

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.116 of 2015

Arising Out of PS.Case No. -57 Year- 2012 Thana -PALASI District- ARRARIA

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1. Md. Firoz Alam Son of Late Md. Islam resident of village Kumhiya P.S. Palasi,
District Araria.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

with

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Criminal Appeal (SJ) No. 176 of 2015

Arising Out of PS.Case No. -57 Year- 2012 Thana -PALASI District- ARRARIA

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1. Naushad @ Naushad Alam Son of Late Sk. Manglu resident of village Kunhiya
P.S. Palasi, District Araria

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

(In CR. APP (SJ) No.116 & 176 of 2015)

For the Appellant/s : Mr. Vikram Dev Singh, Adv.
Mr. Ziaul Qamar, Adv.
Mr. Manish Kumar, Adv.

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

CAV JUDGMENT

Date: 10-10-2017

Against the common judgment of conviction and sentence, these two appeals (CR. APP (SJ) No.116 of 2015) on behalf of convict Md. Firoz Alam, (CR. APP (SJ) No.176 of 2015) on behalf of convict, Naushad @ Naushad Alam arose. As such, have been heard together and are being decided by a common judgment.

2. Initially five accused persons were put on trial, out of whom, Kamurul Hoda, Ranjeet and Nityanand were acquitted while these two appellants have been found guilty for an offence



punishable under Section 489(B) and 489(C) of the IPC and each one has been sentenced to undergo R.I. for ten years as well as to pay fine of Rs.20,000/- in default thereof, to undergo R.I. for one year (12 months), under Section 489(B) IPC and R.I. for seven years as well as to pay fine of Rs.10,000/- and in default thereof to undergo RI for six months under Section 489(C) of the IPC with a further direction to run the sentences concurrently by the Adhoc Additional Sessions Judge, Araria vide judgment of conviction dated 23.08.2015 and order of sentence dated 27.08.2015 in connection with Sessions Trial No.514 of 2013/649 of 2013/106/2013.

3. S.I., Rambilash Singh, (PW-4) O/C of Palasi PS recorded his self statement on 03.06.2012 at about 10.30 P.M. disclosing therein that on the same day at about 6.15 P.M. after having been confidentially informed regarding transportation of counterfeit Indian currency notes, ambushed at Denga Chowk where one person, seeing the police, began to flee whereupon they became suspicious and accordingly, chased and apprehended. In presence of two seizure list witnesses, namely, Md. Ekram and Abdul Razzak, he was interrogated who disclosed his identity as Firoz Alam, son of Late Md. Islam resident of village Kumhiya P.S. Palasi, District Araria. Then thereafter, he was searched and during course thereof three counterfeit Indian currency notes of Rs.1,000/- denomination (serial



number incorporated) as well as 70 pieces of fake Indian currency notes of Rs.500/- denomination (serial no. disclosed) seven fake Indian currency notes of Rs.100 denomination (serial no. disclosed) were seized for which, search-cum-seizure was prepared. On interrogation, he further disclosed that Ranjeet Yadav of village-Belwari happens to be kingpin and under his command Naushad of village Kunhiya, Kamrul Hoda of village-Jokihat and Nitynand were actively discharging their activity. It has also been disclosed that Ranjeet happens to be the carrier. He had further stated that fake currency notes is available at the house of Naushad which could be recovered in case the raid is promptly conducted. Informing the local police station in presence of two seizure list witnesses Md. Ekram and Saiful conducted raid at the house of Naushad who was found absent. During search of house, an almirah, which was kept in a room exclusively in possession of Naushad, two bundles of Rs.500/- denomination having wrapper of State Bank of India each containing 100 pieces were recovered and seized as during course of inspection of the same 10 notes in each bundles along with six notes of Rs.100 denomination were found fake and for that, search-cum-seizure list was prepared. During course of inspection of the notes, it is evident that serial number of some of the fake notes recovered from the possession of Firoz as well as Naushad were the same relating to



Rs.100/- denomination.

4. As such, Palasi P.S. Case No.57 of 2012 was registered followed with investigation and after completing the same charge-sheet was submitted against apprehended accused Firoz as well as Naushad at first instance while against the remaining subsequently, whereupon commitment took place at two different stages, two Sessions Trial Numbers were marked but later on, both were amalgamated and proceeded under common trial.

5. The accused persons pleaded not guilty to the charge. They have also pleaded that nothing was recovered from their possession. On behalf of appellant, Naushad two DWs have been examined in support of his contention, DW-1 Md. Jamaluddin, DW-2 Mujahid.

6. In order to substantiate its case, the prosecution had examined altogether eight PWs out of whom PW-1, Devraj Ray, PW-2, Munni Lal Singh, PW-3, Brahmdeo Pandit, PW-4, Ram Bilash Singh, PW-5, Prashant Kumar, PW-6, Shiv Shankar Kumar, PW-7, Bijay Kumar Yadav and PW-8, Mithilesh Kumar.

7. Side by side had also exhibited, Ext-1 self statement, Ext-2 series, seizure list. As stated above, two witnesses have also been examined on behalf of Naushad, i.e., DW-1, Md. Jamaludding and DW-2, Mujahid.



8. Learned counsel for the appellants while assailing the judgment of conviction and sentence impugned has submitted that the learned lower court failed to consider the niceties of the ingredients of Section 489(B)(C) of the IPC. On the other hand, dealt with evidence in casual manner and so, the judgment impugned is fit to be set aside. The prime contention having at the end of the learned counsel for the appellants is that *mens rea* unless and until proved at the end of the prosecution would not constitute an offence under Section 489(B),(C) of the IPC irrespective of quantum of recovery of alleged fake currency notes and to substantiate his argument relied upon *Umashankar v. State of Chhattisgarh* as reported in **2002 PLJR (1)154(SC)**.

9. It has also been argued that after going through the evidences adduced on behalf of the prosecution, it is apparent that the prosecution has failed to substantiate the same. Hence finding recorded by the learned lower Court happens to be based upon surmises. In its continuity, it has also been submitted that the witnesses so examined were not at all an expert and that being so, there should have been proper examination of the recovered currency notes by an expert and further would have been examined. The prosecution is silent on that very score whereupon even accepting the persecution case that there was recovery of currency notes would not justify the finding relating



to being fake, counterfeit and so, appellants could not be convicted for possessing counterfeit, fake currency notes. It has also been submitted that the recovery from the possession of respective appellants have become doubtful in the background of the fact that Md. Ekram happens to be the police stamp person readily available to justify nefarious activity of the police as he shifted along with police officials right from the place where Firoz was apprehended to the village of Naushad. However, none of the seizure list witnesses has been examined on behalf of prosecution nor there happens to be an explanation relating to their non-examination. Considering the presence of other witnesses, who happen to be the police officials have lost their credibility on account of inconsistency amongst their evidence apart from the fact that they would bent upon to get the appellants convicted in order to cover up their own misdeeds. In the aforesaid facts and circumstances of the case would not be a reliable witness and so, the learned lower Court should not have accepted their evidence to be creditworthy in order to record judgment of conviction and sentence. Consequent thereupon these appeals are fit to be allowed.

10. Learned APP controverted the submission made on behalf of appellants and submitted that presence of Firoz over search and seizure list is indicative of the fact that same was prepared in his presence on account of recovery of counterfeit Indian currency



notes which, during course of trial as well as during course of his statement recorded under Section 313 of the Cr.P.C is found unexplained. Consequent thereupon, the factum of search, recovery followed with seizure of counterfeit currency notes gone out of controversy. It has also been submitted that further conduct of Firoz is also to be seen who during course of inculpatory extra-judicial confessional statement made crucial divulgence identifying the other co-accused to be actively involved in such kind of anti-national activity as well as at his pointing out, house of Naushad was raided and during course thereof, fake currency notes were also recovered therefrom. Though, Naushad was absent but, in the background of the aforesaid activity, Section 29 of the Evidence Act would be applicable whereunder inculpatory extra-judicial confessional statement of co-accused is to be taken into consideration against Naushad and as Naushad failed to explain the recovery of counterfeit currency notes whereupon the judgment of conviction recorded by the learned lower Court is fit to be confirmed.

11. Before going to scrutinize the evidence having available on the record on behalf of respective parties, certain salient features relating to issues involved in this case is to be considered.

(a) Mere a witness being a police official, his evidence would not be liable to be rejected unless and until it is shown



that it suffers from malice and grudge. However, their activity is to be perceived in consonance with the facts of an individual case much less, where there happens to be possibility of independent witness, then, in that event, it has to be seen with suspicious eye.

(b) Non-examination of witnesses in ordinary course of nature would not cause dent in the prosecution case but in case of withdrawal of an important witness without any explanation will certainly embark upon adverse to the prosecution case, more particularly, in terms of Section 114(g) of the Evidence Act.

(c) Now coming to the ingredients of the offence, the word 'counterfeit' has been defined under Section 28 of the IPC which reads as follows:- A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practiced.

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of



that resemblance to practise deception or knew it to be likely that deception would thereby be practised.]

12. In the aforesaid background, it looks better to see Section 489(B) as well as 489(C) of the IPC, are quoted below:-

489B. Using as genuine, forged or counterfeit currency-notes or bank-notes.—Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for



a term which may extend to seven years, or with fine, or with both.

13. From plain reading of respective Sections, it is apparent that 489B will be applicable only in the case when there happens to be an effort at the end of accused to get it circulated for the purpose so enumerated therein and unless and until the activity of the accused is properly identifiable on the basis of the evidence having been adduced in terms thereof then only, conviction could be recorded under Section 489B of the IPC. So far applicability of Section 489(C) of the IPC is concerned, it would apply only when possession is found duly exposed with knowledge which the accused was carrying since before with regard to currency notes being fake or counterfeit. Unless there happens to be conclusive evidence on the above score, no conviction under Section 489C of the IPC would be attracted. That happens to be spirit of law which has also been explained by the Apex Court as referred on behalf of the appellants as reported in **2002 PLJR (1)114 SC** (supra).

14. Now the evidence of the prosecution witnesses is to be seen in the aforesaid background. The evidence of the informant PW-4 is to be taken first. He had deposed that on the alleged date and time of occurrence, he was O/C of Palasi P.S. On that day at about 6.15 P.M. while he along with other police officials had gone in



routine patrolling, reached at Dengachowk, he received confidential information with regard to transportation of fake currency notes whereupon they ambushed. One person, seeing the police, began to flee as a result of which they became suspicious over his abnormal conduct and accordingly, chased and apprehended who on query disclosed his identity as Firoz. In presence of seizure list witnesses, when he was searched out three fake currency notes of Rs.1,000/- denomination. seventy fake currency notes of Rs.500/-, seven fake currency note of 100/- denomination were recovered and seized for which seizure list was prepared. On interrogation, he had exposed the racket wherein Ranjeet, Naushad, Kamrul Hoda and Nitiyanand were actively involved. He had further disclosed that fake currency notes is also available at the place of Naushad which could be recovered in case raid is conducted immediately. Whereupon other police stations were informed and then raid was conducted at the place of Naushad wherefrom two bundles of currency notes of Rs.500/- denomination (100 pieces), six pieces fake currency notes of denomination of 100 were seized. During course of inspection of the currency notes, it was found that ten pieces of fake currency notes were mixed along with remaining of Rs.500/- denomination having wrapper of State Bank of India and for that seizure list was prepared. Naushad was not present at his house. Then thereafter he returned back along with the accused



Firoz as well as seized counterfeit currency notes. During cross-examination at para-5 he had stated that Firoz was not fleeing over bicycle. Firoz was apprehended by him. He was joined by other police officials. He had searched whole body of Firoz. Fake currency notes were recovered from his left pocket. In para-7 he had stated that after apprehension of Firoz, he was searched out and during course thereof, fake currency notes were recovered from his possession which was counted and then, search-cum-seizure list was prepared. There was no genuine currency notes. The total fake currency notes were 38,700/-. After counting the currency notes, he kept the same along with him. On behalf of Naushad at para-10, he had disclosed that Firoz was apprehended at 7 P.M. during midst thereof, he was searched out, search-cum-seizure list was prepared. Then, thereafter he had gone to the place of Naushad. Main door was opened. He is not remembering how many family members were there. He awoken all of them as well as persons having adjoining houses. He is not remembering how many persons have entered inside the house of Naushad. He had further stated that witnesses were present. Fake currency notes which was recovered was in two bundles of Rs.500/- denomination. Search and seizure was prepared and during course thereof, serial number of fake currency notes were incorporated. He had denied the suggestion that no counterfeit notes were recovered from the possession of the



Naushad.

15. PW-1 Deoraj Rai was S.I. of Bhargana P.S. As directed joined with PW-4 during course of raid and had accordingly, deposed with regard to apprehension of Firoz on chase. Recovery of counterfeit notes, inculpatory extra-judicial confessional statement made by Firoz and then on his pointing out house of Naushad was raided and during course thereof, there was recovery of counterfeit notes including genuine currency of denomination 500/- as well as 100/-. During course of cross-examination, at the end of Naushad he had admitted at para-7 that wife of Naushad along with 2-3 persons were present at the time of raid. They met with them in the Angan. All the police personals remained in the Angan.

16. PW-2 a Sepoy posted at Palasi P.S. had reiterated the same. During cross-examination at para-6 he had stated that he is not aware what was stated by Firoz before officer-in-charge. In para-9 he had said that one person was apprehended at Denga Chowk while none was apprehended at village-Kunhaiya. He was unable to divulge boundary of the house of Naushad.

17. PW-3 reiterated the same version with certain variance that when they were at Denga Chowk, they had seen one person fleeing over bicycle who was apprehended and then on query disclosed himself to be Firoz who made inculpatory extra-judicial



confessional statement. He had further stated that on search counterfeit notes (two bundles) having wrapper of State Bank of India was seized and for that seizure list was prepared. During course of statement he had named Nityanand, Ranjeet, Naushad. Furthermore, on his pointing out house of Ranjeet was raided, identified Firoz. During cross-examination at para-4 he has stated that Firoz was apprehended at Denga Chowk. O/C was there. He was interrogated at that very place. He came to know from O/C.

18. PW-5 was posted at Araria P.S. as S.I. who was directed by SHO to go to Palasi P.S. for apprehension of notorious criminals, Hafiz and Idris. He reached there and then O/C Palasi P.S. had informed that as consignment of counterfeit notes in bulk is to be transported on account thereof, they had cordoned the place and then had detailed apprehension of Firoz, recovery of counterfeit currency notes of Rs.38,700/-, inculpatory extra-judicial confessional statement made by Firoz, raid was conducted at the house of Naushad, recovery of counterfeit currency notes therefrom and then, returned back to Palasi P.S. Subsequently he came to know regarding apprehension of one Ranjeet also. During cross-examination at para-8 he had stated that he had seen one person fleeing barefoot at Dengachowk. They were not knowing since before regarding Firoz. In para-10 he had stated that fake Indian currency notes were recovered from right pocket of full-



pant. Recovered notes were counted by the O/C and then seizure list was prepared. In para-12 he had stated that at the place of Naushad at village-Kunhiya they remained in courtyard while O/C had gone inside and then disclosed regarding recovery of counterfeit Indian currency notes. In para-13 he had stated that how many females, males were present at the place of Naushad, he is not remembering. Seizure list was prepared in his presence at the place of Naushad.

19. PW-6 on the alleged date and time of occurrence was deputed as SI Araria P.S. As per direction of SHO he had gone to Palasi P.S. and there he was informed regarding plan. They had gone to Dengachowk where one person, seeing the police began to flee who was apprehended and disclosed his identity as Firoz and on search, from his right pocket of full-pant fake Indian currency notes appertaining to 38,700/- was recovered for which search-cum-seizure list was prepared. On his inculpatory extra-judicial confessional statement, raid was conducted at the place of Naushad who was absent but there was recovery. He is not remembering how many amount was seized therefrom. During cross-examination at para-5 he had stated that who apprehended Firoz he is not remembering. He is not remembering whether his shop lies at Dengachowk or not. Firoz had tried to slip barefoot. Then, thereafter, they had gone to the place of Naushad on the basis of inculpatory extra-judicial confessional



statement made by Firoz. At para-10 he has stated that they had gone to the house of Naushad. He along with 6-7 officials had gone inside house of Naushad. It was a single story pucca building. Indian currency notes were seized which the O/C had disclosed to be fake.

20. PW-7 in likewise manner, had deposed that he was posted at Araria P.S. and was directed by O/C to assist in conduction of raid, apprehension of miscreants whereupon had gone Palasi and then narrated the activity. During cross-examination, he had stated at para-9 that the raid was conducted under the supervision of SP.

21. PW-8 happens to be the IO. He had deposed that after registration of case on the self statement of Rambilash Officer-in-Charge, investigation was entrusted to him. At an earlier occasion, he was informed by the O/C to assist as raid was going to be conducted for apprehension of notorious criminals, namely, Hafiz and Idrish at Dengachowk where they reached and during course thereof, was informed regarding transportation of counterfeit currency and during course thereof, had seen one person fleeing in suspicious circumstance who was apprehended and on search, there was recovery of fake Indian currency notes, seized. Seizure list was prepared. Then thereafter on interrogation, he made inculpatory extra-judicial confessional statement whereupon house of Naushad was raided and



during course thereof, counterfeit Indian currency notes were recovered. Naushad was not present at his place. Then they returned back along with seized currency notes. During course of investigation, he had conducted raid and during course thereof, Ranjeet and Nityanand were apprehended. Munna was also apprehended. He recorded statement of other witnesses. Sent the currency notes for Forensic examination. Received forensic examination report wherefrom, it is evident that seized currency notes happens to be counterfeit. During course of cross-examination at paragraph-6 he had stated that he was one of the members of the raiding party as well as IO. When they conducted raid at the place of Naushad, he was not present. Recovery was made by the O/C. Seized currency notes were counterfeit. After apprehension, search and seizure list were handed over to him. He had also stated that after apprehension, search and seizure at Dengachowk, O/C handed over money to him. They had deposited the aforesaid amount in the Malkhana but he had not mentioned the same in the case diary. When amount was withdrawn from the Malkhana he also not mentioned the same in the case diary. In para-10 he had stated that when he had gone to the place of Naushad 5-6 persons were there. No copy of seizure list was handed over to the family members of Naushad nor their signatures were taken. He had further stated that currency notes were transmitted for



forensic examination six months after the occurrence. There happens to be no description of serial number of currency notes in the forensic report. In para-14 he had stated that Firoz was apprehended at the spot. Hafiz and Idrish were also apprehended. All the members of the police party had cordoned Firoz and then apprehended. Cash was counted by him. Search was made by the officer-in-charge. He had further stated that shop of Firoz lies by the side of the place of occurrence. He had further stated that Firoz was fleeing at the relevant juncture.

22. So far Naushad is concerned, it is apparent that he was not present at the time when raid was conducted. Though some of the notes of Rs.100 denomination containing same serial number were recovered from almirah but there happens to be no disclosure at the end of prosecution that the said room or the said almirah was exclusively under the domain of Naushad. Apart from this, from the seizure list Ext-2, it is evident that it was received by Firoz and not by family members whose presence, from the evidence as discussed hereinabove were there. Apart from this, the witnesses, more particularly, Ekram who stood against Firoz regarding recovery having at Denga Chowk was carried to the place of Naushad lying at Village-Kunhiya ignoring the family members and co-villagers. Apart from this, from the evidence available on the record, theme of joint



possession would not ruled out and cumulative effect, did not justify the finding of the learned lower court against him. Consequent thereupon, the judgment of conviction and order of sentence recorded against Naushad is not at all found sustainable in the eye of law and is accordingly set aside. As such, Cr.Appeal(SJ) No.176 of 2015 is allowed.

23. Since Naushad @ NaushadAlam is on bail, he is discharged from the liabilities of his bail bond.

24. Now coming to the case of Firoz, it is apparent that he was apprehended at Dengachowk while he was fleeing. There happens to be consistent evidence with regard to recovery of counterfeit Indian currency notes. Although FSL report is silent identifying serial no. of fake currency notes which was examined but from the written report seizure list, it is evident that four currency notes of Rs.100/- denomination carrying the same serial number which happens to be IQS 294166 while two currency notes of Rs.100/- denomination also carrying the same serial number as IQS 294104 were found seized and that being so, whatever deficiency relates to FSL report the same is not going to axe upon the case of the prosecution because of the fact that there would not be common serial number over two currency notes and so, possession of fake Indian currency note is found duly substantiated. During course of cross-



examination, it is apparent that none of the PWs have been cross-examined on that very score. In the aforesaid facts and circumstances of the case non-examination of seizure list witnesses is not going to cast any kind of dent over the prosecution, more particularly, when there happens to be presence of appellant Firoz over the search and seizure list which also not been denied during course of cross-examination nor suggested though in his statement under Section 313 Cr.P.C. there happens to be mere denial in casual manner. It is evident from the evidence of PW-7 that he was one of the members of the raiding party in spite of being entrusted with the investigation. During course of cross-examination, it is evident that neither the O/C PW-4 nor the IO has been cross-examined to the effect that whether any other police official remained at police station or not and so, the appellant could not be able to discredit his status as there might be situation whereunder all the police officials might have participated during course of raid. Furthermore, the issue has been considered and explained by the Apex Court in the case of ***Pramod Kumar v. State (GNCT) of Delhi*** reported in ***AIR 2013 SC 3344***.

25. Furthermore, in case of ***Ram Kumar v. State (NCT) of Delhi*** as reported in ***AIR 1999 SC 2259***, it has been observed:- “ *that merely on account of non-examination of any individual witness, the evidence of police officials would not be*



rejected.” Status of informant being I.O. of the case has also been duly acknowledged by the Apex Court in ***Bhaskar Ramappa Madar v. State of Karnataka*** reported in **2009 CrLJ 2422**.

26. From the evidence available on the record, as discussed above, it is evident that appellant Firoz had not pleaded that he was not able to identify, distinguish the counterfeit Indian currency notes and so, though he was in possession of the aforesaid counterfeit currency notes, he was under bonafide belief that the aforesaid currency notes were genuine. Had there been, then in that event the case would have given a different colour, mode of appreciation would have been different and then in that circumstance, there would have been an application of the principle decided by the ***Hon’ble Apex Court reported in Umashanker v. State of Chhattisgarh 2002 PLJR(1)154 (SC)***, as *men rea* would have been lacking but the fact of the case is otherwise. During cross-examination of all the witnesses, nothing has been suggested that accused was under bonafide belief that the currency which were possessed by him were genuine currency notes on the other hand, there happens to be consistent evidence of the prosecution witness that the accused began to flee seeing the police whereupon he was apprehended and searched wherefrom counterfeit Indian currency notes were recovered. During cross-examination, it is also evident from the evidence of PW-4, informant as well as PW-7,



the IO, that he had not questioned his presence over the seizure list. Fleeing therefrom after seeing a police suggest that he was knowing since before that the Indian currency notes which were along with him happen to be counterfeit otherwise there was no occasion for him to run away seeing the police.

27. That being so, the genuineness of the seizure list is found affixed. After going through the same, it is evident that so many fake currency notes of same serial number have been seized from the possession of appellant, Firoz and for that, in the background of deficiency having at his end would be adverse to his interest and in the aforesaid background, non production of seized currency notes would not cause any kind of disability in the prosecution case. Furthermore, while appreciating the applicability of Section 489 of the IPC, the object of legislature is also to be taken note of. By way of introduction of aforesaid Section, the legislature not only intended to protect the currency of Indian nation rather also tried to protect the authenticity of the currency as well as bank notes and the same has been properly considered and explained in the case of *State of Kerala v. Mathai Verghese as reported in (1986) 4 SCC 746* “ that manifests purpose of the provision is to protect people from being deceived or cheated by ensuring that a person accepting a currency note is given a genuine currency which may exchanged for goods or services and



not a worthless piece of paper which will bring him nothing in return, is being a counterfeit or a forged currency notes”

28. In ***K. Hasim v. State of Tamil Nadu*** as reported in ***AIR 2005 SC 128***, it has been held as follows:-

42. Similarly [Section 489 B](#) relates to using as genuine forged or counterfeited currency notes or bank notes. The object of Legislature in enacting this section is to stop the circulation of forged notes by punishing all persons who knowing or having reason to believe the same to be forged do any act which could lead to their circulation.

43. [Section 489C](#) deals with possession of forged or counterfeit currency notes or bank notes. It makes possession of forged and counterfeited currency notes or bank notes punishable. Possession and knowledge that the currency notes were counterfeited notes are necessary ingredients to constitute offence under Section 489 C and 489 D. As was observed by this Court in [State of Kerala v. Mathai Verghese and Ors.](#) (AIR 1987 SC 33) the expression 'currency notes' is large and wide enough in its amplitude to cover the currency notes of any country. [Section 489C](#) is not restricted to Indian currency note alone but it includes dollar also and it applies to American dollar bills.

29. After analyzing and crystallizing the evidence available on the record inconsonance with the ancillary event minutely, wherefrom it is evident that during course of conduction of trial, Firoz failed to rebut the allegation in terms of Section 28(2) of the IPC. However, the prosecution failed to place by cogent evidence that Firoz was indulged to use the fake currency notes on account



thereof, the finding recorded by the learned lower court against the appellant, Md. Firoz Alam with regard to Section 489(B)/34 of the IPC is not at all found sustainable and to that extent, the judgment of conviction and order of sentence recorded by the learned lower court is set aside, affirming the conviction and sentence relating to Section 489 (C) of the IPC. Accordingly, Cr.Appeal(SJ) No.116 of 2015 is partly allowed.

30. Appellant Md. Firoz Alam is on bail. His bail bond is hereby cancelled directing him to surrender before the learned lower court within a fortnight to serve out the remaining period of sentence failing which, the learned lower court will proceed against him in accordance with law.

(Aditya Kumar Trivedi, J)

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