IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

C.R.R. 516 of 2020

Shyamal Dutta

Versus

Central Bureau of Investigation

WITH

CRR 2504 of 2021

(Assigned)

Smt. Kaberi Dutta

Versus

Central Bureau of Investigation

WITH

CRR No. 1252 of 2022

(Assigned)

Central Bureau of Investigation

Versus

Goutam Kumar Sikder and Ors.

For the Petitioners in

CRR No. 516 of 2020 : Mr. Ranadeb Sengupta, Adv.

For the Petitioner in CRR No. 2504 of 2021	:	Mr. Saryati Dutta, Adv. Mr. Ranadeb Sengupta, Adv.
For the CBI/Petitioner in CRR No.1252 of 2022	:	Ms. Chandreyi Alam, Adv. Ms. Runu Mukherjee, Adv.
For the CBI in CRR No.516/2020 And CRR. 2504/2021	:	Mr. Amajit De. Spl. PP.
Heard on	:	17.09.2025
Judgment on	:	12.11.2025

Ajay Kumar Gupta, J:

1. Petitioner, Shyamal Dutta in CRR No. 516 of 2020 has challenged the order dated 31.08.2019 passed by the Special Judge, CBI Court No. 2, Alipore, South 24 Parganas in connection with Special Case No.17/2009 Z(R-17/2009) arising out of RC No. 0102007A0026 under Sections 120B read with Sections 420/471 of the Indian Penal Code and Section 11 read with Section 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988 thereby revoked the order Nos. 14 and 18 dated 07.07.2009 and 24.07.2009 respectively, expunged the evidence adduced by the Petitioner as an approver (PW-13) and issued warrant of arrest against him.

2. The Petitioner, Smt. Kaveri Dutta, wife of Shyamal Dutta in CRR No. 2504 of 2021 has also challenged the order dated 31.08.2019 passed by the Special Judge, CBI Court No. 2, Alipore, South 24 Parganas in connection with Special Case No.17/2009 Z(R-17/2009) arising out of RC No. 0102007A0026 under Section 120B read with Sections 420/471 of the Indian Penal Code and Section 11 read with Section 13 (1) (d) read with Section 13(2) of the Prevention of Corruption Act, 1988 thereby issued summon upon the petitioner under Section 319 of the Cr.P.C after expunging her statement recorded as prosecution witness (PW-12).

3. At the same time, the CBI as petitioner in CRR No. 1252 of 2022 being feeling aggrieved challenged the same order dated 31.08.2019, passed by the Special Judge, CBI Court No. 2, Alipore, South 24 Parganas in connection with Special Case No. 17/2009 Z(R-17/2009) arising out of RC No. 0102007A0026 under Section 120B read with Sections 420/471 of the Indian Penal Code and Section 11 read with Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

4. All the instant three revisional applications have been taken up together for analogous hearing and passing a common judgment since the same have been filed by three different petitioners challenging the identical order dated 31.08.2019 as aforesaid.

FACTS OF THE CASE

5. The factual matrix, giving rise to the present Criminal Revisional applications, is as follows: -

a. The CBI, Anti-Corruption Branch (ACB), Kolkata registered a case being RC0102007A0026 dated 17.07.2007 under Sections 11, 12, 13(2) r/w Section 13(1)(d) of PC Act, 1988, after verification of a written complaint submitted by Shri Tapan Kumar Basu, the then Chief Manager (Vig), United Bank of India (UBI) HO, Kolkata. The complaint was lodged against (1) Shri Gautam Kumar Sikdar, former Manager, (2) Shri Gautam Nandi, former Officer, both of UBI, Agarpara Railway Station Branch and (3) Shri Shyamal Dutta, the then Managing Director of M/S Anuskha Construction Private Ltd., Konnagar, alleging that during the year 2004-2005, the said MD had offered illegal gratification to the Bank officials for the sanction of two housing loans in violation of bank norms, along with some other allegations.

b. Upon completion of investigation, the Investigating Agency submitted a charge sheet on 28.07.2009 before the learned Trial Court against Shri Gautam Sikdar (A-1) and Shri Goutam Nandi (A-2) under Sections 120B/420/471 of the IPC and Sections 11, 12, 13(2) r/w Section 13 (1) (d) of PC Act, 1988. Shri Shyamal Dutta (A-3) was treated as an approver and tendered pardon vide order No. 14 dated 07.07.2009 and order No. 18 dated 24.07.2009, and his statement was recorded under Section 164 of the Cr.P.C. on 09.07.2009. Thereafter, charges were framed on 30.08.2012 against the accused/opposite party Nos. 1 and 2 in conformity with the chargesheet submitted by the CBI.

c. Subsequently, the learned Special Judge, vide order dated 31.08.2019, at this stage of the final argument, revoked/forfeited the pardon granted vide order No. 14 dated 07.07.2009 and order No. 18 dated 24.07.2009 to Shyamal Dutta and also expunged his statement recorded as an approver.

d. The learned Special Judge passed such directions on the ground that there is sufficient documentary evidence to prove the charge as alleged in the written complaint. Consequently, it was observed that there was no necessity to continue to treat and/or allow Shri Shyamal Dutta as an approver, and that the Court possessed an inherent power to revoke its own order, if sufficient materials surfaced against the accused persons, including the approver himself.

e. The learned Special Judge further summoned the petitioner, Kaveri Dutta, under Section 319 of the Cr.P.C., upon revelation of her alleged involvement in the crime during the examination of the witnesses. The Court found prima facie materials indicating her participation in the commission of the offence from the record of the trial.

f. Being aggrieved by the aforesaid common order dated 31.08.2019, all the petitioners preferred these Revisional applications separately, seeking quashing/setting aside of the said impugned order to prevent the abuse of the process of law. Hence, these applications.

SUBMISSION ON BEHALF OF THE PETITIONER, SHRI SHYAMAL DUTTA:

6. Mr. Sengupta, Learned counsel appearing on behalf of the petitioner, vehemently argued that during the course of investigation, the petitioner, Shri Shyamal Dutta, came forward and preferred an application in terms of Section 306 of the Cr.P.C. before the learned Judge, Special Court under the Prevention of Corruption Act, 1988, at Barasat, North 24 Parganas. The learned Judge, vide order dated 07.07.2009, was pleased to allow the aforesaid application and granted tender of pardon to the Petitioner in terms of Section 306 of the CrPC, on the condition that he would make full and true disclosure of all the facts and circumstances within his knowledge relating to the offence and every other person concerned, whether as principal or abettor, in the commission of the offence as alleged in the FIR.

7. It was further submitted that pursuant to the same, the learned Judge was pleased to request the learned Chief Judicial Magistrate to record the judicial statement of the approver/accused (the Petitioner herein) in terms of Section 164 of the Cr.P.C. Accordingly, his statement was recorded under Section 164 of the Cr.P.C. The petitioner, in his statement, made a full and true disclosure of all relevant facts, and accordingly, he was treated as an approver in the case.

8. It was further submitted by the learned counsel that without any grievances from the side of prosecution/CBI, how the learned Court below itself revoked such grant of pardon as approver of the petitioner at the stage of argument. The learned Special Judge, without applying his judicious mind, mechanically revoked/forfeited such pardon granted vide order dated 07.07.2009 and expunged the evidence of Sri Shyamal Dutta recorded as an approver i.e. PW.13. The learned Judge also did not consider/follow the legal provision of Section 308 of the CrPC while passing the aforesaid order. Therefore, the impugned order, passed against the present petitioner is palpably erroneous and would tantamount to abuse of process of law; and for securing the ends of justice, the impugned order is required to be set aside otherwise the petitioner would be highly prejudiced.

9. To further support his contention, learned counsel placed reliance upon the judgment of the Hon'ble Supreme Court in ***State of Maharashtra v. Abu Salem Abdul Kayyum Ansari and others***[1] particularly paragraphs nos. 17 and 21 to contend that revocation of pardon can only be made upon a certification by the Public Prosecutor under section 308 of Cr. P.C. that the approver has failed to make a full and true disclosure of all circumstances within his knowledge of has violated the conditions of the pardon. In the absence of such a certificate, the learned Judge acted wholly without jurisdiction in revoking the tender of pardon.

SUBMISSION ON BEHALF OF THE PETITIONER, SMT. KAVERI DUTTA:

10. The learned counsel, Mr. Dutta appearing on behalf of the petitioner, Smt. Kaveri Dutta was examined as PW 12 as produced by the prosecution. It was contended that she disclosed all the facts within her knowledge, and that she is innocent and her only connection to the case arises from being the wife of Shri Shyamal Dutta and a joint account holder with him. She does not know about any transaction made in the joint account. However, the learned Judge issued a summon under Section 319 of the Cr.P.C, without her involvement in the offence. The CBI has neither named her in the FIR nor found any

[1] ***(2010) 10 SCC 179***

involvement during the investigation. Therefore, the impugned order passed by the learned Special Judge is baseless and the same is liable to be set aside.

11. The learned counsel representing the petitioner, Smt. Kaveri Dutta also filed a supplementary affidavit annexing all the depositions of the witnesses to show that there is no prima facie material available against the petitioner herein in the alleged offence, so the question of summoning the petitioner herein does not arise. Therefore, the issuance of summon upon the petitioner is liable to be recalled and/or set aside, otherwise, she would greatly suffer and prejudice without her involvement.

SUBMISSION ON BEHALF OF THE PETITIONER, CBI:

12. Learned counsel, Ms. Chandreyi Alam representing the CBI also strenuously argued and submitted that the learned Special Judge exceeded his jurisdiction and wrongly revoked the pardon granted to the approver/Petitioner, Sri Shyamal Dutta vide order dated 07.07.2009 and expunged the evidence of Sri Shyamal Dutta recorded as an approver i.e. PW 13 without any certificate filed or issued by the Special Public Prosecutor of the CBI under Section 308 of the Cr.P.C. The Provision for revocation of pardon granted as an approver is specifically stipulated in Section 308 of the Cr.P.C. Learned counsel further supported the submission made by the learned counsel appearing on behalf of the Petitioner, Shri Shyamal Dutta. She prays for setting aside the aforesaid impugned order.

13. Another learned counsel, Mr. De for the CBI in CRR No. 516 of 2020 and CRR No. 2504 of 2021 vehemently opposed the prayer of the petitioners and further submitted that there are sufficient materials against Smt. Kaveri Dutta. The learned counsel drew attention to the depositions of the PW Nos. 3, 4 and Kaveri herself. Prosecution witnesses have disclosed her involvement in the crime. It was therefore argued that the impugned order summoning her under Section 319 Cr.P.C. has been rightly passed and calls for no interference.

DISCUSSION AND FINDINGS BY THIS COURT:

14. Considering the arguments and submissions made by the respective parties and upon perusal of the materials available on the record and documents annexed with the Revisional applications, this Court finds that it is an admitted fact that the Learned Special Judge had granted pardon to the petitioner, Shri Shyamal Dutta, as an approver vide order dated 07.07.2009 and his statement was recorded under Section 164 of the Cr.P.C. pursuant to the order dated 07.07.2009. The CBI did not object to the grant of approvership to the petitioner. Even at the stage of argument, the Special Public Prosecutor did not raise any question about his evidence or gave certificate under

Section 308 of the Cr.P.C. to the effect that the approver has not given full and true disclosure of the whole of the circumstances within his knowledge concerning the offence and to every other person concerned, whether as principal or abettor, in the commission of offence thereof, and if he suppresses anything material and essential within his knowledge concerning commission of crime or fails or refuses to comply with the condition, on which the tender was made. However, but the trial court himself revoked pardon of approver and expunged the evidence of approver recorded as PW. 13 without certifying by the public prosecutor.

15. Now the question arises whether the trial court has the power to revoke or forfeit the grant of approver on its own without following the provision as stipulated in section 308 of Cr.P.C.?

16. The learned counsel appearing on behalf of the petitioner, Shri Shyamal Dutta has submitted that the learned Court below cannot revoke such a pardon granted to the approver without following the provision as stipulated under Section 308 of the Cr.P.C. The Hon'ble Supreme Court in the aforesaid referred case, particularly paragraphs 17 to 21 has held as under:

> ***"17.*** *An accomplice who has been granted pardon under Section 306 or 307 CrPC gets protection from prosecution. When he is called as a witness for the prosecution, he must comply with the condition of making a full and true disclosure of the whole of the circumstances within his knowledge concerning the offence and to every other person*

concerned, whether as principal or abettor, in the commission thereof and if he suppresses anything material and essential within his knowledge concerning the commission of crime or fails or refuses to comply with the condition on which the tender was made and the Public Prosecutor gives his certificate under Section 308 CrPC to that effect, the protection given to him is lifted.

18. *In A.J. Peiris v. State of Madras [AIR 1954 SC 616: 1954 Cri LJ 1638] a three-Judge Bench of this Court stated that the moment a pardon is tendered to the accused he must be presumed to have been discharged, whereupon he ceases to be an accused and becomes a witness.*

19. *In State v. Hiralal Girdharilal Kothari [AIR 1960 SC 360: 1960 Cri LJ 524] , with reference to Sections 337 and 339 of the Code of Criminal Procedure, 1898 (now Sections 306, 307 and 308 CrPC), this Court stated that a pardon tendered under Section 337 is a protection from prosecution; failure to comply with the condition on which the pardon is tendered removes that protection.*

20. *In State (Delhi Admn.) v. Jagjit Singh [1989 Supp (2) SCC 770: 1990 SCC (Cri) 133] this Court held as under: (SCC pp. 773-74, para 8)*

"8. … The power to grant pardon carries with it the right to impose a condition limiting the operation of such a pardon. Hence a pardoning power can attach any condition, precedent or subsequent so long as it is not illegal, immoral or impossible of performance. Section 306 clearly enjoins that the approver who was granted pardon had to comply with the condition of making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other concerned whether as principal or abettor, in the commission thereof. It is because of this mandate; the State cannot withdraw the pardon from the approver nor the approver can cast away the pardon granted to him till he is examined as a witness by the prosecution both in the committing court as well as in the trial court. The approver may have resiled from the statement made before the Magistrate in the committing court and may not have complied with the condition on which pardon was granted to him, still the prosecution has to examine

him as a witness in the trial court. It is only when the Public Prosecutor certifies that the approver has not complied with the conditions on which the tender was made by wilfully concealing anything essential or by giving false evidence, he may be tried under Section 308 of the Code of Criminal Procedure not only for the offence in respect of which pardon was granted but also in respect of other offences."

***21.** The above statement of law in Jagjit Singh [1989 Supp (2) SCC 770 : 1990 SCC (Cri) 133] cannot be understood as laying down that an accomplice who has been tendered pardon and called as a witness for the prosecution must be continued to be examined as a prosecution witness although he has failed to comply with the condition on which the tender of pardon was made and a Public Prosecutor certifies that he has not complied with the condition on which the tender was made. As a matter of fact, in Jagjit Singh case [1989 Supp (2) SCC 770 : 1990 SCC (Cri) 133] no certificate was given by the Public Prosecutor. The legal position that flows from the provisions contained in Sections 306, 307 and 308 CrPC is that once an accomplice is granted pardon, he stands discharged as an accused and becomes witness for the prosecution. As a necessary corollary, once the pardon is withdrawn or forfeited on the certificate given by the Public Prosecutor that such person has failed to comply with the condition on which the tender was made, he is reverted to the position of an accused and liable to be tried separately and the evidence given by him, if any, has to be ignored in toto and does not remain legal evidence for consideration in the trial against the co-accused, albeit such evidence may be used against him in the separate trial where he gets an opportunity to show that he complied with the condition of pardon. As a matter of fact, it is for this reason that a specific statement was made by the counsel for the State of Maharashtra before us—a similar statement was made before the Designated Court as well—that the evidence of Respondent 3 so far recorded shall not be used by the prosecution in the present trial."*

17. From the aforesaid judgment, it is crystal clear that once an accomplice is granted pardon, he stands discharged as an accused and becomes a witness for the prosecution. As a necessary corollary, once the pardon is withdrawn or forfeited on the certificate given by the Public Prosecutor that such person has failed to comply with the condition on which the tender was made, he is reverted to the position of an accused, and liable to the tried separately and the evidence given by him, if any, has to be ignored in toto and does not remain legal evidence for consideration in the trial against the co-accused, albeit such evidence may be used against him in the separate trial where he gets an opportunity to show that he complied with the condition of pardon.

18. Before deciding the case in hand, this Court would like to take a look at the legal provision for allowing the tender of pardon to the accused/accomplice as an approver and its revocation when a person does not comply with conditions of pardon during trial for the sake of convenience and ready reference.

19. Sections 306 to 308 of the Cr.P.C. read as follows:

> **"306.** Tender of pardon to accomplice.—(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial 134 Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to—

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952);

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record—

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made, and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

(a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case—

(a) commit it for trial—

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(ii) to a Court of Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952), if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

307. Power to direct tender of pardon.—At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

308. Trial of person not complying with conditions of pardon.—(1) Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence: 135

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 195 or section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 164 or by a Court under sub-section (4) of section 306 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Court shall—

(a) if it is a Court of Session, before the charge is read out and explained to the accused;

(b) if it is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken, ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Code, pass judgment of acquittal."

20. The learned counsel appearing on behalf of the petitioner, Shri Shyamal Dutta as well as the learned counsel appearing on behalf of the CBI, have submitted that the learned Trial Judge erred in revoking or forfeiting the pardon granted to the accused/accomplice as an approver without any certificate having been filed by the Special Public Prosecutor under Section 308 of the Cr.P.C. It is further contended that the CBI neither prayed for, nor certified, that the Petitioner/approver had wilfully concealed material facts, given false evidence, or failed to comply with the conditions on which the pardon was granted. It was argued that to prosecute an approver, the Public Prosecutor must expressly certify that the approver has breached the conditions of pardon by such acts.

21. It is true that no such certificate was submitted by the prosecution. Nonetheless, the Trial Court proceeded to revoke the pardon granted to the petitioner/approver. This court finds no substance in the contention that such revocation was illegal and also unable to convince this court from the side of the petitioners that the Trial court wrongly forfeited the pardon granted to the Petitioner.

22. Upon careful perusal of the impugned order and materials available on records, it appears that the instant case originated from a complaint lodged by the Chief Manager (Vigilance), United Bank of India. It was alleged that Sri Gautam Sikdar and Sri Gautam Nandi, while working at United Bank of India, Agarpara Railway Station Branch received illegal gratification from the Petitioner, Shri Shyamal Dutta, the Managing Director of M/S Anuskha Construction Pvt. Ltd for sanctioning two housing loans dated 10.05.2004 and 07.07.2004 for 10 lakhs each in favour of Shri Shyamal Dutt and his wife Kaveri Dutta, and for issuing **Safe Keeping Receipt (SCR) No. SCR/01/05 dated 15.03.2005 for Rs. 100, 86, 50,000/-** in violation of banking guidelines.

23. It is further alleged that several irregularities were found in the sanction of the above two loans. Both the loans amount was credited to the savings Bank account of Sri Shyamal Dutta instead of being paid directly to the vendor by way of Draft/pay order in clear contravention of banking norms.

24. It is further alleged that the **Safe Keeping Receipt (SKR) No. SCR/01/05 dated 15.03.2005 for Rs. 100,86,50,000/-** was fraudulently issued by the Bank ex-employees in favour of M/S Anuskha Construction Pvt. Ltd valid up to 15.04.2006 in violation of the bank rules. The said Shyamal Dutta tried to take undue benefit of the said SKR.

25. The petitioner, Shyamal Dutta as Managing Director of M/S Anuskha Construction Pvt. Ltd, entered into an agreement dated 18.12.2004 with Image Inc. (Prop. Sri I. P. Singh) of Karol Bagh, New Delhi to procure/syndicate a loan of 70 Crores for M/S Anuskha Construction Pvt. Ltd for the development of their project in India against transfer of the aforesaid SKR through the Bank via a correspondent Bank in the USA/UK/Europe for onward transmission to the designated account of Image Inc. There are several other allegations against the Petitioner, Shri Shyamal Dutta, all of which are based on documentary evidence.

26. The Trial Court rightly observed that the present case rests substantially on documentary evidence, and that the oral evidence of the approver has little bearing on the proof of the offences alleged. Therefore, by no stretch of imagination can it be said that the prosecution's case depends solely on the testimony of the Petitioner as an approver and without his evidence prosecution would fail to prove the case against the accused person.

27. The record further shows that during the course of investigation, the accused Shyamal Dutta, Suo Moto filed an unverified application under Section 306 of the CrPC dated 03.07.2009 before the learned court, expressing his willingness to become an approver and to make a full and true disclosure of facts within his knowledge concerning the offences.

28. At the same time, the CBI on the date of hearing i.e. on 07.07.2009, filed an application stating therein that further investigation revealed that A-3, Shri Shyamal Dutta was not the principal beneficiary of the fraudulent proceeds, and that the prosecution lacked direct evidence against accused as regards the receipt of illegal gratification, and sanctioning of the aforesaid two housing loans and for issuing Safe Keeping Receipt (SKR) in violation of the guidelines of the Bank favouring the accused. Thus, A-3 is in a position to furnish evidence regarding the aforesaid illegal gratification.

29. The Trial Court felt sorry to observe that the CBI, a premier investigating agency of this country, made misleading statements before the court of law even though all relevant documents had already been seized. In such circumstances, the claim that the Petitioner/CBI was not a principal beneficiary appeared untenable.

30. The trial Court also found that the documents produced before the Trial Court and evidence adduced by the witnesses of the prosecution marked exhibits [two cheques to M/s Sree Ram Motors (D-13), documents relating to purchase of the alleged cars (D-16, D-23, D-33, D-34, D-56, D-57, etc.), documents relating to the alleged housing loans (D-29, D-45), documents relating to alleged fake SKR (D-17, D-28, D-53, D-54)] are directly related to allegations made in the complaint, establishing that the case was wholly based on evidence that is documentary in nature. Yet, the CBI was inexplicably in favour of granting pardon to the accused as an approver.

31. The object of granting or allowing pardon to an accused/accomplice under Section 306 and/or 307 of the Cr.P.C. is to secure evidence in cases, where a heinous offence is alleged to have been committed by several persons, where it may otherwise be difficult to bring home the guilt of the accused. Such circumstances are absent in the present case. This Court does not find an object or purpose of allowing pardon to A-3. It is apparent from the record that the CBI misled the Trial Court in not objecting to obtain an order of pardon in favour of the A-3, rather aided him to become an approver.

32. Undoubtedly, while the Court has the power to grant pardon, such power must be exercised on sound legal principles and ordinarily upon an offer from the prosecution supported by valid reasons.

33. The overall circumstances indicate that A-3 was one of the beneficiaries of the entire fraudulent transaction. He availed two housing loans of ₹10 lakhs each in his and his wife's names and failed to repay the same. He had paid money as initial down payment for the purchase of two cars being registration no. WB-16P-9222 in the name of accused A-1 and registration no. WB-20G-6514 in the name of A-2 by issuing two cheques being No.804022 of Rs. 1,82,000/- dated 06.12.2004 and cheque being No.804010 of Rs. 2,02,741/- dated 06.12.2004 both from S/B A/c.10102 UBI, Agarpara Railway Station Branch in favour of Sree Ram Motors. The said amount was debited from Bank on 18.12.2004. Therefore, such payment was made as gratification to the A-1 and A-2. He also attempted to siphon off ₹100, 86, 50, 000/- of public money. The charge-sheet clearly shows that the relevant documents were seized by the CBI. Despite such incriminating materials, the CBI sought to offer pardon to the accused, contrary to its duty to prosecute and ensure punishment of actual offenders in accordance with law.

34. The Trial court, while forfeiting or revoking the pardon granted to the petitioner and expunging his deposition recorded as PW.13, has relied upon the following judgments passed in the case of **(1)** ***Kanajeti Rajababu vs. State of AP***[2] , **(2)** ***State of Rajasthan vs. Balveer @ Balli and Anr.***[3] **and (3) Writ Petition No. 31927 of 2011.** This court does not find any reason to revisit them, as they have been adequately discussed by the Trial Court.

35. This Court, after analysing the entire facts and circumstances, does not find any error or perversity in the impugned order under challenge and notes that the order passed is well within its power and jurisdiction. There is no requirement to file certificate by the Public Prosecutor or the Special Public Prosecutor as the facts and circumstances of this instant case are wholly different and the Trial Court forfeited the pardon granted to the accused, Shri Shyamal

[2] ***2002 CrLJ 2990 (AP), Writ Petition No. 31927 of 2011***
[3] ***AIR 2014 SC 1117***

Dutta, on the ground that the accused, as well as the prosecution, misled and misrepresented before the Court. In such an event, the Court itself has the power to revoke/forfeit the pardon granted to the A-3. Therefore, the impugned order calls for absolutely no interference.

36. With regard to another petitioner, Smt. Kaveri Dutta, this court finds upon perusal of the depositions of the witnesses that she has a joint account with Shri Shyamal Dutta, being Savings Bank Account No. 10102. At the time of opening the said account, the other accused persons, particularly the ex-employees of the Bank verified the documents produced by the account holders. Loans were sanctioned in favour of both Shyamal Dutta and Kaveri Dutt. In the said account, the loan amount was credited, and she was one of the signatories of the withdrawal made from the said account. She was well aware of the transaction made from her joint account. The actual loanees were Shyamal Dutta and Kaveri Dutta. The said loans were sanctioned by the then Branch Manager, Goutam Shikdar, one of the accused in the present case in favour of both loanees. There is a specific role attributed or an allegation levelled against the particular accused, Kaveri Dutta, by the Prosecution witnesses. Therefore, the Trial Court has rightly passed an order for issuing summon upon her under Section 319 of the Cr.P.C. Such order also calls for no interference by this court.

37. In the light of above discussions and in view of observations made by the Hon'ble Courts in the above-cited judgments, this Court is fully satisfied that all three revisional applications filed by the three different petitioners are devoid of merit.

38. Accordingly, **CRR No. 516 of 2020**, **CRR No. 1252 of 2022** and **CRR No. 2504 of 2021** are, thus, **dismissed**. Connected applications, if any, are also, thus, disposed of.

39. Let a copy of this Judgment be sent to the Learned Trial Court for information and taking necessary steps in accordance with law, immediately without any further delay.

40. Interim order, if any, stands vacated.

41. Case Diary, if any, be returned to the learned counsel for the State.

42. Parties shall act on the server copy of this Judgment duly uploaded from the website of this Court.

43. Urgent photostat certified copy of this Judgment, if applied for, is to be given as expeditiously to the parties on compliance of all legal formalities.

(Ajay Kumar Gupta, J)

P. Adak (P.A.)