

BAIL SLIP

The Petitioner / Accused 1. Dhinakaran @ Aditya 2. Thiyagu @ Thiyagarajan 3. M.Ramar 4. P.S.N.Kothanda Rao 5. S.Pitchaikani Raja, were directed to be released on bail as per the order of this Court dated 01/02/2017, 09/03/2015, 16/02/2015, 28/01/2019 and 12/01/2015 in CrI.M.P.Nos.1,1,1,1 and 1 of 2015 in CrI.A.Nos.25, 26, 20, 36 & 52 of 2015 on the file of this Court respectively.

IN THE HIGH Court OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2019

PRONOUNCED ON : 29.04.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Appeal Nos.20,25,26,36 & 52 of 2015

M.Ramar	...A.3/Appellant in CrI.A.No.20 of 2015
Dhinakaran @ Aditya	...A.1/Appellant in CrI.A.No.25 of 2015
Thiyagu @ Thiyagarajan	...A.5/Appellant in CrI.A.No.26 of 2015
P.S.N.Kothanda Rao	...A.2/Appellant in CrI.A.No.36 of 2015
S.Pitchaikani Raja	...A.4/Appellant in CrI.A.No.52 of 2015

Vs

State rep. by
Inspector of Police
CBCID,
Prevention of Counterfeit
Currency Investigation Division,
Chennai - 32
(Crime No.111/2009)

...Respondent in all CrI.As

Common Prayer :- These Criminal Appeals are filed under Section 374 Cr.P.C., against the conviction and sentence passed by the learned 1st Additional Sessions Judge, Tiruvallur in S.C.No.153 of 2011 dated 17.12.2014.

In CrI.A.No.20 of 2015

For Appellant : Mrs.L.Margaret

For Respondent : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

In Crl.A.No.25 of 2015

For Appellant : Mr.K.Shankar

For Respondent : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

In Crl.A.No.26 of 2015

For Appellant : Mr.S.Karthikeyan
for Mr.A.Shivkumar

For Respondent : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

In Crl.A.No.36 of 2015

For Appellant : Mr.K.Kannan

For Respondent : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

In Crl.A.No.52 of 2015

For Appellant : Mr.Abudukumar Rajarathinam
for Mr.S.Ashok kumar

For Respondent : Mrs.Kritika Kamal.P,
Government Advocate (crl.side)

COMMON JUDGMENT

These five criminal appeals are preferred by the five accused in S.C.No.153 of 2011 on the file of the learned First Additional Sessions Judge, Tiruvallur.

Sl.No.	Accused	Offence
1.	A-1	489-B and 489-C of I.P.C.,
2.	A-2	489-B and 489-C of I.P.C.,
3.	A-3	489-B and 489-C r/w 34 of I.P.C.,
4.	A-4	489-B and 489-C r/w 34 of I.P.C.,
5.	A-5	489-B and 489-C of I.P.C.,

2.Before the trial Court, A-1, A-2 and A-5 were tried for offences under sections 489-B and 489-C IPC. A-3 and A-4 were tried for offences under sections 489-B and 489-C r/w 34 IPC.

3.To prove the charges, the prosecution examined 6 witnesses. Marked 23 exhibits and 21 material objects. The certified copy of the RC Book of the Police vehicle was marked as defence document Ex D-1. The signature of PW-5 as found in the summons taken as Court Exhibits EX C-1.

4.The trial Court held them guilty of the charges and sentenced them as below:

(i)A-1 , A-2 and A-5 :- For offence under section 489-B IPC, Ten years rigorous imprisonment and fine of Rs.10,000/- In default 6 months simple imprisonment and for the offence under section 489-C IPC, Seven years rigorous imprisonment and fine of Rs.10,000/- in default 6 months simple imprisonment.

(ii)A-3 and A-4 :- For offence under section 489 - B r/w 34 IPC - Ten years rigorous imprisonment and fine of Rs.10,000/- In default 6 months simple imprisonment and for the offence under section 489-C IPC Seven years rigorous imprisonment and fine of Rs.10,000/- in default 6 months simple imprisonment.

5.For the sake of convenience, the appellants are described by their name and ranking assigned by the trial Court.

6.Case of the prosecution:

On 31/03/2009 at about 13.00 hrs, based on a secret information received by PW-1 - Palaniselvam, the Inspector of Police attached to Central Crime Branch, Chennai, he along with his team of Police and his Informant went to the Ramapuram Peepul (Arasamaram) Bus stop and keeping surveillance. At about 13.10 hrs, his Informant identified A-1 (Dinakaran @ Adthiya) who came in a Hero Honda CDZ Motor cycle bearing registration No.TN 07 P 4095. When A-1 was intercepted and enquired about any possession of counterfeit currency, A-1 admitted possession of counterfeit fake currency and handed over 100 notes of 1000 rupees denomination. On verification of the currency, PW-1 found that the serial numbers of the currency found in the upper panel and lower panel differed found in the upper panel and lower panel. Therefore, the fake currency (1000 x 100), the cellphone, Nokia model 2310 and the Motorcycle was seized under mahazar - (Ex P-2).

7.Based on the information given by A-1, his residence at Plot No.70, Kothagiri Nagar Main Road, Kothagiri Nagar,

Ramapuram was searched. From the suitcase concealed in the kitchen loft 328 notes of 1000 rupees denomination, 1261 notes of 500 rupees denomination and 3 notes of 100 rupees denomination and a house lease deed document were recovered under mahazar Ex P-5. Further, in his confession, A-1 informed that about 2 months prior to that day, he purchased fake currency of face value 13 lakhs from one Thiyagarajan (A-5) for rupees one lakh. From out of it, he sold Rs.80,000/- face value of fake currency to Kothandarao (A-2) of Padalam after getting Rs.20,000/- from him.

8. Based on the said information given by A-1, PW-1 and his team along with A-1 went to No.7, K.M.Garden, Pattalam, which is the residence of A-2. The search resulted in recovery of 100 notes of 1000 rupees denomination, 100 notes of 500 rupees denomination, 2 bundles of light blue colour cutting papers of 50/- rupees note size and two mobile phones. They were seized under mahazar Ex P-9. Based on the information given by A-2, the grocery shop of A-3 at Demolus street, Pattalam was searched. 15 notes of 1000 rupees denomination and 60 notes of 500 rupees denomination kept in a bag concealed in the cash chest was recovered along with a mobile phone under mahazar Ex.P-11.

9. The raiding party proceeded to the house of A-4 at 37, Errukancherri High Road, Vyasarpadi and recovered 32 notes of 500 rupees denomination kept in a brown colour cover inside the bureau. The mobile phone of A-4 was also recovered under the mahazar Ex.P-13. The entire operation of search, seizure and arrest was assisted by PW-3 - Samuel and other Police personnels. PW-5 - Mani was the independent witness who accompanied the raiding party through out.

10. The accused, A-1 to A-4 were arrested and remanded to judicial custody on 01.04.2009. The 5th accused was absconding for some time. Later, surrendered to Police on 22/09/2010. He was taken to Police custody for interrogation. He disclosed information about one Karna of Batlagundu who supplied him the counterfeit currency. Which he delivered to A-1 near Ambika Empire Hotel, Chennai two months prior to the raiding operation.

11. The seized counterfeit currency were produced before the Court on 28/07/2009 under Form 95. Through Court, samples drawn from each lot were forwarded for examination by the State Forensic Laboratory. The Scientific Expert - PW-4 after examination of the notes, gave his opinion with reasoning that the notes are counterfeit notes.

12.The learned counsel appearing for each of the accused/appellants would point the fault in the finding of the trial Court as below:-

(i)PW-1 who is the complainant in this case is also the Investigation Officer. According to PW-1, he went to the first spot at Ramapuram Banyan tree Bus Stand along with his team at about 13.00 hrs. The seizure and arrest of A-1 to A-4 went till past midnight. He came to the Police Station and registered the FIR (Ex.P-1) on 01/04/2009 at about 01/30 hrs. From 31/03/2009, till he handed over the further investigation to PW-6 on 30/06/2009. PW-1 conducting the investigation. This is against the dicta of the Supreme Court rendered in Megha Singh - vs- State of Haryana (1996 (11) SCC 709).

(ii)The counterfeit currency were allegedly seized from A-1 to A-4 from various places on 31/03/2009. However, the seized articles were not sent to the Court forthwith. The currency reached the Court only on 28/07/2009. The annexures containing the serial numbers and details of the currency alleged to have seized from the accused persons also did not reach the Court immediately along with Form 95. Only few notes from the lot, has been sent for lab test. That too, at the State Forensic laboratory instead of, sending to the Nasik. The failure of the prosecution to forward the entire lot of currency seized to Nasik is fatal to the case of the prosecution.

(iii)The case of the prosecution is that, A-1 was identified by the Informant. A-2 was identified by A-1. A-3 and A-4 were identified by A-2. The last accused, A-5 was absconding for some months and later, he himself surrendered on 22/09/2010. No incriminating materials recovered from A-5. The prosecution has not marked any statement of the co- accused in the nature of confession leading to discovery of any incriminating facts against A-5.

(iv)The prosecution has failed to forward Form-95 and the details of currency notes seized from A-4. The list of currency numbers and other details claimed to be annexure, not produced to the Court.

(v)The prosecution has failed to produce evidence to show A-3 is the owner of Mugambigai Stores and the currency were recovered from the cash chest when A-3 was present. PW-1 and PW-5 have not only contradicted about the place of recovery from A-

3 they also contradicted about the nature of denomination of currency alleged to have recovered from A-3.

13. The quantum of counterfeit currency alleged to have been recovered from the premises of A-2 and the alleged confession statement of A-1 does not corroborates each other. At one place, A-1 has informed in his confession statement, that earlier, he gave money to A-2 for doubling, however, he cheated him and absconded. Whereas, it is the case of the prosecution that A-1 gave counterfeit currency to A-2 for circulation.

(vi) The presence of PW-5 during the raid is highly doubtful. Though the recovery of counterfeit currency has alleged to have done at five different places, not even a single resident of the locality has been called to stand as witness. The said search and seizure in violation of Section 100 Cr.P.C., renders the alleged seizures doubtful.

(vii) The contention of PW-1 that in the TATA Spacio Gold more than 12 persons went from one place to another on 31/03/2009 to conduct raid is highly unbelievable.

14. Per contra, the Learned Government Advocate (crl.side) appearing for the respondent State would submit that, based on the information and identification of A-1, huge quantity of counterfeit currency of 1000 rupees, 500 rupees and 100 rupees denomination were recovered from the possession of A-1 to A-4. On interrogation, A-1 disclosed the fact that the supplier of the counterfeit currency was one Thiyagarajan (A-5) of Pudukottai.

(i) PW-1 who received the information along with his team of Police proceeded to the spot after getting permission from his superior officer. It was a chain of raid leading to huge haul of counterfeit currency to a tune of Rs.12,19,800/- concealed at various places by A-1 to A-4. Thereafter, PW-1 came to the station and registered the FIR and remanded the accused. The recovery mahazars drawn at the spot were sent to the Court immediately though the Form - 95 containing the details of currency numbers were sent later. the reason for delay has been explained by the Investigating Officer. Due to vacancy of the Presiding Officer of the Court concern, the incharge Judge did not receive the material objects.

(ii) PW-1 who received information of illegal transit of counterfeit currency, rushed to the spot to apprehend the

accused, since, the information furnished by the accused led to further search and seizure at different places, he proceeded with the raiding team and on completion of raid, registered the FIR. In the said circumstances, the FIR happened to be registered on 01/04/2009 at about 1.30 hrs. Thereafter, the investigation of the case was conducted by PW-6. Therefore, the dictum held by the Hon'ble Supreme Court in Megha Singh case (cited supra) relied by the defence does not apply to the facts of the present case.

(iii) The sample notes drawn from the seized counterfeit currency were sent for lab test through the Court. The State Forensic Lab is competent to conduct the test and PW-6 in his evidence has clearly deposed that, as per the Government Order of the year 2004, the State Forensic Labs are authorised to conduct test on currency and give reports. Even possession of single currency knowing it to be counterfeit is an offence. Therefore, it is needless to send all the notes for lab test.

(iv) Further, in this case, the counterfeit currency of 1000 rupees denomination recovered from A-1 to A-3, the serial number in the top panel and the serial number in the lower panel differ. In the top panel, it is 6 digit number, whereas, in the lower panel it is 7 digit number. Obviously, this proves the counterfeit. Further, many of the notes recovered from A-1 to A-4 at different place carry same serial numbers. The confession of the accused persons proves their mens rea and no evidence to prove their innocence provided by the accused.

(v) Relying upon the recent judgement of this Court in Karthick @ Kartheeswaran -vs- State reported in (2019 (1) LW (crl) 561), the Learned Government Advocate (crl.side) submitted that, the accused having in possession of huge quantity of counterfeit notes and failed to provide reasonable explanation, leads to presumption of their guilt that they all possessed counterfeit notes knowingly to use it as genuine.

(vi) Though, some of the relevant and admissible portion of the confession statement of A-1 implicating A-5 not marked during trial, his guilt of supplying the counterfeit notes is proved through the statement of A-1 who has confessed that, he purchased 13 lakhs face value of counterfeit notes from A-5 two months prior to the seizure and the dealing was completed in a hotel at Chennai. The confession which is inculpatory in nature and the admission of A-5 that he procured the counterfeit notes from one Karna of Batlagundu, proves the guilt of A-5 in the scheme of illegal trade of counterfeit note.

15. Heard the learned counsel appearing for each of the appellant in these Criminal Appeals and the learned Government Advocate (crl.side) appearing for the State.

16. The prime attack on the prosecution case by the appellants/ accused is that PW-1 who registered the case has investigated the case, hence, the possibility of embellishment cannot be ruled out. Further, the delay in forwarding the material objects to the Court is fatal to the prosecution case. Except the recovery mahazars, which is witnessed by one and the same person - PW-5, no other evidence produced by the prosecution that huge quantity of counterfeit currency was seized from A-1 to A-4 during the alleged raid conducted between 13.00 hrs to 23.30 hrs on 31/03/2009 at different parts of Chennai . The investigation was taken over by PW-6 after the case was transferred from CCB to CBCID on 30/06/2009. Till then, the case was admittedly investigated only by PW-1. Therefore, the dicta laid down by the Hon'ble Supreme Court in Megha Singh case (cited supra) applies to the case in hand.

17. The next point of contention is that, the seized counterfeit currency were not forwarded immediately after seizure and not all the currency seized were sent for analysis. When PW-5 has deposed that the details like denomination and numbers of the seized notes were prepared on the spot of recovery, the document containing those details were not forwarded to the Court immediately. The recovery mahazars marked as Exs.P-2, P-5, P-9, P-11 and P-13 does not contain the details of currency numbers. Form - 95 and the annexures sent along with the seized articles does not carry the date of its preparation. It has reached the Court after delay of 4 months. In the said circumstances, the failure of the prosecution forwarding all the currency seized gains significance.

18. As far as 5th accused who is the appellant in CrI.A.No.26/2015, the learned counsel appearing for the 5th accused/appellant in CrI.A.No.26 of 2015 would submit that, admittedly there was no recovery of counterfeit currency from the possession of A-5. The portion of confession marked as Exs.P-3 and P-4 does not implicate A-5. While so, the conviction of A-5 for the offences under sections 489-B and 489-C I.P.C without evidence is bad.

19. In this connection, it is pertinent to record that the issue, 'whether registration of case and investigation of the case by one and the same Police Officer will ipso facto vitiate

the trial was considered by the Supreme Court in subsequent judgements and the 'march of law' on this point, is under:-

(i) In State rep. By Inspector of Police, Vigilance and Anti-corruption, Tiruchirapalli, Tamil Nadu v. Jayapaul, (2004(5) SCC 233) the Hon'ble Supreme Court has observed as follows:-

"6.....We find no principle or binding authority to hold that the moment the competent police officer, on the basis of information received, makes out an FIR incorporating his name as the informant, he forfeits his right to investigate. If at all, such investigation could only be assailed on the ground of bias or real likelihood of bias on the part of the investigating officer. The question of bias would depend on the facts and circumstances of each case and it is not proper to lay down a broad and unqualified proposition, in the manner in which it has been done by the High Court, that whenever a police officer proceeds to investigate after registering the FIR on his own, the investigation would necessarily be unfair or biased."

(ii) Later, in Mohan Lal v. State of Punjab (2018 SCC Online SC 974), the Hon'ble Supreme Court has held as follows:-

"In view of the conflicting opinions expressed by different two Judge Benches of this Court, the importance of a fair investigation from the point of view of an accused as a guaranteed constitutional right under Article 21 of the Constitution of India, it is considered necessary that the law in this regard be laid down with certainty. To leave the matter for being determined on the individual facts of a case, may not only lead to a possible abuse of powers, but more importantly will leave the police, the accused, the lawyer and the courts in a state of uncertainty and confusion which has to be avoided. It is therefore held that a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and the investigator must not be the same person. Justice must not only be

done, but must appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof."

(iii) In Varinder Kumar vs. State of Himachel Pradesh (2019 (3) SCALE 50), the Hon'ble Supreme Court has held as follows:-

"The criminal justice delivery system cannot be allowed to veer exclusively to the benefit of the offender making it unidirectional exercise. A proper administration of the criminal justice delivery system therefore requires balancing the rights of the accused and the prosecution, so that the law laid down in Mohan Lal vs. State of Punjab (AIR 2018 SC 3853) is not allowed to become a spring board for acquittal in prosecutions prior to the same, irrespective of all other considerations. We therefore hold that all pending criminal prosecutions, trials and appeals prior to the law laid down in Mohan Lal (supra) shall continue to be governed by the individual facts of the case."

20. As far the facts of this case is concerned, the sequence of events as proved by the prosecution witnesses establishes that the trail of seizures and arrest were the consequence of arrest of A-1 and the information given by him leading to the arrest of other accused and recovery. The action was on the same day and of the same transaction. Actually, the Informant in this case, is an undisclosed person. PW-1 has acted based on the information given by that undisclosed person and further action of PW-1 was based on the information given by the accused A1 and A2. The substantial part of investigation has been done only by PW-6 who was entrusted to investigate the case after the transfer of investigation from CCB to CBCID. In the said circumstances, the dicta laid down by the Hon'ble Supreme Court in Megha Singh case (cited supra) and the fear of occasion to suspect fair and impartial investigation expressed in the said case does not arise.

21. The recovery mahazars and the material objects recovered pursuant to the raid operation, prosecution has proved the recovery of rupees one lakh (100 numbers of 1000 rupees) counterfeit currency from the possession of A-1 at Ramapuram,

Banian Tree Bus stand. Based on the information given by A-1, further sum of Rs.9,58,800/- (Nine lakhs fifty eight thousand eight hundred rupees) counterfeit currency of 328 numbers of 1000 rupees note, 1261 numbers of 500 rupees note and 3 numbers of 100 rupees note were recovered from the place of A-1 residence, kept in a brown colour brief case. On the information given by A-1, from the residence of A-2, 100 numbers of 1000 rupees notes and 100 numbers of 500 rupees notes were recovered. 50 numbers of blue colour blank cut papers of 50 rupees note size was also recovered. The team has proceeded to A-3 shop at Demelos road. From the cash chest of the shop, in a bag 15 numbers of 1000 rupees note and 60 numbers of 500 rupees note were recovered. The recovery of these counterfeit currencies is cogently spoken by PW-1, PW-3 and PW-5. There is no reason to suspect the reliability of these witnesses.

22. Considering the gravity of the offence, PW-1 has taken swift action on the information received. He has conducted search and seizure one after other without giving scope for screening the counterfeit currency. From all the four accused who were arrested on 31/03/2009, beside counterfeit currency, mobile phones were also seized. From the records, this Court finds that the Investigating Officer has collected call details emanated from these mobile phones but, for reasons best known, the same not been marked.

23. On perusal of the annexures to Form - 95 containing the serial numbers found in the currency seized from the accused, one salient feature in the notes of 1000 rupees denomination, we find that, in top panel, 6 digit number is found. Whereas, in the bottom panel, we find 7 digit number. Such kind of 1000 rupees currency were seized from A-1 to A-3. This fact beside the Expert opinion about the nature of the note speaks for itself that these accused were in possession of counterfeit currency with intention to use it as genuine with knowledge, it is fake.

24. The observation of the Hon'ble Supreme Court in Megha Singh case (cited supra) reads as under:-

"We have also noted another disturbing feature in this case. PW-3, Siri Chand, head Constable arrested the accused and on search being conducted by him a pistol and the cartridges were recovered from the accused. It was on his complaint a formal first

information report was lodged and the case was initiated. He being complainant should not have proceeded with the investigation of the case. But it appears to us that he was not only the complainant in the case but he carried on with the investigation and examined witnesses under Section 161, Cr.P.C. Such practice, to say the least, should not be resorted to so that there may not be any occasion to suspect fair and impartial investigation."

25.The charge against the accused are for offence under Sections 489-B and 489-C I.P.C. The same read as follows:-

"[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 ¹⁵²[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.]"

26.From the deposition of P.Ws.1, 3 and 5, we find that M.Os.1, 5 and 6 which are counterfeit currency of 1000 rupees, 500 rupees and 100 rupees denominations were seized from A.1. The seizure of counterfeit currency from A.1 is supported by Exs.P.2 and P.5 mahazar drawn at the spot. Though Form - 95 and annexure of currency details have been forwarded in all the cases belatedly, the fact that counterfeit currency were seized has been reported to the Court through the mahazar which was

submitted along with the accused during their remand on 01.04.2009. The recovery of 100 numbers of 1000 rupees counterfeit currency and 100 numbers of 500 rupees counterfeit currency from A.2, (M.Os.9 and 10) is proved through the recovery mahazar Ex.P.9. Similarly, the recovery of 15 numbers 1000 rupees counterfeit currency and 60 numbers 500 rupees counterfeit currency from A.3, (M.Os.14 & 15) is proved through the recovery mahazar - Ex.P.11.

27.As far as A.4 is concerned, the prosecution witness PW.1 admits in his chief itself that the list of currency recovery from A.4 is not found in the case file. The 32 numbers of 500 rupees counterfeit currency alleged to have been recovered from possession of A.4 under mahazar Ex.P.23 does not disclose the details of currency so recovered. The perusal of Ex.P.23 recovery mahazar, P.W.1 has mentioned that the currency numbers are enclosed in separate sheet. But, there is no such enclosure along with the mahazar. Further, the sample currencies which were drawn and sent for analysis to the Laboratory and opinion which has been given by the State Forensic Laboratory which is marked as Ex.P.14, there is no indication from the report that the sample notes drawn from the currency seized from A.4 was forwarded for examination. In the report, the Scientific Examiner Velusami - P.W.4 has classified the notes subjected for test based on the denomination. According to the prosecution, from A.4, 32 numbers of 500 rupees notes were recovered out of which, five notes were forwarded for analysis.

28.The learned Government Advocate (crl.side) would submit that Item Nos.64 to 68 mentioned in the analysis report Ex.P.14 is the currency which was seized from A.4. One to correlate 'whether this currency which is mentioned as under Item Nos.64 to 68 about the numbers 5GE 875378; 5GE 875360; 5GE 875371; 5GE 875359 and 5GE 875355 were actually seized from A.4 possession, the prosecution has not placed any evidence. More particularly, when Form-95 and the annexures of currency details in respect of the other accused persons, A.1 to A.3 who were found in possession of 1000 rupees counterfeit currency as well as 500 rupees counterfeit currency is produced and the discrepancy in the top panel numbers and the bottom panel numbers itself sufficient to prove its counterfeit nature.

29.Thus, the prosecution has proved the possession of counterfeit currency by A.1, A.2 and A.3 through documents as well as evidence. Whereas, A.4 is concerned, the alleged recovery of 32 number of 500 counterfeit currency from him is not supported by any corroborative evidence. The mahazar does

not contain the list of currency and the currency which was subjected to scientific test does not indicate it was the currency seized from A-4. There is no proof to hold that the currency alleged to have been seized from A.4 was sent for analysis through the laboratory and that was found to be counterfeit currency. So as far as A.4 is concerned, the finding of the Court below holding him guilty is not correct.

30.As far as A.5 is concerned, the specific case of the prosecution is that, the counterfeit currency which was recovered from A.1 to A.4 was sold by A.5 to A.1 for Rs.1,00,000/-. It is the specific case of the prosecution that two months earlier to the seizure, A.5 sold 13 lakhs of counterfeit currency of different denominations to A.1. As far as A.1 in his confession statement, has implicated A.5, as the source of the supply. A.5 was shown as absconding accused and later taken into custody when he surrendered. Admittedly, no counterfeit currency was recovered from his possession. While 489-C of I.P.C., specifically intend to punish person 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. Even if the entire case of the prosecution against A.5 presumed to be proved, A.5 cannot be prosecuted under Section 489-C I.P.C., since he had not been in possession of any forged or counterfeit currency.

31.As far as Section 489-B of I.P.C., is concerned, it relates to persons 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. To attract this section, the prosecution should have proved that A.5 has sold any counterfeit currency to A.1. Exept the confession of A.1, there is no other material to substantiate this charge. Though in the confession statement, A.1 has disclosed certain informations about A.5, there is no evidence to show that those informations are true. In fact, the marked portions of A.1 confession does not whisper anything about A.5. Therefore, for that reason, A.5 is entitled for acquittal since, the prosecution has failed to prove the guilt of A.5 for offence under Section 489-B or 489-C I.P.C.

32.As far as A.1, A.2, and A.3 are concerned, since, the recovery of counterfeit currency from them and the analysis report indicates that they had in possession of counterfeit currency, there is no contra evidence to show that the

possession of counterfeit currency by them was not within their knowledge. The admission portion of the confession statements and the recovery of the counterfeit note attracts the provisions of Sections 489-B and 489-C I.P.C. A.1 has bought the counterfeit currency sold it to A.2 and in turn, A.2 has sold it to A.3.

33.As far as A.1, A.2 and A.3 are concerned, the prosecution has proved the case beyond reasonable doubt that counterfeit currency face value of Rs.10,58,800/- recovered from A.1, counterfeit currency face value of 1,50,000/- recovered from A.2 and counterfeit currency face value of Rs.45,000/- has been recovered from A.3. Since, the recovery of Rs.16,000/- face value of counterfeit currency from A.4 is not substantiated through adequate evidence, he is entitle for acquittal.

34.The prosecution has proved that the counterfeit currency recovered from A.2 and A.3 were sold by A.1. He has received genuine currency of Rs.20,000/- from A.2 and given counterfeit currency to A-2 for circulation. A-2 in turn has given 15 numbers of 1000 rupees counterfeit notes and 60 numbers of 500 rupees counterfeit currency to A.3 which was kept by A.3 in his shop, to use it as genuine. Thus, the ingredient of offence under Section 489-B and 489-C I.P.C., are made out against A.1 to A.3.

35.In the result, the criminal appeals preferred by A.1-Dhinakaran @ Aditya; A.2-P.S.N.Kothanda Rao and A.3-M.Ramar (Crl.A.Nos.25, 36 and 20 of 2015 respectively) are dismissed. The conviction and sentence passed against them by the trial Court are confirmed. The trial Court is directed to secure the presence of A.1 to A.3 to undergo the remaining period of sentence.

(i)The Criminal Appeals preferred by A.4-S.Pitchaikani Raja and A.5-Thiyagu @ Thiyagarajan (Crl.A.Nos.52 & 26 of 2015 respectively) are allowed. The conviction and sentence passed by the trial Court against them are set aside. A.4 and A.5 are set at liberty unless their presence is required in connection with any other case. Bail bonds, if any, shall stand cancelled. Fine amount paid, if any, shall be refunded to them.

(ii)As far as M.Os.1 to 21 are concerned, the counterfeit currency which are marked as M.Os.1, 4,5,6,9,10,14,15 and 18 are to be handed over to the Reserve Bank of India for destruction.

(iii)M.Os.2,3,7,8,12,16 & 19 shall be confiscated by the State. M.Os.11,13,17 and 20 shall be ordered to be destructed. M.O.21 police vehicle has to be returned back to the respondent Police.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

jbm

To

1.The Inspector of Police
CBCID, Prevention of Counterfeit
Currency Investigation Division,
Chennai - 32

2.The 1st Additional Sessions Judge,
Tiruvallur.

3.The Public Prosecutor,
High Court, Chennai.

4.The Criminal Section,
High Court, Madras.

+1 cc to Mr.K.Kannan, Advocate, S.R.No.41776

+1 cc to Mr.S.Ashok Kumar, Advocate, S.R.No.42446

+3 ccs to M/s.L.Margaret, Advocate, S.R.No.42426

+1 cc to M/s.K.Shankar, Advocate, S.R.No.42180

Cr1.A.Nos.20,25,26, 36 & 52 of 2015

RR(CO)
SSM(28/06/2019).

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