC OnLine Ker 5550**, which was a case of commission of offences under the provision of POCSO Act upon two sisters on two different occasions but by a single accused person and separate cases were registered. The accused prayed for joint trial of both the cases which was turned down by the trial court. In that backdrop, when matter was challenged before the High Court, such challenges of the accused person was not entertained. This case is however distinguishable with the facts of the present case in hand.

[25] On the same issue of alleged error in framing of charge, Learned P.P. further relies on another decision of the Apex Court in case of **Soundarajan vs. State Rep. By the Inspector of Police Vigilance Anticorruption Dindigul; 2023 SCC OnLine SC 424**, wherein it was observed by the Hon'ble Apex Court that under Section 464 of Cr.P.C., omission to frame a charge or any error in charge is never fatal unless, in the opinion of the Court, a failure in justice has been occasioned thereby. Learned P.P. also tries to gain support of another decision of the Apex Court on the same issue in case of **Mohan Singh vs. State of Bihar; (2011) 9 SCC 272**, wherein it was held that due to defect in the framing of charge whether there is failure of justice or not, has to be proved by the

accused. Learned P.P. further refers another decision of the Apex Court in the case of **Harivadan Babubhai Patel vs. State of Gujarat; (2013) 7 SCC 45**, wherein the principle that non-examination of material witness cannot be a ground for discarding the weight of the testimonies available on record howsoever natural, trustworthy and convincing it may be, was re-stated.

[26] Finally, Learned P.P relies on another decision of Hon'ble Supreme Court in the case of **Nasib Singh vs. State of Punjab and another; (2022) 2 SCC 89** and the relevant paragraph no.41 which deals with joint trial of different accused persons are extracted hereunder:

"41. Section 223 begins with the expression "persons accused" meaning thereby that the provision is applied when more than one person is involved in the commission of an offence or offences. Section 223 stipulates - in clauses (a) to (g) - situations where persons may be charged and tried together. Clause (a) envisages a situation where persons are accused of the same offence committed in the course of the same transaction. Clause (b) envisages a situation where persons accused of an offence and persons accused of abetment or attempt to commit the offence may be charged and tried together. Clause (c) applies to a situation where persons are accused of more than one offence of the same kind within the meaning of Section 219 committed by them jointly within twelve months. Clause (d) envisages that persons accused of different offences committed in the course of the same transaction may be charged and tried together. Clauses (e), (f) and (g) deal with specific situations envisaged therein. The proviso to Section 223 stipulates that where a number of persons are charged with separate offences and such persons do not fall within the ambit of the categories specified in clauses (a) to (g), the Magistrate may, if such persons so desire, in writing, and if he is satisfied that they would not be prejudicially affected, and it is expedient to do so, try all such persons together."

[27] Before entering into the chapter of consideration of rival contentions vis a vis issues raised thereby and the material placed against the appellants or predecessor of one appellant, the prevailing

practice or system of disbursement of the fund under different schemes under Animal Husbandry Department of Tripura, as gathered from the evidences of PW-1, is required to be looked into first.

Procedure of disbursement of different grants to the beneficiaries:

[28] Paritosh Majumder (PW-1) stated that their Department from time to time would receive amount under grant-in-aid under different beneficiary schemes like Poultry production, piggery, duckery etc. and said amount would be distributed from the office of the Directorate to the District level offices. Thereafter, said amount would be disbursed to the beneficiaries through their Sub-Divisional and Block level offices. The list of beneficiaries would also be sent to the Directorate for final approval. After final approval of the Director, the amount would be distributed to the beneficiaries from said Sub-Divisional and Block Level Offices through Implementing Officers. PW-1 also stated that as per norms and practice, the Implementing Officers used to collect the amount under different schemes from the cashier of the office of Dy. Director as sanctioned by the D.D.O. of the office for distribution of the same to the beneficiaries. The implementing officer would draw the amount from the cashier after giving receipt and thereafter, he would submit the adjustment report to the cashier with actual pay receipts (**APR**). Said APR would be attested by the implementing officer. After submission of APR, the implementing officer would take back the original receipts from the cashier which was initially issued by him and was submitted to the

cashier. Thereafter, the adjustment report would be placed before the concerned DDO by the cashier for acceptance.

[29] Therefore, as per above said evidences and procedure, the DDO would have some responsibility at the initial stage for handing over the amount to the Sub-Divisional or Block-level offices and again at the last phase of the process i.e. at the time of acceptance of adjustment report which would be submitted to his office by the concerned Implementing Officers after distribution of the money to the beneficiaries. But in between that two phases i.e. during the phase of distribution of the grant to the beneficiaries, the DDO did not have any duty. However, at the time of acceptance of adjustment report of implementing officer(s), it was the duty of the cashier and thereafter of the DDO to see that disbursement had been made in proper manner. Keeping in mind above said procedure as would be followed in Animal Husbandry Department, the evidence as led by the prosecution against Shiba Prasad Sengupta, K.D. Biswas and Mrinmoy Barman are required to be appreciated.

[30] This Court has made an attempt to separate the evidences led by the prosecution against said three persons from each other for better understanding and convenient appreciation. Firstly, the evidences as led against Shiba Prasad Sengupta is given a glimpse and then against Lt. Krishnadhan Biswas and Mrinmoy Barman.

Evidence against Shiba Prasad Sengupta:

[31] According to Paritosh Majumder (PW-1), S.P. Sengupta was his predecessor from whom he took over the charge of Deputy

Director, Animal Resource Department on 24.05.1993 by signing GFR 33 (**Ext.2**). Dr. S.P Sengupta took over the charge of that post on 07.07.1989 by GFR 33 (**Ext.1**) from Dr. N.C. Roy. PW-1 also identified the transfer order dated 19.05.1989 (**Ext.12**) of Dr. S.P. Sengupta from Kailashahar to Agartala as Dy. Director, Animal Resource Department. Said witness also identified one office order dated 18.05.1993 (**Ext.13**) by which Dr. S.P Sengupta was posted in the office of Project officer, ICDP-1, Astabal, Agartala.

[32] The prosecution through PW-1 got indentified several grant-in-aid bills, related sanction memos and list of beneficiaries to implicate S.P. Sengupta in respect of the charges framed against him. Said documents are given a pictorial reference herein below.

Sl. No.	Date and amount of Grant in aid bill with related Exhibit number	Grant in aid bill signed by	Date and name of the sanctioning authority of the related Sanction memo, with related exhibit number	Date and Name of the authority signing the List of beneficiaries, with related date and exhibit number
1.	GIA bill dated 13.03.1992 for Rs.17,734/- (Ext.29)	Dr. S.P. Sengupta	Memo dated 25.03.1992 (Ext.30) signed by Dr. S.P. Sengupta	List of Beneficiaries dated 25.03.1992 (Ext.31) signed by Dr. S.P. Sengupta
2.	GIA bill dated 06.03.1991 for Rs.33,300/- (Ext.37)	Dr. S.P. Sengupta	Memo dated 15.03.1991 (Ext.38) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.39) signed by Addl. Director of A.H.
3.	GIA bill dated 06.03.1991 for Rs.45,500/- (Ext.41)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.42) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.43) signed by Addl. Director of A.H.
4.	GIA bill dated Nil for Rs.21,375/- (Ext.44)	Dr. S.P. Sengupta & Director of A.H.	Nil	List of Beneficiaries dated Nil (Ext.45) signed by Director of A.H.
5.	GIA bill dated 18.02.1991 for Rs.36,400/- (Ext.46)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.47) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.48) signed by Addl. Director of A.H.
6.	GIA bill dated 06.03.1991 for Rs.7,500/- (Ext.50)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 27.03.1991 (Ext.51) signed by Addl. Director of A.H.	List of Beneficiaries dated 27.03.1991 (Ext.52) signed by Addl. Director of A.H.
7.	GIA bill dated 19.03.1991 for Rs.6,600/- (Ext.53)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.54) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.55) signed by Addl. Director of A.H.
8.	GIA bill dated 17.02.1992 for Rs.22,740/- (Ext.57)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.58) signed by Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.59) signed by Dy. Director of A.H.
9.	GIA bill dated Nil for Rs.35,300/- (Ext.61)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.62) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.63) signed by Addl. Director of A.H.
10.	GIA bill dated 06.03.1991 for	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.66) signed by	List of Beneficiaries dated Nil (Ext.67)

	Rs.33,300/- (Ext.65)		Addl. Director of A.H.	signed by Addl. Director of A.H.
11.	GIA bill dated 15.03.1991 for Rs.33,300/- (Ext.69)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.70) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.71) without Signature.
12.	GIA bill dated 18.02.1991 for Rs.28,240/- (Ext.73)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.74) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.75) signed by Addl. Director of A.H.
13.	GIA bill dated 13.02.1992 for Rs. 22,750/- (Ext.76)	Dr. S.P. Sengupta, Director of A.H.	Memo dated 25.03.1992 (Ext.77) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 25.03.1992 (Ext.78) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
14.	GIA bill dated 03.03.1991 for Rs. 22,750/- (Ext.80)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 25.03.1992 (Ext.81) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 25.03.1992 (Ext.82) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
15.	GIA bill dated 13.03.1992 for Rs. 10,000/- (Ext.84)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 25.03.1992 (Ext.85) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 25.03.1992 (Ext.86) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
16.	GIA bill dated 27.03.1992 for Rs. 21,190/- (Ext.88)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 25.03.1992 (Ext.89) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 25.03.1992 (Ext.90) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
17.	GIA bill dated 20.10.1989 for Rs. 9,975/- (Ext.92)	Dr. S.P. Sengupta & Director of A.H.	No sanction memo issued.	List of Beneficiaries dated Nil (Ext.93) signed by Director of A.H.
18.	GIA bill dated 20.10.1989 for Rs. 18,500/- (Ext.94)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.95) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.96) signed by Director of A.H.
19.	GIA bill dated 20.10.1989 for Rs. 18,500/- (Ext.97)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.98) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.99) signed by Director of A.H.
20.	GIA bill dated 20.10.1989 for Rs. 18,500/- (Ext.100)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.101) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.102) signed by Director of A.H.
21.	GIA bill dated 20.10.1989 for Rs. 18,500/- (Ext.103)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.104) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.105) signed by Director of A.H.
22.	GIA bill dated 20.10.1989 for Rs. 14,250/- (Ext.106)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.107) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.108) signed by Director of A.H.
23.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.109)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 30.03.1992 (Ext.109/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.109/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
24.	GIA bill dated 17.02.1992 for Rs. 22,592/- (Ext.110)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 27.03.1992 (Ext.110/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.110/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
25.	GIA bill dated 17.02.1992 for Rs. 24,004/- (Ext.111)	Dr. S.P. Sengupta, Dy. Director of A.H.	Memo dated 27.03.1992 (Ext.111/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.111/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
26.	GIA bill dated 06.03.1991 for Rs. 39,536/- (Ext.112)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 27.03.1991 (Ext.112/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 27.03.1991 (Ext.112/2) signed by Addl. Director of A.H.
27.	GIA bill dated 06.03.1990 for Rs. 39,536/- (Ext.113)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 27.03.1991 (Ext.113/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 27.03.1991 (Ext.113/2) signed by Addl. Director of A.H.
28.	GIA bill dated Nil for Rs. 15,534/- (Ext.114)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.114/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.114/2) signed by Addl. Director of A.H.
29.	GIA bill dated Nil for Rs. 45,500/- (Ext.115)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.115/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.115/2) signed by

				Addl. Director of A.H.
30.	GIA bill dated Nil for Rs. 35,300/- (Ext.116)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.116/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.116/2) signed by Addl. Director of A.H.
31.	GIA bill dated 13.03.1992 for Rs. 21,180/- (Ext.117)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.117/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.117/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
32.	GIA bill dated Nil for Rs. 21,180/- (Ext.118)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.118/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.118/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
33.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.119)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.119/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.119/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
34.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.120)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.120/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.120/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
35.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.121)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.121/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.121/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
36.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.122)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.122/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.122/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
37.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.123)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.123/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.123/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
38.	GIA bill dated 13.03.1992 for Rs. 24,004/- (Ext.124)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.124/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.124/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
39.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.125)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.125/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.125/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
40.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.126)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.126/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.126/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
41.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.127)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.127/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.127/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
42.	GIA bill dated 27.03.1992 for Rs. 7,060/- (Ext.128)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.128/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.128/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
43.	GIA bill dated 30.03.1992 for Rs. 24,004/- (Ext.129)	Dr. S.P. Sengupta	Memo dated 30.03.1992 (Ext.129/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 30.03.1992 (Ext.129/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
44.	GIA bill dated 06.03.1991 for Rs. 11,284/- (Ext.130)	-	Memo dated 15.03.1992 (Ext.130/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.130/1) signed by Addl. Director of A.H.
45.	GIA bill dated 18.02.1991 for Rs. 32,240/- (Ext.131)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.131/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.131/2) signed by Addl. Director of A.H.
46.	GIA bill dated 18.02.1991 for Rs. 32,240/- (Ext.132)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.132/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.132/2) signed by Addl. Director of A.H.
47.	GIA bill dated 06.03.1991 for Rs.	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.133/1) signed by	List of Beneficiaries dated 15.03.1991

	48,380/- (Ext.133)		Addl. Director of A.H.	(Ext.133/2) signed by Addl. Director of A.H.
48.	GIA bill dated 06.03.1991 for Rs. 48,380/- (Ext.134)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.134/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.134/2) signed by Addl. Director of A.H.
49.	GIA bill dated 06.03.1991 for Rs. 48,380/- (Ext.135)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.135/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.135/2) signed by Addl. Director of A.H.
50.	GIA bill dated Nil for Rs. 48,380/- (Ext.136)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 for Rs.11,284/- (Ext.136/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 for Rs.48,380/- (Ext.136/2) signed by Addl. Director of A.H. [Remark- PW-1 is silent as to what happen about the sanction of rest amount Rs.48,380/-].
51.	GIA bill dated 06.03.1991 for Rs. 43,542/- (Ext.137)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.137/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.137/2) signed by Addl. Director of A.H.
52.	GIA bill dated 06.03.1991 for Rs. 36,285/- (Ext.138)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.138/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.138/2) signed by Addl. Director of A.H.
53.	GIA bill dated 17.02.1992 for Rs. 24,004/- (Ext.139)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.139/6) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.139/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
54.	GIA bill dated Nil for Rs. 21,180/- (Ext.140)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.140/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.140/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
55.	GIA bill dated 27.03.1992 for Rs. 24,004/- (Ext.141)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.141/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.141/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
56.	GIA bill dated Nil for Rs. 24,180/- (Ext.142)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 27.03.1991 (Ext.142/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.142/2) signed by Addl. Director of A.H.
57.	GIA bill dated 27.03.1992 for Rs. 24,004/- (Ext.143)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.143/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.143/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
58.	GIA bill dated 27.03.1992 for Rs. 22,592/- (Ext.144)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.144/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.144/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
59.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.145)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.145/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.145/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
60.	GIA bill dated 28.03.1992 for Rs. 14,120/- (Ext.146)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.146/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.146/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
61.	GIA bill dated 23.08.1991 for Rs. 14,120/- (Ext.147)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.147/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.146/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
62.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.148)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.148/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.148/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
63.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.149)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.149/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.149/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
64.	GIA bill dated 28.03.1992 for Rs.	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.150/1) signed by	List of Beneficiaries dated 28.03.1992

	24,004/- (Ext.150)		Dr. S.P. Sengupta, Dy. Director of A.H.	(Ext.150/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
65.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.151)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.151/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.151/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
66.	GIA bill dated 28.03.1992 for Rs. 14,120/- (Ext.152)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.152/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.152/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
67.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.153)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.153/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.153/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
68.	GIA bill dated 28.03.1992 for Rs. 24,004/- (Ext.154)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.154/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.154/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
69.	GIA bill dated 28.03.1992 for Rs. 21,180/- (Ext.155)	Dr. S.P. Sengupta	Memo dated 28.03.1992 (Ext.155/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 28.03.1992 (Ext.155/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
70.	GIA bill dated 14.03.1991 for Rs. 32,240/- (Ext.156)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.156/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1992 (Ext.156/2) signed by Addl. Director of A.H.
71.	GIA bill dated 14.03.1991 for Rs. 32,240/- (Ext.157)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.157/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.157/2) signed by Addl. Director of A.H.
72.	GIA bill dated 18.03.1991 for Rs. 21,765/- (Ext.158)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 27.03.1991 (Ext.158/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.158/2) signed by Addl. Director of A.H.
73.	GIA bill dated 18.03.1991 for Rs. 45,500/- (Ext.159)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.159/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.158/2) signed by Addl. Director of A.H.
74.	GIA bill dated 15.03.1991 for Rs. 21,000/- (Ext.160)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.160/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.160/2) signed by Addl. Director of A.H.
75.	GIA bill dated 18.03.1991 for Rs. 45,500/- (Ext.161)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.161/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.161/2) signed by Addl. Director of A.H.
76.	GIA bill dated 18.03.1991 for Rs. 45,500/- (Ext.162)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.162/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.162/2) signed by Addl. Director of A.H.
77.	GIA bill dated 18.03.1991 for Rs. 45,500/- (Ext.163)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 20.03.1991 (Ext.163/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.163/2) signed by Addl. Director of A.H.
78.	GIA bill dated 18.03.1991 for Rs. 30,000/- (Ext.164)	Dr. S.P. Sengupta & Addl. Director of A.H.	Memo dated 15.03.1991 (Ext.164/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.164/2) signed by Addl. Director of A.H.
79.	GIA bill dated 20.10.1989 for Rs. 19,950/- (Ext.165)	Dr. S.P. Sengupta & Director of A.H.	No sanction memo issued.	List of Beneficiaries dated 20.10.1989 (Ext.165/1) signed by Director of A.H.
80.	GIA bill dated 20.10.1989 for Rs. 19,950/- (Ext.166)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 08.11.1989 (Ext.166/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 08.11.1989 (Ext.166/2) signed by Director of A.H.
81.	GIA bill dated 20.10.1989 for Rs. 17,100/- (Ext.167)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 25.10.1989 (Ext.167/1) signed by Director of A.H.	List of Beneficiaries dated 25.10.1989 (Ext.167/2) signed by Director of A.H.
82.	GIA bill dated 20.10.1989 for Rs. 19,950/- (Ext.168)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.168/1) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.168/2) signed by Director of A.H.
83.	GIA bill dated 20.10.1989 for Rs. 17,100/- (Ext.169)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 26.10.1989 (Ext.169/1) signed by Director of A.H.	List of Beneficiaries dated 26.10.1989 (Ext.169/2) signed by Director of A.H.

[illegible]

[illegible]

	22,750/- (Ext.206)		Dr. S.P. Sengupta, Dy. Director of A.H.	(Ext.206/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
120.	GIA bill dated 28.03.1992 for Rs. 22,750/- (Ext.207)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.207/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.205/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
121.	GIA bill dated 27.03.1992 for Rs. 22,750/- (Ext.208)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.208/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.208/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
122.	GIA bill dated 27.03.1992 for Rs. 22,750/- (Ext.209)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.209/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.209/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
123.	GIA bill dated 27.03.1992 for Rs. 22,750/- (Ext.210)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.210/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.210/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
124.	GIA bill dated 27.03.1992 for Rs. 22,750/- (Ext.211)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.211/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.211/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
125.	GIA bill dated 28.03.1992 for Rs. 24,260/- (Ext.212)	Dr. S.P. Sengupta	Memo dated 27.03.1992 (Ext.212/1) signed by Dr. S.P. Sengupta, Dy. Director of A.H.	List of Beneficiaries dated 27.03.1992 (Ext.212/2) signed by Dr. S.P. Sengupta, Dy. Director of A.H.
126.	GIA bill dated 15.03.1991 for Rs. 33,904/- (Ext.213)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.213/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.213/2) signed by Addl. Director of A.H.
127.	GIA bill dated 15.03.1991 for Rs. 45,500/- (Ext.214)	Dr. S.P. Sengupta & Director of A.H.	No sanction memo issued.	List of Beneficiaries dated 15.03.1991 (Ext.214/1) signed by Addl. Director of A.H.
128.	GIA bill dated 15.03.1991 for Rs. 23,976/- (Ext.215)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.215/1) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.215/2) signed by Addl. Director of A.H.
129.	GIA bill dated 14.03.1991 for Rs. 36,400/- (Ext.25/2)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.25/3) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.25/4) signed by Addl. Director of A.H.
130.	GIA bill dated 15.03.1991 for Rs. 45,500/- (Ext.25/8)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 20.03.1991 (Ext.25/9) signed by Addl. Director of A.H.	List of Beneficiaries dated 20.03.1991 (Ext.25/10) signed by Addl. Director of A.H.
131.	GIA bill dated 14.03.1991 for Rs. 36,400/- (Ext.25/12)	Dr. S.P. Sengupta & Director of A.H.	Memo dated 15.03.1991 (Ext.25/13) signed by Addl. Director of A.H.	List of Beneficiaries dated 15.03.1991 (Ext.25/14) signed by Addl. Director of A.H.

[33] PW-1 in his cross-examination stated that the list of beneficiaries would be prepared by the Panchayet and Block Development Committee and thereafter, it would be sent to the Office of the Director, Animal Husbandry through the office of concerned Deputy Director for approval and Deputy Director had no right to alter or modify the list. He also stated that the final list of beneficiaries would be prepared by the Director considering the fund position and then it would be sent to the office of the Deputy Director and the

Deputy Director thereafter would prepare the sanction memo and list of beneficiaries as per said approved list. He also admitted that the grant-in-aid bills prepared by Dr. S.P Sengupta were as per the approved list issued by their Director and after issuance of sanction memo, the transaction would be done by the implementing officer and cashier and the DDO had no role to play in disbursement of the amount. He also stated that so far the documents perused by him in connection with this case, there was no allegation that Dr. S.P. Sengupta had deviated from the approved list of beneficiaries. However, the fact that he had disclosed the name of Dr. S.P. Sengupta to investigating officers was omitted in his statement recorded under Section 161 of Cr.P.C.

[34] PW-54 i.e. the last investigating officer deposed that he found Phani Bhushan Debnath and Manindra Debnath were granted an amount of Rs.1,612/- each vide memorandum bearing no.F.2-253/DDAH(W)/1991 dated 27.03.1991 and Dr. S.P. Sengupta drew the amount vide bill no. Grant-in-Aid/DDAH/1174/90 dated 18.03.1991. The amount of Rs.24,180/- was granted by Addl. Director on 27.03.1991 but the amount was drawn on 18.03.1991 by Dr. S.P. Sengupta earlier and after that memo was issued for paper regularization. According PW-54, accused Sankar Dey gave in writing to the Dy. Director, Animal Husbandry to the effect that he had paid Rs.1,44,024/- to the Assistant Director, Animal Husbandry, Sonamura against 6 vouchers as per dictation of Dy. Director, Animal Husbandry, West on 19.12.1992 for which no grant-in-aid bill was drawn from treasury. However, if such evidence is taken to be true, it

appears to be of the nature of exculpatory statement made by the co-accused to save himself.

[35] Evidence against Lt. Krishnadhan Biswas:

(i) PW-1 stated that K.D. Biswas was Assistant Director of Animal Resource Department, Sonamura Sub-Division of West Tripura District. He took over charge by GFR 33 (**Ext.3**). Transfer order of Mr. K.D Biswas. in said post was marked as Ext.4. PW-1 also identified one memorandum dated 29.07.1991 (**Ext.10**) and another memorandum dated 11.12.1992 (**Ext.11**) issued by Dr. K. D. Biswas as Asstt. Director of Animal Resource Department of Sonamura.

(ii) PW-1 further stated that at the time of taking charge, in GFR 33 there was no mention of any shortfall in the cash in his office or there was any unadjusted voucher. But at the time of charge, there was unadjusted vouchers of about Rs.1 lakh and there was about Rs.99,000/- in the cash. He also stated that on 04.08.1994, he conducted physical verification of the cash of his office and found that there was no signature/approval of DDO in 06 nos. of actual pay receipt (Ext.15 series) of Rs.24,004/- only for the period 1991-92. PW-1 stated that said 6 nos. of unadjusted vouchers contained signatures of Dr. Mrinmoy Barman and on his identification, said signatures were marked as **Ext.15/1 series**. He also identified signatures of Dr. Krishnadhan Biswas in those 6 vouchers which were marked as **Ext.15/2 series**.

(iii) PW-1 also identified one money receipt issued by one Gopal Majumder for Rs.1,612/- counter-signed by Dr. T.K. Sengupta

and Dr. K.D. Biswas and their signatures were marked as **Ext.32 series**. He also identified another money receipt issued by Dipak Sarkar for Rs.1,612/- countersigned by Dr. T.K. Sengupta and Dr. K.D. Biswas and their signatures were marked as **Ext.33 series**.

(iv) PW-1 further identified money receipts in the name of Nagendra Sarkar, Bajlu Miah, Rang Miah, Abdul Rashid, Ashu Miah, Mamata Begam, Ali Miah (**PW-28**), Smti Laxmi Rani Das, Smti Jyotsna Begum and Abdul Sattar, signed by Dr. K.D. Biswas and his signatures therein were marked as **Ext.34 series**. None of the above said persons except Ali Miah (PW-28) was examined in this case.

(v) PW-1 also identified money receipts in the names of Shakun Miah, Raj Kr. Debbarma, Samsul Haque Choudhury, Smti Ambia Khatoon, Smti Selina Begam, Ramesh Debbarma, Shahindra Debbarma, Abdul Razzak, Badir Miah, Nitai Das, Siraj Miah Choudhury, Lal Miah, Smti Rahela Khatoon, Smti Rupban Bibi, Smti Gulura Khatoon, Farid Miah, Fazlul Karim, Smti Shania Bibi, Smti Jahera Khatoon, Smti Trinayani Debbarma, Adhin Debbarma, Chikan Debbarma, Gourchand Debbarma, Indrajit Debbarma, Smti Shamkanya Debbarma, Raj Kr. Debbarma, Anna Debbarma, Rabindra Debbarma, Smti Bakul Begam, Smti Kusanti Debbarma, Ramendra Debbarma, Abid Miah, Tarachand Debbarma, Amalendu Debbarma, Shambhu Debbarma, Nagendra Sarkar, Manik Das and Nibaran Debbarma containing signatures of Dr. T.K. Sengupta and Dr. K.D. Biswas and their signatures therein were marked as **Ext.35 series**. But none of the above said persons were examined in this case.

[36] On identification by PW-1, the following grant-in-aid bills, related sanction memo, related list of beneficiaries and money receipts were also proved into evidence having the signature of K.D. Biswas in the money receipts:

Description of Grant in aid bill	Related sanction memo	Related list of beneficiaries	Description of related money receipts	Remarks, if any
Grant in aid bill dated 18.02.1991 for Rs.36,400/- (Ext.46)	Sanction memo dated 15.03.1991 (Ext.47)	List of beneficiaries in respect of disbursement of said amount (Ext.48)	08 money receipts (Ext.49) containing signatures of Dr. K. D. Biswas and Dr. Mrinmoy Barman (Ext.49/1 series)	
Grant in aid bill dated 6.3.1991 for Rs.33,300/- (Ext.37)	Sanction memo dated 15.3.1991 (Ext.38)	List of beneficiaries (Ext.39)	50 money receipts regarding disbursement of said Rs.33,300/- (Ext.40 series) countersigned by Dr. K.D. Biswas and Dr. Mrinmoy Barman	
Grant in aid bill dated nil for Rs.6,660/- (Ext.53)	Sanction memo dated 20.3.1991 (Ext.54),	List of beneficiaries for (Ext.55)	10 money receipts in respect of disbursement of said amount signed by Dr. K.D. Biswas and another officer (name not disclosed) and same was marked as Ext.56 series.	
Grant in aid bill dated 17.2.1992 for Rs.22,740/- (Ext.57)	Sanction memo (Ext.58)	List of beneficiaries in respect of disbursement of said amount (Ext.59)	03 money receipts in respect of part disbursement (Ext.60 series) signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (their signatures marked as Ext.60/1 series and 60/2 series).	
Grant in aid bill dated nil for Rs.35,300/- (Ext.61)	Related sanction memo (Ext.62)	List of beneficiaries of said amount (Ext.63)	Money receipt in respect of part payment of the said amount signed by Dr. T.K. Sengupta and Dr. K.D. Biswas. (Ext.64)	
Grant in aid bill dated 06.03.1991 for Rs.33,300/- (Ext.65)	Sanction memo (Ext.66)	List of beneficiaries regarding part payment of said amount (Ext.67)	25 nos. of money receipts in respect of disbursement of the amount (Ext.68) containing signatures of Dr. Mrinmoy Barman and Dr. K.D. Biswas.	
Grant in aid bill for Rs.33,300/- (Ext.69)	Sanction memo (Ext.70)	List of beneficiaries without signature of issuing authority (Ext.71)	25 nos. of money receipts in respect of disbursement of the amount (Ext.72) containing signatures of Dr. Mrinmoy Barman and Dr. K.D. Biswas.	
Grant in aid bill dated 13.02.1992 for Rs.22,750/- (Ext.76)	Sanction memo (Ext.77)	List of beneficiaries in respect of disbursement of said amount (Ext.78)	5 nos. of money receipts (Ext.79) signed by Dr. Mrinmoy Barman, Mr. T. K. Sengupta and Dr. K.D. Biswas.	
Grant in aid bill dated 03.03.1991 for Rs.22,750/- (Ext.80)	Sanction memo (Ext.81)	List of beneficiaries (Ext.82)	5 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.83 series).	
Grant in aid bill dated 13.03.1992 for Rs.10,000/- (Ext.84)	Sanction memo (Ext.85)	List of beneficiaries (Ext.86)	5 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.87 series).	
Grant in aid bill for Rs.21,190/- (Ext.88)	Sanction memo (Ext.89)	List of beneficiaries (Ext.90)	10 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.91 series).	

Grant in aid bill dated 30.03.1992 (Ext.109)	Sanction memo dated 30.03.1992 (Ext.109/1)	List of beneficiaries (Ext.109/2)	16 nos. of money receipts in respect of disbursement containing signature of Dr. Mrinmoy Barman, Mr. T.K. Sengupta in some receipts and Dr. K.D Biswas in some receipts (109/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.39,536/- (Ext.112)	Sanction memo (Ext.112/1)	List of beneficiaries signed by Dr. M.K. Debbarma (Ext.112/2)	24 nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.112/3 series).	
Grant in aid bill dated 06.03.1990 for Rs.39,536/- (Ext.113)	Sanction memo (Ext.113/1)	List of beneficiaries (Ext.113/2)	22 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (in one of the receipts) (Ext.113/3 series).	
Grant in aid bill for Rs.15,534/- (Ext.114)	Sanction memo (Ext.114/1)	List of beneficiaries (Ext.114/2)	9 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (in some of the receipts) (Ext.114/3 series).	
Grant in aid bill for Rs.45,500/- (Ext.115)	Sanction memo (Ext.115/1)	List of beneficiaries (Ext.115/2)	9 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (in some of the receipts) and Dr. T.K. Sengupta (in some of the receipts) (Ext.115/3 series).	
Grant in aid bill for Rs.21,180/- (Ext.117)	Sanction memo (Ext.117/1)	List of beneficiaries (Ext.117/2)	15 nos. of relevant money receipts signed by Dr. T.K. Sengupta, Dr. K.D. Biswas and Dr. Mrinmoy Barman (in one of the receipts) (Ext.117/3 series).	
Grant in aid bill for Rs.21,180/- (Ext.118)	Sanction memo (Ext.118/1)	List of beneficiaries (Ext.118/2)	14 nos. of relevant money receipts signed by Dr. T.K. Sengupta and Dr. K.D. Biswas (Ext.118/3 series).	
Grant in aid bill for Rs.24,004/- (Ext.119)	Sanction memo (Ext.119/1)	List of beneficiaries (Ext.119/2)	16 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.119/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.120)	Sanction memo (Ext.120/1)	List of beneficiaries (Ext.120/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.120/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.121)	Sanction memo (Ext.121/1)	List of beneficiaries (Ext.121/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.121/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.122)	Sanction memo (Ext.122/1)	List of beneficiaries (Ext.122/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.122/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.123)	Sanction memo (Ext.123/1)	List of beneficiaries (Ext.123/2)	10 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.123/3 series).	
Grant in aid bill dated 13.03.1992 for Rs.24,004/- (Ext.124)	Sanction memo (Ext.124/1)	List of beneficiaries (Ext.124/2)	14 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.124/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.125)	Sanction memo (Ext.125/1)	List of beneficiaries (Ext.125/2)	17 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.125/3 series).	
Grant in aid bill dated 30.03.1992	Sanction memo (Ext.126/1)	List of beneficiaries (Ext.126/2)	16 nos. of relevant money receipts signed by Dr. K.D.	

for Rs.24,004/- (Ext.126)			Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.126/3 series).	
Grant in aid bill dated 30.03.1991 for Rs.24,004/- (Ext.127)	Sanction memo (Ext.127/1)	List of beneficiaries (Ext.127/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.127/3 series).	
Grant in aid bill for Rs.7,060/- (Ext.128)	Sanction memo issued (Ext.128/1)	List of beneficiaries (Ext.128/2)	4 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.128/3 series).	
Grant in aid bill for Rs.24,004/- (Ext.129)	Sanction memo (Ext.129/1)	List of beneficiaries (Ext.129/2)	13 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.129/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.11,284/- (Ext.130)	Nil	List of beneficiaries signed by Dr. M.K. Debbarma (Ext.130/1)	7 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.130/2 series).	
Grant in aid bill for Rs.32,240/- (Ext.131)	Sanction memo (Ext.131/1)	List of beneficiaries (Ext.131/2)	20 nos. of relevant money receipt signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.131/3 series)	
Grant in aid bill dated 18.02.1991 for Rs.32,240/- (Ext.132)	Sanction memo (Ext.132/1)	List of beneficiaries (Ext.132/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.132/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.133)	Sanction memo (Ext.133/1)	List of beneficiaries (Ext.133/2)	18 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.133/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.134)	Sanction memo (Ext.134/1)	List of beneficiaries (Ext.134/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.134/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.135)	Sanction memo (Ext.135/1)	List of beneficiaries (Ext.135/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.135/3 series).	
Grant in aid bill for Rs.48,380/- (Ext.136)	Sanction memo for Rs.11,284/- (Ext.136/1)	List of beneficiaries for Rs.48,380/- (Ext.136/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.136/3 series).	PW-1 is silent as to what happen about the sanction of rest amount Rs.48,380/-.
Grant in aid bill dated 06.03.1991 for Rs.43,542/- (Ext.137)	Sanction memo (Ext.137/1)	List of beneficiaries (Ext.137/2)	18 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.137/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.36,285/- (Ext.138)	Sanction memo issued (Ext.138/1)	List of beneficiaries (Ext.138/2)	15 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.138/3 series).	
Grant in aid bill dated 17.02.1992 for Rs.24,004/- (Ext.139)	Sanction memo (Ext.139/6)	List of beneficiaries (Ext.139/1)	3 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.139/2 series).	
Grant in aid bill dated Nil for Rs.21,180/- (Ext.140)	Sanction memo (Ext.140/1)	List of beneficiaries (Ext.140/2)	3 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.140/3 series).	
Grant in aid bill dated Nil for Rs.24,004/- (Ext.141)	Sanction memo (Ext.141/1)	List of beneficiaries (Ext.141/2)	4 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.141/3 series).	
Grant in aid bill dated Nil for Rs.24,180/- (Ext.142)	Sanction memo (Ext.142/1)	List of beneficiaries (Ext.142/2)	8 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.142/3 series).	
Grant in aid bill dated 27.03.1992	Sanction memo (Ext.143/1)	List of beneficiaries (Ext.143/2)	1 no. of relevant money receipt signed by Dr. K.D.	

for Rs.24,004/- (Ext.143)			Biswas and Dr. Mrinmoy Barman (Ext.143/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,592/- (Ext.144)	Sanction memo (Ext.144/1)	List of beneficiaries (Ext.144/2)	1 no. of relevant money receipt signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.144/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.145)	Sanction memo (Ext.145/1)	List of beneficiaries (Ext.145/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.145/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.14,120/- (Ext.146)	Sanction memo (Ext.146/1)	List of beneficiaries (Ext.146/2)	8 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.146/3 series).	
Grant in aid bill dated 23.08.1991 for Rs.14,120/- (Ext.147)	Sanction memo (Ext.147/1)	List of beneficiaries (Ext.147/2)	10 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.147/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.148)	Sanction memo (Ext.148/1)	List of beneficiaries (Ext.148/2)	15 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.148/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.149)	Sanction memo (Ext.149/1)	List of beneficiaries (Ext.149/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.149/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.150)	Sanction memo (Ext.150/1)	List of beneficiaries (Ext.150/2)	17 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.150/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.151)	Sanction memo (Ext.151/1)	List of beneficiaries (Ext.151/2)	17 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.151/3 series).	
grant in aid bill dated 28.03.1992 for Rs.14,120/- (Ext.152)	Sanction memo (Ext.152/1)	List of beneficiaries (Ext.152/2)	3 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.152/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.153)	Sanction memo (Ext.153/1)	List of beneficiaries (Ext.153/2)	14 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.153/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.154)	Sanction memo (Ext.154/1)	List of beneficiaries (Ext.154/2)	15 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.154/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.21,180/- (Ext.155)	Sanction memo (Ext.155/1)	List of beneficiaries (Ext.155/2)	15 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.155/3 series).	
Another grant in aid bill dated 14.03.1991 for Rs.32,240/- (Ext.156)	Sanction memo (Ext.156/1)	List of beneficiaries (Ext.156/2)	20 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.156/3 series).	
Grant in aid bill dated 14.03.1991 for Rs.32,240/- (Ext.157)	Sanction memo (Ext.157/1)	List of beneficiaries (Ext.157/2)	20 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.157/3 series).	
Grant in aid bill dated 14.03.1991 for Rs.36,400/- (Ext.25/2)	Sanction memo (Ext.25/3)	List of beneficiaries (Ext.25/4)	6 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.25/5 series).	
Grant in aid bill dated 15.03.1991 for Rs.45,500/- (Ext.25/8)	Sanction memo (Ext.25/9)	List of beneficiaries (Ext.25/10)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.25/11 series).	
Grant in aid bill dated 14.03.1991	Sanction memo (Ext.25/13)	List of beneficiaries (Ext.25/14)	8 Nos. of relevant money receipts signed by Dr. K.D.	

for Rs.36,400/- (Ext.25/12)			Biswas and Dr. Mrinmoy Barman (Ext.25/15 series).	
Grant in aid bill dated 15.03.1991 for Rs.45,500/- (Ext.25/18)	Sanction memo (Ext.25/19)	List of beneficiaries (Ext.25/20)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.25/21 series).	
Grant in aid bill dated 18.03.1991 for Rs.45,500/- (Ext.159)	Sanction memo (Ext.159/1)	List of beneficiaries (Ext.159/2)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.159/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.21,000/- (Ext.160)	Sanction memo (Ext.160/1),	Relevant list of beneficiaries (Ext.160/2)	21 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.160/3 series).	
Grant in aid bill dated 18.03.1991 for Rs.45,500/- (Ext.161)	Sanction memo (Ext.161/1)	List of beneficiaries (Ext.161/2)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.161/3 series).	
Grant in aid bill dated 18.03.1991 for Rs.45,500/- (Ext.162)	Sanction memo (Ext.162/1)	List of beneficiaries (Ext.162/2)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.162/3 series).	
Grant in aid bill dated 18.03.1991 for Rs.45,500/- (Ext.163)	Sanction memo (Ext.163/1)	List of beneficiaries (Ext.163/2)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.163/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.30,000/- (Ext.164)	Sanction memo (Ext.164/1)	List of beneficiaries (Ext.164/2)	15 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.164/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.19,950/- (Ext.165)	Nil	List of beneficiaries (Ext.165/1)	7 Nos. of relevant money receipts signed by Dr. K.D. Biswas(Ext.165/2 series).	
Grant in aid bill dated 20.10.1989 for Rs.19,950/- (Ext.166)	Sanction memo (Ext.166/1)	List of beneficiaries without any signature of any officer (Ext.166/2)	14 Nos. of relevant money receipts signed by Dr. K.D. Biswas and another (Ext.166/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.17,100/- (Ext.167)	Sanction memo (Ext.167/1)	List of beneficiaries (Ext.167/2)	8 Nos. of relevant money receipts signed by Dr. K.D. Biswas and others (Ext.167/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.19,950/- (Ext.168)	Sanction memo issued (Ext.168/1)	List of beneficiaries (Ext.168/2)	14 Nos. of relevant money receipts signed by Dr. K.D. Biswas and others (Ext.168/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.17,100/- (Ext.169)	Sanction memo (Ext.169/1)	List of beneficiaries (Ext.169/2)	12 Nos. of relevant money receipts signed by Dr. K.D. Biswas and others (Ext.169/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.19,950/- (Ext.170)	Sanction memo (Ext.170/1)	List of beneficiaries (Ext.170/2)	14 Nos. of relevant money receipts signed by Dr. K.D. Biswas and others (Ext.170/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.19,950/- (Ext.171)	Sanction memo (Ext.171/1)	List of beneficiaries (Ext.171/2)	12 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.171/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.18,500/- (Ext.172)	Sanction memo issued by Director, Animal Husbandry (Ext.172/1)	List of beneficiaries (Ext.172/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.172/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.18,500/- (Ext.173)	Sanction memo (Ext.173/1)	List of beneficiaries (Ext.173/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.173/3 series).	
grant in aid bill dated 20.10.1989 for Rs.18,500/- (Ext.174)	sanction memo (Ext.174/1)	list of beneficiaries (Ext.174/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.174/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.18,500/- (Ext.175)	Sanction memo (Ext.175/1)	List of beneficiaries (Ext.175/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.175/3 series).	
Grant in aid bill dated 20.10.1989 for Rs.17,100/- (Ext.176)	Sanction memo (Ext.176/1)	List of beneficiaries (Ext.176/2)	12 Nos. of relevant money receipts signed by Dr. K.D. Biswas (Ext.176/3 series).	
Grant in aid bill dated 27.03.1991 for Rs.22,750/- (Ext.179)	Sanction memo (Ext.179/1)	List of beneficiaries (Ext.179/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.179/3 series).	
Grant in aid bill dated 27.03.1992	Sanction memo (Ext.180/1)	List of beneficiaries (Ext.180/2)	4 Nos. of relevant money receipts signed by Dr. K.D.	

for Rs.22,750/- (Ext.180)			Biswas and Dr. Mrinmoy Barman (Ext.180/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.181)	Sanction memo (Ext.181/1)	List of beneficiaries (Ext.181/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.181/3 series).	
Grant in aid bill dated 28.03.1991 for Rs.22,750/- (Ext.182)	Sanction memo (Ext.182/1)	List of beneficiaries (Ext.182/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.182/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.183)	Sanction memo (Ext.183/1)	List of beneficiaries (Ext.183/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.183/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.184)	Sanction memo (Ext.184/1)	List of beneficiaries (Ext.184/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.184/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.185)	Sanction memo (Ext.185/1)	List of beneficiaries (Ext.185/2)	2 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.185/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.186)	Sanction memo (Ext.186/1)	List of beneficiaries (Ext.186/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.186/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.187)	Sanction memo (Ext.187/1)	List of beneficiaries (Ext.187/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.187/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.188)	Sanction memo (Ext.188/1)	List of beneficiaries (Ext.188/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.188/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.189)	Sanction memo (Ext.189/1)	List of beneficiaries (Ext.189/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.189/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.190)	Sanction memo (Ext.190/1)	List of beneficiaries (Ext.190/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.190/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.191)	Sanction memo (Ext.191/1)	List of beneficiaries (Ext.191/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.191/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.192)	Sanction memo (Ext.192/1)	List of beneficiaries (Ext.192/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.192/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- issued (Ext.193)	Sanction memo (Ext.193/1)	List of beneficiaries (Ext.193/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.193/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.194)	Sanction memo (Ext.194/1)	List of beneficiaries (Ext.194/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.194/3 series).	
Grant in aid bill dated 27.03.1991 for Rs.22,750/- (Ext.195)	Sanction memo (Ext.195/1)	List of beneficiaries (Ext.195/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.195/3 series).	

			series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.196)	Sanction memo (Ext.196/1)	List of beneficiaries (Ext.196/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.196/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.197)	Sanction memo (Ext.197/1)	List of beneficiaries (Ext.197/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.197/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.198)	Sanction memo (Ext.198/1)	List of beneficiaries (Ext.198/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.198/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.22,750/- (Ext.202)	Sanction memo (Ext.202/1)	List of beneficiaries (Ext.202/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. T.K. Sengupta (Ext.202/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.203)	Sanction memo (Ext.203/1)	List of beneficiaries (Ext.203/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.203/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.13,650/- (Ext.204)	Sanction memo (Ext.204/1)	List of beneficiaries (Ext.204/2)	2 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.204/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.22,750/- (Ext.205)	Sanction memo (Ext.205/1)	List of beneficiaries (Ext.205/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.205/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.206)	Sanction memo (Ext.206/1)	List of beneficiaries (Ext.206/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.206/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.22,750/- (Ext.207)	Sanction memo (Ext.207/1)	List of beneficiaries (Ext.207/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.207/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.208)	Sanction memo (Ext.208/1)	List of beneficiaries (Ext.208/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.208/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.209)	Sanction memo (Ext.209/1)	List of beneficiaries (Ext.209/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.209/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.210)	Sanction memo (Ext.210/1)	List of beneficiaries (Ext.210/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.210/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.211)	Sanction memo (Ext.211/1)	List of beneficiaries (Ext.211/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.211/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,260/-	Sanction memo (Ext.212/1)	List of beneficiaries (Ext.212/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy	

(Ext.212)			Barman (Ext.212/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.33,904/- (Ext.213)	Sanction memo (Ext.213/1)	List of beneficiaries (Ext.213/2)	16 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.213/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.23,976/- (Ext.215)	Sanction memo (Ext.215/1)	List of beneficiaries (Ext.215/2)	36 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.215/3 series).	

One money receipt of Rs.1,402/- signed by Dr. K.D. Biswas and Dr. T.K. Sengupta has been proved by PW-1 marked as **Ext.217** and signatures of Dr. T.K. Sengupta and Dr. K.D. Biswas are marked as **Exbts.217/1 and 217/2** respectively.

[37] PW-1 in his cross-examination on behalf of accused Sankar Dey stated that during the year 1988-1992 Dr. K.D. Biswas was the implementing officer of beneficiary schemes of Sonamura Sub-Division and after implementation of the scheme, the implementing officer was supposed to submit actual payment receipts to the cashier and the cashier was supposed to retain the same for audit purpose. It is also stated by him that the implementing officer used to receive the money by signing the acquittance roll or by receiving bank draft or by signing vouchers. The witness also admitted that Dr. K.D. Biswas did not identify any one of the beneficiaries.

[38] PW-10, Samir Kanti Das stated that in the year 1988 he was posted at Kamalnagar Veterinary Dispensary as Animal Husbandry Assistant and at that time, Dr. K.D. Biswas was the Assistant Director of Animal Husbandry Department of Sonamura Sub-Division in Block Level office. He further stated that during the year 1992 K.D. Biswas issued order directing him to assist the implementing officer in respect of implementation of some beneficiary scheme and most probably T.K. Sengupta was the implementing

officer at that time. He further stated that during the year 1992 he gave signatures in some blank money receipts as per instruction of K.D. Biswas. On being shown 6 money receipts, the witness stated that he gave his signatures in these money receipts as Animal Husbandry Assistant and his signatures therein were marked as Ext.27 series and signatures of Dr. K.D. Biswas therein on his identification, were marked as **Ext.27/1 series**. The related order dated 29.12.1992 issued by said Dr. K.D. Biswas asking him to assist the implementing officer was marked as **Ext.28** along with signatures of Dr. K.D. Biswas therein as **Ext.28/1**. In his cross-examination, he admitted that the said 6 money receipts were also signed by the Chairman of Gram Panchayet. In his cross-examination, he also stated that those money receipts were having the signatures of respective beneficiaries therein. He also admitted that he never report to their Director or any other higher authority about signing in the blank receipts at the instance of Dr. K.D. Biswas. He also admitted that as per said order dated 29.12.1992 he along with one Idu Miah were asked to assist the implementing officer.

[39] The witness PW-48, namely, Milan Kr. Deb, PA to the then Minister Surajit Datta deposed that under threat of said PW-49 and under instruction of Ministers, he put his signatures in blank APRs. He also stated that officers of Animal Husbandry Department namely, K.D. Biswas and Deputy Director, Dr. S.P. Sengupta used to visit their office and Prabir Kr. Deb (PW-49) told him that the APRs were given to him by the officers namely Sengupta Saheb and Biswas Saheb. The details of the testimony of this witness will be discussed lateron.

Prabir Kr. Deb (PW-49) also said that those APRs were given by the officers, namely Biswas Saheb and Sengupta Saheb etc. In his cross-examination, he has stated that he did not specifically name Dr. K.D. Biswas before the investigating officers.

Evidence against Mrinmoy Barman:

[40] PW-1 stated that the Mrinmoy Barman was in-charge of Kathalia Dispensary of Sonamura Sub-Division as per office order dated 06.08.1990 (**Ext.5**).He further stated that on 04.08.1994, he conducted physical verification of the cash of his office and found that there was no signature/approval of DDO in 06 nos. of actual pay receipt (**Ext.15 series**) of Rs.24,004/- only for the period 1991-1992 and said 6 nos. of unadjusted vouchers contained signature of Dr. Mrinmoy Barman and on his identification, said signatures were marked as **Ext.15/1 series**.

[41] On identification by PW-1, the following grant-in-aid bills, related sanction memo, related list of beneficiaries and money receipts containing signatures of Mrinmoy Barman were proved into evidence:

Description of Grant in aid bill	Related sanction memo	Related list of beneficiaries	Description of related money receipts	Remarks, if any
Grant in aid bill dated 18.02.1991 for Rs.36,400/- (Ext.46)	Sanction memo dated 15.03.1991 (Ext.47)	List of beneficiaries in respect of disbursement of said amount (Ext.48)	08 money receipts (Ext.49) containing signatures of Dr. K D. Biswas and Dr. Mrinmoy Barman (Ext.49/1 series)	
Grant in aid bill dated 6.3.1991 for Rs.33,300/- (Ext.37)	Sanction memo dated 15.3.1991 (Ext.38)	List of beneficiaries (Ext.39)	50 money receipts regarding disbursement of said Rs.33,300/- (Ext.40 series) countersigned by Dr. K.D. Biswas and Dr. Mrinmoy Barman	
Grant in aid bill dated 17.2.1992 for Rs.22,740/- (Ext.57)	Sanction memo (Ext.58)	List of beneficiaries in respect of disbursement of said amount (Ext.59)	03 money receipts in respect of part disbursement (Ext.60 series) signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (their signatures marked as Ext.60/1 series and 60/2 series).	

Grant in aid bill dated 06.03.1991 for Rs.33,300/- (Ext.65)	Sanction memo (Ext.66)	List of beneficiaries regarding part payment of said amount (Ext.67)	25 nos. of money receipts in respect of disbursement of the amount (Ext.68) containing signatures of Dr. Mrinmoy Barman and Dr. K.D. Biswas.	
Grant in aid bill for Rs.33,300/- (Ext.69)	Sanction memo (Ext.70)	List of beneficiaries without signature of issuing authority (Ext.71)	25 nos. of money receipts in respect of disbursement of the amount (Ext.72) containing signatures of Dr. Mrinmoy Barman and Dr. K.D. Biswas.	
Grant in aid bill dated 13.02.1992 for Rs.22,750/- (Ext.76)	Sanction memo (Ext.77)	List of beneficiaries in respect of disbursement of said amount (Ext.78)	5 nos. of money receipts (Ext.79) signed by Dr. Mrinmoy Barman, Mr. T. K. Sengupta and Dr. K.D. Biswas.	
Grant in aid bill dated 03.03.1991 for Rs.22,750/- (Ext.80)	Sanction memo (Ext.81)	List of beneficiaries (Ext.82)	5 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.83 series).	
Grant in aid bill dated 13.03.1992 for Rs.10,000/- (Ext.84)	Sanction memo (Ext.85)	List of beneficiaries (Ext.86)	5 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.87 series).	
Grant in aid bill for Rs.21,190/- (Ext.88)	Sanction memo (Ext.89)	List of beneficiaries (Ext.90)	10 nos. of money receipts in respect of disbursement of said amount containing signatures of Dr. Mrinmoy Barman, Mr. T.K. Sengupta and Dr. K.D. Biswas (Ext.91 series).	
Grant in aid bill dated 30.03.1992 (Ext.109)	Sanction memo dated 30.03.1992 (Ext.109/1)	List of beneficiaries (Ext.109/2)	16 nos. of money receipts in respect of disbursement containing signature of Dr. Mrinmoy Barman, Mr. T.K. Sengupta in some receipts and Dr. K.D Biswas in some receipts (109/3 series).	
Grant in aid bill dated 17.02.1992 of Rs.24,004/- (Ext.111)	Sanction memo (Ext.111/1)	List of beneficiaries (Ext.111/2)	16 Nos. of money receipts signed by Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.111/3 series)	
Grant in aid bill for Rs.15,534/- (Ext.114)	Sanction memo (Ext.114/1)	List of beneficiaries (Ext.114/2)	9 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (in some of the receipts) (Ext.114/3 series).	
Grant in aid bill for Rs.45,500/- (Ext.115)	Sanction memo (Ext.115/1)	List of beneficiaries (Ext.115/2)	9 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (in some of the receipts) and Dr. T.K. Sengupta (in some of the receipts) (Ext.115/3 series).	
Grant in aid bill for Rs.21,180/- (Ext.117)	Sanction memo (Ext.117/1)	List of beneficiaries (Ext.117/2)	15 nos. of relevant money receipts signed by Dr. T.K. Sengupta, Dr. K.D. Biswas and Dr. Mrinmoy Barman (in one of the receipts) (Ext.117/3 series).	
Grant in aid bill for Rs.24,004/-	Sanction memo (Ext.119/1)	List of beneficiaries (Ext.119/2)	16 Nos. of relevant money receipts signed	

(Ext.119)			by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.119/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.120)	Sanction memo (Ext.120/1)	List of beneficiaries (Ext.120/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.120/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.121)	Sanction memo (Ext.121/1)	List of beneficiaries (Ext.121/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.121/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.122)	Sanction memo (Ext.122/1)	List of beneficiaries (Ext.122/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.122/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.123)	Sanction memo (Ext.123/1)	List of beneficiaries (Ext.123/2)	10 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.123/3 series).	
Grant in aid bill dated 13.03.1992 for Rs.24,004/- (Ext.124)	Sanction memo (Ext.124/1)	List of beneficiaries (Ext.124/2)	14 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.124/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.125)	Sanction memo (Ext.125/1)	List of beneficiaries (Ext.125/2)	17 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.125/3 series).	
Grant in aid bill dated 30.03.1992 for Rs.24,004/- (Ext.126)	Sanction memo (Ext.126/1)	List of beneficiaries (Ext.126/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.126/3 series).	
Grant in aid bill dated 30.03.1991 for Rs.24,004/- (Ext.127)	Sanction memo (Ext.127/1)	List of beneficiaries (Ext.127/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.127/3 series).	
Grant in aid bill for Rs.7,060/- (Ext.128)	Sanction memo issued (Ext.128/1)	List of beneficiaries (Ext.128/2)	4 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.128/3 series).	
Grant in aid bill for Rs.24,004/- (Ext.129)	Sanction memo (Ext.129/1)	List of beneficiaries (Ext.129/2)	13 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.129/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.11,284/- (Ext.130)	Nil	List of beneficiaries signed by Dr. M.K. Debbarma (Ext.130/1)	7 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.130/2 series).	
Grant in aid bill for Rs.32,240/- (Ext.131)	Sanction memo (Ext.131/1)	List of beneficiaries (Ext.131/2)	20 nos. of relevant money receipt signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.131/3 series)	
Grant in aid bill dated 18.02.1991 for Rs.32,240/- (Ext.132)	Sanction memo (Ext.132/1)	List of beneficiaries (Ext.132/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.132/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.133)	Sanction memo (Ext.133/1)	List of beneficiaries (Ext.133/2)	18 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.133/3 series).	

Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.134)	Sanction memo (Ext.134/1)	List of beneficiaries (Ext.134/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.134/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.48,380/- (Ext.135)	Sanction memo (Ext.135/1)	List of beneficiaries (Ext.135/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.135/3 series).	
Grant in aid bill for Rs.48,380/- (Ext.136)	Sanction memo for Rs.11,284/- (Ext.136/1)	List of beneficiaries for Rs.48,380/- (Ext.136/2)	20 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.136/3 series).	PW-1 is silent as to what happen about the sanction of rest amount Rs.48,380/-.
Grant in aid bill dated 06.03.1991 for Rs.43,542/- (Ext.137)	Sanction memo (Ext.137/1)	List of beneficiaries (Ext.137/2)	18 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.137/3 series).	
Grant in aid bill dated 06.03.1991 for Rs.36,285/- (Ext.138)	Sanction memo issued (Ext.138/1)	List of beneficiaries (Ext.138/2)	15 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.138/3 series).	
Grant in aid bill dated 17.02.1992 for Rs.24,004/- (Ext.139)	Sanction memo (Ext.139/6)	List of beneficiaries (Ext.139/1)	3 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.139/2 series).	
Grant in aid bill dated Nil for Rs.21,180/- (Ext.140)	Sanction memo (Ext.140/1)	List of beneficiaries (Ext.140/2)	3 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.140/3 series).	
Grant in aid bill dated Nil for Rs.24,004/- (Ext.141)	Sanction memo (Ext.141/1)	List of beneficiaries (Ext.141/2)	4 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.141/3 series).	
Grant in aid bill dated Nil for Rs.24,180/- (Ext.142)	Sanction memo (Ext.142/1)	List of beneficiaries (Ext.142/2)	8 nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.142/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.24,004/- (Ext.143)	Sanction memo (Ext.143/1)	List of beneficiaries (Ext.143/2)	1 no. of relevant money receipt signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.143/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,592/- (Ext.144)	Sanction memo (Ext.144/1)	List of beneficiaries (Ext.144/2)	1 no. of relevant money receipt signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.144/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.145)	Sanction memo (Ext.145/1)	List of beneficiaries (Ext.145/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.145/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.148)	Sanction memo (Ext.148/1)	List of beneficiaries (Ext.148/2)	15 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.148/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.149)	Sanction memo (Ext.149/1)	List of beneficiaries (Ext.149/2)	16 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.149/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,004/- (Ext.150)	Sanction memo (Ext.150/1)	List of beneficiaries (Ext.150/2)	17 nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.150/3 series).	

Grant in aid bill dated 14.03.1991 for Rs.32,240/- (Ext.156)	Sanction memo (Ext.156/1)	List of beneficiaries (Ext.156/2)	20 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.156/3 series).	
Grant in aid bill dated 14.03.1991 for Rs.32,240/- (Ext.157)	Sanction memo (Ext.157/1)	List of beneficiaries (Ext.157/2)	20 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.157/3 series).	
Grant in aid bill dated 14.03.1991 for Rs.36,400/- (Ext.25/2)	Sanction memo (Ext.25/3)	List of beneficiaries (Ext.25/4)	6 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.25/5 series).	
Grant in aid bill dated 14.03.1991 for Rs.36,400/- (Ext.25/12)	Sanction memo (Ext.25/13)	List of beneficiaries (Ext.25/14)	8 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.25/15 series).	
Grant in aid bill dated 15.03.1991 for Rs.45,500/- (Ext.25/18)	Sanction memo (Ext.25/19)	List of beneficiaries (Ext.25/20)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.25/21 series).	
Grant in aid bill dated 15.03.1991 for Rs.21,000/- (Ext.160)	Sanction memo (Ext.160/1),	Relevant list of beneficiaries (Ext.160/2)	21 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.160/3 series).	
Grant in aid bill dated 18.03.1991 for Rs.45,500/- (Ext.162)	Sanction memo (Ext.162/1)	List of beneficiaries (Ext.162/2)	10 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.162/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.30,000/- (Ext.164)	Sanction memo (Ext.164/1)	List of beneficiaries (Ext.164/2)	15 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.164/3 series).	
Grant in aid bill dated 27.03.1991 for Rs.22,750/- (Ext.179)	Sanction memo (Ext.179/1)	List of beneficiaries (Ext.179/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.179/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.180)	Sanction memo (Ext.180/1)	List of beneficiaries (Ext.180/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.180/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.181)	Sanction memo (Ext.181/1)	List of beneficiaries (Ext.181/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.181/3 series).	
Grant in aid bill dated 28.03.1991 for Rs.22,750/- (Ext.182)	Sanction memo (Ext.182/1)	List of beneficiaries (Ext.182/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.182/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.183)	Sanction memo (Ext.183/1)	List of beneficiaries (Ext.183/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.183/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.184)	Sanction memo (Ext.184/1)	List of beneficiaries (Ext.184/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.184/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.185)	Sanction memo (Ext.185/1)	List of beneficiaries (Ext.185/2)	2 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.185/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.186)	Sanction memo (Ext.186/1)	List of beneficiaries (Ext.186/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.186/3 series).	
Grant in aid bill dated 27.03.1992	Sanction memo (Ext.187/1)	List of beneficiaries (Ext.187/2)	5 Nos. of relevant money receipts signed	

for Rs.22,750/- (Ext.187)			by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.187/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.188)	Sanction memo (Ext.188/1)	List of beneficiaries (Ext.188/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.188/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.189)	Sanction memo (Ext.189/1)	List of beneficiaries (Ext.189/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.189/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.190)	Sanction memo (Ext.190/1)	List of beneficiaries (Ext.190/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.190/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.191)	Sanction memo (Ext.191/1)	List of beneficiaries (Ext.191/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.191/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.192)	Sanction memo (Ext.192/1)	List of beneficiaries (Ext.192/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.192/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- issued (Ext.193)	Sanction memo (Ext.193/1)	List of beneficiaries (Ext.193/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.193/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.194)	Sanction memo (Ext.194/1)	List of beneficiaries (Ext.194/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.194/3 series).	
Grant in aid bill dated 27.03.1991 for Rs.22,750/- (Ext.195)	Sanction memo (Ext.195/1)	List of beneficiaries (Ext.195/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.195/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.196)	Sanction memo (Ext.196/1)	List of beneficiaries (Ext.196/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.196/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.197)	Sanction memo (Ext.197/1)	List of beneficiaries (Ext.197/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.197/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.198)	Sanction memo (Ext.198/1)	List of beneficiaries (Ext.198/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.198/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.203)	Sanction memo (Ext.203/1)	List of beneficiaries (Ext.203/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.203/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.13,650/- (Ext.204)	Sanction memo (Ext.204/1)	List of beneficiaries (Ext.204/2)	2 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta	

			(Ext.204/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.22,750/- (Ext.205)	Sanction memo (Ext.205/1)	List of beneficiaries (Ext.205/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.205/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.206)	Sanction memo (Ext.206/1)	List of beneficiaries (Ext.206/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.206/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.22,750/- (Ext.207)	Sanction memo (Ext.207/1)	List of beneficiaries (Ext.207/2)	3 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.207/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.208)	Sanction memo (Ext.208/1)	List of beneficiaries (Ext.208/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.208/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.209)	Sanction memo (Ext.209/1)	List of beneficiaries (Ext.209/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.209/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.210)	Sanction memo (Ext.210/1)	List of beneficiaries (Ext.210/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.210/3 series).	
Grant in aid bill dated 27.03.1992 for Rs.22,750/- (Ext.211)	Sanction memo (Ext.211/1)	List of beneficiaries (Ext.211/2)	5 Nos. of relevant money receipts signed by Dr. K.D. Biswas, Dr. Mrinmoy Barman and Dr. T.K. Sengupta (Ext.211/3 series).	
Grant in aid bill dated 28.03.1992 for Rs.24,260/- (Ext.212)	Sanction memo (Ext.212/1)	List of beneficiaries (Ext.212/2)	4 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.212/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.33,904/- (Ext.213)	Sanction memo (Ext.213/1)	List of beneficiaries (Ext.213/2)	16 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.213/3 series).	
Grant in aid bill dated 15.03.1991 for Rs.45,500/- (Ext.214)	Nil	List of beneficiaries (Ext.214/1)	26 Nos. of relevant money receipts signed by Dr. Mrinmoy Barman (Ext.214/2 series).	One sanction memo dated 15.03.1991 in respect of Rs.45,500/- signed by Addl. Director, Animal Husbandry is marked as Ext.216]
Grant in aid bill dated 15.03.1991 for Rs.23,976/- (Ext.215)	Sanction memo (Ext.215/1)	List of beneficiaries (Ext.215/2)	36 Nos. of relevant money receipts signed by Dr. K.D. Biswas and Dr. Mrinmoy Barman (Ext.215/3 series).	

[42] PW-1 during cross-examination stated that he could not say whether Dr. Mrinmoy Barman was appointed as implementing officer under the beneficiary schemes. He also could not say whether

Dr. Mrinmoy Barman drew any bill from the cash section of their office for implementation of the beneficiary schemes. He also stated that he could not say whether Mrinmoy Dr. Barman had received any amount on the basis of money receipts under Ext.109/3 series. He could not say whether any amount was received/drawn by Dr. Mrinmoy Barman in connection with any exhibited sanction memo and it was also not possible on his part to say by seeing the exhibited money receipts as to who was the implementing officer in respect of said disbursement and as per the rules, Implementing Officers were supposed to submit money receipt with their signatures to the office of Dy. Director, Agartala for adjustment purpose.

[43] PW-54, the Investigating Officer, in his cross-examination, admitted that he did not receive any letter that any cheque was disbursed to Mrinmoy Barman by the DDO and also could not collect any document to show that Mr. Barman had withdrew any amount or disbursed the same to any beneficiary. He also stated that against said 6(six) vouchers, no APR was found. He further stated that they did not send the fingerprints or signatures of the beneficiaries to the fingerprint expert through the court.

Evidence of Beneficiaries:

[44] Though the last Investigating Officer (PW-54) stated before the Court that as number of alleged beneficiaries were more than thousand it was not possible for him to examine all of them and therefore, he examined 1/2 beneficiaries from all the list of beneficiaries and none of the beneficiaries he examined actually received the money. However, in the Court only 30(thirty) Nos. of

such beneficiaries were examined and all of them categorically stated that they did not receive any such grant by putting their thumb impression or signature in any paper. The gist of their testimonies is reproduced hereunder village-wise.

[44.1] Village-Urmai (Under Sonamura Sub-Division):

PW-13, Shah Alam of Urmai stated that he was an illiterate person and he never received any grant from Animal Husbandry Department. He also put his thumb impression in the deposition sheet. In his cross-examination, he stated that the beneficiaries were selected from their locality time to time and grants were given from Animal Husbandry Department.

PW-14, Jahangir Hossain, son of late Manu Miah of Urmai deposed that no grant was ever sanctioned in his name from Animal Husbandry Department and he was literate and therefore, there was no question of putting any thumb impression instead of giving his signature. Both his thumb impression and signatures were taken in the deposition sheet. He stated that in the year 1991-1992 one Malek Miah was Panchayet Pradhan of Urmai and after the change of the ruling political party in the Government, some grants were sanctioned in favour of his villagers. In his cross-examination on behalf of T.K. Sengupta he also stated that he could not say whether there was any other person in the name of the Jahangir Hossain, son of Manu Miah in their locality, or not.

PW-15, Sultan Miah, son of Abdul Rahim of Urmai deposed that he could not say whether there was any other person in his name in his village and he never drew any amount from Animal

Husbandry by putting thumb impression. In his cross-examination on behalf of Mrinmoy Barman he deposed that there was no Chairman in their village namely, Abdul Hossen rather Abdul Malek was the Chairman for some years. In his cross-examination, he further stated that he was residing in village-Urmai for last 16 years and prior to that he would reside at village- Paharpur which means that he was residing at village-Urmai since 1993/1994. He further stated that he was not a resident of village-Putia. He put his thumb impression in his deposition sheet.

PW-16, Ali Ashwab of Urmai also similarly deposed that he was illiterate and he could only sign and he was a resident of Urmai since his birth. He stated that he never received any grant from Animal Husbandry being introduced by their Pradhan. In his cross-examination, he stated that there was another Ali Asshab in his village. He put both his thumb impression and signature both in the deposition sheet.

PW-17, Sultan Miah of Urmai also deposed in the similar line like PW-16 but in his cross-examination, he stated that he was not a resident of village-Urmai in the year 1990-1991 rather at that time his name was enrolled in the village register of Sonapur.

PW-18, Muslem Miah of Urmai also stated that he never received any grant from Animal Husbandry Department and never put his thumb impression on any paper of Animal Husbandry Department. In his cross-examination, once he stated that there was no other person in his name except him in his village and again he stated that

he was not sure of that fact. He put his thumb impression in the deposition sheet.

PW-22, Mostafa Miah, son of Lt. Siru Miah of Urmai also stated that he never received any grant from Animal Husbandry Department in year 1990-1991 and no amount was received by him being introduced by local Pradhan. In his cross-examination, he stated that there was also another Mostafa Miah in their village with different fathers' name. He also put both his signature and thumb impression in the deposition sheet.

PW-23, Billal Miah, son of Lal Miah of Urmai stated that for last 5/6 years he was putting his signature and prior to that he would put his thumb impression and he was never sanctioned with any grant from Animal Husbandry Department. In his cross-examination, he stated that there was another person in his name like Billal Miah in his village.

PW-24, Muklesh Miah of Urmai stated similarly that he was never sanctioned with any grant from Animal Husbandry Department and he could read and write and always would put his signature. In his cross-examination, he stated that during the year 1990-1991 they got two Panchayet Pradhans in their village namely, Ismail Miah and Abdul Malek.

PW-25, Abu Khayer of Urmai also deposed that he never received any such grant from Animal Husbandry Department by putting his signature or thumb impression in any paper. He also put both his signature and thumb impression in the deposition sheet.

PW-26, Mohan Miah of Urmair also deposed similarly like PW-25 and he also put both his signature and thumb impression in the deposition sheet.

PW-27, Khalek Hossain of Urmair also deposed similarly like PWs-25 & 26 and in his cross-examination, he stated that during the period 1991-1992 their village had got three Pradhans namely, Ali Miah, Ismail Miah and Malek Miah. He also put both his signature and thumb impression in the deposition sheet.

PW-29, Abul Kalam of Urmair in his evidence also stated that he did not receive any grant from Animal Husbandry Department on any point of time and also did not put his thumb impression on any paper in this regard. In the deposition, he put his thumb impression.

PW-30, Bhulu Miah of Urmair also stated that he was never favoured with any grant from Animal Husbandry Department and was never introduced by their Panchayet Pradhan to the Animal Husbandry Department for that purpose and also did not put his thumb impression or signature in any paper for this purpose. In his cross-examination, he stated that there was another Bhulu Miah in their village. Both PWs-29 & 30 stated that they were never examined by any police officer.

PW-31, Smt. Hirana Khatun of Urmair also deposed that she never received any such grant from Animal Husbandry Department and did not sign in any paper for that purpose. She also admitted that she never met any police officer in connection with this

case. Both her signature and thumb impression were taken in the deposition sheet.

PW-39, Md. Alok Hossain of Urmair also deposed that he did not receive any grant from Animal Husbandry Department. He further stated that the distance between Urmair GP and Bejimara GP was about 6 km. and both the said GP were having separate Pradhans. According to him, Ali Miah, Ismail Miah and Malek Miah were the respective Chairman of Development Committee of Urmair during the period of 1988-1993 and no tribal person was Chairman of Development Committee of Urmair during the said period from 1998-1993. In his cross-examination, he confirmed that for last 35 years he was residing in Urmair village. He also stated further that he did not know whether any Village Development Committee was constituted during the period 1988-1993 and that no investigating officer visited him.

[44.2] Village-Putia (Under Sonamura Sub-Division):

PW-35, Md. Sultan Ahmed of Putia, Kalamcherra also stated that he never received any government grant in the year 1991-1992 or at any time and never put his thumb impression as he always put his signature.

PW-36 Safiqul Islam of Putia also stated that he did not receive any such government grant in 1991-1992. He put his thumb impression in the deposition sheet.

PW-37, Abdul Matin of Putia also similarly stated that he did not receive any grant from Animal Husbandry Department in the year 1991-1992. He is a literate person capable of signing.

[44.3] Village-Kanchanmala (Under Sadar Sub-Division):

PW-41, Kusum Debbarma of Amtali deposed that Dulal Shib was the Chairman of their Gram Panchayet in the year 1991-1992 and they did not get any loan or grant from Animal Husbandry Department at that time.

PW-42, Tarit Debbarma of Kanchanmala deposed that he never put his thumb impression in any document and he knows reading and writing. However, from his signature given in the deposition sheet it appears that somehow he put his signature therein. He also deposed that 1991-1992 Dulal Shib was the Chairman of their Kanchanmala GP and during said period, he did not receive any monetary help or grant from Animal Husbandry Department after putting his thumb impression in any paper. In his cross-examination, he stated that about 7/10 years ago he learnt how to sign and Kanchamala was under Bishalgarh Block at that time.

[44.4] Village-Kulubari (Under Sonamura Sub-Division):

PW-43, Sadhan Nama of Kulubari, Sonamura deposed that in year 1989-1990, Mr. Alam was Pradhan of their Kulubari Gram Panchayet and during said period, he never received any grant or loan from the Government putting any signature or thumb impression. He also stated that he knew reading and writing. On being shown a

money receipt (**Ext.171/3 series**) he stated that he did not execute said money receipt putting his LTI.

[44.5] Village-Kalsimura (Under Sonamura Sub-Division):

PW-45, Tapan Biswas of Kalsimura, Kalamchoura stated that from 1988-1993 he did not receive any subsidy or grant from Animal Husbandry Department. He could only sign his name in Bengali and could not read English. On being shown a money receipt under **Ext.169/3** he stated that it did not bear his signature. In his cross-examination, he stated that he did not know who was the Pradhan and Panchayet Secretary of their Gram Panchayet at that time and whether there was any other person namely Tapan Biswas there or not.

[44.6] Village-Indranagar Horijon Colony (Under Sadar Sub-Division):

PW-11, Smt. Saraswati Bajpar of Indranagar Horijon Colony deposed that she had been residing in that colony for last 30 years and she never received any grant from Animal Husbandry and as such, there was no question of putting any thumb impression on any paper of that department.

PW-12, Gopal Banik of Indranagar Horijon Colony also stated that he never received any grant from Animal Husbandry and as such, there was no question of putting any thumb impression in any paper.

[44.7] Village-Durga Chowmuhani (Under Sadar Sub-Division):

PW-19, Haripada Deb of Durga Chowmuhani also stated that he never received any grant from Animal Husbandry Department. He also put his thumb impression in the deposition sheet.

[44.8] Village-Ramnagar (Under Sadar Sub-Division):

PW-20, Md. Abdul Habiz of Ramnagar, Gangail Road stated that he was never sanctioned with any grant from Animal Husbandry Department and never put his thumb impression or signature in any paper of that department. He also put both his signature and thumb impression in the deposition sheet.

[44.9] Village-Indranagar (Under Sadar Sub-Division):

PW-21, Dulal Das of Indranagar deposed that he was also never sanctioned with any grant from Animal Husbandry Department. In his cross-examination, he stated that he could not recollect whether his residence was within Gram Panchayet or within Municipal area during the year 1991-1992. He also put both his signature and thumb impression both in the deposition sheet.

[44.10] Village-Anandanagar (Under Sonamura Sub-Division):

PW-28, Ali Miah of Anandanagar also similarly stated that neither in 1990-1991 or at any point of time he never received any grant from Animal Husbandry Department by putting his thumb impression in any paper. He also put both his signature and thumb impression in the deposition sheet.

[44.11] Village-Aralia (Under Sonamura Sub-Division):

PW-44, Mantaj Miah of Aralia Gram Panchayet stated that in the year 1991-1992 he did not receive any loan or grant from Animal Husbandry Department by putting LTI in money receipt. On being shown a money receipt (**Ext.124/4 series**) written in English, he stated that he could not read and write English.

[45] Proof of cash books:

PW-1, out of 7(seven) nos. of seized cash books, proved 4(four) nos. of such cash books in the following manner:

PW-1 identified the cash book of the office of Dy. Director, West Tripura w.e.f. 31.01.1994 containing certificate of Dr. S.P. Sengupta and said certificate with signature of Mr. Sengupta was marked as Ext.16. Signature of cashier Sankar Dey therein was marked as Ext.16/1 and entire cashbook was marked as Ext.16/2. Similarly cash book opened on 31.12.1991 containing signatures of Mr. Sengupta and Mr. Sankar Dey was marked as Ext.17. PW-1 also identified cash book opened on 12.04.1989 containing signature of Sankar Dey and Dr. N.C. Roy and was marked as Ext.18. After taking charge from Dr. N.C. Roy, Dr. S.P. Sengupta signed the cash book at page 72 and said signature was marked as Ext.18/3. Signature and Entries made by Sankar Dey in page No.73 of that cashbook was marked as Ext.18/5 and 18/6 respectively. PW-1 also identified the cash book opened on 24.02.1990 signed by Dr. S.P. Sengupta beneath his certificate and cash book was marked as Ext.19 and his signature as Ext.19/1.

[46] Learned Trial Court took into consideration the entries made in such cash books more particularly cash book No.1 and cash book No.2 to trace out complicity of S.P. Sengupta in the matter of alleged defalcation by comparing the related vouchers proved by the prosecution, the evidence of concerned Panchayet Secretary/Gram Pradhan and related GIA bills and observed that based on such alleged fake vouchers necessary entries in the payment part of the concerned pages of the cash book were made by the cashier and countersigned by S.P. Sengupta. However, on consultation of the 4(four) cash books, it is found that only the opening certificate, signatures of cashier Sankar Dey and signature of S.P. Sengupta on such opening pages were proved and marked as Exhibits, but no any specific entry in the cash book or signature of the cashier or of said S.P. Sengupta beneath such entry was proved and marked as Exhibits. An omnibus statement was given by PW-1 that all the entries in the cash book were given by cashier Sankar Dey. As it is found, only the signature of S.P. Sengupta beneath one entry of date 13.07.1989 of cash book opened on 12.04.1989 was marked as Ext.18/7 to show that he endorsed the closing balance of that date to be Rs.5,10,956.20/- paisa but same is not sufficient enough to implicate him with alleged crime.

[47] No doubt, it was incumbent on the prosecution to comply the provision of Section 67 of the Indian Evidence Act and to prove the relevant entries of the cash books along with signatures of both Sankar Dey and S.P. Sengupta put against those relevant entries in accordance with law. It is no longer *res integra* that mere marking of

document does not dispense with the proof thereof unless contents of the same are duly proved. Said view has also been reiterated by the Apex Court in above said ***Narbada Devi Gupta (Supra)*** as relied on by Mr. P.K. Biswas, learned senior counsel and at para 16 it was observed by Hon'ble Supreme Court that mere production and marking of a document as exhibit by the court cannot held to be a due proof of it's contents and its execution has to be proved by admissible evidence.

Evidence against S.P. Sengupta in respect of offences under Section 409 IPC and Section 13(2) of Prevention of Corruption Act, 1988:

[48] In view of above, it appears that learned Trial Court committed error in taking into consideration the relevant entries made in the cash books comparing the same with the related vouchers, sanction memo of the related GIA bill etc. to hold S.P. Sengupta guilty of the offences as charged upon. In fact, the contents of the entries of cash books, more particularly the signature of S.P. Sengupta beneath any such entries being not duly proved, Court is not in a position to consider and use the same against him. The oral evidences as are adduced in respect of S.P. Sengupta speak of only issuance of sanction memo, signing of the list of beneficiaries and related GIA bills by him like the Director himself and also another Additional Director of Animal Husbandry. PW-1 also in his cross-examination admitted that the grant-in-aid bills prepared by Dr. S.P. Sengupta were as per the approved list issued by their Director and that so far the documents perused by him in connection with this case was

concerned, there was no allegation that Dr. S.P. Sengupta had deviated from the approved list of beneficiaries.

[49] As per procedure of disbursement of grant-in-aid to the beneficiaries as stated by PW-1, the initial work was collection of list of beneficiaries, sanctioning of amount and handing over such amount to the concerned Implementing Officers to process the disbursement but the prosecution case is that the alleged incident of defalcation took place after such amounts were handed over to the concerned Implementing Officers and on acceptance of adjustments submitted by the Implementing Officers based on alleged fake or spurious money receipts. Therefore, criminal responsibility in the light of evidence as led by the prosecution, cannot be imputed for functioning the initial task of such sanctioning of amount, signing of list of beneficiaries and disbursement of amount, if any, by said S.P. Sengupta to the Implementing Officers. This was the reason for which despite N.C. Roy, Deputy Director and even the concerned Director and Addl. Director of the relevant period, having signed several sanction memos and list of beneficiaries, were not charge-sheeted as accused persons in the case. Thus, if the entries in the cash books are kept out of consideration in respect of Mr. S.P. Sengupta, there is no evidence against him in respect of charges framed under section 409 IPC and Section 13 (2) of the Prevention of Corruption Act, 1988 and he is entitled to get acquittal on benefit of doubt from the above said two charges. The matter of complicity of Mr. S.P. Sengupta in respect of charge under Section 477A IPC will be discussed lateron.

Evidence against K.D.Biswas and Mrinmoy Barman in respect of charges under Section 409, IPC and under Section 13(2) of the Prevention of Corruption Act, 1988:

[50] Now, coming to the point of complicity of Mrinmoy Barman and K.D. Biswas with reference to the related charges framed against them, it may be taken note that as per provision of section 405 IPC or section 409 IPC, entrustment of property is an essential element to prove charge under Section 409 IPC. In **N. Raghavender (supra)**, as relied on by Mr. Roy Barman, learned senior counsel, the Hon'ble Supreme Court categorically observed that the entrustment of public property and dishonest misappropriation or use thereof in the manner illustrated under section 405 are a *sine qua non* for making an offence punishable under section 409 IPC. It has also further been observed that mere retention of property entrusted to a person without any misappropriation cannot fall within the ambit of criminal breach of trust.

[51] In the case in hand, the PW-1 in his cross-examination stated that the implementing officer used to receive the money by signing the acquittance roll or by receiving bank draft or by signing vouchers. Therefore, to prove entrustment, production and proof of such documents were necessary. Prosecution proved one memorandum dated 29.07.1991 issued by K.D. Biswas (Ext.10) engaging Mrinmoy Barman, Veterinary Asstt. Surgeon to act as implementing officer for 1990-91 in respect of 4 nos. of scheme under the Department. Vide another memorandum dated 11.12.1992, said K.D. Biswas also declared Tusher Kanti Sengupta as implementing officer for the year 1991-92 to implement all schemes of Animal

Husbandry Department for Melaghar block. However, mere declaration as implementing officer does not ipso facto prove the entrustment unless by cogent evidence regarding delivery or entrustment of money is established. On query by this Court, learned P.P. submits that no such specific document(s) was proved, however according to learned P.P. in the instant case, the entrustment is proved otherwise. Learned P.P. in this regard also relies on the oral evidences of Mr. Banamali Sinha (PW-31), the informant of the case and of one Mr. Ranjit Sarkar (PW-47) who being a Sub-Inspector of Vigilance Department was a part of vigilance enquiry, but such oral evidences are not sufficient enough to establish entrustment of any amount to convict a person under section 409, IPC.

[52] Learned Trial Court in the impugned judgment at Para no.97 observed that the presence of signatures of the Implementing Officers on the money receipts was direct proof that they were entrusted with the fund to implement the scheme and as a proof thereof they prepared the money receipts and took thumb impression of the beneficiaries on those receipts. However, learned Trial Court did not discuss as to how much amount was entrusted to each of the accused person. When the charge under section 409 IPC with specific mentioning of amount of Rs.15,56,743/- (for the period April, 1990 to March, 1991) and Rs.13,82,376/- (for the period April, 1991 to March, 1992) against S.P. Sengupta, K.D. Biswas and Mrinmoy Barman and further for Rs.2,25,050/- (for the period April, 1988 to March,1989) against S.P. Sengupta and K.D. Biswas, were framed, the prosecution was under legal liability to establish entrustment of such specific

amounts to above said persons which they failed. Therefore, conviction of K.D. Biswas and Mrinmoy Barman under section 409 IPC cannot sustain.

[53] Now, coming to the matter of conviction under section 13 (2) of Prevention of Corruption Act, 1988 it also similarly appears that charges were framed for defalcation of specific mentioning of amount of Rs.15,56,743/- (for the period April, 1990 to March, 1991) and Rs.13,82,376/- (for the period April, 1991 to March, 1992) against S.P. Sengupta, K.D. Biswas and Mrinmoy Barman and further for Rs.2,25,050/- (for the period April, 1988 to March, 1989) against S.P. Sengupta and K.D. Biswas, all being public servant. However, if we consider the money receipts proved against K.D. Biswas and Mrinmoy Barman as described in foregoing paragraphs, it would appear that number of money receipts where K.D. Biswas signed are not same to the number of such receipts as signed by Mrinmoy Barman. For example, nine numbers of money receipts under Ext.56 series (each receipt is of Rs.666/-) has been proved by prosecution wherein K.D. Biswas alone signed but Mrinmoy Barman did not. So, he cannot be answerable for the disbursement of amount involved in those receipts. As a corollary, it can be presumed that the quantum of amount allegedly defalcated by K.D. Biswas cannot be the same as allegedly defalcated by Mrinmoy Barman, for, the prosecution has tried to establish involvement of these two persons in such defalcation based only on said money receipts. But, in the charges, imputation has been made that both of them defalcated similar amount of money. It was the duty of the prosecution to find out and separately

show as to who was responsible for how much amount, otherwise prosecution is under legal obligation to establish by satisfactory evidence that each one of the accused was responsible for said common amount which they could not establish here.

[54] Another vital fact as noticed by the Court that the investigating officer (PW-54) in his evidence stated that he collected the fingerprint expert report from the office of Forensic Laboratory at Kolkata but said report was not proved into evidence by the prosecution for the reason best known to them. By producing only the oral evidence of the beneficiaries that they did not receive any grant was not sufficient enough to establish that their thumb impressions found in the relevant vouchers were forged. When the investigating officer had felt the necessity of collection of opinion of fingerprint expert, he sent the same to the office of forensic expert of fingerprints and also collected the report, though he admitted in his cross-examination that such specimens were not sent through the Court, but the prosecution has withhold said document and therefore, the Court is not in a position to examine whether the thumb impressions found in all the related vouchers were sent for such forensic examination or not, and if same were sent, then what was the result of such examination. In such circumstances, adverse inference is required to be drawn against the prosecution.

[55] Next point as stuck to the notice of the Court is that some beneficiaries such as PW-11, PW-12, PW-19, PW-20, PW-21 and PW-41 of Sadar Sub-Division were examined in this case to show that they did not receive any amount under any scheme but their

testimonies are not relevant with reference to complicity of Mrinmoy Barman and K.D. Biswas who were then posted at Sonamura Sub-Division.

[56] As discussed earlier, total 30 nos. of beneficiaries were examined in this case but despite scrutiny of the records, no list of beneficiaries or money receipts containing the names of nine beneficiaries i.e. PW-11, PW-12, PW-19, PW-20, PW-21, PW-25, PW-27, PW-28 and PW-37 are found therein. Therefore, there is no basis to show them as beneficiaries in connection with this case and their testimonies also do not deserve any consideration. Out of rest 21 beneficiaries, no money receipts in respect of three beneficiaries are also found.

[57] Learned Trial Court considering some distinguishable features in the money receipts, also arrived at the conclusion that money receipts as proved, except those which are discussed herein below, were forged and such distinguishable features were that the money receipts contained thumb impressions of the beneficiaries though some of those beneficiaries put their signatures in the deposition sheets in the Court, the persons who took such thumb impression in the money receipt, did not put their signature and date in the money receipts and maximum rows in the printed receipts which were supposed to contain some information were left blank. However, all these features and irregularity may create grave suspicion that those receipts might be forged, but conclusive opinion cannot be given about such forgery.

[58] The investigating officer, Mr. Tapan Goswami (PW-54) stated that as number of beneficiaries were more than thousand, it was not possible for him to examine all of them and therefore, he examined one or two beneficiaries from all the list of beneficiaries. When, he did not examine all the beneficiaries, it was very unsafe approach on his part and also on the part of learned Trial Court to hold that none of the beneficiaries received any amount. On the basis of mere speculation, it was held that such huge amount was defalcated by the above said accused persons. Moreover, when in the charges both under section 409, IPC and section 13(2) of P.C. Act, 1988, specific amounts are mentioned allegedly defalcated, it is incumbent upon the prosecution to prove satisfactorily that such amounts are actually defalcated. But, learned Trial Court did not arrive at any such specific finding that prosecution had successfully proved such amounts to be defalcated amount.

Considering all these aspects, the principle of benefit of doubt leans in favour of the above said two convicts and therefore finding of learned Trial Court against them holding them guilty under section 13 (2) of the Prevention of Corruption Act, 1988 requires interference.

[59] Faulty and biased Investigation:

[i] One very vital lacuna in the investigation is, as discussed above, non examination of said all the beneficiaries and in surmise, the investigating officer came to the conclusion that the entire amount of the sanction list was defalcated.

[ii] On scrutiny of the money receipts relating to the Poultry Production Programme under Melaghar Block, it appears that in the money receipts under Ext.118/3 series, in respect of beneficiaries of Urmai village, one In-Charge Veterinary, First Aid Centre, Urmai also signed in those receipts along with T.K. Sengupta and K.D. Biswas, but the investigating officer did not arrayed him as an accused. No reason has also been assigned as to why investigating officer also chose to relieve the concerned persons who signed as Chairman of Development Committee of the concerned Gram Panchayet as identifier of the concerned beneficiaries. Even, in case of so called money receipt (Ext.171/3 series) issued in favour of Sadhan Nama (PW-43), he was shown to be identified by one APS to the then Minister of Agriculture of Fisheries Department and said APS to Minister was also not arrayed as accused in the case.

[iii] Interestingly, two witnesses viz PW-48 and PW-49 were examined in this case. **PW-48, Milan Kr. Deb** stated that during the period February, 1988 to December, 1992 he was P.A to the then Minister, Surajit Datta, Department of PWD and Jail and Prabir Kr. Deb, one advocate of Sonamura Court was CA to the then Minister Billal Miah, Minister for Animal Husbandry. He stated that said Prabir Kr. Deb used to place APRs before them for signature and in case of refusal, he used to threaten them and under instruction of their minister, said person used to put signatures in those APRs. The APRs were simply in printed form without any handwriting in appropriate columns. He also stated that he himself had signed some of the APRs and Prabir Kr. Deb also put his signatures on several APRs and he

used to put signature and seal of many others also. The witness confirmed signatures of Prabir Kr. Deb in **Ext.166/3** series documents and signatures of Prabir Kr. Deb was marked as **166/4 series**. He further stated that seal of PA to minister was put but subsequently by hand the seal was changed as APS to Minister of State. The witness further identifies the signatures of Prabir Kr. Deb (Exts.167/4 series, 168/4 series, 169/4 series, 170/4 series, 170/4 series, 171/4 series, 172/4 series, 173/4 series, 174/4 series, 176/4 series, 177/4 series, 178/2 series, 178/3 series, 178/4 series) with similar seal in the documents like APRs and money receipt marked under Exts.167/3 series, Ext.168/3 series, 169/3 series, 170/3 series, 170/3 series, 171/3 series, 172/3 series, 173/3 series, 174/3 series, 176/3 series, 177/3 series etc. The witness also identifies own signatures in APRs and the signatures in APRs were marked as **Ext.178/1 series**. He also deposed that there was no post with designation APS to Minister and said Prabir Kr. Deb put his signature and seal in his presence. This PW-48, namely, Milan Kr. Deb further deposed that officers of Animal Husbandry Department namely, K.D. Biswas and Deputy Director, Sengupta used to visit the office of PW-48 and said Prabir Kr. Deb also told that those APRs were given by the officers, namely Biswas Saheb and Sengupta Saheb etc. In his cross-examination, he stated that he signed the APRs on apprehension that his life would be in danger if he would not sign the same as was instructed by the Ministers, Surajit Datta and Billal Miah. He also confirmed that after his signatures he did not put the date as the officers (no name mentioned) impressed upon the Ministers to

direct them not to put the date as they would do the needful taking the APRs to their office.

[iv] PW-49, Prabir Kr. Deb deposed that he was Confidential Assistant to the then Minister, Billal Miah of Animal Husbandry Department during the period from 1988 to April, 1990 and he had no involvement regarding payment of any grant to any beneficiary under the Scheme of Animal Husbandry Department but he signed some of the APRs relating to payment of grant to the beneficiaries. He also stated that he did not see any beneficiary to receive any payment before him. He further stated that he signed some of the printed forms on the request of Panchayet Chairman, namely Siraj Miah, Ali Hossain and Khalek Maisan. He also stated no beneficiary put his thumb impression in his presence. He also confirms his signatures under **Ext.178/2 series** but denies his signatures under Ext.178/3 series, Ext.178/4 series, Ext.166/4 series, Ext.167/4 series, Ext.168/4 series, Ext.169/4 series, Ext.170/4 series, Ext.171/4 series, Ext.172/4 series, Ext.173/4 series, Ext.174/4 series, Ext.176/4 series, Ext.224 series and Ext.177/4 series and further stated that he had also signed some blank papers on the request of Panchayet Chairman and some blank forms on the request of Panchayet Chairman, Assistant Director and Deputy Director of Animal Husbandry Department. The witness, thereafter declared hostile by prosecution. Some portion of his statement recorded under Section 161 of Cr.P.C. that the money was disbursed by people of Animal Husbandry Department and that on the direction of the Minister he signed the money receipt as identifier and other formalities were observed by the Animal Husbandry Department

and that the seal below his signature was also put by them and that some of the officers such as Assistant Director and Deputy Director would made fictitious allegations to the Ministers and the Ministers would abuse them and that in the event they would refuse to put the signature, Minister would threaten them, were put to him but he denied to have made any such statement to the investigating officer and such portion of previous statements was marked as **Ext.225** subject to prove by I.O. He in his cross-examination by learned Prosecutor also stated that he did not see any actual disbursement made by the officers or staff of Animal Husbandry Department. He further stated that he did not know whether there was any direction from the Animal Husbandry Department that the identification of the beneficiaries should be done by the Chairman, Development Committee and respectable person of the locality. Again he admitted during his cross-examination on behalf of Dr. Mrinmoy Barman that the Chairmen were authorized person to identify the beneficiaries. The witness also volunteered that during the period from 1988 to April, 1990 he was a student of Silchar Law College and he would himself keep busy with his study at home and on rare occasion, he used to visit the Minister's office. However, he admitted that he would draw salary of Rs.900/- per month from such assignment.

[v] On consideration of the evidences of these two witnesses, it appears that both of them were involved in the alleged racket but there is no explanation either from the side of investigating officer or from the prosecution as to why they were set free without launching any criminal prosecution against them. The investigating officer also

did not try to ascertain whether these two witnesses viz. PW-48 and PW-49 were truthful or not and whether those two Ministers were actually involved in the alleged defalcation or not.

[vi] If the version of PW-49 is accepted to be true, then some Panchayet Chairmen, namely Siraj Miah, Ali Hossain and Khaleq Maisan were also prima facie involved in the matter, but the investigating officer also did not proceed against them. Above said circumstances indicates that investigation proceeded in a biased manner targeting only some of the Government employees, more particularly, the 5 (five) accused persons.

[60] In ***Surajit Sarkar vs. State of West Bengal***, reported in ***2013 AIR SCW 648***, as relied on by Mr. P.K. Biswas, learned senior counsel it was held by Hon'ble Apex Court that whether faulty investigation will lead to acquittal or not, would depend upon the defects pointed out. The relevant paragraph no.54 of the judgment is extracted hereunder:

"54. We are not prepared to accept as a broad proposition of law that in no case can defective or shoddy investigations lead to an acquittal. It would eventually depend on the defects pointed out. If the investigation results in the real culprit of an offence not being identified, then acquittal of the accused must follow. It would not be permissible to ignore the defects in an investigation and hold an innocent person guilty of an offence which he has not committed. The investigation must be precise and focused and must lead to the inevitable conclusion that the accused has committed the crime. If the investigating officer leaves glaring loopholes in the investigation, the defence would be fully entitled to exploit the lacunae. In such a situation, it would not be correct for the prosecution to argue that the Court should gloss over the gaps and find the accused person guilty. If this were permitted in law, the prosecution could have an innocent person put behind bars on trumped up charges. Clearly, this is impermissible and this is not what this Court has said."

Position of law is therefore that Court should not ignore and gloss over the defects in the investigation to allow conviction of any innocent person. If lacuna in the investigation leads to non-identification or non-implication of real culprit, rather implication of any innocent person, Court should not overlook such defects. However, situation may be otherwise, if due to such defective or biased investigation, one or some of the real culprits is/are set free by investigating officer and some of them are inculpated. Mr. Biswas, learned senior counsel also refers to another decision of the Hon'ble Supreme Court rendered in ***State of Uttar Pradesh vs. Wasif Haider and others; (2019) 2 SCC 303***, however no ratio on defective investigation has been laid down in said decision by the Apex Court. In said case, some lacunas in the investigation such as long delay in holding T.I. Parade, no document produced to show that identity of the accused was kept concealed before such parade, post mortem report and forensic report were incompatible etc. were noticed by the Court and therefore it was observed that cumulative effect of the investigative lapses fortified the presumption of the innocence of the accused and benefit of doubt arising from such faulty investigation accrued in favour of the accused. However, this decision is not of much help to the present appellants.

Evidences in respect of charges under section 477A, IPC:

[61] Learned Trial Court observed that in a bunch of money receipts marked under Ext.171/3 only thumb impression of the beneficiary was taken and even the address of the beneficiary was not mentioned. Said receipts were signed by Dr. K.D. Biswas and one of

such beneficiary was Sudhan Nama [PW-43] and according to him, he did not receive such benefit. On perusal of that bunch, it appears that there are total 11 nos. of money receipts in that bunch which were marked as Ext.171/3 series. In all the receipts, thumb impression of all the beneficiaries were taken. Learned Trial Court also observed that even address of the beneficiaries were not mentioned therein. Learned Trial Court further took exception of the fact that the person who took the LTI of those beneficiaries did not sign those money receipts nor his name was mentioned therein. However, on perusal of those receipts, it appears that there is no column or row in those money receipts for writing down the address of the beneficiaries. It is a fact that the person who took the LTI of the beneficiaries did not put his signature therein but all the beneficiaries were identified by one APS to the minister of State for A.R. and Fisheries Department. There are some marking in these documents such as Ext.D1, Ext.D2, Ext.D3, Ext.D5, Ext.A, Ext.B and Ext.D4 which give the impression that those documents were sent to the fingerprint expert for examination but as already indicated above, said report was not taken into evidence. According to the prosecution, APS to any minister was not supposed to sign such receipts. According to Milan Kr. Deb (PW-48), the signature as APS to minister was the signature of Prabir Kr. Deb (PW-49). However, when Prabir Kr. Deb was examined as PW-49 and confronted with said signature, he denied the same to be his signature. But no step was taken by the investigating officer to ascertain as to whether those were his signatures or not. All these money receipts are countersigned by K.D. Biswas. Though PW-49 stated that he signed on the money receipts at the request of

Panchayet Chairman and again said on the request of Panchayet Chairman, Assistant Director and Deputy Director of Animal Husbandry Department, but, as he denied his signatures in above said Ext.171/4 series, his such evidence cannot be tagged with all those money receipts. Even if, on perusal of such money receipts a serious suspicion arises that those money receipts can be fake money receipts but due to gross lapses in the investigation as indicated above, it cannot be conclusively said that these money receipts were forged.

[62] Learned Trial Court also took exception of the fact that said Sudhan Nama [PW-43] signed on the deposition sheet without putting his thumb impression which, according to learned Court below, clearly established that he could write his name but on the money receipt his thumb impression was there and thereby the Court formed a conclusive opinion that the money receipt was fake without further material available as to whether said thumb impression in the money receipt was actually of him or not. Mr. P.K. Biswas, learned senior counsel argues that the contents of the money receipts were not proved in accordance with law. However, on perusal of evidence of PW-1, it appears that the contents of the money receipts along with signatures of K.D. Biswas and those money receipts under Ext.171/3 series were proved.

[63] On similar ground, learned Trial Court also disbelieved 14 nos. of money receipts relating to village-Aralia under Boxanagar, Sonamura which were marked as Ext.124/3 series. Said money receipts were countersigned by T.K. Sengupta, Mrinmoy Barman and

K.D. Biswas and the beneficiaries were identified by Chairman of Development Committee whose signature was not identified but it appears that he may be one Sushil Debbarma. But said Chairman was neither examined as a witness nor he has been made accused in this case rather based on oral evidence of one of the beneficiary namely, Mantaj Miah [PW-44], on a general statement given by him that he did not receive any money/grant by putting his LTI in any money receipt, learned Trial Court held that the money receipt was a fake one. When the related money receipt was confronted to him under Ext.124/3 series, he stated that he could not read and write and the money receipt was typed in English. In this case also, the investigating officer did not try to ascertain whether said thumb impression of Mantaj Miah was genuine or not. In the deposition sheet, he signed in such a style which creates the impression that in the year 2011, he was not able to write his name properly and clearly, rather he signed in the deposition sheet in a line of zigzag and obscure manner. As already stated earlier, these money receipts under Ext.124/3 series also gives the impression that same may be fake but based on suspicion, same cannot be held to be fake or false.

[64] In fact, the investigation proceeded in such a defective and biased manner that left some fatal defects in the investigation itself. Learned Trial Court also took exception of the fact that this witness was not cross-examined by the defence and therefore, his evidence was taken to be true but missed the basic principle of law that even if the accused remains mum, it is the prosecution who is to prove the case beyond reasonable doubt. In case of above said Ext.124/3

series, other beneficiaries, whose names are reflected in money receipts were also not examined. In similar manner, learned Trial Court also appreciated the evidence of Tapan Biswas [PW-45].

[65] Learned Trial Court observed that the related money receipts in respect of GIA bill Nos.1116/1990, 1118/1990, 1140/1990, 1142/1990 and 1143/1990 contained thumb impressions of beneficiaries but nobody identified the thumb impression of such beneficiaries. However, on perusal of the money receipts under Ext.160/3 series (GIA bill No.1116/1990), the money receipts under Ext.164/3 series (GIA bill No.1118/1990), the money receipts under Ext.162/3 series (GIA bill No.1142/1990), the money receipts in relation to GIA bill No.1143/1990 (entire money receipts are not exhibited except the signature of K.D. Biswas therein) contain signatures of Chairman of Development Committee of some Gaon Panchayats. Therefore, such observation of learned Trial Court was not correct. But interesting features in respect of money receipts of 164/3 series is that beneficiaries of Kulubari Panchayet was identified by Chairman of Putia Gaon Panchayet and in money receipts of Ext.162/3 series, beneficiaries of Dhanirampur were identified by Chairman of Kulubari Gaon Panchayat.

[66] Learned Trial Court based on evidence of PW-4, one Panchayet Secretary hold that the signatures of one Sushil Debbarma in some money receipts under Ext.15 series as Chairman, Development Committee, Bijohnagar Gram Panchayet was forged as said PW-4 while being confronted with those money receipts stated that he could not say whether those were signatures of Sushil

Debbarma or not. He even did not directly say that those were not genuine signature of said Sushil Debbarma, but despite the same and in absence of any report of forensic expert in this regard, learned Trial Court erroneously held that those signatures were forged signatures of said Sushil Debbarma and consequently held that money receipts were fake.

[67] Similarly, there is another list of beneficiaries of 17 persons under Ext.109/2 of Boxanagar, each of whom were shown to be paid Rs.1412/-. Said list of beneficiaries is approved by one Deputy Director of Animal Husbandry. PW-5, Naba Kumar Roy, the Panchayet Secretary of Aralia Panchayet for the period 2000-2004, prepared similar list of beneficiaries and beneath it, he certified that names of those persons were not recorded in the record of Aralia Gram Panchayat. His such certificate along with the said list were marked as Ext.23/1 and Ext.23 respectively. He also stated said facts in the Court. Certain cross-examination were also done to him but no significant fact came out to discredit him on that evidence. The related money receipts in respect of said beneficiaries were marked as Ext.109/3 series and it appears that in some of the money receipts the Chairman, Development Committee of Bijohnagar Gram Panchayet identified the beneficiary and in some money receipts beneficiaries were identified by Chairman, Development Committee of Putia Gram Panchayat. No identification was made by the concerned Chairman of Aralia Gram Panchayat. The money receipts are countersigned by Mrinmoy Barman and T.K. Sengupta. In the money receipts where identifier is of Bijohnagar Gram Panchayat, K.D.

Biswas has also countersigned the receipts. As it appears from the above said facts of non-availability of names of beneficiaries in the Panchayet record and identifiers of them being of two other different Panchayats that these money receipts are false documents. These money receipts relates to the year 1992 and list of beneficiaries were signed by the Deputy Director on 30.03.1992 which indicates that so called disbursements/ preparation of money receipts were made after March, 1992. No charge has been framed beyond the period of March, 1992 and therefore, these documents or evidence cannot also be looked into.

[68] However, one list of beneficiaries of the period 1990-91 of Boxanagar, Sonamura relating SLPP Scheme was taken into evidence as Ext.25/4. Said list was approved by one Additional Director of Animal Husbandry Department. As per the said list, names of 8 persons of scheduled tribe community were reflected as the beneficiaries who were to be paid Rs.4550/- each. 7 nos. of money receipts from that list were proved into evidence as Ext.25/5 series and said persons were identified by some other person(s) who sometimes used the seal of Chairman, Development Committee, Kulubari Gaon Panchayet and also sometime used the seal as Chairman, Development Committee of Boxanagar Gram Panchayat. Use of such different seals by same person of two different Gaon Panchayats in respect of beneficiaries of one Gram Panchayet is seriously suspicious. All the money receipts were countersigned by Mrinmoy Barman and K.D. Biswas. Even if, they may not be directly involved in the matter of identification of the beneficiaries, however, it

must be within their knowledge as to who was the Chairman of the concerned Development Committee. When during investigation said beneficiary list was shown to one Bhaskar Chakraborty, Panchayet Secretary of Boxanagar Gram Panchayet during investigation in the year 2002, he certified that said persons were not inhabitant of Boxanagar Gram Panchayat. Said Bhaskar Chakraborty was examined as PW-6. He also repeated the said fact in his evidence. He also further stated that the distance between Kulubari Gram Panchayet and Boxanagar Gram Panchayet would be 15 km. According to him, he gave such certificate after perusing the record of Tehsil and those names were not available in the record of Boxanagar Gram Panchayat. Though in his cross-examination, he stated that in case of issuing any certificate from their Panchayet office, counter signature of concerned BDO is necessary and that concerned officer did not make any application to him for giving such certificate. However, these facts cannot mitigate the situation as to how the same person can sign as Chairman of Village Committee of two different Panchayats. Even in one such money receipt, seal beneath the person identifying the beneficiary was also not mentioned.

[69] Similarly, another list of beneficiaries of SLPP scheme for the year 1990-91 of Boxanagar, Sonamura containing the names of 8 beneficiaries of scheduled tribe community were proved as Ext.25/14 and as per said list each beneficiary was supposed to get Rs.4550/- and on perusal of the 8 money receipts under Ext.25/15 series, it appears that in all the money receipts, the same person who identified other beneficiaries as noted above also identified above said

beneficiaries as Chairman of Development Committee of Kulubari Gaon Panchayat. In all the money receipts thumb impression of the beneficiaries were taken. Both Mrinmoy Barman and K.D. Biswas countersigned those money receipts and certainly it was their duty to notice as to whether proper identifier was identifying those persons or not. They cannot evade their responsibility in this regard. In respect of this money receipts also, said PW-6 gave certificate that those persons were not resident of Boxanagar Gram Panchayat.

[70] Similar is the position in respect of 7 money receipts (Ext.130/2 series) prepared in connection with a list of beneficiaries (Ext.130/1) wherein Rs.1612/- was supposed to be distributed to each of the beneficiaries under the assistance to unemployed youth scheme for the year 1990-91. In case of these money receipts also, it has been stated by PW-6 that they were not residents of Boxanagar Gram Panchayet whereas all the beneficiaries were identified by the Chairman, Development Committee of Bejimara Gaon Sabha. In all these receipts, both Mrinmoy Barman and K.D. Biswas had countersigned. All the columns in the money receipts except the column of the amount were kept blank. The list of beneficiaries were signed by Addl. Director of Animal Husbandry. In the list of beneficiaries and also in the money receipts, name of the village of the beneficiaries are not mentioned and therefore, it is not clear as to how said PW-6 traced out that the list of beneficiaries was relating to village Boxanagar and therefore some sort of benefit of doubt may be given to said two accused person. But, if we go by another list of beneficiaries containing names of 20 beneficiaries of Boxanagar

wherein Rs.1612/- was supposed to be paid to each of the beneficiary for the year 1990-91 under unemployed youth scheme (Ext.131/2), it is found that there are also 20 nos. of money receipts under Ext.131/3 series in the name of said beneficiaries wherein each beneficiary was identified by Chairman, Development Committee, Anandagar Goan Sabha and not of Chairman of Boxanagar. In this case also, PW-6 stated that no such beneficiary were there at Boxanagar Gram Panchayet and all the money receipts contained thumb impression of the beneficiaries and countersigned by both Mrinmoy Barman and K.D. Biswas. Therefore, in the light of available evidences discussed above, it appears that these money receipts were also fake money receipts.

[71] Prosecution has also proved another list of beneficiaries under Ext.132/2 series containing names of 20 beneficiaries of Boxanagar Goan Panchayet for providing assistance under special youth programme for the year 1990-91. In relation to said list of beneficiaries, 20 nos. of money receipts under Ext.132/3 series were also proved wherein LTI of all the beneficiaries were taken and the beneficiaries were identified by one Ali Miah, Chairman of Development Committee, Anandanagar Gaon Sabha and not of Boxanagar Panchayet showing payment of Rs.1612/- to each of the beneficiaries. In this case also, said PW-6 stated that no such person was resident of Boxanagar Gaon Panchayat. All these money receipts were also countersigned by both Mrinmoy Barman and K.D. Biswas. These money receipts also bears similar features that except the column of amount all other column were left blank and even the

person who took the thumb impression was also not mentioned in these receipts. In the light of above discussions, it is apparent that these money receipts were also false receipts.

[72] Another list of beneficiaries containing 10 names of beneficiaries of Boxanagar under SLPP scheme of the year 1990-91 was also proved (Ext.25/20) wherein each beneficiary ought to have been paid Rs.4550/-. Similarly 10 money receipts were proved into evidence in relation to said list of beneficiaries under Ext.25/21 series wherein Rs.4550/- was distributed to each of the beneficiaries. Here also similarly thumb impression of each beneficiary was taken and identifier of these beneficiaries here is the Chairman of Development Committee, **Kulubari** Gram Panchayat. These money receipts also contained countersignature of Mrinmoy Barman and K.D. Biswas and said PW-6 stated that these beneficiaries were not residents of Boxanagar Gram Panchayat. These money receipts also bears similar feature where all the relevant columns are left blank except the quantum of amount. Thus, it appears that for the same village Boxanagar, Chairmen of Development Committees of other Gram Panchayats acted as identifier. All these features as indicated above leads to the conclusion that all these money receipts were false money receipts. In these cases, the investigating officer certainly had no opportunity to verify the thumb impression of the beneficiaries by sending the same to fingerprint expert as they were not residents of the concerned village.

[73] The prosecution also proved one list of beneficiaries containing names of 50 persons of Veluarchar Gram Panchayet under

Ext.39 and each person was supposed to get Rs.666/- under rural duck production programme. The Gram Pradhan of said Panchayet namely, Sita Rani Das [PW-7] deposed that on asking by few officers of Animal Husbandry Department on 22.04.2002, she through her Panchayet Secretary verified the records of Panchayet and found that names of those beneficiaries were not there in the Register and thereafter she gave certificate on the backside of two sheets of list of beneficiaries to that effect. On perusal of those money receipts under Ext.40 series, it appears similarly that the identifier of the beneficiaries were Chairman, Development Committee of Bijohnagar Gram Panchayet and not Chairman of Veluarchar Gram Panchayat. Said money receipts were countersigned by K.D. Biswas and Mrinmoy Barman. From above said facts, it appears similarly that said money receipts were false documents.

[74] PW-10, Samir Kanti Das stated that in the year 1980 he joined Urmair veterinary first aid centre of Sonamura Sub-Division and probably in the last part of 1988 or first part of 1989, he was released from Urmair veterinary first aid centre and in the year 1998 he was posted at Kamalnagar veterinary dispensary as Animal Husbandry Assistant and at that time, K.D. Biswas was the Assistant Director of Animal Husbandry Department of Sonamura Sub-Division. He also stated that in the year 1992, at any time, K.D. Biswas issued direction to him to assist the implementing officer in respect of some beneficiary schemes and probably Tushar Kanti Sengupta was the implementing officer. He also stated that during the year 1992, he gave his signature in some blank money receipts as per instruction of

K.D. Biswas and the signature on those money receipts were proved as Ext.27 series. In his cross-examination, on behalf of K.D. Biswas, he stated that those money receipts contained signature of beneficiaries but simultaneously confirmed that he gave his signature in blank condition. This is a strong circumstance which goes against said K.D. Biswas.

[75] Form the discussions made above, it is established that both K.D. Biswas and Mrinmoy Barman were responsible for the commission of offence under Section 477A IPC read with Section 34 IPC for the period April 1990-March 1991, for preparation of such false documents for the purpose of defalcation of Govt. money. However, there is no evidence that accused S.P. Sengupta had his participation, directly or indirectly in preparation of such false documents. Learned Trial Court tried to connect him with reference to the entries made in the cash book and countersigned by him by accepting those false documents but as already discussed above, neither such entries nor his signature beneath any such disputed entries were proved into evidence in accordance with law and therefore, he is entitled to get benefit of doubt in respect of this charge also.

[76] Though PW-54 i.e. the last investigating officer deposed that he found Phani Bhusan Debnath and Manindra Debnath were granted an amount of Rs.1,615/- each vide memorandum bearing No.F.2-253/DDAH(W)/1991 dated 27.03.1991 and Dr. S.P. Sengupta drew the amount vide bill No. Grant in Aid/DDAH/1174/90 dated 18.03.1991 and the amount of Rs.24,180/- was granted by Addl.

Director on 27.03.1991 i.e. the amount was drawn on 18.03.1991 by Dr. S.P. Sengupta earlier thereto and after that memo was issued for paper regularization, but on perusal of the related GIA bill (Ext.142), it appears that though S.P. Sengupta signed the same on 18.03.1991 and Addl. Director signed the same on 27.03.1991 alongwith list of beneficiaries but there is also probability that Mr. Sengupta signed the same while forwarding the document to Addl. Director inasmuch as the relevant money receipts of above said two persons (Ext.142/3 series) shows that money was disbursed long thereafter i.e. on 30.01.1992. There is no concrete evidence of anti-dating the document by S.P. Sengupta and therefore benefit of doubt goes in his favour.

[77] One question may come up that when this Court has already observed the charges under Section 409/34 IPC and Section 13(2) of Prevention of Corruption Act, 1988 are not proved against all the accused persons under appeal beyond reasonable doubt, whether the conviction under Section 477A IPC can sustain. In this regard, it is the view of the Court that Section 477A IPC is completely an independent Section and ingredient of Section 477A and Section 409 IPC or section 13(2) of P.C. Act are not same or similar. In case of Section 477A IPC, such falsification of record is done only with fraudulent intention but in case of Section 409 IPC commission of breach of trust by way of misappropriation or conversion of any property for own use or dishonest use or disposition of that property are *sine qua non*. Similarly, in case of section 13(2) of P.C. Act, existence of criminal misconduct by way of fraudulent

misappropriation or otherwise conversion of any property entrusted to the offender or illicit enrichment of himself during the period of holding the office are essential. Moreover, here mainly on some technical grounds and lapses in the investigation, the Court has observed that they are entitled to get benefit of doubt.

Challenge as to the framing of Charges:

[78] Now, another point is raised by Mr. P.K. Biswas, learned senior counsel referring to Section 219 Cr.P.C. that charges were framed against the accused persons going beyond the period of 12 months and therefore, framing of charge was itself illegal but nothing could be shown that at the time of framing of charge, any objection was raised from the side of defence and except such argument, nothing also could be shown that such framing of charges beyond 12 months has caused prejudice to the present appellants. Mr. Biswas, learned senior counsel argues that framing of charge beyond 12 months has affected the very inherent jurisdiction of the Court leading the entire trial perverse and illegal, however, this Court is not in agreement with the learned senior counsel that framing of charge covering such period of more than 12 months without going for separate trial has taken away the inherent jurisdiction of the Court to try the case.

[79] In ***Nasib Singh vs. State of Punjab and another;*** **(2022) 2 SCC 89**, as relied on by learned P.P., the followings have been held by the Apex Court :

"51.1. Section 218 provides that separate trials shall be conducted for distinct offences alleged to be committed by a person. Sections 219-221 provide exceptions to this general rule. If a person falls under

these exceptions, then a joint trial for the offences which a person is charged with *may* be conducted. Similarly, under Section 223, a joint trial *may* be held for persons charged with different offences if any of the clauses in the provision are separately or on a combination satisfied.

51.2. While applying the principles enunciated in Sections 218-223 on conducting joint and separate trials, the trial court should apply a two-pronged test, namely, (i) whether conducting a joint/separate trial will prejudice the defence of the accused; and/or (ii) whether conducting a joint/separate trial would cause judicial delay.

51.3. The possibility of conducting a joint trial will have to be determined at the beginning of the *trial* and not *after* the trial based on the result of the trial. The appellate court may determine the validity of the argument that there ought to have been a separate/joint trial only based on whether the trial had prejudiced the right of accused or the prosecutrix.

51.4. Since the provisions which engraft an exception use the phrase "may" with reference to conducting a joint trial, a separate trial is usually not contrary to law even if a joint trial could be conducted, unless proven to cause a miscarriage of justice.

51.5. A conviction or acquittal of the accused cannot be set aside on the mere ground that there was a possibility of a joint or a separate trial. To set aside the order of conviction or acquittal, it must be proved that the rights of the parties were prejudiced because of the joint or separate trial, as the case may be."

Bar of Section 306 of Cr.P.C.:

[80] Mr. P.K. Biswas, learned senior counsel referring to Section 306 Cr.P.C. argues that PW-1, the key witness being named as accused in the FIR was illegally made witness in the case and therefore, his entire evidence is liable to be rejected. Mr. Biswas, learned senior counsel submits that the provision of Section 306 Cr.P.C. is the only provision by which an FIR named accused person may be made a witness in the case but here said provision was not resorted to. This issue as raised by Mr. Biswas, learned senior counsel may be mitigated following a decision of the Hon'ble Apex Court rendered in ***Girish Sharma & Ors. vs. The State of Chhattisgarh & Ors.***; [Criminal Appeal No(s).939-940 of 2017 decided on

23.08.2017] wherein the FIR was registered by Anti-Corruption Bureau and Economic Offences Wing under the provisions of Indian Penal Code and Prevention of Corruption Act, 1988 against 27 persons but after investigation charge sheet was filed against 16 persons and three of such FIR named accused persons were later on cited as witness in the charge sheet. After the Trial Court took cognizance, some of the accused person submitted application under Section 193/319 Cr.P.C. to summon the above said three witnesses as accused person in the case. The Trial Court rejected the application but in revision, High Court allowed such summoning with the observation that provision of Section 306 Cr.P.C. was not followed which was the only procedure available under the Criminal Procedure Code to make an accused a witness, after grant of pardon with Court's permission. Matter was challenged before the Hon'ble Apex Court and finally, the Apex Court upset the order of the High Court and remand the matter to the High Court for fresh decision in accordance with law and relevant observation of the Apex Court in Para 6 is extracted below:

"6. The submission made on behalf of the appellants that the prosecution was entitled to cite the three original accused as witnesses, in the given fact situation, having regard to larger interest of justice to strengthen the prosecution case against more serious accused cannot be held to be without substance. This could be done even without recourse to Section 306 Cr.P.C. It is certainly open to the Court to finally decide whether cognizance ought to be taken or not after balancing all the relevant considerations. The decision of the prosecutor to cite them as witnesses does not bind the Court and such decision can be interfered with if interest of justice so requires."

In the light of above said observations, there is no embargo for the investigating officer or the prosecution to cite any

FIR named accused person as witness in the charge sheet without recourse to Section 306 Cr.P.C. inasmuch as the decision of the prosecution to cite them witnesses is not binding on the Court and it can be interfered by the Court whenever requires. Moreover, provision of Section 319 of Cr.P.C. always authorizes the Trial Court to implead any person as accused in the case during trial. Therefore, the contention as raised by Mr. Biswas, learned senior counsel on that point is not convincing.

Absence of sanction under Section 197 of Cr.P.C.:

[81] Both the learned senior counsel Mr. P.K. Biswas and Mr. P. Roy Barman strenuously argue that absence of sanction under Section 197 Cr.P.C barred the prosecution against the present appellants in this case. On that point several decisions are cited by both the parties as indicated earlier. Law is fairly explained in this regard in ***Shambhoo Nath Misra (Supra)*** by the Hon'ble Apex Court that fabrication of record or misappropriation of public fund are not the official duty of a public servant or public function in the discharge of his official duties. Rather the official capacity only enables him to fabricate the record or misappropriate the public fund etc. and therefore, protection of section 197 Cr.P.C. is not available in such cases. Earlier thereto, in ***Matajog Dobey v. H.C. Bhari, (1955) 28 ITR 941 : 1955 SCC OnLine SC 44***, the Constitution Bench of the Hon'ble Supreme Court held that there must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the

course of the performance of his duty. Said decision is also relied on by the Hon'ble Apex Court in **A. Srinivasulu v. the State, MANU/SC/0723/2023**, as referred by Mr. Roy Barman. In the case in hand also, it was not at all connected with the official duties of the accused persons to fabricate the record by creating false documents and therefore, provision of section 197, Cr.P.C. cannot act as a shield to them to protect them from prosecution without sanction. In view of above, the challenge on the ground of absence of sanction is rejected.

Conclusion:

[82] In view of above discussions, all the three appeals are allowed to the following extent:

(i) The conviction and sentence of Shiba Prasad Sengupta are set aside. He is acquitted on benefit of doubt from all the charges framed against him;

(ii) The conviction and sentences of Krishnadhan Biswas and Mrinmoy Barman under Section 409 read with Section 34 IPC and under Section 13(2) of Prevention of Corruption Act are set aside, however, their conviction under Section 477A read with Section 34 IPC for the period April, 1990 to March, 1991 is affirmed but their conviction under section under Section 477A IPC for the other periods are set aside.

(iii) So far the sentence passed under Section 477A IPC by the learned Trial Court against Krishnadhan Biswas and Mrinmoy Barman are concerned, no order is being passed in respect of sentence of Krishnadhan Biswas as he is no more and consequently,

the sentence has become infructuous. However, it appears that the FIR was lodged in the year 1996, so the appellant Mrinmoy Barman have been in sufferance for about 29 years for pendency of the matter and as per the charge sheet, his date of birth is 21.09.1964 which means he has meanwhile crossed his 60 years of age. Thus, keeping in mind above said factors and also taking note that it is an economic offence touching the public exchequer of the State, the sentenced passed against Mrinmoy Barman by learned Trial Court under Section 477A IPC for rigorous imprisonment for 5 years is modified and is reduced to 02 (two) years. Mrinmoy Barman will now suffer rigorous imprisonment for 02 (two) years and will pay fine of Rs.5,000/- and in default to pay the fine he will suffer further simple imprisonment for 01(one) month under section 477A, IPC. The period of detention already undergone by him meanwhile shall be set off from above said substantive period of imprisonment.

With such observations and directions, the appeal is disposed of.

Pending application(s), if any, shall also stand disposed of.

Reconsign the Trial Court records with copy of this judgment.

JUDGE