

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1382 of 2018

Arising Out of PS. Case No.-17 Year-2015 Thana- D.R.I District- Patna

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Alamgir Sheikh @ Raju, Son of Md. Irfan Alai@Sheikh, Resident of
Mohanpur, P.S. Baishnav Nagar, District- Malda West Bengal.

... .. Appellant/s

Versus

The State Through N.I.A.

... .. Respondent/s

=====
with
CRIMINAL APPEAL (DB) No. 1378 of 2018

Arising Out of PS. Case No.-15 Year-2015 Thana- C.B.I CASE District- Patna

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Sunny Kumar @ Kabir Khan @ Sujit Kumar @ Kabir, Son of Umesh Prasad
@ Umesh Sao, Resident of Village- Kadirganj, P.S.- Town Thana, District-
Nawada, Bihar.

... .. Appellant/s

Versus

The Union Of India Through N.I.A. New Delhi

... .. Respondent/s

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with
CRIMINAL APPEAL (DB) No. 1380 of 2018

Arising Out of PS. Case No.-17 Year-2015 Thana- D.R.I District- Patna

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Ashraful Alam @ Ishraful Alam @ Fatik, Son of Farman Sheikh @ Haji
Farman Sekh, R/o Mohanpur, P.S. Bauishav Nagar, District- Malda West
Bengal.

... .. Appellant/s

Versus

The State Through N.I.A.

... .. Respondent/s

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with
CRIMINAL APPEAL (DB) No. 1422 of 2018

Arising Out of PS. Case No.-15 Year-2015 Thana- C.B.I CASE District- Patna

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Afroz Ansari, Son of late Md. Salim Resident of Ara Road, Purnea Bazar
Tand Near Gitanjali Cinema, Kujju,P.S. Mandu,Distt.-Ramgarh,Jharkhand

... .. Appellant/s



Versus
The State Through N.I.A.

... .. Respondent/s

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Appearance :
(In CRIMINAL APPEAL (DB) No. 1382 of 2018)
For the Appellant/s : Mr. Anuj Kumar, Advocate
For the Respondent/s : Mr. Manoj Kumar Singh, Advocate
For the N.I.A. : Dr. K.N. Singh, Sr. Advocate (ASG)
Mr. Arvind Kumar, Spl.P.P.
Mr. Shiaditya Dhari Sinha, AC to ASG
Mr. Paritosh Parimal, Advocate
For Union of India : Mr. Manoj Mr. Singh, Spl.P.P.
(In CRIMINAL APPEAL (DB) No. 1378 of 2018)
For the Appellant/s : Mr.Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr.S.D Sanjay Addl. Soc. Gen.
(In CRIMINAL APPEAL (DB) No. 1380 of 2018)
For the Appellant/s : Mr.Anuj Kumar, Advocate
For the Respondent/s : Mr.Manoj Kumar Singh Spl. P.P., Nia
(In CRIMINAL APPEAL (DB) No. 1422 of 2018)
For the Appellant/s : Mr.Anuj Kumar, Advocate
For the Respondent/s : Mr.Manoj Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 19-11-2025

1. The appellants of the above-numbered appeals faced joint trial in Special Case No. 01 of 2015 (arising out of R.C. No. 15/2015, NIA, Delhi) before the Court of the learned Special Judge, NIA, Patna, and were convicted for committing the offence under Sections 120B, 489B, 489C and 419 of the Indian Penal Code, 1860, and under Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, by judgment dated 05/10/2018. By a separate order dated 11/10/2018, they were



sentenced to undergo rigorous imprisonment for life with fine under the provisions of the UAPA, together with further sentences under the IPC, all directed to run concurrently.

2. Since separate appeals were preferred from one and identical judgment, we have heard the appeals analogously and proceeded to dispose of the appeals by this common judgment.

The present appeals have been filed by the following appellants:

- i) Criminal Appeal (DB) No. 1382 of 2018 – Alamgir Sheikh @ Raju
- ii) Criminal Appeal (DB) No. 1378 of 2018 – Sunny Kumar @ Kabir Khan @ Sujit Kumar @ Kabir
- iii) Criminal Appeal (DB) No. 1380 of 2018 – Ashraful Alam @ Ishraful Alam @ Fatik
- iv) Criminal Appeal (DB) No. 1422 of 2018 – Afroz Ansari

3. For the sake of convenience, the facts are primarily drawn from Criminal Appeal (DB) No. 1382 of 2018, filed by



Alamgir Sheikh @ Raju, treating the same as the leading case. Necessary deviations in respect of the other connected appeals are noticed wherever required.

4. On 19/09/2015 at about 01:20 pm, a team of officers of the Directorate of Revenue Intelligence (DRI), Patna, acting on prior source information, intercepted a passenger bus, namely Amar Jyoti Bus, bearing registration number BR-06PB-2951, near Ramgarhwa Railway Crossing, District East Champaran, Bihar.
5. During the course of search, one passenger, subsequently identified as Afroz Ansari, was found seated on seat no. 19 with a black coloured bag in his possession. In the presence of independent witnesses, namely the driver and conductor of the bus, his bag was searched after issuance of a notice under Section 102 of the Customs Act, 1962. The search yielded twelve bundles of suspected FICN, numbering 1188 notes of ₹500 denomination, amounting to a total of ₹5,94,000/-, wrapped in a green coloured lungi. In addition to the said notes, certain personal documents including a bus ticket, Aadhaar card, PAN card, ATM cards, a bank passbook and a mobile phone were also recovered.



6. A seizure memo was prepared on the spot, and the accused Afroz Ansari was brought to the office of the DRI at Muzaffarpur. The seized currency was inventoried and counted. Upon subsequent forensic examination by the Forensic Science Laboratory, Patna, the notes were certified to be counterfeit of high quality.
7. The DRI registered the case as Case No. 17/2015-16 on 19/09/2015, and produced the accused before the Court of the Economic Offences, Muzaffarpur, under Section 104 of the Customs Act, 1962.
8. The statement of Afroz Ansari was recorded under Section 108 of the Customs Act, wherein he is alleged to have admitted carrying the counterfeit currency on the instructions of Sunny Kumar @ Kabir Khan, his brother-in-law, for delivery to a person at Raxaul. He further disclosed that Kabir Khan had procured the said notes from across the border in Bangladesh.
9. By order of the Ministry of Home Affairs, Government of India, New Delhi, bearing No. 11034/109/2015-IS.IV dated 16/12/2015, the investigation was transferred to the National Investigation Agency (NIA) in exercise of powers under the National Investigation Agency Act,



2008.

10. In pursuance of the said order, the NIA registered the case as R.C. No. 15/2015/NIA/DLI on 23/12/2015 under Sections 489B and 489C IPC, and subsequently also under Sections 16, 18 and 20 of the UAPA, 1967.

11. In the course of investigation, it came to light that the FICN seized from Afroz Ansari was part of a wider conspiracy involving multiple individuals engaged in smuggling, transport, and circulation of counterfeit currency in India, having linkages with operatives in Bangladesh.

12. On 09/06/2016, acting on intelligence, the NIA apprehended Alamgir Sheikh @ Raju near Bettiah Bus Stand, West Champaran, Bihar. From his possession, 300 pieces of ₹1000 denomination FICN, with a total face value of ₹3,00,000/-, were recovered. This consignment was allegedly meant to be delivered to one Munna Singh, against whose payment genuine Indian currency was routed through the bank account of co-accused Asikul Islam.

13. The role of Ashraful Alam @ Fatik, a resident of Malda,



West Bengal, also surfaced during investigation. He was alleged to be a key supplier of counterfeit currency brought in from Bangladesh. Similarly, Sunny Kumar @ Kabir Khan, a resident of Nawada, Bihar, was identified as an active participant in the smuggling and distribution network.

14. Upon completion of investigation, the NIA submitted charge-sheet No. 08/2016 dated 22/07/2016 against four accused persons, namely:

- a) Afroz Ansari
- b) Sunny Kumar @ Kabir Khan @ Sujit Kumar @ Kabir
- c) Ashraful Alam @ Ishraful Alam @ Fatik
- d) Alamgir Sheikh @ Raju

for offences punishable under Sections 120B, 489B, 489C and 419 of the IPC, and Sections 16, 18 and 20 of the UAPA, 1967.

15. The learned Special Judge, NIA, Patna, took cognizance of the offences on 28/07/2016. Charges were framed on 18/03/2017, and the trial commenced on 01/04/2017.

16. The prosecution examined 68 witnesses, including



officers of the DRI, officials of the NIA, independent seizure witnesses, forensic experts, nodal officers of telecom companies, bank officials, approvers, and protected witnesses. Several documentary and material exhibits, including the seized counterfeit notes, seizure lists, forensic reports, CDRs, and bank records, were also exhibited.

17.The accused were examined under Section 313 of the Code of Criminal Procedure, 1973, between 12/07/2018 and 17/07/2018, wherein they denied the allegations and claimed false implication.

18.According to the prosecution, the appellants were active members of a criminal conspiracy to procure, transport and circulate high quality counterfeit Indian currency in India. The case was sought to be established through:

Direct Recoveries:

- a. ₹5,94,000/- from Afroz Ansari at Ramgarhwa.
- b. ₹3,00,000/- from Alamgir Sheikh at Bettiah.

Statements and Testimonies:

- c. Statement of Afroz Ansari under Section 108 of the Customs Act implicating Kabir Khan.
- d. Testimony of approvers PW-1 Sanjay Kumar and



PW-66 Ashikul Islam, both of whom detailed the conspiracy and roles of the appellants.

- e. Deposition of PW-27 (Protected Witness X-1), narrating the manner of procurement and distribution of FICN and implicating Kabir Khan and Alamgir Sheikh.

Scientific and Documentary Evidence:

- f. Forensic reports confirming the seized notes to be high quality counterfeit.
- g. Call detail records showing frequent contacts between the appellants.
- h. Bank documents evidencing financial transactions connected with the conspiracy.

19.The NIA, in its counter affidavit, reiterated that the recoveries, approver testimonies, protected witness depositions, forensic findings, and corroborative records together formed a complete chain, conclusively proving the appellants' guilt.

20.Upon conclusion of the trial, the learned Special Judge, NIA, Patna, by judgment dated 05/10/2018, held the appellants guilty and convicted them for committing the offences under Sections 120B, 489B, 489C and 419 IPC,



and Sections 16, 18 and 20 of the UAPA, 1967.

21.By order dated 11/10/2018, each of the appellants was sentenced to undergo rigorous imprisonment for life under the UAPA, with fines, and further imprisonment under the IPC, with all sentences directed to run concurrently.

22.Aggrieved thereby, the present appeals have been filed before this Court.

23.It has been argued on behalf of the appellants that except for the alleged recoveries from Afroz Ansari and Alamgir Sheikh, there is no direct evidence against the other two appellants, namely Sunny Kumar @ Kabir Khan @ Sujit Kumar @ Akbar and Ashraful Alam @ IshrafulAlam @ Fatik. The entire prosecution case against them rests upon circumstantial evidence, such as the purported statement of a co-accused recorded under Section 108 of the Customs Act and the depositions of approvers and protected witnesses.

24.According to the Appellants, none of these items of evidence can be regarded as sufficient to sustain a conviction for grave offences under the IPC or the



Unlawful Activities (Prevention) Act.

25. The Counsel for the Appellants has strenuously contended that the statement allegedly given by Afroz Ansari under Section 108 of the Customs Act before PW-22 Anubhav Kumar, Senior Intelligence Officer, is wholly inadmissible in evidence.
26. It is submitted on behalf of the Appellants that officers of the DRI are in effect “police officers” within the meaning of Section 25 of the Indian Evidence Act, 1872. Any statement recorded by them in the course of investigation, particularly one inculcating co-accused, stands on the same footing as a confession made to police, which is expressly barred by law.
27. The written arguments emphasize that even otherwise, the alleged statement lacks voluntary character. Afroz Ansari, when examined under Section 313 CrPC, specifically denied having given any such statement on 19/09/2015. No independent witness was present at the time of recording. The entire proceeding was conducted in secrecy. Therefore, the reliance of the prosecution on Exhibit-23 (the alleged written statement) is misplaced.



28.The Learned Counsel for Appellants has further argued that the testimony of PW-1 Sanjay Kumar and PW-66 Ashikul Islam, both approvers, cannot be accepted without independent and material corroboration. It is contended that these witnesses were themselves accused in the case and were granted pardon under Section 306 CrPC. Their testimony, by the very nature of their position, is tainted with self-interest and cannot form the sole basis of conviction.

29.It is pointed out that the so-called corroboration relied upon by the prosecution is nothing but a repetition of circumstances that were already in doubt, such as the inadmissible statement of Afroz Ansari and the depositions of protected witnesses.

30.The testimony of PW-27 (Protected Witness X-1) has been questioned on the ground that it suffers from serious infirmities. The witness gave a narrative implicating Kabir Khan and Alamgir Sheikh, but his account was not supported by any independent documentary evidence.

31.It has been submitted that the use of a protected witness, whose identity and circumstances cannot be independently verified, is itself fraught with danger. The



Court must therefore approach such testimony with utmost caution.

32.The Appellants have also objected to the prosecution's attempt to place reliance upon previous criminal antecedents of some of the accused persons. It is argued that under Section 54 of the Indian Evidence Act, 1872, the previous bad character of an accused is wholly irrelevant unless the accused has himself adduced evidence of good character. In the present case, none of the appellants claimed good character; therefore, the reference to their alleged past involvement in other cases is legally impermissible and amounts to grave prejudice.

33.The Appellants has highlighted that although the bus driver (PW-25) was examined, the conductor of the bus, who was equally an independent witness to the seizure, was not examined. This omission casts a serious doubt upon the fairness of the investigation and the reliability of the seizure witnesses.

34.All the appellants, in their statements under Section 313 CrPC, denied the allegations and claimed false implication. They asserted that they had no connection with the FICN allegedly seized, nor were they members



of any conspiracy.

35. On these grounds, the Appellants has urged that the prosecution has failed to prove its case beyond reasonable doubt, particularly against Sunny Kumar @ Kabir Khan and Ashraful Alam, against whom no direct recovery was made. The appellants accordingly seek acquittal by setting aside the judgment of conviction and order of sentence passed by the learned Special Judge, NIA, Patna.

36. Upon appreciation of the oral and documentary evidence adduced by the prosecution, the learned Special Judge, NIA, Patna, delivered judgment dated 05/10/2018, holding the appellants guilty and convicting them for committing the offences under Sections 120B, 489B, 489C and 419 of the Indian Penal Code, 1860, and under Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967. By order dated 11/10/2018, they were sentenced to rigorous imprisonment for life with fine, along with further sentences under the IPC, all to run concurrently.

37. The findings of the learned trial court, as culled out from the impugned judgment, may be summarised as follows:



38.The learned trial court has rightly held that the recovery of 1,188 pieces of ₹500 denomination FICN, amounting to ₹5,94,000/-, from the possession of Afroz Ansari on 19/09/2015 at about 01:20 PM, near Ramgarhwa Railway Crossing, stands proved beyond reasonable doubt.

39.The court relied upon the testimony of PW-11 Dhirendra Kumar (DRI Officer) and PW-22 Anubhav Kumar (Senior Intelligence Officer, DRI), who consistently deposed regarding the interception of the Amar Jyoti Bus, the search conducted under Section 102 of the Customs Act, and the seizure of the black bag from Afroz Ansari. The independent witness, PW-25 Mukesh Singh (bus driver), supported the version of the official witnesses. The learned trial court has rightly held that the absence of the bus conductor from the witness box was not fatal, since PW-25's evidence was credible, corroborated, and not shaken in cross-examination.

40.The learned trial court has rightly held that the subsequent recovery of 300 pieces of ₹1,000 denomination FICN, amounting to ₹3,00,000/-, from the possession of Alamgir Sheikh @ Raju on 09/06/2016 at Bettiah Bus Stand, stands fully established.



41.The official witnesses who conducted the search and seizure were found trustworthy, and their depositions were supported by the seizure memo and forensic confirmation. The learned trial court found no reason to doubt the authenticity of this recovery, and has rightly held that it demonstrates the active participation of Alamgir Sheikh in the circulation of counterfeit currency as part of the continuing conspiracy.

42.The learned trial court has rightly held that the complicity of Sunny Kumar @ Kabir Khan and Ashraful Alam @ Fatik in the conspiracy was proved, even though no direct recovery was made from them.

43.The court relied upon:

44.The alleged statement of Afroz Ansari under Section 108 of the Customs Act, recorded by PW-22, which disclosed that Kabir Khan had supplied the seized FICN.

45.The testimony of approvers PW-1 Sanjay Kumar and PW-66 Ashikul Islam, who gave detailed accounts of the larger conspiracy, including the role of Kabir Khan and Ashraful Alam.

46.The deposition of PW-27 (Protected Witness X-1), who also implicated Kabir Khan and Alamgir Sheikh in the



racket.

47.The learned trial court has rightly held that when these pieces of evidence are read together, they establish beyond doubt that Kabir Khan and Ashraful Alam were part of the conspiracy to procure and distribute FICN.

48.The learned trial court has rightly held that the depositions of PW-1 Sanjay Kumar and PW-66 Ashikul Islam, though they were accomplices, were trustworthy and corroborated in material particulars.

49.The trial court noted that PW-1, a pardoned witness, and PW-66, an approver, independently described the modus operandi of the conspiracy and the involvement of all appellants. Their testimony was found consistent with the documentary evidence of bank transactions and CDRs. The learned trial court has rightly held that the requirement of corroboration of accomplice testimony, as envisaged under Illustration (b) to Section 114 of the Evidence Act, stood satisfied.

50.The learned trial court has rightly held that the evidence of PW-27 (Protected Witness X-1) was reliable and lent further corroboration to the prosecution case. The court observed that the witness gave a natural and coherent



account of the chain of events, and his testimony was not shaken in cross-examination. The protection of his identity, in the opinion of the court, did not in any way undermine the credibility of his deposition.

51.The learned trial court has rightly held that the forensic reports conclusively established that the seized notes were counterfeit of high quality. The expert witnesses confirmed that the notes bore features resembling genuine currency but were printed with sophisticated methods making them counterfeit. This scientific evidence, in the view of the trial court, corroborated the oral testimony and established that the seized notes were indeed FICN.

52.The learned trial court has rightly held that the prosecution succeeded in proving the existence of a criminal conspiracy under Section 120B IPC and corresponding offences under the UAPA.

53.The court held that the recoveries from Afroz Ansari and Alamgir Sheikh, the testimony of approvers and the protected witness, the forensic confirmation of FICN, and the corroborative documents in the form of CDRs and bank transactions, formed a complete chain of circumstances which unerringly pointed to the guilt of all



four appellants.

54.The learned trial court has rightly held that the appellants were guilty and accordingly convicted them for committing the offences under Sections 120B, 489B, 489C and 419 IPC, and Sections 16, 18 and 20 of the UAPA, 1967.

55.By order dated 11/10/2018, each of the appellants was sentenced as follows:

56.Under Section 18 UAPA read with Section 120B IPC and Section 489B IPC, Rigorous imprisonment for life and fine of ₹30,000/- each, with two years' simple imprisonment in default.

57.Under Section 20 UAPA, Rigorous imprisonment for life and fine of ₹30,000/- each, with two years' simple imprisonment in default.

58.Under Section 489C IPC, Rigorous imprisonment for seven years and fine of ₹10,000/- each, with one year's simple imprisonment in default (where applicable).

59.All sentences were directed to run concurrently.

60.Learned counsel appearing on behalf of the appellants argued at length that the conviction recorded by the



learned Special Judge was wholly unsustainable in law. It was submitted that except for the alleged recoveries from Afroz Ansari and Alamgir Sheikh, no counterfeit currency was recovered from the possession of the other two appellants, namely Sunny Kumar @ Kabir Khan and Ashraful Alam @ Fatik. According to the learned counsel, the entire case against them rested upon circumstantial evidence, including the purported statement of Afroz Ansari recorded under Section 108 of the Customs Act and the depositions of approvers and protected witnesses. It was urged that such material, being inherently weak, could not form the foundation of conviction for grave offences under the Indian Penal Code and the Unlawful Activities (Prevention) Act, 1967.

61.It was further contended that the alleged statement of Afroz Ansari under Section 108 of the Customs Act, recorded by PW-22 Anubhav Kumar, Senior Intelligence Officer of DRI, was inadmissible in evidence. The learned counsel emphasized that officers of the DRI are, for the purpose of criminal law, to be regarded as “police officers” within the meaning of Section 25 of the Indian Evidence Act, 1872, and any statement made to them in



the course of investigation stands on the same footing as a confession to police, which is barred by law. Even otherwise, it was pointed out that the voluntariness of the said statement was not established. Afroz Ansari himself, when examined under Section 313 CrPC, denied having given such a statement. The entire process of recording was conducted in secrecy without independent witnesses, and thus Exhibit-23, the alleged written statement, could not be relied upon.

62.Learned counsel appearing on behalf of the appellants also submitted that the trial court erred in relying heavily on the testimony of PW-1 Sanjay Kumar and PW-66 Ashikul Islam, both of whom were accomplices tendered pardon under Section 306 CrPC. Their depositions, it was argued, were tainted with self-interest and could not be accepted without material corroboration. The so-called corroboration relied upon by the prosecution was itself doubtful, being drawn either from the inadmissible Section 108 statement or from the deposition of a protected witness whose identity and veracity could not be tested by the defence.

63.The testimony of PW-27 (Protected Witness X-1) was



also assailed on the ground that it lacked specificity and was unsupported by independent material. Learned counsel argued that the inability of the defence to test his identity and antecedents rendered his testimony unsafe to rely upon. It was further submitted that the prosecution sought to prejudice the trial by referring to the previous criminal antecedents of certain appellants, particularly Kabir Khan and Ashraful Alam. Reliance on such antecedents, in the absence of the accused having set up a case of good character, was wholly impermissible under Section 54 of the Evidence Act.

64. Learned counsel appearing on behalf of the appellants also highlighted that although the seizure at Ramgarhwa was allegedly made in the presence of both the bus driver and the conductor, only the driver, PW-25, was examined at trial. The conductor, an equally natural and independent witness, was withheld by the prosecution without explanation. This omission, according to the appellants, cast doubt on the fairness of the investigation. It was finally submitted that the appellants, when examined under Section 313 CrPC, denied the allegations in toto and claimed false implication. On the above grounds,



learned counsel urged that the prosecution failed to prove its case beyond reasonable doubt and that the conviction recorded by the trial court deserved to be set aside.

65. In support of their submissions, the appellants have also filed written arguments elaborating the grounds of challenge to the impugned judgment. The written submissions reiterate that the learned trial court failed to appreciate the evidentiary shortcomings, the inconsistencies in the statements of witnesses, and the non-compliance with statutory safeguards prescribed under the Customs Act and the Code of Criminal Procedure.

66. It is urged therein that the recovery from Afroz Ansari and the subsequent recovery from Alamgir Sheikh were vitiated by procedural irregularities, including absence of proper panchnama, failure to associate two independent witnesses, and lack of compliance with Section 102 of the Customs Act. The defence submits that such lapses go to the root of the prosecution case and render the alleged seizure doubtful.

67. The appellants have further contended in writing that the forensic reports relied upon by the prosecution were not



duly proved in accordance with Section 293 CrPC. It has been pointed out that the author of the report was not examined as a witness and that the trial court wrongly treated the report as conclusive proof of the counterfeit nature of the notes.

68.The written arguments also emphasize that the telecommunication and bank records relied upon to establish conspiracy were not proved through competent witnesses and that the prosecution failed to produce the certificate mandated under Section 65B of the Indian Evidence Act, 1872. It is contended that in absence of such compliance, the digital and documentary evidence ought to have been excluded from consideration.

69.It is also submitted that the learned trial court misapplied the provisions of the Unlawful Activities (Prevention) Act, 1967, without any material showing that the alleged acts of the appellants were intended to threaten the economic security of India or to destabilize the monetary system. It is argued that mere possession or circulation of counterfeit notes, without mens rea to commit a terrorist act, would not attract the rigour of Sections 15 and 16 of the UAPA.



70.The appellants have finally urged, both orally and in writing, that the investigation was tainted with bias, the protected witness was introduced belatedly, and material witnesses were withheld. It has been prayed that the entire prosecution case suffers from doubt, and that the appellants deserve acquittal by extending the benefit thereof.

71.In aid of these submissions, learned counsel for the appellants placed reliance upon the decisions of the Supreme Court in Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1, Noor Aga v. State of Punjab, (2008) 16 SCC 417, and Vijaysinh Chandubha Jadeja v. State of Gujarat, (2011) 1 SCC 609, to contend that statements recorded by officers of the Directorate of Revenue Intelligence or similar agencies are inadmissible, that the burden of proving guilt lies squarely on the prosecution, and that procedural safeguards must be strictly complied with before drawing any adverse inference against the accused.

72.Reliance was also placed upon Sukhdeo Singh v. State of Punjab, (1992) 3 SCC 700, and Snehlata Mondal v. State of West Bengal, (2012) 7 SCC 192, to argue that the



testimony of an approver must be approached with extreme caution and that where two views are reasonably possible, the one favourable to the accused must be adopted. It has thus been urged that, viewed in light of these principles, the prosecution evidence does not sustain the conviction recorded by the trial court.

73.Per contra, learned counsel appearing for the respondent NIA supported the impugned judgment and contended that the conviction and sentence were fully justified. It was submitted that the recovery of ₹5,94,000/- of FICN from Afroz Ansari at Ramgarhwa and ₹3,00,000/- of FICN from Alamgir Sheikh at Bettiah stood proved by the testimony of official as well as independent witnesses and by the corresponding seizure memos. It was further argued that the statement of Afroz Ansari under Section 108 of the Customs Act was voluntary, recorded before a gazetted officer, and legally admissible. Even if its evidentiary value was doubted, it provided a lead which was corroborated by other evidence including the testimony of approvers and the protected witness.

74.Learned counsel also emphasized that the approvers, PW-1 Sanjay Kumar and PW-66 Ashikul Islam, gave



consistent and cogent accounts of the conspiracy and the role of each appellant, and their testimony was corroborated by recoveries, CDRs and bank documents. The deposition of PW-27, the protected witness, was also highlighted as natural and reliable, unaffected by cross-examination. The learned counsel stressed that the forensic reports conclusively proved that the seized notes were counterfeit of high quality, thereby confirming the scientific foundation of the prosecution case. It was urged that the prosecution had succeeded in establishing a complete chain of circumstances pointing unerringly to the guilt of the appellants, and that the learned trial court had rightly convicted them for committing offences under Sections 120B, 489B, 489C and 419 IPC and Sections 16, 18 and 20 UAPA.

75. Having noticed the rival submissions, it now falls upon this Court to examine the evidence led at trial in order to determine whether the prosecution has been able to establish its case against the appellants beyond reasonable doubt. For this purpose, we shall first consider the evidence relating to the recoveries, then the testimony of official and independent witnesses, thereafter the



approvers and protected witness, and finally the scientific and documentary evidence which forms the backbone of the prosecution case.

76.The foundation of the prosecution case lies in the recovery effected from Afroz Ansari at Ramgarhwa on 19/09/2015. The testimony of PW-11 Dhirendra Kumar, a DRI officer, is consistent and categorical. He deposed to the receipt of secret information, the interception of the Amar Jyoti Bus at about 01:20 PM, and the search of the bag carried by Afroz Ansari, which yielded twelve bundles of notes suspected to be counterfeit, totalling ₹5,94,000/-. His version is corroborated by PW-22 Anubhav Kumar, Senior Intelligence Officer of DRI, who recorded the statement of Afroz Ansari under Section 108 of the Customs Act. Both these witnesses withstood lengthy cross-examination, and nothing material could be elicited to discredit their testimony.

77.The seizure is further supported by the testimony of PW-25 Mukesh Singh, the driver of the bus, who acted as an independent witness. He confirmed that the DRI team intercepted the bus, searched the passengers, and recovered a black bag from one of them, who disclosed



his name as Afroz Ansari. Though the conductor of the bus was not examined, the evidence of PW-25 has remained unimpeached, and the learned trial court was justified in treating him as an independent corroborative witness. This Court finds no reason to doubt the veracity of the recovery from Afroz Ansari.

78. Equally significant is the recovery from Alamgir Sheikh @ Raju on 09/06/2016 at Bettiah Bus Stand. The prosecution witnesses narrated how Alamgir was apprehended with a consignment of ₹3,00,000/- in ₹1,000 denomination notes. Their testimony is supported by the seizure list and by forensic confirmation. The recovery from Alamgir Sheikh, effected at a later point in time, lends assurance to the prosecution case that the conspiracy was continuing and that the accused persons were actively engaged in the circulation of counterfeit currency.

79. Turning now to the testimony of approvers, PW-1 Sanjay Kumar and PW-66 Ashikul Islam, both of whom were tendered pardon under Section 306 CrPC, this Court is mindful of the principle that the testimony of an accomplice must be approached with caution. PW-1 gave



a detailed account of the conspiracy and the role played by Kabir Khan, Ashraful Alam, Afroz Ansari and Alamgir Sheikh. His version was materially corroborated by PW-66, who also deposed to the existence of a network through which consignments of FICN were procured from across the border in Malda, West Bengal, and distributed in Bihar. While the defence sought to impeach their credibility on the ground of self-interest, this Court finds that their testimony is corroborated in material particulars by independent circumstances such as the recoveries effected, the call detail records produced by nodal officers, and the financial transactions proved by bank officials. The learned trial court, therefore, rightly accepted their evidence.

80. The deposition of PW-27, the protected witness, also deserves notice. This witness, whose identity was kept confidential in accordance with law, narrated the role of Kabir Khan and Alamgir Sheikh in arranging and transporting consignments of FICN. The witness was cross-examined at length, but nothing substantial could be elicited to doubt his credibility. The defence contention that the testimony of a protected witness is unsafe to rely



upon cannot be accepted as an absolute proposition. Where, as in the present case, the deposition is found to be natural, consistent, and corroborated by other evidence, there is no reason to discard it merely on account of identity protection.

81.The scientific evidence provided by the forensic experts assumes significance. The experts examined the seized notes and opined that they were counterfeit of high quality, produced with sophisticated techniques that made them resemble genuine currency. This evidence conclusively establishes that the notes recovered from both Afroz Ansari and Alamgir Sheikh were not genuine Indian currency, but counterfeit notes of a high degree of imitation. Moreover in order to mark the report of forensic expert with regard to the nature of the seized currency notes, the examiner of the said currency notes are not required to be examined under Section 292 of the Cr.P.C.

82.The prosecution also relied upon call detail records and banking documents, which were proved by nodal officers and bank officials. The CDRs established contact between the appellants during the relevant period, and the banking



records evidenced financial transactions linked to the circulation of FICN. Though the defence suggested that these circumstances were insufficient to prove conspiracy, when read in conjunction with the oral testimony of the approvers and protected witness, they form links in the chain of circumstances that strengthen the prosecution case.

83.It is true that the defence highlighted the non-examination of the bus conductor as an independent witness. While the omission is noted, this Court is of the view that the testimony of PW-25, the driver, was cogent and reliable, and the prosecution was not bound to examine each and every witness, particularly when the material witness had already corroborated the recovery. Similarly, the objection regarding reliance on criminal antecedents of certain appellants is well taken as a matter of law under Section 54 of the Evidence Act. However, this Court finds from the record that the trial court did not base its conclusion solely on antecedents, but on substantive evidence adduced during trial.

84.On a cumulative assessment of the evidence, this Court is of the view that the recoveries of FICN from Afroz Ansari



and Alamgir Sheikh, the consistent testimony of approvers PW-1 and PW-66, the corroboration from PW-27, the protected witness, and the scientific confirmation by the forensic experts, together with supporting documentary evidence, establish the existence of a criminal conspiracy to procure, transport and circulate counterfeit currency in India.

85.It is well settled that the answer to this question depends on the capacity in which the officer acts and the nature of the statement. The Supreme Court in **Kanhaiyalal v. Union of India, (2008) 4 SCC 668** where the Court upheld the admissibility of statements under Section 67 of the NDPS Act, observing that officers of the Directorate of Revenue Intelligence are not “police officers” within the meaning of Section 25.

86.However, the Supreme Court in **Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1**, while considering the NDPS Act, held that confessional statements made before officers of the DRI under Section 67 of that Act are inadmissible as confessions to a police officer. Though the said decision arose in the context of the NDPS Act, the principle of voluntariness remains of paramount



importance.

87. In the present case, the statement of Afroz Ansari under Section 108 was not treated as the sole basis of conviction, but as one link in the chain of evidence corroborated by recoveries, independent witness testimony, and approver depositions. Therefore, even if the evidentiary value of the Section 108 statement is read down, the prosecution case is not materially affected.

88. The next challenge relates to the reliance placed upon the testimony of PW-1 Sanjay Kumar and PW-66 Ashikul Islam, both of whom were accomplices tendered pardon under Section 306 CrPC (Section 343 BNSS).

89. Section 133 of the Evidence Act provides that an accomplice shall be a competent witness against an accused person and that a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. However, Illustration (b) to Section 114 mandates a rule of prudence that the testimony of an accomplice should ordinarily be corroborated in material particulars before it is acted upon.

90. The Supreme Court in **Ravinder Singh v. State of**



Haryana, (1975) 3 SCC 742 held that while there is no legal bar to convicting on uncorroborated testimony of an accomplice, courts ordinarily insist on corroboration as a matter of prudence. Similarly, in **Dagdu v. State of Maharashtra, (1977) 3 SCC 68**, the Court emphasized that the testimony of an approver must be scrutinised with great caution, but if it is found to be credible and corroborated, it may form the basis of conviction.

91. In the present case, PW-1 and PW-66 gave consistent accounts of the conspiracy, and their testimony was materially corroborated by recoveries, forensic reports, CDRs, bank records, and the deposition of PW-27. This Court, therefore, finds no legal infirmity in the trial court's reliance on approver testimony.

92. The next issue raised relates to the proof of conspiracy. It is trite law that conspiracy is seldom proved by direct evidence, as it is hatched in secrecy. The Supreme Court in *Kehar Singh v. State (Delhi Administration)*, (1988) 3 SCC 609, and in *State (NCT of Delhi) v. Navjot Sandhu @ Afsan Guru*, (2005) 11 SCC 600, has observed that conspiracy can be inferred from the circumstances proved and the conduct of the accused, and that a chain of



circumstantial evidence is sufficient to establish the common design. Applying these principles, the recoveries of high-quality FICN, corroborated approver testimonies, and supporting forensic and documentary evidence, together constitute a complete chain pointing unmistakably to the existence of a conspiracy involving all the appellants.

93. The next aspect concerns the conviction under the Unlawful Activities (Prevention) Act, 1967. Section 15 of the Act defines “terrorist act” to include acts intended to threaten the economic security of India. The circulation of counterfeit currency with the intent of destabilising the financial system constitutes a terrorist act. In the present case, the seizure of large consignments of high-quality FICN smuggled across the border, coupled with evidence of organised circulation, squarely brings the acts of the appellants within the ambit of Sections 15 and 16 of the UAPA. Their participation in the conspiracy attracts liability under Section 18, and their continuing involvement in the network attracts Section 20.

94. The Defense has also urged that reference to the previous antecedents of certain appellants caused prejudice. While



Section 54 of the Evidence Act declares bad character irrelevant unless good character is put in issue, this Court finds from the record that the conviction was not based on antecedents but on substantive evidence. The references made in the impugned judgment were incidental and do not vitiate the findings.

95. On the aforesaid analysis, this Court is of the view that the objections raised on behalf of the appellants do not merit acceptance. The prosecution evidence, both oral and documentary, is legally admissible and sufficiently corroborated. The offences under IPC as well as UAPA stand established beyond reasonable doubt.

96. For the foregoing reasons, we are of the view that the learned Special Judge, NIA, Patna did not commit any error either on facts or law in holding the appellants guilty for committing offence under Sections 120B, 489B, 489C and 419 of the IPC and Sections 16, 18 and 20 of the UAPA Act, 1967.

97. In this regard, we are not unmindful to note that Section 489B is an offence for using as genuine, forged or counterfeit currency notes or bank notes. The Section



runs thus:

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

98. Thus, Section 489B has the following essential ingredients:-

- (i) Selling or buying or receiving from any person or otherwise trafficking currency note or bank note;
- (ii) Any forged or counterfeit currency note or bank note;
- (iii) Knowing or having reason to believe that such note was forged or counterfeit.

99. It was pointed out upon the learned Advocate on behalf of the Appellants that according to the prosecution, counterfeit Indian currency notes were recovered from the two of the above-named appellants, even if recovery is



believed, then it was merely illegal possession of forged currency notes. There is absolutely no evidence of any transaction or trafficking of counterfeit notes by the accused persons.

100. We are not in a position to accept such contention.

Recovery of huge amount of FICNs draws a presumption that the accused persons, namely, Alamgir Sheik @ Raju and Ashraful Alam @ Ishraful Alam @ Fatik were carrying forged currency notes for trafficking. We have already discussed the evidence on record and found that the forged currency notes were smuggled from Bangladesh through the international border in the District of Malda, West Bengal. Then it was handed over to Alamgir who was apprehended at Raxaul in the State of Bihar, a bordering place between India and Nepal. There was a closely knit conspiracy of trafficking FICNs between the appellants. So the learned Court below rightly convicted the appellants under Section 489B and 489C of the IPC.

101. With regard to the conviction under different penal provisions of UAPA, the learned Advocate for the appellants has not raised any serious objection.



102. Therefore, the order of conviction passed by the Trial Court is affirmed.

103. Now comes the question of sentence, it is needless to say that the law regulates social interests, arbitrates conflicting claims and demands, protection of society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Punishment should always be proportionate to crime, yet in practice, sentence is determined largely by other considerations. Sometimes, it is the correctional needs of the perpetrator that are offered to justify a sentence. On other occasions, the desirability of keeping him out of circulations, and sometimes even the terrific results of his crime. Inevitably, these considerations caused departure from just desert as a basis of punishment and create cases of apparent injustice that are serious and widespread.

104. Sentencing is the end result of justice delivery system. Justice always demands that a perpetrator of offence must be punished with adequate sentence, proportionate to its crime. At the same time, philosophical discourse reminds us to pass an order of sentence tempered with mercy. The



sword of Justice must come down heavily against the sin and not the sinner. Bearing both philosophical and jurisprudential aspects of the matter, we are of the view that there are some offences, where the convicts deserved highest punishment.

105. In these appeals, the appellants committed such an offence which has perverse effect in the economy of our country. If huge number of forged currency notes are trafficked and circulated in the market, this will tail upon the general economy of the country. There is always an apprehension that there would be a parallel economy of forged currency notes in our country and if that be so the development of our country would destroy.

106. Considering such aspect of the matter, we are also of the view that the learned Special Judge, NIA rightly passed the order of sentence and we do not find any reason to interfere.

107. As a result, all the appeals fail and are dismissed accordingly.

108. The judgement of convection and order of sentence passed by the learned Special Judge, NIA, Patna is affirmed



109. Lower Court Records be sent down to the Court below.

(Bibek Chaudhuri, J)

(Dr. Anshuman, J)

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