



2025:DHC:9724



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 31.10.2025

+ **CRL.A.200/2018**

STATE (NCT OF DELHI)Appellant
Through: Ms. Shubhi Gupta, APP for State with
SI Pardeep Singh, Crime Branch,
NR-III.

Versus

BHOLA KUMAR & ORS.Respondents
Through: Mr M Hasibuddin with Ms Zeba
Kamal and Ms Ruhani Sahanu, Advs.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been preferred by the appellant/State under Section 378 Cr.P.C. seeking setting aside of the impugned judgment dated 16.02.2015 passed by the learned Additional Sessions Judge-05, West, Tis Hazari Courts, Delhi, in SC No. 43/14 (Old No. 54/11) in proceedings arising out of FIR No. 66/2011 registered at P.S. Crime Branch, whereby the Trial Court acquitted both the respondents of the charges under Sections 489B/489C IPC. Notably, the leave to appeal was granted vide order dated 08.02.2018.

2. The case of the prosecution, succinctly put, is that on 13.03.2011, a secret information was received by SI *Sunil Kumar* at SIT Crime Branch, Sector-18, Rohini, that two boys, one of them being *Bhola Kumar* and the other known as "*Gandhi*", were circulating counterfeit Indian currency in



the Khyala area and would be coming there that day for delivering fake notes. A raiding party was constituted under the supervision of Inspector *Rajesh Sharma*. ASI *Ajmer Singh* was directed to act as a decoy customer. A trap was laid near the gate of Nanak Dham, Khyala, and at about 4:25 p.m., two persons arrived and displayed wads of notes to the decoy. On the pre-arranged signal, the team apprehended them at about 4:30 p.m. Their identities were ascertained as *Bhola Kumar* (respondent no. 1 herein) and *Kaushar Ali* (respondent no. 2 herein). From respondent no. 1/*Bhola Kumar*, one bundle containing 100 notes of Rs.1,000/- denomination was recovered. From respondent no. 2/*Kaushar Ali*, two bundles containing 100 notes each of Rs.500/- denomination were recovered. Samples were drawn as per Standing Order No. 219/10, the remaining notes were sealed in plastic containers, and *rukka* was prepared, leading to registration of the concerned FIR. After completion of investigation, the charge-sheet was filed under Sections 489B and 489C IPC. Charges were framed under the same provisions, to which both respondents pleaded not guilty and claimed trial.

3. The prosecution examined 8 witnesses in support of its case. PW-1/Ct. *Jagdev Singh* (DD writer who proved DD Nos. 5 and 7), PW-2/ASI *Ashok Kumar* (Duty Officer who proved the FIR and *rukka* endorsement), PW-3/HC *Jag Narain* (MHC(M) who proved deposit of sealed *pullandas* in Register No. 19 and dispatch to Currency Note Press, Nasik), PW-4/Ct. *Suresh Kumar* (who carried the sealed *pullandas* to Currency Note Press, Nasik), PW-5/SI *Sunil Kumar* (I.O. of raid, recovery, seizure, and *rukka*), PW-6/ASI *Ajmer Singh* (decoy customer), PW-7/SI *Shiv Darshan* (second I.O., who prepared site plan, effected arrests, and deposited sample notes at RBI), and PW-8/Ex. Ct. *Kaushal Singh* (member of the raiding team who



also carried *rukka* for registration of FIR).

4. PW-5/SI *Sunil Kumar* deposed that after receiving the secret information, he briefed ASI *Ajmer Singh* as decoy and formed the raiding team. He requested several public persons to join, but they refused. The team proceeded to Khyala, parked their vehicles near Park Hospital, and reached the Nanak Dham gate. On receiving the signal from the secret informer, both accused were apprehended. One wad of 100 notes of Rs.1,000/- was recovered from *Bhola Kumar*, and two wads of 100 notes each of Rs.500/- were recovered from *Kaushar Ali*. Two notes from each bundle were kept as samples, the remaining sealed in separate containers and seizure memos Ex. PW-5/A and Ex. PW-5/B were prepared. He prepared the *rukka* Ex. PW-5/C and handed over the case to SI *Shiv Darshan*.

5. PW-6/ASI *Ajmer Singh*, the decoy customer, corroborated receipt of information, his briefing as the decoy customer, and that the accused offered him counterfeit notes at a ratio of Rs.100/- in FICN for Rs.60/- in genuine currency. He deposed that both respondents came near Nanak Dham gate at about 4:25 p.m., displayed the fake currency, and were apprehended on his signal. He identified the recovered notes and confirmed that the relevant memos were prepared at the spot.

6. PW-8/Ex. Ct. *Kaushal Singh* supported the prosecution version regarding refusal of public witnesses to join, receipt of signal from PW-6, subsequent apprehension of the respondents at 4:30 p.m., recovery of 100 notes of Rs.1,000/- denomination from respondent no. 1/*Bhola Kumar* and 200 notes of Rs.500/- denomination from respondent no. 2/*Kaushar Ali*, and preparation of seizure memos. He took the *rukka* to the police station for



registration of FIR and thereafter handed over copy of *rukka* and FIR to the second I.O. SI *Shiv Darshan*.

7. PW-3/HC *Jag Narain* proved the deposit of sealed *pullandas* vide entry No. 887 in Register No. 19 and their dispatch to Currency Note Press, Nasik, under RC No. 162/21. PW-4/Ct. *Suresh Kumar* proved that he carried the sealed parcels to Currency Note Press, Nasik, and returned the acknowledgment. PW-7/SI *Shiv Darshan* deposed about preparation of site plan (Ex. PW-5/D), arrest of both accused vide memos Ex. PW-5/E and Ex. PW-5/G, personal search memos (Ex. PW-5/F and Ex. PW-5/H), recording of disclosure statements, and deposit of four sample notes at RBI, which later reported the samples to be counterfeit.

8. The learned APP for the State submits that the Trial Court has erred by putting too much emphasis on the minor contradictions in the testimonies of PW-5, PW-6, and PW-8, which do not go to the root of the matter. She further submits that the Trial Court has not adequately discussed the aspect of evidence regarding the recovery of the fake currency notes.

9. *Per contra*, learned counsel for the respondents supports the impugned judgment, arguing that the contradictions detailed by the Trial Court are material and go to the very genesis of the occurrence in question. It is further contended that the absence of independent witnesses and other procedural irregularities make the prosecution version unsafe to rely upon. It is argued that the Trial Court's view is reasonable and supported by the evidence on record.

10. I have considered the submissions of the learned APP for the State and the learned counsel for the respondents and examined the evidence on record. The main issue that arises for determination is whether the



prosecution has proved that *Bhola Kumar* and *Kaushar Ali* were in conscious possession of counterfeit currency notes and intended to use them as genuine.

11. The case of the prosecution rests entirely on the alleged recovery of fake notes from the possession of the respondents near Nanak Dham Gate, Khyala, on 13.03.2011. It is not disputed that no public person was joined in the proceedings, even though the place of incident was a public area located near a hospital, bus depot and market. It is difficult to simply accept as sufficient the prosecution's explanation that public persons refused to join proceedings, without any written notice being served or their particulars being recorded. When independent witnesses are readily available but not associated, the Court is required to examine the evidence of police witnesses with greater care.

12. The three material witnesses, namely PW-5/*Sunil Kumar*, PW-6/*Ajmer Singh* and PW-8/*Kaushal Singh*, have given inconsistent versions on several material particulars. They differed on who gave the signal for apprehension, where the vehicles were parked, whether the gate of Nanak Dham was open or closed, in which vehicle the secret informer was seated while proceeding to the spot, and where the writing work and preparation of documents took place. They also gave varying accounts regarding the briefing of the decoy and the sequence of events immediately preceding the recovery. These contradictions are not minor or peripheral but strike at the manner in which the raid and recovery were conducted.

13. The evidence of PW-5, PW-6 and PW-8, read together, does not inspire confidence. The inconsistencies regarding the informer's role, the timing and place of preparation of documents, and the absence of any



corroboration from a public witness together create doubt as to whether the recovery occurred in the manner alleged.

14. The reports of the RBI and Currency Note Press confirm that the seized notes were counterfeit. However, that fact alone does not establish the offences under Sections 489B and 489C IPC. To bring home guilt under these provisions, the prosecution must also prove that the respondents knew the notes were counterfeit and that they intended to use them as genuine. There isn't sufficient evidence on record to prove that the respondents attempted to pass off the said counterfeit notes as genuine.

15. The contradictions in the testimony of the police witnesses, coupled with the absence of independent corroboration and the procedural lapses in investigation, enure to the benefit of the respondents by creating a reasonable doubt in the prosecution version.

16. At this stage, it is also apposite to note that an order of acquittal carries with it a double presumption of innocence and the benefit of doubt extended to the respondent in the present case is not liable to be interfered with unless the Trial Court's view is perverse. The law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage, after his acquittal by the Trial Court, is settled. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as **(2022) 8 SCC 536**, wherein it was observed as under:

"8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows: (SCC p. 454, para 25)

'25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the appellate court has to consider whether the trial court's view can be termed as a possible



one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.’”

17. The decision of the Supreme Court in Anwar Ali v. State of H.P., reported as **(2020) 10 SCC 166**, also categorically holds that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of accused persons in an appeal against acquittal. The relevant portions are produced hereinunder:

“14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189: (2010) 3 SCC (Cri) 1179], this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

‘ ...

13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42: (1933-34) 61 IA 398: AIR 1934 PC 227 (2)], the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’”

...

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his



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acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’’

18. Considering all of the aforesaid, this Court is of the considered view that the contentions put forth by the prosecution are not convincing enough to warrant setting aside of the impugned judgment, and the same is accordingly upheld.

19. The present appeal is dismissed.

20. The bonds furnished by the respondents stand cancelled and their sureties are discharged.

21. A copy of this judgment be communicated to the Trial Court.

**MANOJ KUMAR OHRI
(JUDGE)**

OCTOBER 31, 2025/nb