IN THE HIGH COURT AT CALCUTTA

Criminal Application

<u>Appellate Side</u>

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

CRA 93 of 2021
With
CRA 122 of 2021

Sahidujjaman Sarkar @ Sahid,
Rafikul Sk @ Hafij

Versus

The State of West Bengal

For the appellant in CRA 93 of 2021:

: Mr. Shahjahan Hossain, Adv.

: Ms. Sanjida Sultana, Adv.

For the appellant in CRA 122 of 2021:

: Mr. Aniket Mitra, Adv.

For the State : Mr. Neguive Ahmed, ld. APP.

: Ms. Trina Mitra, Adv.

: Ms. Ayantika Ray, Adv.

Hearing concluded on : January 05, 2023

Judgment on : February 01, 2023

Md. Shabbar Rashidi, J.:

1. Both the appeals are directed against the judgment of conviction dated 12.01.2021 and order of sentence dated 19.01.2021 passed by learned Chief Judge, City Sessions Court, Calcutta in Sessions Trial No. 01(05)/2017 arising out of Sessions Case No. 11 of 2017 convicting the appellants under section 489(B) /489(C)/120(B) of the Indian Penal Code.

2. The fact of the case, in a nutshell, is that on 04.10.2016, the de facto complainant, a sub-inspector of police in Special Task Force, Kolkata received a source information to the effect that two Murshidabad based fake currency racketeers were going to move to Mumbai via Kolkata with huge amount of fake Indian Currency note. The source information also revealed that they were to meet their associates at around the crossing of M.G. Road and Rabindra Sarani. The information was conveyed to the superior officers of STF, Kolkata and a team to work out the information was formed consisting of the personnel of Special Task Force, Kolkata including the de facto complainant. The team proceeded to the area indicated in the information with investigation kit. They were keeping watch around since 12.45 hours.

3. At about 13.10 hours, a chaos came to the notice of the raiding party from a belt shop situated at 146/1 MG Road, P.S. Barabazar, Kolkata-700007. The raiding team along with the de facto complainant rushed to the shop. Incidentally, thereafter, the source identified the two persons engaged in the altercation at belt shop, one of whom was carrying one black and green coloured bag and another carrying one black coloured bag to be the racketeers whom the raiding team was looking for. Thereafter, the said persons were cordoned and the raiding team disclosed their identity. On enquiry, one Monohar Chawdhury disclosing himself to be the shop keeper of the said shop and informed the de facto complainant that on the said date i.e. 04.10.2016 at about 12.50/ 12.55 hours, the two detained persons came to his shop and asked for belts. The person carrying black and green bag chose a belt valued at Rs. 450/- and the second one, carrying the black bag, chose a belt valued at Rs. 420/-. In order to make payment, both of them separately tendered currency notes of the denomination of Rs. 1000/- which were found to be counterfeit notes in usual checking. The shop keeper returned the notes and asked for genuine notes but the two purchasers insisted on receiving the note already tendered by them for which a chaos ensued.

4. The person carrying the black-green coloured bag disclosed his name as Sahidujjaman Sarkar @ Sahid and the other person carrying black coloured bag disclosed his identity as Rafikul Sekh @ Hafij.

5. Thereafter, the raiding team requested the persons gathered there to be witness to search and seize whereupon the shop keeper Manohar Chowdhury and one Saqlan Khan agreed to be witnesses. After that the de facto complainant offered himself to be searched by the detainees, which was refused.

6. Thereafter, search was conducted on the person of the detainee Shaiduzzaman Sarkar and his black-green coloured bag also. On search, the said bag was found to contain a polythene carry-bag containing two bundles of Indian currency notes of the denomination of Rs. 1000/- containing hundred pieces and ninety-nine pieces each and were found to be high quality counterfeit notes. One piece of one thousand rupees Indian currency high quality counterfeit note was recovered on search of the person of the said Sahidujjaman Sarkar. The said one piece of one thousand rupees fake Indian currency note was recovered from the chest pocket of the shirt of the detainee which was tendered to the shopkeeper. Besides that, one mobile phone, one black money purse, e-ticket containing particular PNR number, Voter Identity Card and Rs. 1060/- of G.C. notes were also recovered from him. A total of two hundred pieces of Indian Currency notes of Rs. 1000/- denomination appearing to be high quality counterfeit notes with a total value of Rs. 2 lac along with other articles were seized from the possession of Sahidujjaman Sarkar under a seizure list prepared on that day i.e. 04.06.2016. The seized articles were packed, sealed and labelled at the spot maintaining all the legal formalities.

7. It was further disclosed in the written complaint that the detainee Rafikul Sk @ Hafij and his bag were also searched. His bag was found to contain a black polythene carry-bag containing two bundles of currency note, Rs.1000/- denomination of each one bag contained 100 pieces and the other bag contained ninety nine pieces of notes. All the said currency notes appeared to be high quality counterfeit note. One piece of Indian currency note of one thousand rupees denomination was recovered from the chest pocket of the shirt of the said detainee which he had tendered to the shopkeeper. Besides, Rs. 1020/- of G.C. notes were also recovered from the left trouser pocket of Rafikul Sk @ Hafij. The said articles were also seized under a seizure list prepared on 04.10.2016.

8. It was further disclosed in the written complaint that Sahidujjaman Sarkar @ Sahid and Rafikul Sk @ Hafij had entered into a criminal conspiracy with other racketeers of fake Indian currency notes. They were carrying huge amount of fake Indian currency notes and knowing the same to be forged used the same as genuine and were carrying the same for the purpose of trafficking or smuggling or circulation with an intention to use or cause to be used the same as genuine.

9. On the basis of such written complaint, Special Task Force Police Station Case No. 12 dated 04.10.2016 under Sections 120B/ 489B/489C of the Indian Penal Code was started against the two appellants.

10. The police took up investigation and on completion of investigation submitted charge-sheet under Unlawful Activities (Prevention) Act, 1967, under the aforesaid sections of the Indian Penal Code together with Section 16B/17/18. Accordingly, on the basis of materials in the C.D. charges under Section 489B/489C/120B of the Indian Penal Code together with sections 16B/17/18 of Unlawful Activities (Prevention) Act, 1967 were framed to which the appellants pleaded not guilty and claimed to be tried.

11. In order to substantiate the charges, the prosecution examined as many as seven witnesses. In addition, prosecution also relied upon certain documentary and material evidences.

12. On completion of evidence adduced on behalf of the prosecution, the appellants were examined under Section 313 of the Code of Criminal Procedure. The appellants were called upon to explain the circumstances leading to their guilt as affidavit from the evidence adduced on behalf of the prosecution. The appellants pleaded innocence. No positive explanation was advanced on behalf of the appellants in their examination under Section 313 Cr. PC. The appellants also declined to adduce any advanced witness.

13. In consideration of the evidence on record as well as examination of the accused under section 313 of the Code of Criminal Procedure, learned Trial Court, by the impugned judgment of conviction and order of sentence found the two appellants guilty for the offence punishable under Sections 120B/489B/489C of the Indian Penal Code and convicted them. They were, however, found not guilty of committing an offence under Section 16B/17/18 of the Unlawful Activities

Act. The two appellants were sentenced to suffer simple imprisonment for ten years each and an fine of Rs. 10000/- and in default of payment of fine to undergo simple imprisonment for a further period of three months for offence punishable under Section 489B of the Indian Penal Code. The two appellants were also sentenced to undergo simple imprisonment for seven years each and to fine of Rs. 8000/- and in default of payment of fine simple imprisonment for another two months for the offence punishable under Section 489C of the Indian Penal Code. The two appellants were also sentenced to undergo simple imprisonment for seven years and a fine of Rs. 8,000/- and in default of payment of fine to undergo simple imprisonment for further period of two months for the offence punishable under Section 120B of the Indian Penal Code. All the substantive sentences were directed to run concurrently.

14. It is this judgment of conviction and order of sentence which has been challenged by the appellants in the two present appeals.

15. The de-facto complainant himself deposed as PW1. In his deposition, he has supported the case of prosecution as made out in the written complaint. He has stated that on the basis of a source inputs regarding trafficking of fake currency, PW1, after informing his superiors and on getting the permission of raid and formation of raiding team, left for the crossing of M.G. Road and Rabindra Sarani. The movement was duly diarised. PW1 proved the said GDE No. 76 dated 04.10.2016 (Ext.1).

16. The raiding party reached the spot at around 12.30 hrs and started maintaining watch for the suspect. At around 13.10 hrs they witnessed a chaos near a belt shop at 146 M.G. Road and the source identified two persons as the racketeers of fake Indian currency notes (FICN), one of whom was carrying black & green colour bag whereas the other person was with a black bag. The two persons were cordoned.

17. PW1 further stated that the owner of the belt shop Manohar Chowdhury reported that the two persons came to purchase belts from his shop and chose belts. In order to pay the price of the belts the two persons tendered whereas the other person was with a black bag. The two persons were cordoned.

18. PW1 further stated that the owner of the belt shop Manohar Chowdhury reported that the two persons came to purchase belts from his shop and chose belts. In order to pay the price of the belts the two persons tendered currency notes of Rs. 1000/- denomination, each. The owner of the shop suspected the notes and returned the same asking them to tender genuine notes for which a chaos broke.

19. On query, the person carrying the black & green bag, disclosed his identity as Sahidujjaman Sarkar@ Sahid of Murshidabad whereas, the person with blck colour bag disclosed his identity as Rofikul Sk @ Hafiz.

20. It was further stated that maintaining all legal formalities, PW1 asked for independent witnesses whereupon, the shop owner Manohar Chowdhury and one Saqlain Khan volunteered. In presence of the independent witnesses, search of the person and the bags of the two detained persons were conducted. The green & black colour bag of Sahidujjaman

Sarkar@ Sahid was found to contain a polythene carry bag containing two bundles of currency notes of the denomination of ₹1000/- each bundle containing 100 pieces and 99 pieces respectively. One piece of ₹1000/- note was recovered from the chest pocket of said detainee. Besides, one black coloured Micromax mobile with two SIM cards and an IRCTC e-Ticket showing the journey of two persons namely Sahidujjaman Sarkar@ Sahid and Rofikul Sk @ Hafiz from Shalimar station to Lokmanya Tilak, a black colour purse containing the voter's Identity card of Sahidujjaman Sarkar@ Sahid and a cash of ₹ 1060/- were also recovered. The aforesaid articles were seized by PW1 under a seizure list prepared in his pen and signature. The seized articles were also sealed and labelled bearing the signature of PW1. It also contained the signature of the witnesses Manohar Chowdhury and Saqlain Khan and that of the accused persons. PW1 proved the seizure list and signatures thereon (Ext. 2 and 2/1 collectively)

21. PW 1 also identified the seized currency notes (MAT Exbt. I collectively and MAT Exbt. 2 collectively). He signed on the first and last note of the bundle and identified the signature (MAT Exbt. I/I and I/II, II/I and II/I respectively). Lone piece of Rs. 1000/- currency note recovered from the pocket of Sahidujjaman Sarkar was identified by PW1 (MAT Exbt. III and signature thereon as MAT Exbt. III/I). The signature on the label attached to the said currency note was identified as MAT Exbt. III/II. PW1 also identified the black polythene (MAT Exbt. IV/I). PW1 further identified his signature on the label attached to a sealed packet (MAT Exbt. V) and the black and green coloured bag (MAT Exbt. VI). The witness also identified the wearing apparels, mobile phone and his signature on the label attached to articles (MAT Exbt. VI/I, VII, VII/I and VIII respectively).

22. PW 1 also stated in his deposition that after concluding the search upon the accused Sahidujjaman Sarkar, search was conducted upon accused Rafikul Sk @ Hafij. He has testified that besides wearing apparels, two bundles of currency notes of the denomination of Rs. 1000/- each containing hundred pieces and ninety-nine pieces of currency note were recovered from the black coloured bag of accused Rafikul Sk. @ Hafij. One thousand rupee note was recovered from the chest pocket. A black and green coloured bag, mobile phone and Rs. 1020/- currency notes was also recovered from the trouser pocket. The aforesaid articles were seized by PW1 under a seizure list prepared in his pen and signature. He proved the seizure list dated 04.10.2016 (Exbt. 3 collectively). The witnesses also signed on the seizure list which were identified as (Exbt 3/1 collectively and 3/3 collectively).

23. PW 1 also identified the seized articles together i.e. signatures on the label attached to last articles and other articles in the Court (MAT Exbt. IX to MAT Exbt. XXIII respectively). PW1 also proved the written complaint lodged by him (Exbt. 4) and signature of the officer-in-charge of the STF on it (Exbt. 4/1). He has also proved the formal FIR and signature of SI B. Chakraborty on it (Exbt. 5 to 5/ 1 respectively). The accused persons were identified by PW1 in Court.

24. PW1 was extensively cross-examined on behalf of the appellants at the trial, however, nothing favourable could be elicted in such cross-examination.

25. The shop owner and the seizure list witness has deposed as PW2. He has stated that on 04.10.2016 at about 12.45/1.00 p.m., he was at his shop. At that time, two customers purchased two belts from his shop valued at Rs. 450/- and Rs. 420/- respectively. In order to pay, each of them tendered a note of Rs. 1000/- denomination. PW2 suspected the genuineness of the notes and asked the customers to change the same. However, they insisted the same to be genuine. Thereafter, five to six persons arrived from disclosing their identity as a STF personnel. Being asked by such personnel, the two customers disclosed their name as Sahidujjaman Sarkar and Rafikul Sk. Thereafter, the STF personnel has searched the accused persons and recovered two packets of our currency notes from their bags containing 100 pieces and 99 pieces of currency notes of Rs. 1000/- denomination. One note of Rs. 1000/- each was recovered from the pockets of the two persons. The aforesaid currency notes and other articles including the bags of the two customers were seized by STF personnel under seizure list. PW2 signed on the seizure list as well as label attached to the seized articles along with another witness. PW2 identified the aforesaid seized articles in the Court.

26. PW 2 was also cross-examined on behalf of the appellants at length in reference to the manner and nature of seized articles but nothing favourable appears to have been extracted.

27. Another seizure list witness Saqlin Khan was examined as PW3. In his deposition, he has stated that at the relevant date and time i.e. on 04.10.2016 at about 12.30/12.45 p.m., he was at a belt shop situated at 146/1MG Road for purchasing belts. At that time, two persons i.e. appellants arrived there and purchased belts. In order to pay both of them tendered Rs. 1000/- currency notes to the shop owner. The shop owner suspected its genuineness and told PW3 to check the notes. However, the two persons were insisting the notes to be genuine and an altercation followed between the said two purchasers and the shop owner. Thereafter, four persons entered into the shop who disclosed their identity as STF personnel. Thereafter, PW3 justified search and seizure of four hundred numbers of suspected fake currency notes from the person of the two appellants in the denomination of Rs. 1000/-. The suspected fake currency notes were kept in two bundles each in the bags carried by the two persons whereas one currency note is from their pockets which they tendered for the payment of the price of the belts. The aforesaid fake currency notes were seized by the STF personnel along with the bags mobile phone, wearing apparels etc. under proper seizure list. Besides that, some genuine currency notes were also recovered and seized. PW3 signed on the seizure list and proved his signature (Exbt. 2/3 collectively). He further identified the seized currency notes as well as the articles in the Court. He also identified the appellants as the persons from whom the aforesaid articles and currency notes were seized and his signature on the labels attached to such articles together with that on the backside of e-ticket recovered from the appellant. PW3 also signed on the first and last notes in the bundles of fake currency notes recovered from the appellants.

28. One assistant manager of Reserve Bank of India was examined as PW4. He stated that on October 06, 2016, his office received six sealed envelope from the Court of learned CMM, Calcutta through STF personnel. Four hundred rupees of suspected Indian Currency Notes of the denomination of Rs. 1000/- were examined and on such examination it was found to be high quality counterfeit notes. PW4 prepared report in this regard. He has proved the said report along with acknowledgement and Exbt. 6 collectively and his signature on the report Exbt 6/1 collectively. He also proved the list of Exbts. Sent for examination (Exbt. 7 collectively) and his analysis report with his signature (Exbt. 8 and 8/1. PW4 also proved the envelope through which the suspected notes were and his report was sent bearing his signature. He proved the said envelope and his signature on the envelope (Exbt. 9,9/1)

PW 4 also stated that his report (Exbt. 6) mentioned with rubber stamp of FNB sale where affix on random notes as token of its examination. The witness examined such statement on MAT Exbt. I,MAT Exbt. II and MAT Exbt. X in the court. He also identified his signature on MAT Exbt. XII. PW 4 was cross-examined on behalf of the appellants.

29. PW5 was the Commissioner in the Home and Hill Affairs Department, Government of West Bengal and in such capacity issued sanction for prosecuting the two appellants Sahidujjaman Sarkar @ Sahid and Rafikul Sk @ Hafij. He has proved the sanction order dated 03.02.2017 issued in his pen and signature (Exbt. 10/1).

30. PW6 is the Recording Officer. He filled up the formal FIR in connection with the written complaint lodged by sub-inspector Silash Toppo (Exbt. 5) and his signature was on (Exbt 5/2). He also took charge of the alamat and documents seized by SI Silash Toppo and also took over charge of the accused persons. The seized alamats were deposited in the DD Malkhana and the accused persons were sent to Central Lock

Up after their medical examination. On the following day, PW6 produced the accused person in the Court of learned Chief Metropolitan Magistrate, Calcutta with a prayer for remand He also made a prayer for sending the seized alamats to Bharatia Reserve Bank, Salbani. PW6 also visited the place of occurrence, verified the statements of the shop owner Monohor Chowdhury. He also sent the fake currency to Salbani through assistant sub-inspector Asish Guha. He further stated that on 21.10.2016, ASI Asish Guha collected the report and seized fake currency of Salbani. PW6 also identified the accused persons in the Court. Owing to proposed investigation under Unlawful Activities (Prevention Act). PW 6 made over the charge of investigation as per the direction of Deputy Commissioner.

31. The Assistant Commissioner of police criminal intelligence wing, detection department deposed as PW7. He stated that on 22.10.2016, he received the investigation of the case under order from the deputy commissioner STF. Being so endorsed with investigation, PW7 perused the case diary and on 24.10.2016, he submitted a prayer for adding sections 16/17/18 of Unlawful Activities (Prevention) Act, 1967. Ultimately, on completion of investigation, PW7 submitted charge-sheet against the appellants under Sections 120B/489/489C of the Indian Penal Code with a prayer for further investigation. He also moved for obtaining sanction for prosecution under the Prevention of Unlawful Activities (Prevention) Act, 1967. PW7 received the sanction order (Exbt. 10) and on such receipt, he submitted the supplementary charge-sheet under Sections 16/17/18 of the Unlawful Activities (Prevention) Act.

32. Learned advocate for the appellant in CRA No.93 of 2021 has assailed the impugned judgment and order. It has been submitted that the charge framed in the case were defective causing serious prejudice to the appellant. it has also been contended that there are material contradictions in the testimony of the prosecution witnesses, especially in the deposition of PW1 and PW3. It is further submitted that the search and seizure were made in sheer contravention of the provisions of Section 100 of the Code of Criminal Procedure. The same is said to be done in a mechanical manner. Moreover, seizure of e-ticket was not properly proved at the trial. The impugned judgement and order is liable to be set aside on this score. The contradictions in the account of colour of the bags, recovered from the possession of the two appellants, at the trial, has also been cited as material contradiction vitiating the conviction and sentence. The appellant has also come up with a case that PW3 is a stock witness. It has further been submitted that the appellants were convicted and sentenced quite whimsically and arbitrarily, completely ignoring such contradictions in the prosecution evidence.

33. Learned advocate for the appellant has relied upon the decision in the case of **Naba Kumar Das Vs State of West Bengal** reported in **AIR 1974 Supreme Court 777,** where the Hon'ble Apex Court disbelieved the description of stolen articles as 'bangles' instead of 'churis' in the seizure list and consequently, conviction and sentence was set aside. Learned advocate for the appellant also relied upon the case of **Mohan Lal vs. State of Punjab, AIR 2018 Supreme Court 3853**.

34. Learned advocate for the appellant in CRA 122 of 2021 has also challenged the impugned judgment of conviction and order of sentence on similar counts.

35. On the other hand, it is submitted by learned advocate for the State that the police intercepted the appellants on the basis of source information. They were searched and objectionable articles i.e. fake Indian Currency Notes were recovered from their possession in presence of and witnessed by independent witnesses. The search and seizure was made from a public place not only in presence of seizure list witnesses but in presence of public at large. The prosecution has been able to prove with the help of convincing evidence that the currency notes recovered from the possession of the appellants were fake. As such, it was contended on behalf of the State that the appellants were rightly convicted and the impugned judgment and order is well based on convincing incriminating evidence led at the trial and is liable to be upheld.

36. In the instant case it is the case of the prosecution that the appellants were moving with fake Indian currency in their possession. They were not only found in possession of huge amount of fake Indian Currency, but they also attempted to use such currency as genuine by tendering the same for the purchase of belts.

37. PW1 has testified that on October 04, 2016, in pursuance of a source input he moved to the crossing of Rabindra Sarani and Mahatma Gandhi Road. Such exit was duly diarised in the GDE Register maintained for the purpose (Ext.1). Reaching the spot, the source pointed out to PW1 the suspects. Incidentally, there was a chaos encountered by PW1 over the usage of Fake Indian Currency Notes as genuine, at the shop of PW2. A search was conducted on the person and belongings of the appellants and on such search, two bundles each containing 100 pieces and 99 pieces of Fake Indian Currency Notes of the denomination of

Rs.1000/- were found in each of the bags carried by the two appellants. In total, 398 pieces of Rs.1000/- denomination Fake Indian Currency Notes were recovered from the bags carried by the two appellants where two pieces (one each) of Rs. 1000/- denomination Fake Indian Currency Notes, were recovered from the possession of the appellants pockets which they attempted to use for the purchase of belts from the shop of PW2.

38. The appellants having failed to give satisfactory answer for the possession of such Fake Indian Currency Notes, were apprehended. The search was made in presence of many persons including the witnesses to seizure list. The Fake Indian Currency Notes were seized by the police officers of Special Task Force, Kolkata.

39. Besides the Fake Indian Currency Notes, certain other articles identifying the appellants were also seized from their possession. E-ticket for the journey from Shalimar station to Lokmanya Tilak standing in the two appellants Sahidujjamn Sarkar @ Sahid and Rafikul Sk. together with their mobile phones and voter's Identity card were also seized under proper seizure list. The witnesses as well as the two appellants signed on such seizure lists.

40. Although, the appellants at the trial, pleaded innocence and have denied the possession of Fake Indian Currency Notes but from the evidence on record no explanation is forthcoming as to how their signatures were obtained on the seizure list. The signature appearing on the seizure list, as that of the appellants, have not been challenged. Not only that, the seized articles were sealed and labelled at the spot and the labels attached to such articles also bore the signatures of the appellants. Such signatures were identified by PW1 in court. There appears no explanation as to how their signatures appeared on the labels of the seized articles. The appellants have also not offered any account for their signatures appearing on the Fake Indian Currency Notes alleged to be recovered from their possession.

41. On the contrary, recovery of Fake Indian Currency Notes from the possession of the appellants as introduced by PW1 has been duly corroborated by PW2 and PW3 who were witnesses to the seizure lists. PW2 is the person at whose shop the appellants attempted to use the Fake Indian Currency Notes as genuine currency. Both of them have not only testified the proceeding of search and seizure but also identified the seized articles including the Fake Indian Currency Notes. They have identified their signature on the seizure lists as well as the labels attached to such seized articles and also on the Fake Indian Currency Notes recovered from the possession of the appellants. No evidence or explanation, whatsoever, appears to have been advanced on the part of the appellants to justify their claim of PW2 & 3 being partisan or pocket witnesses. As such there appears nothing on record to disbelieve the testimonies of PW1, PW2 and PW3, so far as it relates to the search and seizure of Fake Indian Currency Notes from the possession of the appellants.

42. The seized Fake Indian Currency Notes were sent to Reserve Bank of India Mint at Salboni, for examination and on such examination, through its report Exhibit 6, the same were found to be high quality counterfeit notes. PW4 has also testified that his office received packets of Fake Indian Currency Notes in sealed condition, which obviously, were sealed by PW1 at the time of seizure, so as to exclude the possibility of outside handling of such currency notes. The report and the suspected currency notes were returned by PW4 and he identified his signature on the envelope containing his report as well as the Fake Indian Currency Notes which were randomly marked with rubber stamps in his office. The appellants appear to have failed in make any dent on the credibility of this witness, in his cross examination of PW4. Therefore, the evidence on record sufficiently proves that the appellants were in possession of huge quantity of Indian Currency notes in the denomination of Rs.1000/- which turned out to be high quality counterfeit notes, upon examination. The prosecution has also adequately established that the appellants also attempted to use the said high quality counterfeit notes as genuine currency notes knowing it to be forged currency.

43. The ratio laid down in the case of **Naba Kumar Das (Supra)** does not seem to be applicable in the facts and circumstances of the present case**.** In the aforesaid case there was apparent mistaken description of the seized articles. In the instant case no such discrepancy was pointed out by the defence. Indeed, the colour of the bag recovered from the possession of one of the appellant was described wrongly at the time of deposition of one of the witnesses. The said witness, however, described all other details of search and seizure correctly. It is well settled that minor discrepancies in the testimony of witnesses cannot vitiate the veracity of the case of the prosecution otherwise proved.

44. In the case of **Mohan Lal (Supra)**, the Hon'ble Supreme Court laid down that,

> ***"14. In a criminal prosecution, there is an obligation cast on the investigator not only to be fair, judicious and just during investigation, but also that the investigation on the very face of it must appear to be so, eschewing any conduct or***

impression which may give rise to a real and genuine apprehension in the mind of an accused and not mere fanciful, that the investigation was not fair."

45. In the instant case, however, no such circumstances have been elicited by the defence which tells upon the veracity or otherwise fairness of the investigation. It has been pointed out that since PW1 went on to record some statements at the time of search and seizure, he acted like an Investigating Officer. However, evidence on record shows that the case was investigated by PW7. He has narrated the purport and manner of investigation conducted by him. In that view of the facts, there is nothing to say that the investigation of the case was not fair and proper in the specific circumstances of the present case.

46. As such, there appears nothing on the record to suggest that the impugned judgment of conviction and order of sentenced passed by learned trial court are whimsical or arbitrary and passed in contravention of the principles of natural justice. Rather, the same appears to be well founded based on overwhelming convincing and credible evidence.

47. As such, the impugned judgment of conviction dated January 12, 2021 and order of sentence dated January 19, 2021, passed by Learned Chief Judge City Sessions Court, Calcutta in connection with Sessions Trial No. 01 (05) of 2017 is hereby affirmed.

48. Accordingly, both the appeals being Criminal Appeal No. 93 of 2021 and CRA 122 of 2021 stand dismissed.

49. Period of detention suffered by the appellant during investigation, enquiry and trial shall be set off from the substantive sentence imposed upon the appellant in terms of Section 428 of the Code of Criminal Procedure.

50. Connected applications, if any, shall stand disposed of.

51. Copy of the judgment along with Trial Court Records be sent down to the appropriate court at once for necessary compliance.

52. Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying all necessary legal formalities.

[MD. SHABBAR RASHIDI, J.]

53. I agree.

[DEBANGSU BASAK, J.]