IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.973 of 2022

Arising Out of PS. Case No.-9 Year-2013 Thana- C.B.I CASE District- Patna

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Shri Pawan Kumar Rajak Son of Shri Vishnu Rajak Resident of Kanti Niwas, Sandalpur, P.O.- Mahendru, P.S.- Bahadurpur, District- Patna.

... ... Appellant

Versus

Union of India through CBI Bihar

... ... Respondent

==

with

CRIMINAL APPEAL (SJ) No. 1346 of 2022

Arising Out of PS. Case No.-9 Year-2013 Thana- C.B.I CASE District- Patna

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Aftab Alam @ Md Aftab Alam S/o Md. Naseem @ Md Nasimuddin Presently residing at chik Toli , mangal Talab, Post- Jhauganj, P.S.- Chauk Patna City, District- Patna and permanent resident of Sadar Gali, Bagkalu Khan, P.S.- Khajekala, District- Patna.

... ... Appellant

Versus

The state of Bihar through CBI/ ACB Patna. Bihar

... ... Respondent

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Appearance :
(In CRIMINAL APPEAL (SJ) No. 973 of 2022)

For the Appellant/s	:	Mr. Gouranga Chatterjee, Adv
	:	Mr. Abhinav Shrivastav, Adv
	:	Mr. Nilanjan Chatterjee, Adv
	:	Mr. Sahil Kumar, Adv
For the CBI	:	Mr. Sourendra Pandey, Spl. PP

(In CRIMINAL APPEAL (SJ) No. 1346 of 2022)

For the Appellant/s	:	Mohammad Minnatullah, Adv
For the CBI	:	Mr. Sourendra Pandey, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 18-12-2024

This appeal has been preferred by both appellants/convicts under Section 374(2) of the Code of Criminal Procedure (hereinafter referred to as 'the Code') challenging the judgment of conviction dated 21.02.2022 and order of sentence dated 28.02.2022 passed by learned Special Judge, CBI-1, Patna in Special Case No. 01 of 13 (arising out of R.C. No. 9(A) of 2013), whereby the concerned Trial Court has convicted appellant/convict Pawan Kumar Rajak in Cr. APP (SJ) No. 973 of 2022 for the offences punishable under Section 420, 467, 468, 471 of Indian Penal Code (in short "I.P.C."), Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act 1988 (in short the "P.C. Act") and Section 120B read with Sections 420, 467, 468 and 471 and Section 13(2) read with Section 13(1)(d) of the P.C. Act and appellant/convict Aftab Alam in Cr. APP (SJ) No. 1346 of 2022 for the offences punishable under Section 420 of the IPC and Section 120B of IPC read with Sections 420, 467, 468, 471 and Sections 13(2) read with Section 13(1)(d) of the P.C. Act, where they have been sentenced accordingly:-

Sl.No.	Name of appellant	Under Section	Sentence	Fine	In default of payment of fine.
1.	Pawan Kumar Rajak	420 IPC	R.I. for 5 years	10,000/-	6 months
		467 IPC	R.I. for 7 years	10,000/-	6 months
		468 IPC	R.I. for 5 years	10,000/-	6 months

		471 IPC	R.I. for 7 years	10,000/-	6 months
		13(2) read with 13(1)(d) Prevention of Corruption Act, 1988	R.I. for 3 years	5,000/-	6 months
		120B read with 420, 467, 468 and 471 of the IPC and 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988	R.I. for 7 years	5,000/-	6 months
2.	Aftab Alam @ Md. Aftab Alam	420 IPC	R.I. for 5 years	10,000/-	6 months
		120B of IPC read with 420, 467, 468, 471 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988	R.I. for 7 years	5,000/-	6 months
All aforesaid sentences are ordered to run concurrently.					

2. The case of prosecution in brief is as under :-

This case was registered in CBI, ACB, Patna on 30.04.2013 on the basis of written complaint of Senior Divisional Manager, LIC Patna Division, Office-I Patna, (PW8/informant) against Pawan Kumar Rajak, Assistant LIC, Patna Sahib Branch, Patna City, Patna, Aftab Alam, LIC

Agent, Patna Sahib Branch, Patna and six other accused persons named in the FIR. It has been alleged that Pawan Kumar Rajak (Assistant LIC) entered into criminal conspiracy with Aftab Alam (LIC Agent) and other accused named in the FIR and in pursuance thereof fraudulently debited Policy Loan account of the said branch for defalcating huge amount by using LIC software application and by using its "ADD Pay option" in policy loan payment module as well as preparing forged vouchers and by this way dishonestly and fraudulently withdrew sum of Rs. 82 Lakhs from the Policy Loan Account of LIC, Patna Sahib Branch. Apart from this Pawan Kumar Rajak (Assistant LIC) also removed all the vouchers of all the fraudulent payments. All the fraudulent vouchers were entered into the module by Pawan Kumar Rajak (Assistant LIC) having SR/Employee No. 339411, accessible only by him.

3. On the basis of aforesaid written complaint, CBI registered a case, as Special Case No. 01 of 2013 (R.C. No. 9(A) of 2013) dated 30.04.2013 for the offence punishable under Section 120B read with 201, 420, 467, 468, 471 of the

IPC and also read with Sections 13(2) read with 13(1)(d) of the P.C. Act, whereafter the investigation, the police submitted charge-sheet no. 21 of 2013 under Section 120B read with 201, 420, 467, 468 and 471 of the IPC and Section 13(2) read with Section 13(1)(d) of the P.C. Act.

4. The learned trial court on the basis of materials collected during investigation, framed charges against appellant/convict Pawan Kumar Rajak for the offences under Section 13(2) read with Section 13(1)(d) of the P.C. Act and Section 13(1)(d) of the P.C. Act & against appellant/convict Aftab Alam, for the offences under Sections 201, 420 and 471 of IPC read with Section 467 of the IPC and Section 120B of IPC., which they pleaded "not guilty" and claimed trial.

5. To substantiate its case, the prosecution has examined altogether twenty two witnesses. They are:-

Prosecution Witnesses No(s).	**Names**
P.W. 1	Arvind Kumar Sinha
P.W. 2	Ratan Kumar
P.W. 3	Nuzhat Ara
P.W. 4	Ashutosh Kumar
P.W. 5	Bhudev Malik

P.W. 6	Heera Singh
P.W. 7	Tapas Taran Mukherjee
P.W. 8	P.C. Paikre
P.W. 9	Aditya Mohan Jha
P.W. 10	Someshwar Ram
P.W. 11	P.K. Gupta
P.W. 12	Rajesh Kumar
P.W. 13	Shahid Akhtar
P.W. 14	Prakash Kumar Sinha
P.W. 15	Laxman Sah
P.W. 16	Satish Kumar
P.W. 17	Neena Agarwal
P.W. 18	Raju Saha
P.W. 19	Upendra Prasad
P.W. 20	J.P. Mishra
P.W. 21	Ashok Kumar Jha
P.W. 22	Upendra Kumar Verma

6. Apart from the oral evidence, the prosecution has also relied upon following documents/exhibits in order to prove the charges:-

Exhibit No(s).	**List of documents**
Exhibit-1	Prosecution sanction order alongwith forwarding letter and gazette regulation.
Exhibit-2	Written complaint letter of witness Ratan Kumar along with attachments.
Exhibit-2/1	Written complaint letter of NuzhatAra alongwith attachments.
Exhibit-3	Report along with list prepared by witness Ashutosh Kumar

	regarding fraudulent withdrawals.
Exhibit-4	Password Policy Document of LIC.
Exhibit-5	Order of formation of 2 member investigation team by Shri PC Paikare.
Exhibit-6 to Exhibit-6/47	Loan amount of 48 policies taken out fraudulently.
Exhibit-7 to Exhibit-7/96	Screen printout of 97 vouchers taken out from LIC module.
Exhibit-8	Ceaser memo dated 06.06.2013 of voucher and screen printout.
Exhibit-8/1	Ceaser memo dated 12.06.2013 along with documents.
Exhibit-9	Investigation report of Bhudev Mallick and S.N. Sharma dated 08.08.2012 alongwith its annexure.
Exhibit-9/1	Receipt with signature of PC Paikare on Exhibit 9.
Exhibit-9/2	Investigation report submitted by Heera Singh, PK Gupta, Rajesh Kumar and Upendra Prasad.
Exhibit-10	Approval order of PC Paikre for the formation of a four-member investigation team and the related notesheet.
Exhibit-11	Certificate submitted by Tapas Taran Mukherjee to CBI.
Exhibit-12	Related to the fraud committed by PC Paikre in LIC complaint letter sent to CBI along with attachments.
Exhibit-13	Letter No. 544, dated 22.10.2013 written by Aditya Mohan Jha to CBI, Patna along

	with attachment of status report of some policies.
Exhibit-13/2	Computer Generated Commission Inquiry Report and signature, seal of witness Aditya Mohan Jha on it.
Exhibit-13/3	Application form related to festival advance of Pawan Kumar Rajak.
Exhibit-13/4	Seizure memo of letter related to festival advance dated 18.02.2014.
Exhibit-14	Letter sent by A.M. Jha to CBI to provide information regarding commission of 4 policies.
Exhibit-15	Report related to the investigation conducted by PK Gupta in respect of Pawan Kumar Rajak along with 03 others.
Exhibit-16	Report of investigation conducted by PK Gupta again regarding 09 policies and 03 cheques.
Exhibit-17	Letter dated 08.10.2012 written by Shri Rajesh Kumar to the investigation team (team members Hira Singh, P.K. Gupta, Rajesh Kumar and Upendra Prasad) drawing attention to certain deficiencies in the investigation.
Exhibit-18	Forwarding letter of 14 cheques sent by Shahid Akhtar to CBI.
Exhibit-18/1 to 18/14	Cheque Nos. 638436, 951171, 902407, 901225, 953025, 955302, 941099, 942423, 947092, 630668, 920366, 918726, 889867, 897014

	issued by Life Insurance Corporation of India, Patna Sahib Branch.
Exhibit-19	Letter written by witness Shahid Akhtar to CBI, along with attachments.
Exhibit-19/1	Account opening form related to Aftab Alam along with attachments.
Exhibit-19/2	Statement of account of account number-515366223 of Aftab Alam and Irfat Parveen, total of 72 pages.
Exhibit-19/3 to 19/7	Five Cheques issued and paid in favour of Aftab Alam, cheque Nos- 901750, 897292, 921816, 918921, 900877.
Exhibit-19/8 to 19/18	Eleven cheques issued and paid in favour of Javed Alam cheque numbers- 940312, 948286, 950656, 631760, 983539, 625108, 915553, 918919, 902982, 902414, 954747.
Exhibit-19/19 to 19/26	Eight cheques issued and paid in favour of Shahid Alam-no. 943458, 942709, 950661, 947058, 945717, 624052, 572844, 952860.
Exhibit-20	Letter of Shahid Akhtar under which deposit slip of cheque was forwarded to CBI.
Exhibit-20/1 to 20/10	Deposit slip of 10 cheque numbers- 638436, 630667, 941099, 942423, 947092, 945728, 948974, 951171, 953025, 955302 deposited in the name of Aftab Alam and Irfat Parveen.
Exhibit-21	Production cum seizure memo by

	which Prakash Kumar Sinha, Bihar Avami Co-operative Bank, Patna City Branch gave the documents to Rahul Priyadarshi, CBI.
Exhibit-21/1	Credit Voucher dated 24.02.2011.
Exhibit-21/2	Credit Voucher dated 12.08.2009.
Exhibit-21/3	Credit Voucher dated 16.06.2011.
Exhibit-21/4	Credit Voucher dated 11.03.2011.
Exhibit-21/5	Credit Voucher dated 17.06.2009.
Exhibit-21/6	Credit Voucher dated 16.07.2009.
Exhibit-21/7	Credit Voucher dated 09.11.2009.
Exhibit-21/8	Credit Voucher dated 30.03.2009.
Exhibit-21/9	Credit Voucher dated 25.02.2010.
Exhibit-21/10	Credit Voucher dated 28.07.2011.
Exhibit-22	Letter dated 30.08.2013 forwarding of account opening form, statement of account to CBI inspector in respect of SBI Account No. 221 & 2543.
Exhibit-22/1	Account opening form of Account No. 221 of Md. Aftab Alam and Javed Alam along with its annexures.
Exhibit-22/2	Account opening form of Account No. 2543 of Aftab Alam and Shahid Alam along with its annexures.

Exhibit-22/3	Statement of SBI Account No. 221 in the name of Aftab Alam and Javed Alam in seven pages.
Exhibit-22/4	Statement of SBI Account No. 221 in the name of Aftab Alam and Javed Alam in three pages.
Exhibit-22/5	Statement of SBI Account No.2543 in the name of Aftab Alam and Shahid Alam.
Exhibit-22/6	Statement of SBI Account No-2543 in the name of Aftab Alam and Shahid Alam in two pages.
Exhibit-23	Letter forwarding the certified copy of deposit slip to the CBI Inspector.
Exhibit-23/1	The deposit slip of cheque no. 625108 in Account No. 221 which is in the name of Javed Alam.
Exhibit-23/2 to 23/4	The deposit slip of three cheques with no. 902982, 940312, 943539 in account no. 221 which is in the name of Aftab Alam and Javed Alam.
Exhibit-23/5 to 23/8	The deposit slip of four cheques with numbers 631738, 942709, 572844, 626194 in Account No. 2543 which is in the name of Aftab Alam and Shahid Alam.
Exhibit-24	Letter dated 08.01.2014 forwarded by witness Laxman Sahu to CBI.
Exhibit-24/1	Account opening form and ID proof related to account number-12619 which is in the name of Satish Kumar, and account statement is enclosed.
Exhibit-25 to 25/3	Four cheque numbers- 009643, 009644, 009642, 009641

	issued by Account No. 12619 which is in the name of Satish Kumar.

7. On the basis of evidence as surfaced during the trial, the learned trial court has examined the appellants/accused under Section 313 of the Code, where they completely denied their involvement by denying the incriminating evidences surfaced during the trial and stated that they were implicated with this case falsely and claimed their complete innocence.

8. No defence witnesses was examined by appellants/convicts during the trial but certain documents were exhibited in their support. Defence Exhibits are:-

Exhibit No(s).	**List of Documents**
Exhibit-A	Formal FIR
Exhibit-B	Statement of two pages.
Exhibit-C	Photocopy of voucher no. 412113 dated 30.12.2015.

9. Taking note of the evidence as surfaced during the trial and the arguments as advanced by the parties, the learned Trial Court has convicted appellants/convicts for the offences under aforesaid sections and sentenced them in the

manner as stated above.

10. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellants/convicts has preferred the present appeal.

11. Hence, the present appeal.

Argument on behalf of the appellants/convicts:

12. Mr. Gaurang Chatterjee, learned counsel appearing for appellant Pawan Kumar Rajak, while opening the argument submitted that only allegation against this appellant is that the loan vouchers in question were created/raised through his ID/password which was his SR Code, and, therefore, it was presumed that the appellant had committed the entire offence with the help of co-accused persons. It is submitted that by and large except aforesaid allegation nothing survives against this appellant out of testimony of prosecution witnesses. It is pointed out that no computer generated vouchers were brought on record and merely on the basis of screenshots obtained from computer, which was not even supported by certificate being secondary electronic evidence as mandatorily required under Section

65B of the Indian Evidence Act, the entire prosecution was lodged making impugned judgment of conviction questionable on its face. It is submitted that with aforesaid evidence the criminal conspiracy *qua* cheating and creating forged document cannot said to be proved. It is further pointed out that appellant Pawan Kumar Rajak, only being govt. servant implicated with the provisions of P.C. Act, where admittedly no transaction of money found with him as to categorize him a beneficiary out of alleged fraudulent transaction of money.

13. Mr. Chatterjee, further submitted that as per the assigned duty appellant was only to create vouchers, where loan to be sanctioned by the other higher officials, who further issued cheque in favour of a person with whom loan was said to be disbursed by keeping their original bonds of LIC as a collateral. Appellant being first point on desk as to create the vouchers being the officer/staff of lower cadre was made victimized as to save the skin of higher officials, who were really involved in the present scam. It is pointed out that witnesses stated that "Add Pay Option" in the software was used for payment to the policy holders regarding petty

refunds and to correct error. There is no limit regarding the amount to be paid through "Add Pay" option. It is also pointed that the vouchers were created only after receiving application for sanctioning loan against the original bond, which was part of the duty of the appellant. It is submitted that the vouchers was kept in Accounts Department. It is further submitted that Accounts Department, upon receiving vouchers was under obligation to prepare cheque, which was to enter into the computer system and only after getting validation, authorized officer put their signature over there. In entire loan processing system the appellant was only assigned task to create a voucher, whereas the main responsibility was on the HoD, Patna Sahib Branch. It is further submitted that appellant Pawan Kumar Rajak cannot process the voucher and was not authorized to put his signature on the cheques and thus to defalcate the money. The cheque cannot be issued unless the original voucher is being passed. In view of all such aforesaid facts which surfaced during the trial the meeting of mind of appellant Pawan Kumar Rajak with Aftab Alam (co-convict) and other co-officials alongwith beneficiaries cannot be said to be established during the trial as to make out any *prima-facie* offence under Section 120B of the I.P.C.

14. It is further submitted by Mr. Chatterjee that same procedural irregularities were found in the vouchers of other agents but it was not taken as conspiracy by the department. It is also pointed out that during the course of investigation personal search of appellant was made alongwith his house search but nothing incriminating was recovered in support of the allegation as raised against him. There is no monetary transactions between appellant Pawan Kumar Rajak and LIC Agent Aftab Alam.

15. Mr. Chatterjee, further submitted that prosecution has consciously avoided to procure the original copy of the vouchers to save some officers of the LIC and put the entire blame on the appellant. It is pointed out that admittedly all payments were made to the account holders of LIC, who had received the payment but they were not made accused, neither made witnesses. No recovery proceedings were initiated against them, therefore the entire allegation that payment made to account holder by fraudulent means or

by creating forged documents under conspiracy is appearing baseless. It is submitted that allegation of irregularity/illegality committed in making payment against the policy bond is not at all substantiated by showing violation of any act, rule, circular or office order. Therefore, the oral statement of witnesses that payments were made illegal has no evidentiary value. It is submitted that witnesses during the trial made an attempt to create confusion that "Add Pay" option in the voucher not required to be passed, which is absolutely a wrong statement because the vouchers created by using "Add Pay" option required checking and passing also as it is apparent from the screenshot of the "Add Pay" option vouchers. It is further submitted that no vouchers, copy of policy bond and concerned application were brought on record and it was done intentionally as to save the senior officials being real culprits, who appears to be seriously involved in alleged crime in question.

16. In this context, it is further submitted that in absence of the documents it cannot be said that which document was created by adopting wrong means, therefore,

charges under Sections 467, 468 and 471 of the IPC cannot be said to be proved against the appellant. Similarly there is nothing on record, which may even establish, *prima-facie*, that even evidence on record was falsified, removed or destroyed by the appellant, so as to attract the offence under Sections 201 and 477 A of the IPC.

17. In support of his submission learned counsel relied upon the legal reports of Hon'ble Supreme Court as available through legal report of **Arjun Panditrao Khatkar Vs. Kailash Khushanrao Gorantyal, [(2020) SCC 571]; Maghvendra Pratap Singh @ Pankaj Singh Vs. State of Chattisgarh [2023 SCC OnLine 486]** and **A. Sivaprakash Vs. State of Kerala [(2016) 12 SCC 273].**

18. Learned counsel appearing on behalf of appellant Aftab Alam stated that he returned the loan money alongwith interest to the concerned party and the party had given a consent letter that the complaint should be considered closed. It is submitted that as duty bound agent, he only submitted the application form in prescribed proforma alongwith original bond as collateral to the concerned counter

of LIC with co-accused/co-convict Pawan Kumar Rajak and thereafter the rest was processed by LIC officials. Being an agent his duty was very limited to submit the application and collateral to the Assistant of LIC. Admittedly, he is not a public servant.

19. It is also submitted by learned counsel that the custodian of the original documents were not asked to produce the vouchers and collateral and not even requisition to that effect was given to the H.O.D. of the departments by investigating agency and, thus, it appears that prosecution consciously avoided to procure the original copies of the vouchers to save some higher officers of the LIC and put blame on the appellant who has least responsibility in the entire alleged crime in issue. It is also pointed out by the learned counsel that entire payment was made to the account holder of LIC but they had not been made accused and no recovery proceedings was ever initiated against them. Therefore the allegation that the payment was made fraudulently or to disproportionate the public money is appearing false on its face.

20. It is submitted that processing of loan or preparing any document was not the official subject of the appellant and therefore the entire charge of cheating, conspiracy and creating forged document are appearing baseless against him.

21. While concluding the argument it is also submitted by learned counsel that even from the para nos. 46 and 47 of the impugned judgment, it appears that appellant Aftab Alam did not have any account of his own. It is submitted that the commission credited to Aftab Alam account was stopped by CBI but account remains active due to which his wife's money and brother's money kept coming into his account and also its withdrawal. It was not proved by prosecution that by whom said amount was deposited or withdrawn. As said account was in joint name, therefore, it cannot be said beyond reasonable doubt that the entire account was obtained or deposited out of fraudulent transaction as alleged.

22. Learned counsel for the appellant relied upon the legal reports of Hon'ble Supreme Court as available

through **Ravinder Singh @ Kaku Vs. State of Punjab, (2022) 7 SCC 581** & **Sukhbir Singh Badal Vs. Balwant Singh Khera and Others, (2023) SCC OnLine 522**.

23. With aforesaid argument, learned counsels submitted that balance of appeal is in favour of appellants and therefore impugned judgment of conviction is fit to be qhashed and set aside.

Argument on behalf of State:

24. Mr. Sourendra Pandey, learned counsel appearing on behalf of CBI submitted that the evidence on record is sufficient to suggest that both appellants have connived together with a view to cheat and also to defalcate public money by generating faulty vouchers using "Add Pay option" of the software, which caused loss to the organization to the tune of Rs. 82,21,074/-. It is pointed out that appellant Pawan Kumar Rajak was an employee of LIC, who was carrying out the work of generating vouchers, which was to be used only for rectification and in special circumstances like refund of excess payment to the policy holders, but by using same option disbursed the loan amount to the policy holder,

which was not permitted.

25. It is submitted that using of interest account of "Add Pay option" by appellant Pawan Kumar Rajak is not appearing disputed and therefore withdrawal of money from interest account in itself sufficient to reflect intention to cheat and to defalcate the public money. It is pointed out that interest account in all possibility could not have been debited as same was income of LIC and hence, vouchers could not have been prepared after debiting such account, which means that the money has gone out of LIC and thus it is a loss incurred to LIC by way of loan, whereas he could not dispute the fact that no physical vouchers found available in the office and no excess payment was made to any policy holder by using "Add Pay option" of the software. It is submitted that as no vouchers and application found during investigation therefore the screenshot of such vouchers were taken, which has been exhibited as **Exhibit-6 to 6/47** and **Exhibit-7 to 7/96**. It is submitted that entire fraudulent transactions, which were made through vouchers were exhibited as **Exhibit-7 to 7/96,** which was generated by the Assistant,

posted at LIC Branch Patna City having S.R. No. 339411, which belongs to appellant/convict, Pawan Kumar Rajak. It is clarified that S.R. Code means "Salary Roll Code" which depicts, which employee has used it to generate the vouchers.

26. Mr. Pandey, further submitted that loan was issued against the duplicate policies. In this context, it is also submitted that the some of the prosecution witnesses deposed during the trial that they had never applied for any loan against their policy and bond is still with them. It is submitted that amount in issue was received by the relatives of LIC agent Aftab Alam.

27. Explaining the defalcation, it is submitted that P.W. 6 Heera Singh stated that appellant Pawan Kumar Rajak was son-in-law of his sister and his agency commission was deposited in his account with Central Bank, Muradpur Branch while he has no account in Punjab and Sindh Bank and has categorically denied his signatures on the account opening form and other documents exhibited as **Exhibit-24/1, 25 to 25/3**. It is submitted that cheques in the name of Satish Kumar was deposited in Punjab and Sindh Bank, which clearly

established the fact that Pawan Kumar Rajak has used his account to defalcate the amount.

28. While arguing further, it is submitted that all the vouchers generated by accussed/co-convict Pawan Kumar Rajak was against the loan of policy holders, whose policy was facilitated by appellant/convict Aftab Alam, barring a few. It could not be a matter of chance that the fraudulent vouchers, which has been prepared using "Add Pay option" and interest account has been debited and as such almost half of the amount of defalcated money has been credited through cheques in the accounts of the relatives of the LIC Agent Aftab Alam, which *prima-facie* established the fact that it was appellant Pawan Kumar Rajak and Aftab Alam, who with prior meeting of minds connived together and defalcate the money of LIC and obtained the pecuniary benefits out of same. It is submitted that relatives of Aftab Alam are also facing trial which has been bifurcated from the present appellants. It is submitted by learned counsel that the screenshot of the vouchers taken from the computer of the appellant Pawan Kumar Rajak was duly exhibited during the trial, which was

not objected and therefore, merely on the basis of certificate as required under Section 65 B regarding Secondary Electronic Evidence, the entire prosecution cannot be said questionable.

29. It is submitted that P.W. 7 has issued the certificate to CBI that in LIC module once the entry was validated, the same cannot be tampered and said certificate was exhibited as **Exhibit-11**. It is pointed out that when the screenshots proved by means of evidence of the persons who had taken print out of the vouchers and signed upon them, the requirement of being proved further through certificate as required under Section 65B of Indian Evidence Act not appears convincing.

30. While concluding the argument it is submitted by Mr. Pandey that with aforesaid evidence it can be said that prosecution successfully proved this case that both appellants under conspiracy and with prior meeting of minds had connived together for wrongful gain and caused loss to LIC to the tune of Rs. 82 Lakhs by misusing "Add Pay option" of the software in the computer system and, thus, by creating false

loan in the name of policy holder, who have not even applied for such loan and had their original policies with them. It is submitted that almost half of the total amount i.e., Rs. 41 lakhs and odd was credited to the accounts of relative of the LIC agent Aftab Alam, which straightway implies involvement of appellant being an agent. With aforesaid argument, it is submitted that the impugned judgment of conviction is not required to be interfered with.

31. I have perused the trial court records carefully and gone through the evidences available on record and also considered the rival submissions as canvassed by learned counsel appearing on behalf of the parties.

32. As to re-appreciate the evidences, while disposing the present appeal, it would be apposite to discuss the evidences available on record, which are as under:-

33. **P.W. 8 is Pratap Chandra Paikray**, who is the informant of this case and was posted at the time of occurrence as Senior Divisional Manager, LIC Patna Division, Office-I, Patna. He referred to the complaint letter what he wrote to Superintendent of Police, CBI, Patna, regarding

financial fraud in Patna Sahib Branch, which was drafted under his dictation. He identified his signature on it, which upon his identification was exhibited as **Exhibit-12**. He said to authored the aforesaid complaint letter on the basis of written information of Manager namely, Ashutosh Kumar. It was stated that before sending the present complaint letter, which is the basis of FIR, one preliminary enquiry committe was constituted and on the basis of the report of said enquiry committee, present complaint was lodged with CBI. The report of committee was also annexed with the complaint. It was deposed that appellant Pawan Kumar Rajak was posted as an Assistant on 30.09.2013. He was competent authority to remove appellant Pawan Kumar Rajak from his post. He also obtained prosecution sanction order *qua* appellant Pawan Kumar Rajak. He identified his signature on prosecution sanction order, which upon his identification was exhibited as **Exhibit-1**. He issued sanction order on 8th of December but unable to depose that on the basis of which document said sanction order was passed. He denied the suggestion that he issued prosecution sanction order under the pressure of CBI on the same very day i.e., on 03.09.2013. It was deposed by him that his signature is not available on formal FIR. He even failed to depose that by whom, cheques were issued and stated that same can be disclosed by only Branch Manager of Patna Sahib. It was further deposed that concerned branch manager can said whether appellant Pawan Kumar Rajak was made custodian of the voucher or not. It was deposed by him that as per investigation of CBI and report of Chief Manager, it appears that payment voucher was generated through password allotted to appellant Pawan Kumar Rajak. It was categorically deposed by him that said vouchers were not found during investigation. He only said to obtain description of voucher from computer, as no physical voucher was present in office. A question was asked to him by court that whether appellant Pawan Kumar Rajak received any loan amount, in reply it was testified that details are available on record and it is not in his personal knowledge right now. In reply of another question, whether the money of Patna Sahib Branch was under the custody of appellant Pawan Kumar Rajak, he deposed that the money always remains in the custody of LIC and it is used by officers of the branch. One specific question was asked to him whether appellant Pawan Kumar Rajak can withdraw money under his signature, to which he did not reply satisfactorily and stated that other persons are also involved in the withdrawal of money. A question was also asked to him whether cheques were issued under his signature, in reply, it was deposed that cheques are not before him. He also deposed that whether computer can be hacked or not, same can be replied only by the manager of the Computer Department, whereas he approved that in LIC work is being done through "password" protected software application. It was testified by him that work allotment to appellant Pawan Kumar Rajak can only be explained by branch manager, but as per representation, he was posted in loan processing branch. The formal FIR on request of defence was exhibited as **Exhibit-A**, which was found with **Annexure-C,** upon perusal of which, it was deposed by this witness that the payment voucher was not indicating the name of person who created it, rather it only reflects SR Number on the basis of which appellant was identified. It was deposed that "password" which is based upon SR No. is a confidential number of the concerned employee and it should be kept confidentially as it is apparent from SR No. of appellant Pawan Kumar Rajak from **Exhibit-A and 9/2**. It was deposed by this witness, after perusal of **Exhibit-9/2** that in loan matter, the processing of payment voucher, it's generation and validation are important aspects and all it cannot be done through software module. It was stated that checking and passing can only be ascertained through hard copy and in absence of that it is impossible to find out that by whom it was checked and passed. It was also stated by him that as per representation (*prativedan*) there was no movement register in the branch and he has no personal knowledge, whether cheques were issued by Ashutosh Kumar. He denied to have knowledge regarding proximity of said Ashutosh Kumar with DIG of CBI.

34. **P.W. 1 is Arvind Kumar Sinha,** who was working with LIC Patna Division Office-I as Assistant Officer at the time of occurrence. He only appears to type the sanction order as directed by P.W. 8, who was posted as Senior

Divisional Manager at that time. He identified the signature of manager namely Rajesh Kumar on forwarding letter of sanction order, which upon his identification was exhibited as **Exhibit-1**.

34.1. Upon cross-examination it was stated that he joined LIC in 1985. He denied to have knowledge that about dozens of officers misplaced cheque book of LIC and withdraw wrongfully cash of Rs. 32 Lakhs for which CBI submitted the charge-sheet. It was stated that informant of this case is P.W. 8. He denied the suggestion that sanction order was defective and was issued without application of mind. He was declined to cross-examine by co-accused Aftab Alam.

35. **P.W. 2 is Ratan Kumar,** who is one of the policy holder of the Patna Sahib LIC branch. His agent was appellant, Aftab Alam. He came to know about the acts of Aftab Alam through newspaper only from where he also came to know that appellant Aftab Alam cheated policy holders and, therefore, he was arrested. Acting upon said news, he visited LIC Branch. He obtained statement of his both policies and found that two policies, which were in the name of his two

sons, a loan of Rs. 17,000/- for each was taken, which was never applied by him. He never deposited policy bond with LIC and both original bonds are still with him. When he inquired about the fact from the Branch Manager, it was said that CBI enquiry is under progress in this matter. Therefore, he lodged his written complaint with Divisional Branch Office of LIC. He identified his signature on the said complaint which upon his identification was exhibited as **Exhibit-2**.

35.1. Upon cross-examination on behalf of Aftab Alam it was stated by him that till date he did not came to know that who obtained loan against the policies of his two sons. He was also called by CBI. He did not asked regarding his loan by CBI. His both policies were found credited. He was declined to cross-examine by appellant/accused Pawan Kumar Rajak.

36. **P.W. 3 is Nuzhat Ara**, she was also one of the policy holder of the LIC for four different policies. Her agent was also Aftab Alam. Two policies were in the name of her husband, one in her own name and another was in the name of her daughter. She came to know that Aftab Alam was

arrested in relation to some scam in LIC Branch, whereafter she visited the LIC office and obtained the statement of aforesaid policies, whereafter she came to know that the loan of Rs. 11,000/- was obtained against her policy and Rs. 21,000/- was obtained against the policy of her husband. It was deposed that she never made any application for said loans. She never handed over the policy bond to any other person and still original policy bonds are with her. She also stated that the cheque premium of Rs. 11,000/- which was given to LIC was not deposited with LIC, similarly cheque of Rs. 12,500/- and Rs. 7,800/- were also not deposited by appellant Aftab Alam, which was in the name of her husband. All aforesaid cheques were given to LIC agent Aftab Alam. It was stated that for all aforesaid bonds money was withdrawn from account and it was not credited against the premium of LIC policies and when she enquired, it was said by LIC officers that the matter is under enquiry of CBI. Consequent upon, she lodged her complaint with Divisional Officer, LIC, Patna. Complaint was written by her brother Zafar Tauheed and signed by her and her husband. She identified her hand writing and aforesaid signature, which upon her identification was exhibited as **Exhibit-2/1**. It was categorically deposed that appellant Aftab Alam cheated her.

36.1. Upon cross-examination, it was stated by her that she obtained policy through appellant Aftab Alam, LIC agent and she also stated that the loan was withdrawn against four policies. She failed to depose that in which account said loan amount was credited. It was stated that cheques were issued in favour of LIC. She was neither informed by LIC, nor by CBI that by whom her cheque amount was realized, which was given for premium of LIC policies. It was stated that her brother was also working with LIC, as agent.

37. **P.W. 4 is Ashutosh Kumar**, he was chief manager of LIC Patna Sahib Branch, between 2nd May 2011 till 30th May 2012. During his posting, appellant Pawan Kumar Rajak was posted as an Assistant. He was posted in Rules Section Department. He was posted there since last 10-12 years. He was also the Base Secretary of All India Insurance Employees Association. He deposed out of his personal experience that generally Union Leader does not prefer to

work with heavy work load section, but appellant Pawan Kumar Rajak was posted with heavy work load section of Loan Sanction Branch. It was stated that the appellant Pawan Kumar Rajak had hold over entire branch and he was also of nuisance value. It was deposed that he found more cases in Patna Sahib Branch regarding issuance of loan against duplicate policies. He also found that in some policy several duplicate bonds were issued. He also received complaint from policy holders that loan amount and interest was deducted from their maturity value. He rectified all such complaint cases, which came to his knowledge. He enquired the matter after getting knowledge of aforesaid complaint and thereafter he reshuffled the seat of staff and their allotted duties. He also enquired Sub-Ledger Account No. 11395400, which was related with policy loan interest other than unit policies. He also said to enquired the Unit Policy Ledger of aforesaid account. Both these ledgers generated through computer system and, upon perusal, he found that the big amount entries were made in debit side, which normally to be made in credit side. He found that 85 loan payment vouchers for Rs.

47 lakhs was paid to different policy holders, all vouchers were found generated with same SR No. which was of appellant Pawan Kumar Rajak. It was deposed that entire work of branch was done through computer system and the vouchers generated thereof reflects only SR Number. He also came to know that in all said policies number of agent was mentioned as 1436544, which was of maximum recurrence and said code was of appellant Aftab Alam, who was the direct agent and was not under any AO (Administrative Officer). It was deposed by him that loan payment vouchers generated by computer system and thereafter it's print out was to be obtained and on the basis of said vouchers, cheque was prepared for delivery to policy holders. He searched all 85 payment vouchers in branch but did not find it. He found the hard copy of vouchers, subsequent to the vouchers which were in issue. It was testified that regarding the aforesaid irregularities he submitted his secret report to Senior Div. Manager, LIC Office, Div. No. 1, Patna, on 21.05.2012 through e-mail. He identified his signature on the said report and also annexed the list of 85 vouchers against which

payments were made. He identified the signatures on the said report, which upon his identification was exhibited as **Exhibit-3**. It was testified that he received the complaint against Aftab Alam that he withdraw the loan against the policy without the knowledge of policy holder. He made enqiry from Aftab Alam and thereafter suspended his agency immediately. It was categorically stated that Aftab Alam returned entire loan amount with interest to concerned party, whereafter party submitted their signed letter as to close their complaint. He came to know from daily wager worker Upendra Kumar Verma that he saw on several occasions that appellant Pawan Kumar Rajak went outside by keeping vouchers and policy bond inside his shirt. It appears out of his depositions that work load created intentionally by appellant Pawan Kumar Rajak. It appears from his deposition that loan can be obtained only when application was given against a policy bond, whereafter it was to be entered into the register, thereafter, Dealing Assistant of the Loan Sanction Department generated loan voucher. It was done manually, whereafter the voucher required to send to the Account Department for the drawing the cheque. The cheque was again validated by system, whereafter cheque and voucher came to the Assistant of Loan Sanction Department and thereafter it was handed over to the concerned party. It was deposed that an endorsement of said fact was also made on policy bond. All such vouchers and loan dockets are required to be preserved with Policy Service Section. LIC of India work under "password protection policy" under which employee generate his password himself with the help of SR code, which remains in his exclusive knowledge and for any such misuse said person can be held responsible. The password generated, as aforesaid, remains valid for 30 days, whereafter it was mandatory to change. He exhibited password policy of LIC before the court, which was in six pages, which upon his identification was exhibited as **Exhibit-4**. It was deposed that there is "Add Pay" system in policy loan module through which petty refunds and error correction was also to be done. There is no financial limitation of this "Add Pay option". In all transactions of Rs. 84 Lakhs "Add Pay option" was used. It was deposed that for every transaction a log file was generated by computer system, which cannot be tampered or edited. They generally do not check transactions from sub-ledgers.

37.1. Upon cross-examination on behalf of Aftab Alam, it was stated that agent have no role as far as print of policy bond and granting of loan is concerned. Agent is not the custodian of document or computer system of the LIC. Upon cross-examination by appellant Pawan Kumar Rajak it was stated that he was not aware of the fact that in year 1980 a defalcation case of Rs. 32 lakhs was lodged. It was stated that Dealing Assistant processed the loan only after receiving the application and thereafter generated the payment voucher through computer system, whereafter it was required to send Higher Grade Assistant for verification and finally sent to the Head of Department, whereafter again voucher was required to sent Account Section on the basis of which the desired cheque was to be drawn. It was categorically stated that there was no receiving register in Accounts Section. Cheque was usually signed by two officials, who was authorized on behalf of Branch. Cheque entry was also made in system, which after validation, forwarded for signature. One copy of voucher required to send to Accounts Section and, thereafter, a policy bond and cheque was sent to Loan Dealing Section for its delivery to policy holder. It was stated that he did not mentioned in his report that he came to know from the daily wage worker Upendra Kumar Verma that appellant Pawan Kumar Rajak usually taken away bond by keeping it inside his shirt, as he came to know this fact only after sending his report. He denied the suggestion that as being leader of the union appellant Pawan Kumar Rajak raised several grievances of staffs, therefore, he was implicated falsely with the present case.

38. **P.W. 5 is Bhudev Malik,** he was working as Manager (EDMS-Enterprise Documentation Management System) since May 2011 to May 2014 in the Divisional Office-I of the LIC. He identified the document regarding constitution of team to enquire in financial irregularities, which was consisting of Sri S.N. Sharma Manager (F & A) and Bhudev Malik Manager (EDMS). The aforesaid team was constituted by Manager P.C. Paikre (P.W. 8). He identified said document/note sheet during the course of investigation, which

upon his identification was exhibited as **Exhibit-5**. It was categorically stated by him that during enquiry, they tried to search vouchers and related documents but same was not found. For said purpose he took help of other employee of the branch and thereafter inspected the sub-ledger of LIC module, from where they got policy numbers of suspected payments, which was related with total of 49 policies. He found that payment was made by fraudulent means and thereafter he took out print of loan history of said policies. Upon his identification said loan policy papers were marked as **Exhibit-6 to 6/47 series**. It was stated by him that from loan history they found that how many times fraudulent transactions were made and what was it's transaction number and thereafter he took the screenshot of the said vouchers and payment amount from LIC module. It was stated that as there was no option to get printout on second occasion, therefore, its screenshot was obtained. He took screenshot of 97 vouchers during the course of investigation/enquiry. Every screenshot was signed by Sri S.N. Sharma, which upon his identification was exhibited as **Exhibit-7 to 7/96**. They handed over all such screenshot to CBI during the course of investigation. He also identified his signature upon the seizure memo, which was prepared by CBI Inspector A.K. Jha, which upon his identification was exhibited as **Exhibit-8**. It was stated by him that from the screenshots print of vouchers, it appears that by using “Add Pay” Option, fraudulent transactions were made. It was stated that “Add Pay” Option was in debit side of loan module of LIC, which is generally used for adjusting of short remittances in loan payment. It was said that all vouchers were generated through S.R. (Salary Roll) No. 339411, which was of Assistant Pawan Kumar Rajak. It appears from his deposition that password was required to be created by employees themselves, whereas temporary password for one time was supplied by administrator. This password is secret password, which remains under exclusive knowledge of a particular employee. It was stated that every created password as above mandatorily to be changed after 30 days. It was deposed that the printout of screenshots were exhibited as **Exhibit-7/96.** Explaining transaction, it was stated that from voucher no.

411710, where the loan amount was shown as Rs. 66,000/- by using “Add Pay” Option loan of Rs. 90,000/- was added on the second time and thereafter Rs. 6358/- was recovered from the said loan and out of said amount two premiums were deposited to make the policy update. Aforesaid fraudulent transaction was made in policy no. 510861919, which was in the name of one Abdul Sattar. Stating further it was said that **Exhibit-7/87** is loan vouchers of the policy having voucher no. 412572, where by using “Add Pay” Option, Rs. 82,000/- was added and was made Rs. 87,247/-. This payment was made to one Sahir Alam son of late Abdul Sattar. Forwarding letter was also obtained regarding payment of aforesaid cheque, which upon his identification was exhibited as **Exhibit- 6/49**. As per LIC record name of father of Shahir Alam was Md. Nasimuddin. Similarly, they also found irregularities in policy no. 514506167, where by using “Add Pay” Option Rs. 62,000/- was added and payment was made for Rs. 63,048/-. They prepared reports regarding aforesaid irregularities and submitted it to PW-8, Mr. P.C Paikre, which runs in 66 sheets alongwith annexures, which upon his identification was exhibited as **Exhibit-9/1**. He along with other members also recommended proposal for constituting a committee for further investigation in this matter, which was approved by other prosecution witnesses also, which upon his identification was exhibited as **Exhibit-10**. Enquiry Committee also handed over certain documents to CBI Inspector Mr. AK Jha II, during the course of investigation. It appears from his deposition, that after preparation computer generated voucher, it was required to be sent for validation through LIC module, where the name of party and Net Payable Amount was to be verified. It generally not verified strictly as “loan module” runs in automatic mode. It was deposed that no fraud like this took place earlier by using “Add Pay” Option and it was of its first kind of fraud. It was stated that only limited amount can be paid by using “Add Pay” Option. It is also submitted that the payment, which was made through “Add Pay” Option, cannot reflect in loan history of policy. In normal course cheque number and net payable amount was likely to be verified.

38.1. Upon cross-examination by Pawan Kumar

Rajak (appellant), it was stated that it cannot be said that who sanctioned the loan as no hard copy was received during enquiry. It did not came to his knowledge that who removed said hard copy. It was also said that there was Account Section in Patna Sahib Branch but no movement register was maintained there, which was contrary to the norms of LIC. He also mentioned about this in his enquiry report. He did not record the statement of Pawan Kumar Rajak in his enquiry report though he was working at that time and available in the branch. Explaining the loan taking policy by policy holder, it was said that it was Account Officer who verified and only after preparing the voucher, cheque was to be prepared. After preparing the vouchers Passing Officer put their signature, who are officer of AAO Rank. After preparing the voucher it was sent to account department from where cheque can be obtained, which was required to be prepared under the signature of two authorized signatories. He also enquired from 62 authorized signatories but did not mentioned this fact in report.

38.2. Upon cross-examination by Aftab Alam, it was stated by him that cheques were also prepared in the name of Neema Agarwal, Devdulal Bhattacharya and Raju Saha which was realized. It was stated that all these three policy holders were beneficiaries. He could not find that who were the agent of these policy holders. It was stated that other beneficiaries were also paid like Aftab Alam, Shahid Alam, Irfat Parveen, Devdulal Bhattacharya, Raju Saha and Neema Agarwal. He enquired from Aftab Alam (appellant) during investigation. He denied the suggestion to save other higher officials of LIC including the then Branch Manager, prepared the false report and implicated appellant falsely.

39. **P.W. 6 is Heera Singh,** who also supported the fraudulent transactions. Upon cross-examination he stated that he never worked with appellant Pawan Kumar Rajak and he did not enquired and recorded the statement of Pawan Kumar Rajak during the course of investigation. It was stated that cheque can only be issued by account department.

40. **P.W. 7 is Tapas Taran Mukherjee,** who was posted in the year 2013 as Manager in Patna Division Officer, LIC. It was stated that in computerized data module after

making entry validated, no tampering can be done. In this context, he issued a certificate to CBI, which upon his identification, was exhibited as **Exhibit-11**. It was also stated by him that LIC runs through a password protection system, which can be generated by using S.R. Number of employee.

40.1. Upon cross-examination, it was stated by him that he never worked in Patna Sahib Branch and, therefore, he cannot say that who maintained the record of “password” of concerned employee. It was stated that password could not be changed by others and it automatically expired after certain period. He never enquired from Pawan Kumar Rajak regarding password allotment.

41. **P.W. 9 is Aditya Mohan Jha I,** who was Chief Manager Incharge of Patna Sahib, LIC Branch at the time of occurrence. By taking reference of investigation report dated 22.10.2013 in R.C. No. 232013A0009 and policy no. 517666138, which was in the name of one Raju Saha, it was deposed that said policy was adjusted by cheque no. 0719595 on 14.03.2011 through Demand Draft Rs. 32,877/-, through cheque No. 0497741 policy no. 513071265 was adjusted,

which was in the name of Mehna Neval, through cheque no. 3923624, policy no. 518202133 was adjusted for Rs. 18,761/-, which was in the name of one Rinki Kumari, wife of Anand Kumar, through Cheque no. 392365, policy no. 51376534 was adjusted for Rs. 4,468/-, through same cheque one other policy no. 512376535 was adjusted which was in the name of Chandrakala Rajgharia. It was stated further that through cheque no. 392365 policy no. 511426476 was adjusted for premium of Rs. 2,085/-, which was in the name of Chandrakala Rajgharia, through Cheque no. 392368, policy no. 511426477 was adjusted for Rs. 2,085/-, which was also of Chandrakala Rajgharia. All these policies were new and its proposal forms and other related documents were not available in office. These policies were said to be created by Assistant Pawan Kumar Rajak of Patna Sahib Branch. Loan of Rs. 13,000/- on 28.01.2008 against policy no. 512376534 was issued through cheque no. 242257, which was used for creating a new policy bearing No. 515142289, which was also in the name of Chandrakala Rajgharia. Policy no. 512376535 was used to obtain a loan of

Rs. 13,000/-, which was sanctioned and was paid on 28.01.2008 in favour of Chandrakala Rajgharia. This loan was issued by LIC against policy no. 515142290 which was in the name of Chandrakala Rajgharia and was adjusted through cheque no. 242260. A loan of Rs. 28,000/- was also issued by LIC against policy no. 511426476 but from said loan a new policy was created with policy no. 515142288 and payment was made through cheque no. 242263. A loan of Rs. 31,000/- was issued against policy no. 511426477 but from the said loan amount a new policy was created, bearing policy no. 515142291, which was in favour of Chandrakala Rajgharia, which was paid through cheque no. 242262. He informed all such transactions to CBI through letter no. 544 dated 22.10.2013. He identified his signature on the said letter, which upon his identification was exhibited as **Exhibit-13**. Deposing further, it was stated that Policy no. 517666138 was issued in the name of Raju Saha. It was issued as a new policy, where payment was made on 14.03.2011. A loan against said policy of Rs. 6,29,750/- was paid to commission agency having no. 1010544. Pawan

Kumar Rajak (appellant) also received Rs. 17,000/- as a festival advance through an application dated 15.09.2011 having S.R. No. 339411. He identified his handwriting and signature thereof, which upon his identification, exhibited as **Exhibit-13/3**. This witness declined to cross by both the appellants.

42. **P.W. 10 is Someshwar Ram,** who was posted as Administrative Officer of LIC at the time of the occurrence. It was deposed by him that appellant Pawan Kumar Rajak was Secretary of Union and he was a person of influence. It was stated that cheque, which was to be issued in the name of party was issued in favour of LIC. It was created by Pawan Kumar Rajak by using his influence. It was deposed that cheque which was issued in favour of LIC, was used to create policies in the name of other party. It was stated that the dealing assistant after passing voucher could not issue cheque in favour of LIC. It was further deposed by him that appellant Aftab Alam was the LIC Agent and in every form he was witness. It was stated that the relation between Aftab Alam and Pawan Kumar Rajak were very cordial in nature. They

usually remained together. It was deposed that as vouchers were created in favour of LIC, therefore, no one could guess it.

42.1. Upon cross-examination, it was stated by him that he was not in inimical terms with Aftab Alam and his relation was good with all officers, who were posted there. Ashutosh Kumar was said to be the Chief Manager posted at that time and cheque was issued under signature of one Sri T.K. Roy. It was stated that cheque before him appears signed by Sri R.K. Srivastava.

42.2. Upon cross-examination on behalf of appellant Pawan Kumar Rajak, it was stated that policy nos. 512376534, 512376535, 511426476 and 511426477 were issued in the name of LIC and cheques were issued in the name of policy holder. It was stated that the paper of such policies was not available and it can only be gathered through machine entry. It was stated that dealing assistant prepared cheque, which was signed by authorized signatory. He could not identify the signature of persons, who issued the cheque, as same was not available during the trial. It was categorically stated that cheque cannot be issued under signature of appellant Pawan Kumar Rajak, as he was not the signing authority of the cheque and signing authority was with officers of the Accounts Department. He joined branch in 2009, whereas all aforesaid cheques were issued in the year 2008 itself.

43. **P.W. 11 is Pradeep Kumar Gupta**, who deposed that the loan vouchers were created by Pawan Kumar Rajak through his S.R. No. 339411. He stated same *modus-operandi* regarding issuing of cheques in favour of LIC and thereafter creating a new policy and disbursing loan in fraudulent manner as it was deposed by P.W.10. He specifically stated that the policy nos. 515143071, 515142215, 515922603, 515922637, 515119476, 514064293, 514061891, 512152231 and 512154046 were created in the same manner by using cheque nos. 616081, 616082 and 863970. He enquired from policy holders and it was said by them that they never applied for any loan, all such policy vouchers were created by appellant Pawan Kumar Rajak, Assistant, Patna Sahib Branch. It was further deposed

that through cheque no. 616081, two new policies were created bearing nos. 515921353 and 514489930, first one, in the name of one Anwari Khatoon and second one in the name of Biku son of Md. Sultan. He identified aforesaid enquiry report, running in five pages, which upon his identification was exhibited as **Exhibit-16**.

43.1. Upon cross-examination by appellant Pawan Kumar Rajak, it was stated by him that no cheque was issued in favour of Pawan Kumar Rajak but all vouchers were prepared by him. He received some complaint regarding fraudulent loan and also complaint regarding Aftab Alam. During the course of investigation, it was found that all policies against which fraudulent loan were taken, vouchers were generated by appellant Pawan Kumar Rajak, where for all such policies LIC Agent was appellant Aftab Alam. He could not name the persons who signed the cheque.

43.2. Upon cross-examination by appellant Aftab Alam, it was stated by him that without bond, no loan can be sanctioned, none of the policy was said to be in the name of appellant Aftab Alam. As per rule, the loan papers required to be passed by Branch Manager and in want of manual voucher, it is not possible to say that who sanctioned it. The cheque was prepared on the basis of electronic record movement. Cheque was not issued by appellant Pawan Kumar Rajak or appellant Aftab Alam. He also mentioned in his report that computer system of branch was failed and it was not his subject matter of enquiry. The system of LIC branch operate as per the direction of branch manager. It was stated that he did not make inquiry that beneficiaries of the fraudulent cheques were Neena Agarwal, Raju Saha and Devlal Bhattacharya.

44. **P.W. 12 is Rajesh Kumar**, who was personal manager in the year 2012 at Divisional Office-I, Patna, during the time of occurrence. He identified his signature on the constitution letter of enquiry team, which was exhibited as **Exhibit-10**. The said letter was issued on 08.10.2012 through which he directed for point-wise enquiry. The team was constituted with Heera Singh Manager, Sri P.K. Gupta (AO, PS), Sri Rajesh Kumar (AO & FA) and Sri Upendra Prasad (AAO Programmer).

44.1. Upon cross-examination it was stated that the computer system of LIC was tamper proof and same cannot be tampered by anyone. He never visited Patna Sahib Branch. It was found by enquiry team that appellant Pawan Kumar Rajak defalcated the money of LIC by doing manipulation. No complain was made by him. He could not say whether loan amount was paid by appellant Pawan Kumar Rajak and also whether any cheque was deposited in his bank account. It was stated that custodian of LIC money was LIC itself. He was said to be aware about computer hacking, which is not possible in LIC. It was stated that employee can be identified through their S.R. Code as it is possible that two employees may be of the same name.

45. **P.W. 13 is Shahid Akhtar**, who was appointed as branch manager in the Indian Bank, Jhauganj, Patna City Branch, in the year 2013. It was deposed by him that cheque no. 902407, 901225, 953025, 638436, 951171, 955302, 941099, 942423, 947092, 630668, 920365, 918728, 889867 and 897014, were issued by LIC Patna Sahib Branch, which was exhibited as **Exhibit-18/1 to 18/14**. It was

issued in favour of beneficiary and it was credited to the account of beneficiary after debiting the same from LIC account. All cheques were passed by the competent authority of the bank. He provided the original account opening form and statement of account from 01.01.2008 to 30.08.2013 regarding appellant Aftab Alam and also details of 15 original cheques, which upon his identification was exhibited as **Exhibit-19**, which runs in five pages. It was stated that account no. 515366223 was in the name of Aftab Alam. He identified the same which was exhibited as **Exhibit-19/1.** Initially, it was single account, subsequently name of Irfat Parveen, W/o Aftab Alam was also added to make it a joint account. It further appears from his deposition that the cheque which was exhibited as **Exhibit-19/3 to 19/7** were issued in favour of Aftab Alam and credited to his account, whereas Cheques of **Exhibit-19/8 to 19/18,** were issued and credited in account of Md. Javed Alam, whereas cheques from **Exhibit-19/19 to 19/26** were issued in favour of Shahid Alam. These cheques and deposit slips were forwarded to CBI Inspector through letter dated 17.01.2014, which upon his identification was exhibited as **Exhibit-20**. It was stated further that through cheque no. 638436 amount of Rs. 81,977/- was deposited in the account of Aftab Alam and said deposit slip was exhibited as **Exhibit-20/1**. Similarly through **Exhibit-20/2** an amount of Rs. 1,62,745/- was deposited in the bank account of Aftab Alam, Rs. 79,934/- was deposited in the bank account of Irfat Parveen wife of Aftab Alam **(Exhibit-20/3)**, Rs. 90,250/- was deposited in the name of Aftab Alam **(Exhibit-20/4)**, Rs. 76,750/- was deposited in the name of Aftab Alam **(Exhibit-20/5)**, Rs. 61,198/- was deposited in the name of Irfat Parveen **(Exhibit-20/6)**, Rs. 68,752/- was deposited in the name of Aftab Alam **(Exhibit-20/7)**, Rs. 63,152/- was deposited in the name of Aftab Alam **(Exhibit-20/8)**, Rs. 62,959/- was deposited but does not reflect the name of depositor **(Exhibit-20/9)** and Rs. 66,603/- was deposited in the name of Javed Alam. It was deposed that from **Exhibit-18** series, through cheque no. 902407 dated 31.07.2009, payment was made to LIC but it was not clear that in which account it was credited, through cheque no. 901225 dated 02.06.2009 a payment of Rs.

32,500/- was made in the account of Deenanath Chaudhary, through cheque no. 953025 amount of Rs. 62,959/- was deposited in the joint account of Irfat Parveen and Aftab Alam. Further, through cheque no. 951171 dated 29.06.2011, Rs. 63,152/- was deposited in the bank account of Irfat Parveen, which is a joint account. Through cheque no. 638436 dated 18.11.2010, Rs. 81,977/- was deposited in the bank account of Irfat Parveen but he cannot say who deposited it or received the payment.

45.1. Upon cross-examination on behalf of Pawan Kumar Rajak, it was stated that none of the aforesaid cheques bears the signature of Pawan Kumar Rajak and same was also not deposited in his bank account.

46. **P.W. 14 is Prakash Kumar Sinha**, who was posted in Bihar Awami Co-operative Bank, Patna City Branch as an Assistant and supplied some documents to Sri Rahul Priyadarshi, regarding which production-cum-seizure list was prepared, which upon his identification was exhibited as **Exhibit-20/21**. It was deposed that credit voucher dated 12.08.2009, through cheque no. 902414 was deposited in SB

221, which belongs to Aftab Alam and Javed Alam. It was cleared in the month of August, where date is not specified, the second credit voucher dated 16.06.2011 deposited through cheque no. 950661, which was deposited in the account of Shahid Alam. Similarly, through credit voucher dated 11.03.2011, cheque no. 945717 was deposited in the aforesaid bank account, which belongs to Shahid Alam. Similarly through **Exhibit-20/5** amount was credited in the account of Aftab Alam and through **Exhibit-21/6** amount was credited to the account of Aftab Alam and Javed Alam. Through **Exhibit-21/7** amount was credited to the account of Aftab Alam and Javed Alam. Through **Exhibit-21/8** amount was deposited in the account of Shahid Alam and through **Exhibit-21/9** amount was deposited in bank account of Aftab Alam and Shahid Alam.

46.1. Upon cross-examination on behalf of Pawan Kumar Rajak, it was stated that through **Exhibit-23/1** to **23/8** amount of Rs. 1,92,000/-, Rs. 1,19,963/-, Rs. 80,151/-, Rs. 82,837/-, Rs. 62,966/-, Rs. 82,548/-, Rs. 87,247/-, Rs. 1,21,221/- respectively, were deposited in the account of Aftab Alam and Shahid Alam. It was deposed that upon perusal of deposit slip of aforesaid cheques, same appears to be deposited by Aftab Alam.

46.2. Upon cross-examination on behalf of Aftab Alam, it was stated that the account of Javed Alam was not opened by him. Original file regarding opening of account was not produced before CBI, neither before the court. It was stated that the description which is available is in form of photocopy of deposit slip and withdrawal amount appears hand-written. It was not in his handwriting, whereas as per computer generated system, it appears that same was prepared by him but the date appears missing. He identified the deposit slip through its photocopy as its original was not available before him. It was stated that deposit slip can be obtained in form of photocopy by anyone. It was not mentioned on photocopy that it was compared with original. The original of aforesaid deposit slip was not available, neither CBI produced it before the court. It was stated that through deposit slip anyone can deposit the amount in account of any person.

47. **P.W. 15 is Laxman Sahu**, was posted as Branch Manager in Punjab and Sindh Bank, Hajiganj Patna City Branch. He produced details of account no. 12619 to CBI through letter dated 08.01.2014, which bears his signature which upon his identification was exhibited as **Exhibit-24**. It appears from his deposition that from the aforesaid account Rs. 2,000/-, Rs. 1,000/-, Rs. 2,000/- and Rs. 15,000/- were issued through cheque nos. 009643, 009644, 009642 and 009641 respectively. Aforesaid bank account was of one Sri Satish Kumar.

47.1. Upon cross-examination on behalf of Pawan Kumar Rajak it was stated that none of the aforesaid cheques were signed by Pawan Kumar Rajak, whereas he declined to cross-examined by appellant/accused Aftab Alam.

48. **P.W. 16 is Satish Kumar**, who deposed that appellant Pawan Kumar Rajak is son-in-law of his sister. He became LIC agent in year 1994-95. Amit Kumar Rajak was his maternal cousin and Gyani Rajak is cousin brother-in-law. It was deposed that as premium of LIC could not paid in time, therefore, he surrendered his agency with LIC in 2004.

Thereafter, his relations with Central Bank, Muradpur Branch ceased to operate. Before that his commission account was deposited in Muradpur Branch. He has no account in Punjab and Sindh Bank, Patna City branch. After going through **Exhibit-25**, **25/1, 25/2 and 25/3**, he said that none of these exhibits were signed by him.

48.1. Upon cross-examination it was stated by him that his LIC agency was nowhere related with appellant Pawan Kumar Rajak. He declined to examined by appellant Aftab Alam.

49. **P.W. 17 is Neena Agrawal**, who was posted in Nalanda Medial College, Patna. It was deposed that appellant Pawan Kumar Rajak was working on policy of her mother and her husband and in that connection she came in contact of Pawan Kumar Rajak. She never paid any premium either through cheque or in cash to Pawan Kumar Rajak. It was deposed that, earlier their LIC policies were in different branch of Patna but upon request, Pawan Kumar Rajak helped her to transfer all policies to Patna City Branch. She said that she took loan of Rs. 5 Lakhs from Patna City Branch. On last

occasion, she took a loan in 2010.

49.1. Upon cross-examination on behalf of Pawan Kumar Rajak it was stated that Pawan Kumar Rajak helped her and she do not have any documentary evidence which may suggest that Pawan Kumar Rajak cheated her. It was stated by her that she was not aware about the fact that whether the loan, which she took in 2010, was paid completely or not. She did not receive any notice regarding payment of aforesaid loan from LIC. She declined to cross-examine by appellant Aftab Alam.

50. **P.W. 18 is Raju Saha**, who is one of the policy holder of LIC with Patna Sahib Branch and his agent was Pavitra Chandra Ghosh. He appears to be relative of appellant Pawan Kumar Rajak, but he never handover any cheque to Pawan Kumar Rajak, to get it deposit with LIC. He approved the fact that he took loan from LIC, Patna Sahib Branch regularly against his policy and, as such, he took last loan in year 2011 for Rs. 1,85,000/- in total. He took loan of Rs. 4,50,000/- till 2011. It was stated by him that he also took some loan, beside loan of Rs. 55,000/- and Rs. 1,22,750/-.

He was declared hostile by prosecution.

50.1. Upon cross-examination, it was stated by him that he was enquired by CBI Officer, where he disclosed during enquiry that he obtained a loan of Rs. 55,000/- against his Jeevan Sri policy and also obtained loan of Rs. 1,22,750/-. He stated to clear both loans. He denied the suggestion that he disclosed before CBI Officer that appellant Pawan Kumar Rajak deposited the cheque of LIC in his bank account, which was with Central Bank of India, Muradpur Branch and SBI Chauhatta Branch. It was stated by him that out of four cheques, which were deposited in his account, two cheques were deposited by his staff but he could not disclose as who deposited other two cheques. He denied that he was related with Pawan Kumar Rajak (appellant), rather it was stated that he was brother-in-law of one Anand Kumar, who is neighbour of the appellant. He denied the suggestion that he was family friend of Pawan Kumar Rajak, therefore he deposed falsely. Upon cross-examination by appellant Aftab Alam it was stated by him that he deposed before court without any pressure and fear.

51. **P.W. 19 is Upendra Prasad**, who was posted in year 2012 as D.O. I.T. Department of LIC. He deposed to enquire one fraud in Patna Sahib Branch of LIC alongwith Heera Singh, Rajesh Kumar and P.K. Gupta. He identified a report which upon his identification was exhibited as **Exhibit-17**. During enquiry he found that loan voucher was prepared by debiting interest account by using “Add Pay” Option, which was in the debit side. It was said that said option was provided in software to return the excess money, if deposited by any of the policy holder. During enquiry he found that there was no provision of re-conciliation of interest account, therefore money can be easily withdrawn from the said account. He explained the use of “Add Pay” Option by way of illustration that, suppose if a person took a loan of Rs. 10,000/- and deposited Rs. 15,000/- the extra payment of Rs. 5,000/- may be returned to him by using said “Add Pay” Option. He could not found vouchers upon search alongwith his team through which fraud was committed and thereafter they took screenshots from computer from where they came to know that by using “Add Pay” option, interest amount was debited

and vouchers were generated. They also came to know excess payment was made to customers by using "Add Pay" option for which it was provisioned in the software. They came to know from screenshot that preparations of vouchers by debiting the interest account was a fraud. He also identified all 48 vouchers, which was exhibited as **Exhibit-6 to 6/47 series and Exhibit-7 to 7/97 series**, which are already exhibited. He further deposed about the details of transactions and loan through different transactions out of **Exhibit-6 and 7**, which was generated by employee having SR Code no. 339411, which was of appellant Pawan Kumar Rajak and, thus by fraudulently transferred Rs. 82,00,000/- in total. It was further deposed that he could not collect policy docket and vouchers during enquiry from Patna Sahib Branch regarding fraudulent transactions. He deposed that appellant Aftab Alam was the Agent of LIC, Patna City Branch. It was deposed that Javed Alam, Shahid Alam, Raju Saha, Neena Agrawal were neither staff of LIC nor its agent but by way of fraudulent transactions the amount was transferred to their account.

51.1. Upon cross-examination on behalf of appellant Pawan Kumar Rajak, it was stated by him that post of Pawan Kumar Rajak was lowest post in hierarchy of official dealing. It was stated that the loan vouchers were prepared in duplicate, where one copy returns to Accounts Department and other copy remains with Patna Sahib Branch. After preparation of loan vouchers, said vouchers were required to sent Head of the Department and only after its approval, it was sent to accounts department, where cheque was to be drawn and thereafter entry was made in computer system and the cheque was signed by two authorized signatories by higher officials of the accounts department. It was stated that cheque, after signature, was sent to dispatch, where it was handed over to the customer after due entry in register. It was stated that the role of junior officers are limited while processing loan, where the maximum responsibility lies with Head of the Department and Senior Officers. It was stated that appellant alone cannot transfer amount fraudulently starting from preparation of vouchers till disbursement of cheques, whereas subsequently he stated that appellant can defalcate the money of LIC by using “Add Pay” Option. It can be done by other employee who have access to “Add Pay” Option. It is stated that the SR No. of officer, who passed the cheque vouchers, does not reflect on loan vouchers. It was further stated that without passing original voucher of loan, cheque cannot be issued. He could not furnish any evidence through his enquiry report regarding destruction of any document by Pawan Kumar Rajak. It was stated that documents of **Exhibit-6 and 7** series was obtained after taking the printout of its screenshots and therefore, it nowhere reflects the name of persons who checked it and validate it. It was stated that the payment was made to beneficiary through cheque. He did not mention the name of officer in his enquiry report, who issued cheques. He did not mention any bank account transaction between beneficiaries and Pawan Kumar Rajak. He did not used word “fraudulent transaction” in his enquiry report. He denied the suggestion that Pawan Kumar Rajak was falsely implicated out of office politics and his S.R. Number was misused by others for the purpose of his false implication.

51.2. Upon cross-examination on behalf of appellant Aftab Alam, it was stated that during his enquiry he examined the documents and computer but did not interrogate any person. It was stated that no computers or any other electronic device of LIC in Patna Sahib Branch was under control of any LIC Agent.

52. **P.W. 20 is J.P. Mishra**, who lodged formal FIR on 30.04.2013, under the direction of Vijay Kumar Singh, Senior Divisional Manager. It was lodged on the basis of complaint given by Mr. P.C. Paikrey. It was lodged against Assistant Pawan Kumar Rajak and 8 others. The matter was inspected by A.K. Jha, Inspector CBI. He identified the formal FIR which was bearing signature of B.K. Singh, DIG, which upon his identification was exhibited as **Exhibit-A**.

52.1. Upon cross-examination, it was stated that he did not receive any direction to lodge FIR. He did not made any attempt to verify the facts of complaint before lodging the FIR and therefore he is not aware about its fact. It was stated that at page no. 4 of the FIR the name and signature of informant is missing.

53. **P.W. 21 is Ashok Kumar Jha**, he appears to be investigating officer of this case and since 01.07.2011 he was working as police inspector ACB, CBI. He was authorized to investigate this case bearing no. RC-9A/2013 dated 30.04.2013 for investigation under the direction of Sri B.K. Singh and on the same very day formal FIR was lodged. It was deposed that said FIR was lodged against LIC Assistant Pawan Kumar Rajak, LIC Agent Aftab Alam and others who under conspiracy by using the loan payment module of LIC software and by using its "Add Pay" option fraudulently defalcated the amount of Rs. 82,00,000/-. He visited the place of occurrence during the course of investigation. He also visited Divisional Office Branch of Indian Bank, Patna City Branch and Bihar Awami Co-operative Bank and collected documents and seized the relevant documents in connection with the present case. During the course of investigation he recorded the statement of informant Mr. P.C. Paikrey, Sri Bhudev Mullick, Sri S.N. Sharma, Sri Ashutosh Kumar, Sri Rajesh Kumar and other witnesses and recorded the same in the case diary. During course of investigation he found the

allegations true against appellant/accused as raised through FIR. It was deposed that Pawan Kumar Rajak, Assistant of LIC by misusing the facility of software transferred Rs. 82 Lakhs illegally by using "ADD PAY" option along with agent Aftab Alam and others. It was deposed that during the course of investigation it transpires that allegation raised through FIR was correct and by misusing the software appellant Pawan Kumar Rajak transferred Rs. 42 Lakhs in the account of Aftab Alam his brother Javed Alam, Shahid Alam and wife Irfat Parveen through different cheques, which was drawn in illegal manner and thereafter withdraw that amount. He submitted charge-sheet under Sections 120B, 201, 420, 467, 468 and 471 of IPC and Sections 13(2) read with Section 13(1)(d) of Prevention of Corruption Act 1980.

53.1. Upon cross-examination, it was stated by him that initially Neena Agrawal, Devdulal Bhattacharya and Raju Saha were also named accused but they did not sent up for trial. He did not moved any application to declare aforesaid accused persons as an approver in the present case. He submitted both charge-sheets i.e., original as well as supplementary of this case. He could not obtain signature of appellant Aftab Alam and his brother Javed Alam, Shahid Alam and his wife Irfat Parveen till submission of charge-sheet. It was stated that the LIC cheques were deposited in their account and there was total of three accounts in the name of Aftab Alam, out of which one was joint account with his wife and rest two with his brothers Javed Alam and Shahid Alam. It was also stated that no individual account was found in the name of his brother and wife. He did not sent up deposit slip of LIC and cheque before any forensic lab for its examination, whether it was deposited by them or by any other persons. It was stated that Javed Alam, Shahid Alam and Irfat Parveen were not LIC Agents. The withdrawal from aforesaid account was made by using withdrawal slip. The questionable cheques were deposited in the account of Neena Agrawal, Devdulal Bhattacharya and Raju Saha, who were the beneficiaries. As per the final form, total amount of Rs. 7,76,243/- was deposited in the account of Neena Agrawal, Rs. 3,28,181/- was deposited in the account of Devdulal Bhattacharya and Rs. 4,14,863/- was deposited in the account of Raju Saha. It is submitted that from all such accounts LIC suffered wrongful losses and accused persons received wrongful gains. It was stated that it was the duty of issuing authority of the cheque to ascertain whether it was issued in favour of genuine concerned perons or not. None of the cheques were found forged and it was bearing signature of authorised signatory. During investigation, he did not find any evidence which may suggest that appellant Aftab Alam in connivance with appellant Pawan Kumar Rajak tampered the electronic documents related with LIC policies. It was stated further that appellant Pawan Kumar Rajak was not the signing authority of the cheque. It was stated that he also came to know during the course of investigation that Pawan Kumar Rajak never created pressure or fear for issuing cheque. It was stated that the computer through which alleged tampering was done was not seized during investigation. He could not collect any such evidence during the investigation, which may suggest that appellant Aftab Alam withdraw money fradulently of any valid policy holder. Same is also about Javed Alam, Shahid Alam and Irfat Parveen, who are brothers and wife of appellant Aftab Alam. He also could not collect any evidence which may suggest that these four persons prepared documents through which money was withdrawn. He denied that he made biased investigation against appellant Aftab Alam his brothers and wife. It was stated to be correct that like Aftab Alam, Neena Agrawal, Raju Saha and Devdulal Bhattacharya were also LIC agents and by using their code, also cheque was issued and payment was made. It was stated that he did not find any evidence, which may suggest that appellant Aftab Alam, Javed Alam, Shahid Alam and Irfat Parveen had withdrawn the money. He did not saw even any computer during investigation, which by using appellant Pawan Kumar Rajak generated false loan vouchers. Hard disk of the said computer was also not seized. He could not explain that by using which computer the voucher was prepared by Pawan Kumar Rajak but subsequently he stated that it was prepared by Pawan Kumar Rajak for the reason that same bears his SR number. Thereafter a question was asked to this witness by court that whether any person can enter SR Number of other while creating voucher, answer was in negative as "password" was unique and was supposed to be in exclusive knowledge of particular employee. He was given screenshots of different vouchers on which SR Number of Pawan Kumar Rajak was available. It was stated that appellant Pawan Kumar Rajak was posted in Patna City Branch since 1996-2012. It was also stated by him that he also saw soft copy of screenshot vouchers in computer. He denied that screenshot was given to him and was created by LIC officials by using "photoshop editing app" and by using said edited documents as a true document, he proceeded in this matter. He did not investigate on the point, whether other related documents except vouchers in issue were available in original or not. He did not matched the screenshots of the vouchers with original voucher available in the office. He saw its original in computer itself. It was stated that appellant did not delete 97 vouchers from his computer system for the reason that he can not do that technically. He did not investigate on this point that when vouchers cannot be deleted then why printout cannot be obtained. He denied the suggestion that instead of taking printout of screenshot, he was supplied with edited documents by LIC Officials. It was stated that he has idea about the fact that before sanctioning of loan, an application is required to be made alongwith paper of LIC policies. It was stated that appellant Pawan Kumar Rajak was not the custodian of the vouchers after making payment out of that. He did not asked in writing for vouchers from HoD of Accounts Department or HoD of Loan Sanction Department, who issued cheques under their signature. It was stated that validation, cheque passing and its drawing was not the allotted work of appellant Pawan Kumar Rajak and he was of no role in all such things. It was stated that no documentary evidence found during investigation, which may suggest that appellant Pawan Kumar Rajak was the beneficiary. It was stated that except screenshot of vouchers nothing incriminating was collected against Pawan Kumar Rajak during the investigation. It was stated that house of Pawan Kumar Rajak was also searched during the investigation but nothing incriminating was found from his house, which may suggest his involvement in crime in issue. He did find any paper, which may suggest that appellant

Pawan Kumar Rajak received any money from any agent or from policy holder. It was stated that during investigation a bank account of Pawan Kumar Rajak was came into knowledge, which was made non-operational. He did not receive any documentary evidence during the investigation, which may suggest that any payment was made through fraudulent transaction and was transferred either to the bank account of Pawan Kumar Rajak or any of his family members. He never searched the office of LIC Patna City Branch regarding vouchers in issue. It was stated that he is not aware about the fact whether the person to validate the vouchers and also to pass it are required to put their SR number on said vouchers. It was stated that "password" policy was maintained in the branch and its related document was not seized. It was stated that **Exhibit-7 series,** which is screenshot of vouchers reflects SR Code of concerned person, who generated it. It was stated that it is not clear from **Exhibit-8** that who are those persons whose SR numbers are mentioned over there. It was stated that persons, whose SR numbers are on screenshot vouchers, cannot make payment by using “Add Pay” option. This witness was again recalled on 06.04.2018 for cross-examination, where it was denied that P.W. 22 Upendra Kumar Verma, who appears to be examined on 28.03.2018 made statement as recorded in paragraph no. 21 and 23 but after a pause, on his own, it was stated by him that Upendra Kumar Verma made wrong statement in paragraph no. 20, 21 and 22. He denied that Upendra Kumar Verma did not make statement before him as he made in his testimony which was recorded in paragraph no. 21 and 22.

54. **P.W. 22 is Upendra Kumar Verma**, working as daily wager in LIC Patna Sahib Branch. He joined the said branch as Class IV staff on 27.02.2012. It was stated that cheques were required to be signed by the officers. It was stated that he can disclose the name of officers, who signed the cheque. Upon questioning, it was stated that those officers were T.K. Rai, R.K. Srivastava, Yogendra Chaudhary etc.,. Upon identification, those cheques having signature of aforesaid officers were exhibited as **Exhibit-19/11, Exhibit-18/13 and Exhibit-18/14 series.** All aforesaid cheques were of Indian Bank. It was stated that he can say that who

prepared the vouchers after issuing it. He could not recall whether Pawan Kumar Rajak was ever active member of the union. He was declared hostile by the prosecution. Upon cross-examination by State, nothing transpired relevant out of his testimony which may be used for purpose for corroboration or contradiction *qua* depositions of other prosecution witnesses, who appears to support the case of prosecution.

54.1. Upon cross-examination on behalf of appellant Aftab Alam, it was stated that the cheque in issue was passed under the signature of AAO and AO of the Branch.

55. It would be apposite to reproduce Sections **420, 467, 468 and 471** of the Indian Penal Code for better understanding of the position of law, which appears involved in the present appeals, are as follows:

> "**420. Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
>
> **467. Forgery of valuable security, will,**

etc.—Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, 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.

468. Forgery for purpose of cheating.—Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

471. Using as genuine a forged document or electronic record.—Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document
or electronic record], shall be punished in the same manner as if he had forged such document or electronic record."

56. It would further be apposite to reproduce para **120B** of the I.P.C. which also appears involved in the present case, therefore, the same be reproduced hereunder for ready reference:

"120B. Punishment of criminal conspiracy.
—(1) Whoever is a party to a criminal

> conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.
>
> (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."

57. In the aforesaid context, the Hon'ble Supreme Court has held in para **42, 44 45 & 46** in **Sukhbir Singh Badal's** case (supra), which reads as under for ready reference:

> **"42.** Looking to the averments and allegations in the complaint, it is not appreciable at all, how the appellants are alleged to have committed the offence of cheating. The ingredients for the offence of cheating are not at all satisfied. There is no question of deceiving any person, fraudulently or dishonestly to deliver any property to any person......... Therefore, even on bare reading of the averments and allegations in the complaint, no case even remotely for the offence under Section 420 IPC is made out.
>
> **44.** Therefore, as per Section 463, "whoever makes any false documents, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to

enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed", he is said to have committed the offence of forgery. Making a false document is defined under Section 464 IPC. Therefore, for the offence of forgery, there must be making of a false document with intent to cause damage or injury to the public or to any person. Therefore, making the false documents is sine qua non. Identical question came to be considered by this Court in the case of Mohammed Ibrahim & Ors. (supra). While interpreting Sections 464 and 471 IPC and other relevant provisions of IPC, in paragraphs 13 and 14, it is observed and held as under:-

> "**13.** The condition precedent for an offence under Sections 467 and 471 is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sale deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.
>
> **14.** An analysis of Section 464 of the Penal Code shows that it divides false documents into three categories:
>
> 1. The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.
>
> 2. The second is where a person dishonestly or

fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

3. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him, know the contents of the document or the nature of the alteration.

In short, a person is said to have made a "false document", if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practising deception, or from a person not in control of his senses."

45. In the present case, no false document has been produced. What was produced was the Memorandum and no other documents were produced. Even according to the original complainant, the Memorandum and the claim made at the time of registration of the Party that it has adopted a Memorandum accepting the secularism, the same was contrary to the Constitution of the Party produced before the Gurudwara Election Commission. Making a false claim and creating and producing the false document both are different and distinct.

46. Now, so far as the offences under Sections 466, 467, and 468 IPC are concerned, on the face of it, it cannot be said that any case is made out for the said offences. Section 466 is with respect to forgery of record of court or of public register. Section 467 is with respect to forgery of valuable security, will etc. Section 468 relates to forgery for the purposes of cheating. Section 471 will be applicable in case of using as genuine a forged document."

58. From the testimony of informant/PW-8 namely, Pratap Chandra Paikray, it appears that appellant Pawan Kumar Rajak was posted as Assistant in Patna City Branch of LIC and by using the 'ADD PAY' option in software committed fraud. All prosecution witnesses including informant/PW-8 testified during the trial that only screen shot of vouchers were obtained, where the employee code i.e. SR Code of appellant Pawan Kumar Rajak was available and on the basis of said screen shot only, the appellant was made accused in this case.

59. It is an admitted position that no hard copy of said vouchers were found from office during investigation, even print out of vouchers generated thereof was not obtained. The factual position further suggests out of testimony of prosecution witnesses that appellant Pawan Kumar Rajak never issued any cheque, neither he received any amount. The entire prosecution appears to be based upon the screen-shot of vouchers which is a secondary electronic evidence for which a certificate in view of Section 65B of the Indian Evidence Act is required to be issued as to read the same as

evidence.

60. It would be apposite to reproduce **Section 65B of the Indian Evidence Act**, which reads as under:

> **"65B. Admissibility of electronic records.** – (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.
>
> (2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: –
>
> (a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
>
> (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
>
> (c) throughout the material part of the said period, the computer was operating properly or, if not, then in

respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether–

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, –

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub- section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, –

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation. – For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process."

61. In this context, the Hon'ble Apex Court has held in para **21 and 22** in **Ravinder Singh's** case (supra), which are as under:

"**21.** Lastly, this appeal also raised an important substantive question of law that whether the call records produced by the prosecution would be admissible under section 65A and 65B of the Indian Evidence Act, given the fact that the requirement of certification of electronic evidence has not been complied with as contemplated under the Act. The uncertainty of whether Anvar P.V. vs P.K. Basheer & Ors [(2014) 10 SCC 473] occupies the filed in this area of law or whether Shafhi Mohammad v. State of Himachal Pradesh (2018) 2 SCC 801 lays down the correct law in this regard has now been conclusively settled by this court by a judgement dated 14/07/2020 in Arjun Panditrao Khotkar vs Kailash Kushanrao Gorantyal [(2020) 7 SCC 1] wherein the court has held that:

"61. We may reiterate, therefore, that the certificate required under Section 65B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. (supra), and incorrectly "clarified" in Shafhi Mohammed (supra). *Oral evidence in the place of such certificate cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law.* Indeed, the hallowed principle in Taylor v. Taylor (1876) 1 Ch.D 426, which has been followed in a number of the judgments of this Court, can also be applied. Section 65B(4) of the Evidence Act clearly states that secondary evidence is admissible only if lead in the manner stated and not otherwise. To hold otherwise would render Section 65B(4) otiose.

* * *

73.1. Anvar P.V. (supra), as clarified by us hereinabove, is the law declared by this Court on Section 65B of the Evidence Act. The judgment in Tomaso Bruno (supra), being per incuriam, does not lay down the law correctly. Also, the judgment in SLP (Crl.) No. 9431 of 2011 reported as Shafhi Mohammad (supra) and the judgment dated 03.04.2018 reported as (2018) 5 SCC 311, do not lay down the law correctly and are therefore overruled.

73.2. The clarification referred to above is that the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. I*n cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4)."* ***(emphasis supplied)***

22. In light of the above, the electronic evidence produced before the High Court should have been in accordance with the statute and should have complied with the certification requirement, for it to be admissible in the court of law. As rightly stated above, Oral evidence in the place of such certificate, as is the case in the present matter, cannot possibly suffice as Section 65B(4) is a mandatory requirement of the law."

62. Considering the overall testimony of prosecuting witnesses, some of the material aspects which surfaced during the trial that PW-4, stated during trial that vouchers were to be passed only after proper verification. It appears from his testimony that without pressing any application, loan sanction process cannot be initiated, which was to be submitted either by online mode or through respective agents. PW-4 further stated that cheque was prepared by accounts section from

where it issued to the party. It transpires from his testimony also that after creating the voucher, it is to be transmitted through software to concerned higher grade assistant for checking and passing. Similarly, PW-5 also stated that the vouchers prepared by the assistant are required to be checked and passed by the higher officials. It appears from testimony of PW-8, who is the informant, that passing of loan was not done through module and who checked it, can be ascertained only from hard copy. PW-11 said that loan cannot be issued without policy bond. It was stated by PW-11, who is LIC officer that accounts in which payment was received was of policy holders. He also stated that in loan processing the minimum work is done by the assistant. In present case, Pawan Kumar Rajak was the Assistant. He categorically stated that appellant Pawan Kumar Rajak cannot process the voucher and put his signature on cheque and defalcate the money by himself.

63. It also appears from the testimony of Investigating Officer/PW-21 that similar payments were made from policy of other agents. Nothing incriminating found from

the house of Pawan Kumar Rajak (appellant), which may connect him with the present case as testified by PW-11. He categorically stated that no evidence was found that any amount received by the policy holders was transferred to Pawan Kumar Rajak or any of his relative.

64. From the deposition of almost all prosecution witnesses as it was discussed aforesaid, it is an admitted fact that all the payments were made to the account holders of the LIC or to LIC itself. The account holders, who received the payment, like Neena Agrawal, Raju Saha, Devdulal Bhattacharya etc. were not made accused nor made witness and neither any recovery proceeding was initiated against them, therefore, the allegation that payments, made to the account holders by fraudulent means under conspiracy, appears non-convincing. It appears from their testimony as there was some procedural lapse on the part of appellant Pawan Kumar Rajak, therefore, it was presumed that appellant made fraudulent payment.

65. This Court does not find force in the submission of learned counsel appearing on behalf of C.B.I. that vouchers

generated by appellant Pawan Kumar Rajak did not require checking and passing since the same were generated through software module, for the reason that principal witness like PW-4, PW-8/informant and PW-21/Investigating Officer of this case have stated categorically during the trial that the vouchers prepared by the appellant need to be checked and it is to be passed manually. This Court fails to understand that how any amount debited from any account by using any software module as in the present case 'ADD PAY' option not requires further passing or checking before issuing any cheque in connection with approved loan, which was created by using the software option, as aforesaid.

66. It nowhere appears out of evidence that policy holders made complaint about payment of loan from their account and, therefore, the LIC had to pay back the said amount to the policy holders. This fact was not proved by producing any relevant document.

67. The appellant, Pawan Kumar Rajak, was duty bound to create vouchers for loan through software module by using his SR Code as he was posted thereof as Assistant.

Therefore, he did not created any false and fabricated document. The steps of processing voucher was the first step of the process, where the verification/passing and preparation of cheque and its issuance is the subsequent stage which is to be done by the higher officials. On the basis of computer screen-shot of the vouchers, maximum can be gathered that it was created from the computer of the Assistant by using his SR Code, which is not sufficient to suggest that he had generated any forged document for any fraudulent purpose. No original document and voucher as prepared in the present case, was brought on record, as same was not found during the course of investigation. This is not the case of the prosecution that any account holders were paid more than their entitlement.

68. In the aforesaid context, it would apposite to discuss the finding of Hon'ble Supreme Court *qua* Section 13(1)(d) of the P.C. Act as available through **A. Sivaprakash'** case (supra), which are as under:

> "**17.** Section 13(1)(*d*) of the PC Act reads as under:
>
> **13.** ***Criminal misconduct by a public servant***.—(1) A public servant is said to commit the offence of criminal misconduct—

* * *

(*d*) if he—

(*i*) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(*ii*) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(*iii*) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or"

18. The prosecution has sought to cover the case of the appellant under sub-clause (*ii*) of Section 13(1)(*d*) and not under sub-clause (*i*) and sub-clause (*iii*). Insofar as sub-clause (*ii*) is concerned, it stipulates that a public servant is said to commit the offence of criminal misconduct if he, by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage. Thus, the ingredients which will be required to be proved are:

(*1*) The public servant has abused his position.

(*2*) By abusing that position, he has obtained for himself or for any other person any valuable thing or pecuniary advantage.

19. It was not even the case set up by the prosecution that the appellant had taken that money from some person and had obtained any pecuniary advantage thereby. It was the obligation of the prosecution to satisfy the aforesaid mandatory ingredients which could implicate the appellant under the provisions of Section 13(1)(*d*)(*ii*). The attempt of the prosecution was to bring the case within the fold of sub-clause (*ii*) alleging that he misused his official position in issuing the certificate utterly fails as it is not even alleged in the charge-sheet and not even an iota of evidence is led as to what kind of pecuniary advantage was obtained by the appellant in issuing the said letter.

20. In *C. Chenga Reddy* v. *State of A.P.* [*C. Chenga Reddy* v. *State of A.P.*, (1996) 10 SCC 193 : 1996 SCC (Cri) 1205] , this Court held that even when codal violations were established and it was also proved that there were irregularities committed by allotting/awarding the work in violation of circulars, that by itself was not sufficient to prove that a criminal case was made out. The Court went on to hold: (SCC p. 207, para 22)

> "*22.* On a careful consideration of the material on the record, we are of the opinion that though the prosecution has established that the appellants have committed not only codal violations but also irregularities by ignoring various circulars and departmental orders issued from time to time in the matter of allotment of work of jungle clearance on nomination basis and have committed departmental lapse yet, none of the circumstances relied upon by the prosecution are of any conclusive nature and all the circumstances put together do not lead to the irresistible conclusion that the said circumstances are compatible only with the hypothesis of the guilt of the appellants and wholly incompatible with their innocence. In *Abdulla Mohammed Pagarkar* v. *State (UT of Goa, Daman and Diu)* [*Abdulla Mohammed Pagarkar* v. *State (UT of Goa, Daman and Diu)*, (1980) 3 SCC 110 : 1980 SCC (Cri) 546] , under somewhat similar circumstances this Court opined that mere disregard of relevant provisions of the Financial Code as well as ordinary norms of procedural behaviour of government officials and contractors, without conclusively establishing, beyond a reasonable doubt, the guilt of the officials and contractors concerned, may give rise to a strong suspicion but that cannot be held to establish the guilt of the accused. The established circumstances in this case also do not establish criminality of the appellants beyond the realm of suspicion and, in our opinion, the approach of the trial court and the High Court to the requirements of proof in relation to a criminal charge was not proper.

21. We, therefore, are of the opinion that the prosecution has miserably failed to prove the charge beyond reasonable doubt and the courts below have not looked into the matter in a proper perspective. We, thus, allow this appeal and set aside the conviction of

> the appellant. The appellant is already on bail. His bail bonds shall stand discharged."

69. As far appellant Aftab Alam is concerned, admittedly, he was the agent of the LIC and not the public servant. As per case of the prosecution, the maximum cases of such defalcation were found in policy where this appellant was the agent, but it not appears from testimony of any prosecution witnesses that any application for processing loan on behalf of policy holder, which was a mandatory pre-condition to process any loan was placed by the appellant before Pawan Kumar Rajak, who was also co-convict and appellant and was the dealing assistant of any such applications, at first point of loan sanctioning process. The accounts, where amount said to be deposited, were found in joint name of the family members of this appellant including his wife and brothers. The amount was also said to be deposited out of commission received by appellant being an LIC agent. Having some more unaccounted money in joint account of this appellant, it cannot be said beyond doubt that same was out of alleged fraudulent transfer. It is an admitted position that this appellant was of no administrative control in

official working of LIC. Moreover, PW-4 categorically stated that entire payment was made to all complainants, whereafter they made specific petition before LIC as to close their complaint. It appears that matter was compromised. It may be a case of grave suspicion, but it is not a case where it can be said that prosecution established its case beyond reasonable doubt *qua* cheating after preparing preparation of forged document for fraudulent transfer under criminal conspiracy.

70. Hence, in view of aforesaid discussion, it appears that prosecution fails to answer several material questions during the trial as to establish its case beyond reasonable doubt, the benefit of which must be extended to the accused/appellants.

71. Accordingly, both these appeals stand allowed.

72. The impugned judgment of conviction dated 21.02.2022 and order of sentence dated 28.02.2022, respectively as passed by learned Special Judge, CBI-1, Patna in Special Case No. 01 of 2013 (arising out of R.C. No. 9(A) of 2013) is quashed and set aside.

73. Resultantly, the appellant/convict namely, Shri Pawan Kumar Rajak and appellant/convict namely, Aftab Alam @ Md. Aftab Alam are acquitted of the charges leveled against them by the learned trial court. Since, both the appellants/convicts are on bail, they are discharged from the liabilities of their respective bail bond and sureties. Fine, if any, deposited, be returned to the appellants immediately.

74. Let a copy of this judgment alongwith the Trial Court Records be sent to the learned Trial Court forthwith.

(Chandra Shekhar Jha, J.)

S.Tripathi/Rajeev-

AFR/NAFR	**AFR**
CAV DATE	**12.11.2024**
Uploading Date	**18.12.2024**
Transmission Date	**18.12.2024**