

(2003) 07 JH CK 0029

In the Jharkhand High Court

Case No : Cr.A. No. 44 of 2003 and A. No. 85, 92, 124 of 2001

Golo Mandla Ram Rao and Others

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 11-07-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 100(5)

Evidence Act, 1872 — Section 3

Penal Code, 1860 (IPC) — Section 120B, 28, 489A, 489B, 489C

Citation : (2004) CriLJ 1738 : (2004) AIR Jhar HCR 453 : (2004) 1 CurCriR 200 : (2004) 3 EastCriC 372

Hon'ble Judges : Vishnudeo Narayan, J;Lakshman Uraon, J

Bench : Division Bench

Advocate : P.K. Nayak, B.W. Tripathy, K.S. Nanda, R.K. Jaiswal, P.P.N. Roy, B. Mukherjee and N.L. Tiwari, for the Appellant; Manjusri Patra and Jay Prakash Gupta. A.P.Ps., for the Respondent

Judgement

Vishnudeo Narayan, J.—All the appellants named above have preferred these appeals against the impugned judgment and order dated 5-2-2001 to 8-2-2001 respectively passed in Sessions Trial No. 817 of 1998 by Sri Radha Krishna, 2nd Addl. Judicial Commissioner, Ranchi whereby and whereunder appellant Golo Mandla Rama Rao, Ranjit Bahadur Singh alias Munna Singh and Manoj Kumar were found guilty for the offence punishable under Sections 489A, 489B, 489C and 120B of the Indian Penal Code and they were convicted and sentenced to undergo R.I. for life for the offences under Sections 489A and 489B IPC each and R. I. for seven years for the offence u/s 489C I.P.C. However, no separate sentence was imposed for the offence u/s 120B IPC A fine of Rs. 10,000/- was imposed against each of them under each count and in default thereof to undergo imprisonment for one month. "Appellant Uma Shankar Singh was found guilty for the offence under Sections 489A, 489D, 489C and 120B of the Indian Penal Code and he was convicted and sentenced to undergo R.I. for life each for the offence under Sections 489A and 489D IPC and R.I. for seven years for the

offence u/s 489C. However, no separate sentence was imposed upon him for the offence u/s 120B IPC but fine of Rs. 10,000/- was imposed against him under each count aforesaid and in default thereof to undergo imprisonment for one month. All the sentences have, however, been ordered to run concurrently. Co-accused Kedar Ram and Pramod Kumar were however, not found guilty and they were accordingly acquitted.

2. The prosecution case has arisen on the basis of the self-statement (Ext. 5) of P.W. 1. Baijnath Singh, S. I.-cum-O.C. Lalpur P.S., District Ranchi recorded on 21-7-1998 at 20.30 hours in the house of appellant Manoj Kumar situate in Mohalla Purulia Road, P.S. Lalpur, District Ranchi lodged before Lalpur P. S. on that very day at 22.00 hours regarding the occurrence which is said to have taken place in the east facing house and "sahan" of appellant Manoj Kumar situate at Purulia Road, P.S.I. Lalpur District Ranchi between 19.00 hours and 20.15 hours on that very day. The case was instituted against nine culprits including appellants Manoj Kumar, Gola Mandla Ram Rao and Munna alias Ranjit Bahadur Singh and acquitted accused Kedar Ram by drawing the F.I.R. on that very day at 22.00 hours which was received in the Court empowered to take cognizance on 22-7-1998. The name of appellant Uma Shankar Singh and acquitted accused Pramod Kumar, however, transpired in course of investigation of this case. The charge-sheet has been submitted against the appellants named above besides acquitted co-accused Kedar Ram and Pramod Kumar only.

3. The prosecution case as per self-statement (Ext.5) of P.W. 1 Baijnath Singh, O/C Lalpur P.S., the informant, in brief, is that P.W. 10, S. L., Victor Anthony of Namkum Circle in the company of P. W.4, S.I., Birendra Kumar Singh of Namkum P. S. came to the Lalpur Police Station and gave information to the informant that they have received confidential information that appellant Manoj Kumar, s/o Kali Prasad Sahu residing at Purulia Road, P.S. Lalpur, District Ranchi deals in the business of counterfeit currency notes and he provides that said counterfeit currency notes to his agents for circulation in the market and he has received the counterfeit currency notes from outside Ranchi which he is distributing to his agents and raid at his house may cause the recovery of the counterfeit currency notes and the mystery in respect thereof can be unveiled. It is alleged that after making entry in respect thereof in the Station Diary of the Lalpur P. S. the informant in the company of P.W. 11. S. I. Bijay Kumar Prasad, P.W. 9, S. I., Anand Kumar, P.W. 5, S. L. Ashok Ram in the company of P.W. 10 S. I. Victor Anthony and P.W. 4, S. I. Birendra Kumar Singh with the police force raided the house of appellant Manoj Kumar at 18.15 hours on 21-7-1998 in the company of two independent witnesses namely, P.W. 2 Brijesh Tiwary and P.W. 3, Manoj Kumar Agarwal. It is alleged that prior to the raid the informant and others had given their search to the said independent witnesses. The prosecution case further is that the informant along with others surrounded the house of Manoj Kumar and thereafter the informant along with others entered into the house of Manoj Kumar and he found one person coming out of the room of the house of appellant Manoj Kumar who was arrested and he disclosed his name as Golo

Mandla Rama Rao and his person was searched in presence of the aforesaid witnesses and from the right pocket of his full-pant 150 pieces of counterfeit currency notes of Rs. 100/- denomination were recovered which are of the different series such as 1 piece of 9 UK 843701, 16 pieces of 9 UK 843702, 19 pieces of 9 UK 843704, 21 pieces of 9 UK 843704, 16 pieces of 9 UK 843705, 16 pieces of 9 UK 843706, 13 pieces of 9 UK 843707, 15 pieces of 9 UK 843708, 9 pieces of 9 UK 843709, 10 pieces of 9 UK 843710, 2 pieces of 9 UK 843711, 3 pieces of 9 UK 843712, 3 pieces of 9 UK 843713, 5 pieces of 9 UK 843714, 1 piece of 9 UK 843715 and from the left pocket of his full-pant 100 pieces of counterfeit currency notes were recovered which are of the different series i.e., 8 pieces of 9 UK 843709, 6 pieces of 9 UK 843710, 1 piece of 9 UK 843711, 2 pieces of 9 UK 843712, 1 piece of 9 UK 843714, 10 pieces of 9 UK 843715, 28 pieces of 9 UK 843716, 5 pieces of 9 UK 843747, 17 pieces of 9 UK 843718, 22 pieces of 9 UK 843719. It is alleged that in all 250 pieces of counterfeit currency notes of Rs. 100/- denomination, total being of Rs. 25,000/- were recovered from appellant Golo Mandla Rama Rao and he disclosed on query that the aforesaid counterfeit currency notes were delivered to him by appellant Manoj Kumar for their circulation in the market on payment of commission of 25% and he had to refund 75% of the said amount to Manoj Kumar after their circulation in the market. It is further alleged that appellant Golo Mandla Rama Rao further stated before him that he is circulating the counterfeit currency notes in the market for the last five or six months with the aid and assistance of appellant Manoj Kumar, who used to provide him with those counterfeit currency notes. It is also alleged that the seizure list (Ext. 2) in respect thereof was prepared in presence of the witnesses aforesaid and appellant Golo Mandla Rama Rao put his signature (Ext. 1/1) on the said seizure list in token of acceptance of a copy of the said seizure list and he was taken into custody.

4. The prosecution case further is that thereafter the house of appellant Manoj Kumar was searched and appellant Manoj Kumar was found concealing himself by the side of the door of the house and he was apprehended and he disclosed himself as Manoj Kumar and his person was also searched in presence of two independent witnesses aforesaid and from the right pocket of his full-pant 50 pieces of the counterfeit currency notes of Rs. 100/- denomination were recovered which belong to the different series i.e., 19 pieces of 9 UK 843717, 9 pieces of 9 UK 843712, 6 pieces of 9 UK 843713, 5 piece of 9 UK 843721, 6 piece of 9 UK 843701, 1 piece of 9 UK 843734, 1 pieces of 9 UK 843719, 1 pieces of 9 UK 843718, 1 pieces of 9 UK 843723, 1 piece of 9 UK 843784, worth Rs. 5,000/- and he disclosed that acquitted accused Kedar Ram and appellant Munna alias Ranjit Bahadur Singh are the kingpin in this racket and appellant Golo Mandla Ram Rao besides Hazrat Imam, Birendra Parmanik, Sahabuddin, Zakir, all residents of Village Nayasarai, P. S. Jaganathpur. District, Ranchi and one Vijay Singh of Bihta, District Patna have their involvement in the racket and Kedar Ram, Munna alias Ranjit Bahadur Singh and Vijay Singh aforesaid used to come to Ranchi on occasions and they provided the aforesaid counterfeit

currency notes for their circulation in the market as genuine currency notes and they are returned the value of the said notes less 25% of the commission. It is also alleged that appellant Manoj Kumar further disclosed that acquitted accused Kedar Ram, who is the resident of Buxar, used to get the counterfeit Government currency notes printed on some secret place. The prosecution case further is that the seizure list (Ext. 3) was also prepared in respect of the counterfeit currency notes in presence of the witnesses aforesaid and appellant Manoj Kumar also put his signature (Ext. 3/2) on the said seizure list in token of the acceptance of the said seizure list and he was also taken into custody.

5. In course of investigation P.W. 1, the informant, got confidential information at 20.30 hours on 22-7-1998 that appellant Munna Singh alias Ranjit Bahadur Singh has been seen near the Rajasthan Hotel at Lalpur Chowk in the town of Ranchi and he is possessed of counterfeit currency notes in huge quantity and the informant with the police officers went there and apprehended Munna Singh alias Ranjit Bahadur Singh near Rajasthan Hotel at Lalpur Chowk aforesaid and he disclosed his name as Munna alias Ranjit Bahadur Singh, son of Vijay Bahadur Singh of village Tilak Rai Ka Hatha, P. S. Simri, District Buxar and his person was searched in presence of two independent witnesses, namely, P.W. 7 Suresh Ram and P.W. 8. Bhola Prasad having their business premises at Lalpur Chowk and 133 pieces of forged or counterfeit currency notes of Rs. 100/- denomination were recovered from both the pockets of the full-pant of Munna alias Ranjit Bahadur Singh and 97 pieces of forged or counterfeit currency notes of Rs. 100/- denomination were also recovered from a plastic bag in possession of the said Munna alias Ranjit Bahadur Singh besides some other incriminating articles and a seizure list (Ext. 8) was prepared in presence of the witnesses and appellant Munna alias Ranjit Bahadur Singh has also put his signature thereon in token of acceptance of the said seizure list and he was also taken into custody.

6. In course of investigation confessional statement of appellant Munna alias Ranjit Bahadur Singh was recorded in which the involvement of appellant Uma Shankar Singh came into light which was confirmed as per the confessional statements of acquitted co-accused Pramod Kumar and Kedar Ram and it also transpired that appellant Uma Shankar Singh has installed a machine for printing counterfeit currency notes in the residence of his father at Lohardaga where his father is the Manager in BISCOAUN. In pursuance of the facts emerging in the confessional statements aforesaid, house of appellant Uma Shankar Singh at Jai Bazar, P.S. Bihia, District Bhojpur in presence of P.W. 14, Mahendra Prasad and P.W. 13, Pujan Prasad was searched on 24-7-1998 and four wooden plates of the size of 8" x 10" for printing counterfeit currency notes were recovered from his house and a seizure list (Ext. 8/1) in respect thereof was prepared and appellant Uma Shankar Singh put his signature thereon in token of acceptance of a copy of the said seizure list and he was apprehended and his confessional statement was recorded in which he had stated to have set up a machine for printing counterfeit, currency notes in the quarter of his father within the premises of BISCOAUN at Lohardaga and a raid was conducted in the premises of

BISCOMAUN at Lohardaga on 25-7-1998 in presence of independent witnesses, namely P.W. 12, Pinju Bhagat and P.W. 6. Brajesh Kumar Verma and a large number of articles including several plates for printing of counterfeit currency notes of Rs. 100/- denomination besides some fully printed and some partly printed counterfeit currency notes as well as several other articles in connection with the printing of the counterfeit currency notes were recovered and a seizure list (Ext. 8/2) was prepared in respect thereof in presence of the witnesses and appellant Uma Shankar Singh put his signature thereon in token of acceptance of the said seizure list.

7. After completing the investigation of this case charge-sheets were submitted against the four appellants named above besides two acquitted accused persons, namely, Kedar Prasad and Pramod Kumar.

8. The appellants have pleaded not guilty to the charges levelled against them and they claim themselves to be innocent and they have committed no offence and that they have been falsely implicated in this case.

9. The prosecution has examined in all 15 witnesses to substantiate charges levelled against the appellants, P.W. 1 Baijnath Singh, O/C Lalpur P.S. is the informant and the written report (Ext. 5) per his pen is the basis of this case. P.W. 1, S.I. Birendra Kumar Singh of Namkum P.S. P.W. 5 S. I. Ashok Ram, P.W. 9 S. I. Anand Kumar of Lalpur P.S. and P.W. 10, S. I. Victor Anthony of Namkum P. S. are the ocular witnesses of the occurrence in question, P.W. 2, Brajesh Tiwary, P.W. 3. Manoj Kumar Agarwal, P.W. 6, Brajesh Kumar Verma, P.W. 7, Suresh Ram, P.W. 8. Bhola Prasad, P.W. 12, Pinju Bhagat, P.W. 13, Pujan Prasad and P.W. 14, Mahendra Prasad are the witnesses of search and seizure regarding the recovery and seizure of incriminating articles from the possession of the appellants. P.W. 15, Krishna Kant Sharma, Treasurer. Reserve Bank of India, Patna had examined the recovered counterfeit currency notes and his report in respect thereof is Ext. 12, P. W. 11, Bijay Kumar Prasad is the I.O. of this case Exts. 2, 3, 8, 8/1 and 8/2 are the seizure lists regarding the incriminating articles alleged to have been recovered from the possession of the appellants aforesaid and Exts. 1/1 and 3/2 are the signatures of appellants Golo-Mandla Rama Rao and Manoj Kumar on the seizure lists Exts 2 and 3 respectively. All the seized articles have been brought before the Court which are material exhibits in this case. However, P.W. 3, a witness of search and seizure has turned hostile regarding counterfeit currency notes allegedly recovered from appellant Manoj Kumar. No oral and documentary evidence has been adduced on behalf of defence.

10. In view of the oral and documentary evidence on the record and the recovery of incriminating articles from the conscious possession of the appellants having been proved by the legal and reliable evidence on the record the learned Court below found the appellants named above guilty and convicted and sentenced them as stated above.

11. Assailing the impugned judgment it has been submitted by the learned counsel for appellant Manoj Kumar that the learned Court below did not at all consider the evidence on the record meticulously in proper perspective and has erred in coming to the finding of the guilt of the appellant. It has been submitted that according to the prosecution case the alleged recovery of the counterfeit currency notes was not made from the possession of this appellant in presence of P.W. 2, Brajesh Tiwary and P.W. 3 Manoj Kumar Agarwal, but P.W. 3, Manoj Kumar Agrawal in his evidence on oath has not at all supported the factum of the said recovery from the conscious possession of the appellant in his presence and he was declared hostile and there is no legal evidence at all on the record to prove the factum of the alleged recovery from the possession of this appellant and the learned Court below has erred in coming to the finding of the alleged recovery from the possession of this appellant. It has also been contended that the alleged recovered counterfeit currency notes from the possession of this appellant was not sealed and non-sealing of the alleged recovered counterfeit currency notes has definitely, caused miscarriage of justice in this case and finding of the learned Court below that non-sealing of the said counterfeit Government currency notes has not affected the prosecution case is nothing but perverse. It has also been submitted that report of P.W. 15, the expert, suffers with legal infirmities in respect thereof which cannot form the basis for the conviction of this appellant and there is no legal evidence on the record for finding this appellant guilty for the offence under Sections 489A, 489C and 489D I.P.C. and for argument sake it can be said that the allegation if legally proved may fall under the ambit of Section 489E I.P.C. for which the punishment prescribed is only fine of Rs. 100/-. It has further been submitted that there is no allegation against this appellant that he has counterfeited any currency notes and bank notes or has knowingly performed any part of the process of counterfeiting any currency note or bank note and there is also no evidence on the record that this appellant has used as genuine, forged and counterfeit currency notes and in this view of the matter the prosecution of this appellant for the offence under Sections 489A, 489B and 489C I.P.C. is abuse of the process of law. It has also been submitted that Section 28 I.P.C. defines "counterfeit" and a person is said to "counterfeit" who causes one thing to resemble another thing intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised and as per explanation 2 of Section 28 I.P.C. the resemblance may be such that a person might be deceived thereby. It has also been submitted that counterfeit has to be done in the Government currency note itself and here in this case no counterfeiting has been done in the Government currency notes by any of the appellants and in such a situation no offence is at all made out under Sections 489A, 489B, 489C and 489D I.P.C. rather the allegation may fall only u/s 489E I.P.C. Lastly it has been contended that the alleged seizure of the said incriminating articles from this appellant suffers with infirmity and it is not in accordance with Section 165 Cr.P.C. and to crown all, there is no iota of legal evidence on the record to prove the allegation of conspiracy between this appellant and other co-accused persons of this case

and the recovered alleged counterfeit currency notes has no resemblance at all with genuine Government currency notes so as to cause any deception and as such the impugned judgment is unsustainable.

12. Learned counsel for the appellants Golo Mandla Rama Rao and Ranjit Bahadur Singh alias Munna Singh have adopted the contention put forward on behalf of appellant Manoj Kumar. It has been further contended on behalf of appellant Ranjit Bahadur Singh that no case at all is made out under Sections 489A and 489B I.P.C. against him and there is no iota of legal evidence on the record to show that this appellant had intended to use the said counterfeit currency notes and seizure witnesses also do not support the factum of recovery of the alleged counterfeit currency notes and in this view of the matter case u/s 489 C I.P.C. is also not made out against this appellant. In support of his contention reliance has been placed upon the ratio of the case of Archi Nawal Kishore Kujur v. State of Bihar 1995 (1) Ind Cri. Cas 548 State of Punjab Vs. Gurnam Singh, , M. Mammutti Vs. State of Karnataka, ; Surinder Vs. State of Haryana, Kanshi Bhagat v. State 1960 BLJR 242 , Bachan Singh and Another Vs. The State of Punjab, , Umashanker Vs. State of Chhattisgarh, Karunakaran Nadar Vs. State, , Ragho Saran Sao Vs. The State, ; Usman Mian and Others Vs. State of Bihar, and Sabitri Devi v. The State of Bihar 1995 (2) PLJR 854, State of Bihar v. Harinandan Singh 1970 PLJR 173.

13. It has been submitted for appellant Uma Shankar Singh that the learned Court below did not at all properly scrutinize the evidence on the record regarding the alleged recovery of incriminating articles either from his house at Bihia in the district of Bhojpur on 24-7-98 as well as from the room of BISCOMAUN at Lohardaga on 25-7-98 and there is no legal evidence at all on the record to legally prove the fact of recovery of the said incriminating articles and the evidence of P.W. 11, the I.O., does not stand at all corroborated by any other independent witness and even the witnesses of seizure have not corroborated the factum of the alleged recovery from the aforesaid places. It has also been submitted that there is no evidence on the record that the room in the BISCOMAUN premises, Lohardaga was in occupation of this appellant and there is no iota of evidence on the record as to whom the said room belonged in the BISCOMAUN premises. It has further been submitted that this appellant along with the alleged recovered incriminating articles was neither produced before the local Magistrate at Bhojpur or at Lohardaga and even the incriminating articles allegedly recovered from the aforesaid places were not before the Court at any point of time and also the aforesaid articles were not sealed for the reasons best known to the prosecution. It has further been submitted that there is no iota of evidence on the record to make out a case u/s 120B, I.P.C. against this appellant. It has also been submitted that there is no material on the record to show that this appellant was performing the process or part of process of counterfeiting any currency note. It has also been submitted that the witnesses of seizure have not identified this appellant in the dock in course of the evidence and, therefore, there is no clinching evidence on the record at all to show that

incriminating articles were recovered in his presence from the room of the BISCOMAUN premises at Lohardaga. Further it has been contended that the alleged incriminating articles allegedly recovered from the room of the premises of BISCOMAUN at Lohardaga were ever used for printing counterfeit currency notes and there is no evidence of any expert in respect thereof also and no counterfeit currency note has been recovered from his possession. Lastly it has been contended that the finding of the guilt of this appellant by the learned Court below is palpably incorrect and illegal in view of the fact that there is neither evidence on the record that any counterfeiting has been done by this appellant nor there is any evidence that any part of the process which could have ended in performing a counterfeit worth the name and there is absolutely no evidence that this appellant had any intention to counterfeit and, thus, the impugned judgment is unsustainable.

14. Refuting the contention of the learned counsels for the appellants it has been submitted by the learned A.P.P. that there is no illegality in the impugned judgment of the learned Court below which is based on legal and reliable evidence on the record and the incriminating articles including forged or counterfeit currency notes were recovered from the conscious possession of the appellant in presence of the police witnesses as well as the witnesses of search and seizure and all the prosecution witnesses in their evidence on oath have proved the factum of the recovery of the aforesaid incriminating articles from the conscious possession of the appellants and the seizure witnesses in their evidence on oath have admitted their signatures on the seizure list. It has further been submitted that the non-sealing of the aforesaid incriminating articles by the I.O. in course of investigation does not at all cast any cloud of suspicion in respect thereof as there was no sealing material with the I.O. It has also been submitted that the aforesaid forged or counterfeit currency notes were examined by the Treasurer, Reserve Bank of India, who opined categorically that the recovered currency notes are forged and counterfeit. He has further submitted that the conscious possession over those incriminating articles of the appellant definitely leads to the inference that they were possessed of those incriminating articles only with an intent to use as genuine currency notes to cause deception and it is not necessary to prove that deception has actually taken place. It has also been submitted that intention to practice deception by causing one thing to resemble another is quite sufficient to make out a case under Sections 489A, 489B, 489C and 489D, I.P.C. Lastly it has been contended that counterfeit does not mean making any interpolation in the original Government currency notes rather it means causing one thing to resemble another though it is not essential to counterfeiting that the imitation should be exact and, viewed thus, there is no illegality at all in the impugned judgment.

15. The learned Court below on consideration of the oral and documentary evidence on the record found all the appellants guilty and convicted and sentenced them as stated above.

16. Let us now scan and scrutinize the evidence on the record regarding appellant Golo Mandla Rama Rao. P.W. 1, Baijnath Singh, O/C Lalpur P. S. has deposed that P.W. 10, Victor Anthony, Police Inspector, Namkum Circle and P.W. 4, Birendra Kumar Singh, O/C Namkum P. S. came to him on 21-7-1998 at about 18.00 hours and told him that they have received confidential information regarding appellant Manoj Kumar that he indulges in unlawful trade of forge or counterfeit currency notes and he has received the forge or counterfeit currency notes from outside and gets them circulated through agents in the market, P.W. 1 has further deposed that a station diary entry in respect of the said information was made vide S.D. Entry No. 510 dated 21-7-1998 and he in the company of P.W. 11, Bijay Kumar Prasad, P.W. 5, Ashok Ram and Anil Kumar, all police officials along with the police force in the company of P.W. 4, S. I. Birendra Kumar Singh and P.W. 10, Inspector Victor Anthony aforesaid went near the house of appellant Manoj Kumar at about 18.15 hours on that day where P.W. 2, Brijesh Tiwary and P.W. 3, Manoj Kumar Agarwal were requested to be present in course of the said search of the house of appellant Manoj Kumar. He has further deposed that all the members of the raiding party were searched of their person by P.Ws. 2 and 3 aforesaid and nothing incriminating was recovered from their person and Ext. 1 having the signatures thereon of P.Ws. 2 and 3 corroborates the said fact. He has further deposed that he along with the raiding party aforesaid entered into the premises of appellant Manoj Kumar and he found one person coming out of the house of appellant Manoj Kumar in a nervous state and on query he disclosed his name as appellant Golo Mandala Rama Rao. He has further deposed that person of appellant Golo Mandala Rama Rao was searched in presence of P.Ws. 2 and 3 as well as the members of the raiding party and 150 pieces of counterfeit currency notes of Rs. 100/- denomination of different series were recovered from the right pocket of his fullpant and 100 pieces of counterfeit currency notes of Rs. 100/- denomination of different series were also recovered from the left pocket of his full-pant and the said counterfeit currency notes were seized and a seizure list was prepared by him which is Ext. 2 and the signatures thereon of P.Ws. 2 and 3 are Exts. 2/3 and 2/4 respectively. He has further deposed that a copy of the seizure list (Ext. 2) was handed over to appellant Golo Mandla Rama Rao and in token of its acceptance he has put his signature thereon, which is Ext. 1/1. He has further deposed that the recovery of forged or counterfeit currency notes from the possession of appellant Golo Mandla Rama Rao have been produced before the Court and these are Material Ext. 1 and 1/1. In para 26 of his cross-examination this witness has deposed that the seized counterfeit currency notes from the possession of this appellant was not sealed and signature of this appellant was also not obtained on each seized counterfeit currency notes. P.W. 4, Birendra Kumar Singh has deposed that he was one of the members of the raiding party and he along with the members of the raiding party had gone to the house of appellant Manoj Kumar situate at Purulia Road, Ranchi and he met P.Ws. 2 and 3 at Lalpur Chowk and Nagratoli respectively and on his request they had agreed to assist the police in the raid. He has also deposed that the persons of the raiding party were searched by the aforesaid

seizure witnesses and thereafter the raiding party came to the house of appellant Manoj Kumar where a person was found coming out from his house and he was apprehended and his person was searched and 150 pieces forged or counterfeit currency notes from the right pocket and 100 pieces of forged or counterfeit currency notes from his left pocket each of Rs. 100/-denomination were recovered from that person and on query he disclosed his name as Golo Mandla Rama Rao and seizure list was prepared there. In para 11 of his cross-examination he has deposed that P.Ws. 2 and 3, who are witnesses of the search and recovery in question, have witnessed the seizure-list in his presence. P.W. 5, Ashok Rana P.W. 9, Anand Kumar, P.W. 10, Victor Anthony, all police officials, have in their evidence on oath corroborated the testimony of P.W. 1. the informant in material particulars. P.W. 5, Ashok Kumar. in para 2 of his evidence has, however, deposed that P.Ws. 2 and 3, were picked up in the way to Purulia Road. In para 9 of his cross-examination he has deposed that both the witnesses of search were found near the house of appellant-Manoj Kumar, P.W. 9, Anand Kumar, in para 4 of his evidence has specifically deposed that seizure list regarding recovery of the forged or counterfeit currency notes was prepared by P.W. 1 in presence of P.Ws. 2 and 3, the independent witnesses of seizure. In para 11 of his cross-examination he has deposed that before proceeding from Lalpur P. S. for raid, station diary entry was made regarding the confidential information received from P.Ws. 4 and 10. He has also deposed in para 12 that he has made the said entry in the station diary of the Lalpur P. S. He has also deposed in para 14 that both the witnesses of search were found near the house of appellant Manoj Kumar and they were called by P.W. 1, the informant. P.W. 2, Brajesh Tiwary resident of Lalpur Chowk, who deals in restaurant business, is the witness of search and seizure in question. He has deposed that on 21-7-98 at the relevant time he had gone to see his friend and he found the police jeep stationed at the Purulia Road. He has further deposed that the police asked him and his friend P.W. 3, Manoj Kumar Agrawal to help them in conducting the search as they had received information about the illegal trade of forged or counterfeit currency notes. He has further deposed that all the members of the raiding party gave their search to him and P.W. 3, Manoj Kumar Agrawal aforesaid and a memo of seizure was prepared in respect thereof and nothing incriminating was recovered from the members of the raiding party. P.W. 2 admits his signature on the said memo of search and the signature thereon is Ext. 1/2. He has further deposed that the raiding party along with him and P.W. 3, Manoj Kumar Agrawal entered into the premises of appellant Manoj Kumar where a person was found coming out from the house of appellant Manoj Kumar and he was apprehended and his person was searched and 150 pieces of forged or counterfeit currency notes from his right pocket of full-pant and 100 pieces of forged or counterfeit currency notes from left pocket of his full-pant, each of the denomination of Rs. 100/-, were recovered. He has further deposed that seizure list was prepared in their presence and he has witnessed the said seizure list and his signature thereon is Ext. 2/3. In his cross-examination he has deposed that search of the person of appellant Golo Mandla Rama Rao was made by P.W. 1,

Bajnath Singh in his presence between 6.30 and 6.45 p.m. P.W. 2 materially corroborates the testimony of P.W. 1, the informant as well as other official witnesses. Nothing has been elicited in his cross-examination to discard his evidence in respect of apprehension, search and seizure of the aforesaid incriminating articles from the conscious possession of appellant Golo Mandla Rama Rao, P.W. 3, Manoj Kumar Agrawal, the other witness of search and seizure of this appellant, has deposed that he was passing through Purulia Road along with P.W. 2, Brajesh Tiwary and he found police vehicles stationed on the Purulia road and he along with P.W. 2 were called by P.W. 1. He has also deposed that he was requested to assist them in conducting raid of the house of appellant Manoj Kumar as they have got information regarding the racket of counterfeit currency notes being done in the house of appellant Manoj Kumar. He has also deposed that before the search and seizure of the appellant the police officials gave their search and nothing was found in their possession and a memo of search in respect thereof was prepared on which he has signed and his signature thereon is Ext. 3/1. He has further deposed that thereafter the raiding party entered into the premises of appellant Manoj Kumar where a person was found coming out of the said house and he was apprehended and his person was searched and forged or counterfeit currency notes were recovered from the possession of the said man and a seizure list was prepared in respect thereof in his presence and he figures as a witness thereon and his signature is Ext. 2/4 on the said seizure list. P.W. 3 has identified the said man in the dock whose person was searched before him and the name of said person is appellant Golo Mandla Rama Rao. In his cross-examination he has specifically deposed regarding the recovery of 250 pieces of forged or counterfeit currency notes from the pockets of the full-pant of appellant Golo Mandla Rama Rao as well as preparation of seizure list in respect thereof. However, para 9 of his cross-examination he has deposed that the said recovered forged or counterfeit currency notes were not sealed in his presence. P.W. 11, the I.O., who is also one of the members of the raiding party, in his evidence on oath has materially corroborated the evidence of P.W. 1, the informant, read (sic) with other official witnesses and the seizure witnesses. In para 50 of his cross-examination he has specifically deposed that both the independent witnesses of search were found on the road 30-40 yards west of the place of occurrence. In para 10 of his evidence he has given the topography of the place of occurrence, which is the house of appellant Manoj Kumar having a boundary on all the four sides. From the evidence aforesaid it is established beyond reasonable doubts that as a result of raid in the house of appellant Manoj Kumar this appellant, namely, Golo Mandla Rama Rao was found coming out of the said house and he was apprehended by P.W. 1, the informant along with other members of the raiding party in presence of P.Ws. 2 and 3 and the person of appellant Golo Mandla Rama Rao was searched by P.W. 1 in presence of P.Ws. 2 and 3 and 150 pieces of forged or counterfeit currency notes and 100 pieces of forged or counterfeit currency notes were recovered from the right and left pockets of the full-pant of Golo Mandla Rama Rao respectively in presence of P.Ws. 2 and 3 and all those forged or counterfeit currency notes were in the

denomination of Rs. 100/- and the seizure list in respect thereof was made and the said recovery has been made from the conscious possession of appellant Golo Mandla Rama Rao.

17. Let us now examine the evidence on the record regarding appellant Manoj Kumar. P.W. 1, the informant, has deposed that after the arrest, search, recovery and seizure of the incriminating articles from appellant Golo Mandla Rama Rao in the premises of appellant Manoj Kumar, he along with the police force entered into the house of appellant Manoj Kumar and he found one; person concealing himself behind the door plank and on query he disclosed his name as appellant Manoj Kumar and he was apprehended and his person was searched in presence of P.Ws. 2 and 3 and in course of search 50 pieces of forged or counterfeit currency notes each of Rs. 100/- denomination were recovered from the pocket of his full-pant and they were seized and seizure list in respect thereof was prepared which is Ext. 3 in this case per his pen and the witnesses of seizure also put their signatures thereon which are Exts. 3/1 and 3/2. The said recovered incriminating articles were produced before the Court, which stand marked as Material Ext. 11. In para 16 of his evidence he has deposed that appellant Manoj Kumar was apprehended in the southern room inside his house. He has also deposed that no other incriminating articles were recovered from the other rooms of the house of appellant Manoj Kumar. He has also deposed that the said recovered forged or counterfeit currency notes were neither sealed by him nor they were signed by appellant Manoj Kumar. In para 19 he has deposed that in course of search in the house of appellant Manoj Kumar he had seen the sister and brother of this appellant in the said house. P.Ws. 4, 5, 9, 10 and 11, who were the members of the raiding party, have corroborated the evidence of P.W. 1, the informant in material particulars in their evidence on oath. In para 66 of his cross-examination P.W. 11, the I.O., has deposed that he did not seal the recovered incriminating articles from the possession of appellant Manoj Kumar in the absence of sealing materials. P.W. 2. Brajesh Tiwary has deposed that after the search and seizure and the preparation of the seizure list of the recovered incriminating articles from appellant Golo Mandla Rama Rao the raiding party headed by the informant entered into the house of appellant Manoj Kumar and he was apprehended and brought outside his room and his person was searched. He has also deposed that 50 pieces of forged and counterfeit currency notes of Rs. 100/- denomination were recovered from the possession of the said apprehended person. His evidence is further to the effect that seizure list in respect thereof was prepared on which he has put his signature and his signature thereon is Ext. 3/3. In his cross-examination he has deposed that he was standing at the gate of appellant Manoj Kumar when the raiding party has entered inside the house of this appellant. He has also deposed that the distance of the gate from the room in which appellant Manoj Kumar was apprehended is 10-15. P.W. 3, Manoj Kumar Agrawal, the other witness of search and seizure, regarding appellant Manoj Kumar, has deposed that his person was not searched before him as at that time he had gone to urinate and on his return he was told

by the raiding party that the person of appellant Manoj Kumar, has been searched and forged or counterfeit currency notes were recovered and he put his signature on the seizure list and his signature thereon is Ext. 3/4. However, this witness has identified appellant Manoj Kumar in the dock. P.W. 3 has been declared hostile by the prosecution. However, in para 4 of his cross-examination he has deposed that he had been at the place of occurrence with the police and P.W. 2, Brajesh Tiwary was with him. The testimony of P.W. 1, the informant, read with P.Ws. 4, 5, 9, 10 and 11 corroborated in material particulars by P.W. 2, Brajesh Tiwary, a witness of the search, clearly establishes the fact of the recovery of the forged or counterfeit currency notes from the person of appellant Manoj Kumar on search in accordance with law and appellant Manoj Kumar was in conscious possession of the said forged or counterfeit currency notes.

18. Let us now come to the evidence on the record regarding appellant Ranjit Bahadur Singh alias Munna. According to the prosecution case P.W. 1, the informant, had got confidential information at 20.30 hours on 22-7-1998 that appellant Ranjit Bahadur Singh alias Munna had been seen near Rajasthan Hotel at Lalpur Chowk in the town of Ranchi and he is possessed of counterfeit currency notes in huge quantity and the informant with the police force, went there and the said appellant was apprehended near Rajasthan Hotel aforesaid and on query he disclosed his name and, counterfeit currency notes of Rs. 100/- denomination were recovered from the plastic bag in his possession and also from both the pockets of his full-pant. The evidence of P.W. 1, the informant, and P.W. 11, Bijay Kumar Prasad, I.O. besides, P.W. 7, Suresh Ram and P.W. 8, Bhola Prasad is relevant in respect thereof. P.W. 1 in para 9 of his evidence has deposed that on confidential information he had gone to Lalpur Chowk in the company of S.I. Ashok Ram and P.W. 11, Bijay Kumar Prasad, the I.O., along with the police force where appellant Ranjit Bahadur Singh alias Munna was found and he was apprehended and his person was searched by P.W. 11, Bijay Kumar Prasad in presence of two independent witnesses and in course of the said search forged counterfeit currency notes were recovered from the pockets of his full-pant and a seizure list in respect thereof was prepared by P.W. 11, the I.O. P.W. 1 has further deposed that in course of query appellant Manoj Kumar had disclosed the complicity of this appellant Ranjit Bahadur Singh alias Munna in the illegal trade of counterfeit currency notes and he has also told him about the gait and physical feature of appellant Ranjit Bahadur Singh alias Munna and on the basis aforesaid he along with the police force had apprehended appellant Ranjit Bahadur Singh alias Munna at Lalpur Chowk. P.W. 5, S.I. Ashok Ram in para 4 of his evidence has deposed that appellant Manoj Kumar had disclosed the name of Rakesh alias Munna Singh resident of Buxar on query regarding the person providing him with the forged or counterfeit currency notes. However, this witness does not whisper in his evidence on oath regarding his presence at the time of apprehension, search and seizure of appellant Ranjit Bahadur Singh alias Munna. P.W. 11, the I.O. and a member of the raiding party, has deposed that in course of investigation he got confidential information on 22-7-1998 at about

22.30 hours that a person, who is involved in the racket of the counterfeit currency notes, has been seen in the vicinity of Rajasthan Hotel at Lalpur in the town of Ranchi and he is possessed of counterfeit currency notes in sufficient quantity and on this intimation he along with the police officials and the police force came there and apprehended appellant Ranjit Bahadur Singh alias Munna, who is the resident of Buxar, and his person was searched in presence of two independent witnesses and as a result of that search 100 pieces of forged or counterfeit currency notes from the right pocket of his full-pant and 33 pieces of forged or counterfeit currency notes from the left pocket of his full-pant all in the denomination of Rs. 100/- were recovered in presence of two independent witnesses. In para 34 of his evidence he has further deposed that 97 pieces of forged or counterfeit currency notes in the denomination of Rs. 100/- were recovered from a plastic bag in possession of this appellant. He has also deposed that he prepared the seizure list of the said incriminating articles in presence of the witnesses of search, namely, P.W. 7. Suresh Ram and P.W. 8, Bhola Prasad, who had witnessed and the said seizure list (Ext. 8) and their signatures thereon are Exts. 7/1 and 7/2 respectively. The aforesaid incriminating articles have been produced before the Court, which are material Exts. 11/61 to 11/390. P.W. 1 has also deposed to have identified appellant Ranjit Bahadur Singh alias Munna in the dock. However, in para 45 of his evidence he has deposed that the recovered forged or counterfeit currency notes were not sealed by him. P.W. 7, Suresh Ram and P.W. 8, Bhola Prasad had their shops in the close vicinity of Rajasthan Hotel at Lalpur Chowk in the town of Ranchi. Both the witnesses in their evidence on oath have deposed that the seizure list (Ext. 8) contained their signatures, which are Exts. 7/1 and 7/2 respectively. However, in cross-examination they have deposed that nothing was recovered from the possession of this appellant in their presence and they had put their signatures on blank paper at the police station. In view of the evidence of P.W. 1 read with P.W. 11 and the existence of the signatures of P.W. 7 and P.W. 8 on the seizure list (Ext. 8) it stands substantiated that forged or counterfeit currency notes in huge quantity were recovered from the conscious possession of this appellant as a result of the search of his person.

19. Let us now come to the case of appellant Uma Shankar Singh. It is essential to mention at the very outset that in course of investigation involvement of appellant Uma Shankar Singh having surfaced in the racket of the forged or counterfeit currency notes. A raid was conducted at the house of this appellant by P.W. 1, the informant, along with P.W. 11, the I.O., with the aid and assistance of the Bihia police. P.W. 1 in para 11 of his evidence has categorically deposed that the informant came to Bihia in the district of Bhojpur on 24-7-1998 and with the aid and assistance of Bihia police a raid was conducted at the house of this appellant and his house was searched in presence of independent witnesses and four wooden plates used in printing of the forged or counterfeit currency notes were recovered from the room of the house of this appellant situate at Jai Bazar, Bihia which were seized. He has further deposed that confessional statement of Uma Shankar Singh was also recorded and on the basis of the said confessional

statement a raid was conducted and the premises in occupation of this appellant at BISCOMAUN Bhawan at Lohardaga was searched. In para 12 of his evidence P.W. 1 has deposed that he along with P.W. 11 and others came to Lohardaga by car on 25-7-1998 and with the aid and assistance of Lohardaga police and in pursuance of the confessional statement of this appellant the room on the roof of BISCOMAUN Bhawan was searched, as pointed by appellant Uma Shankar Singh, in his presence as well as in presence of the independent witnesses and as a result of the said search tools and equipments besides material used in counterfeiting currency notes were recovered and seized and the seizure list in respect thereof was prepared by P.W. 11 per his pen which is Ext. 8/2 and the said seizure list contains the details of the articles seized from the said room in presence of this appellant. In paras 29 and 31 of his cross-examination P.W. 1 has deposed that at about 4.00 O'clock in the evening on 25-7-1998 he along with others in the company of this appellant reached Lohardaga and after taking the aid of Lohardaga police he along with others came to the first floor of BISCOMAUN Bhawan situate at Lohardaga and a room, as pointed by this appellant, was found locked and the said lock was broken and the said room was searched. He has also deposed in his cross-examination that the aforesaid recovered articles either at Bihia or at Lohardaga were not produced before the competent Court at those places or before any Court and those articles were also not sealed. P.W. 11, the I.O., in para 13 of his evidence has deposed that he along with P.W. 1, the informant, P.W. 5, S.I. Ashok Ram and the police force in the company of apprehended appellant Ranjit Bahadur Singh alias Munna Singh proceeded for Buxar in course of investigation and with the aid of Buxar police acquitted co-accused Kedar Ram was arrested and thereafter they all in the company of Kedar Ram came to Bihia on 24-7-1998 and the house of appellant Uma Shankar Singh at Bihia was searched in presence of appellant Uma Shankar Singh and the independent witnesses on 24-7-98 at 15.30 hours and four wooden plates of the size of 8" x 10" used for counterfeiting currency notes were recovered in presence of the witnesses and those four wooden plates were seized in presence of the witnesses and a seizure list was prepared which is Ext. 8/1. He has further deposed in para 17 of his evidence that thereafter, he along with the police officials in the company of appellant Uma Shankar Singh came to Lohardaga and the room in the premises of BISCOMAUN at Lohardaga as pointed by appellant Uma Shankar Singh was searched in presence of the witnesses after breaking the lock of the said room from where a large number of equipments and tools besides the materials used in counterfeiting currency notes were recovered. He has further deposed that a large number of printed forged or counterfeit currency notes as well as partly printed forged or counterfeit currency notes besides some papers of the size of the currency notes affixed on the table for printing forged or counterfeit currency notes were also recovered. He has further deposed that 26 series of incriminating articles which include equipment, tools and other materials used for counterfeiting currency notes were recovered from the said room and a seizure list in respect thereof was prepared by him which runs in three pages and the said seizure list is Ext. 8/2. In para 16 he has

deposed that all the recovered articles were brought to Ranchi where it was kept in the Malkhana of the Lalpur P. S. The cross-examination of appellant begins from page 43 of his deposition though the paragraphs are wrongly numbered. In his cross-examination at page 43-44 of his deposition he has deposed that appellant Uma Shankar Singh after his arrest as well as the said recovered incriminating articles were not produced before the competent Magistrate either at Bhojpur or at Lohardaga. He has also deposed in his cross-examination at page 44 that no forged or counterfeit currency note was recovered from the person of appellant Uma Shankar Singh on search. In para 62 of his evidence this witness has also deposed that he has not sent those recovered articles for examination by any expert and he has no knowledge as to how a currency note is printed and with what materials. He has also deposed that he has stated on guess that the recovered incriminating articles at Lohardaga are used in connection with counterfeiting currency notes. P.W. 13, Pujan Prasad and P.W. 14, Mahendra Prasad, both resident of Bthia having their tea stall and bettle stall respectively there, figure as witnesses of search and seizure (Ext. 8/1) in respect of the recovery of the incriminating articles from the house of appellant Uma Shankar Singh at Jai Bazar, Bihia. They have deposed that seizure list of the recovered incriminating articles were prepared in their presence on which they figure as witnesses and their signatures thereon are Exts. 7/6 and 7/7. However, in their cross-examination they have deposed that they do not identify appellant Uma Shankar Singh; P.W. 13 has further deposed that he is not aware of the contents of the seizure list. P.W. 14 has further deposed that said seizure list was blank when he had put his signature thereon. It therefore, appears from the evidence of P.Ws. 13 and 14 that they admit their signatures on the seizure list, which was prepared by P.W. 11, the I.O. at Bihia. P.W. 6, Brajesh Kumar Verma and P.W. 12, Pinju Bhagat figure as witnesses of the search and seizure (Ext. 8/2) which is in respect of the recovery of the incriminating articles from the room in the premises of BISCOMAUN at Lohardaga and said seizure list was prepared by P.W. 11, the I.O. The signature of P.W. 6, Brajesh Kumar Verma is Exts. 6/1, 6/2 and 6/3 on three pages of the seizure list (Ext. 2) respectively and the signature of P.W. 12 thereon is Exts. 7/3, 7/4 and 7/5 respectively on each page of the seizure list aforesaid. P.W. 6 in his evidence on oath has admitted that he has signed all the three pages of the seizure list. He has also deposed that his house is situated 150 yards from the BISCOMAUN building. He has further deposed that he has signed the seizure list at 9.10 O'clock in the day on 25-7-1998. This evidence of P.W. 6 is palpably false and incorrect in view of the fact that seizure list (Ext. 8/2) has seen the light of the day on 25-7-1998 at 17.00 hours when the search was conducted in the room in BISCOMAUN premises by P.W. 1 and P.W. 11. Therefore, P.W. 6 has deliberately lied in respect of the material aspect of the prosecution case for the reasons, which are not very far to seek. P.W. 6 has further deposed that he had put his signature on the three blank papers and at that time nothing stands scribed thereon. He has also deposed that he does not know appellant. Uma Shankar Singh and he has put his signature thereon when he was alone. P.W. 12, Pinju Bhagat has deposed that

seizure list (Ext. 8/2) was prepared at BISCOMAUN, Lohardaga. He has also deposed that three pages of the said seizure list (Ext. 8/2) were blank when he had put his signature thereon. The evidence of this witness appearing in cross-examination is inconsistent in view of para 1 of his testimony that the said seizure list was prepared in the BISCOMAUN Bhawan. Therefore, all the witnesses of the seizure aforesaid have deliberately lied on the material aspect of the prosecution case in their cross-examination for the reasons best known to them. It is pertinent to mention at this stage that confessional statement of appellant Uma Shankar Singh, was recorded in course of the investigation and in pursuance of the confessional statement of this appellant and the room on the roof of the BISCOMAUN Bhawan at Lohardaga having been pointed by this appellant, the search of the said room was made in presence of two independent witnesses i.e., P.W. 6 and P.W. 12 from where incriminating articles as per Ext. 8/2 were recovered. Therefore, the recovery of the articles as per Ext. 8/2 from the room on the roof of BISCOMAUN Bhawan, Lohardaga is in pursuance of the confessional statement of this appellant. All the aforesaid recovered articles as per Ext. 8/2 have been produced before the Court from the Malkhana of Lalpur P. S. which are material Exts. 11/1 to 11/160, material Exts. IV to IV series, material Ext. V series, material Ext. VI series, material Ext. VII series, material Exts. VIII, IX, X, XI, XII, XIII, XIV, XV, XVI and XVII series. From the evidence referred to above it is crystal clear that room on the upper floor of BISCOMAUN Bhawan, Lohardaga was searched in presence of appellant Uma Shankar Singh in pursuance of his confessional statement and the said room having been pointed by the said appellant from which aforesaid incriminating articles as per Ext. 8/2 were recovered. The evidence referred to above, therefore, clearly establishes the fact that appellant Uma Shankar Singh was in conscious possession of the aforesaid incriminating articles which were recovered from his house at Bihia and from the room in the premises of BISCOMAUN at Lohardaga.

20. It is pertinent to mention here that the said recovered alleged forged or counterfeit currency notes were not earlier examined by any expert and in the absence of any expert opinion the trial Court had come to the finding of the guilt of the appellants holding that the said recovered currency notes were forged and counterfeit. A Division Bench of this Court vide order dated 5-4-2002 directed the learned Court below to get the seized currency notes examined by expert and to submit a report to this Court. The order aforesaid runs thus:--

"Heard the learned counsel for the parties.

Earlier the prayer for bail of the appellant was twice rejected. The main argument raised in this application is that currency notes which were allegedly seized were not produced in the trial Court rather the seizure list was produced and no expert was examined in this case.

In view of the aforesaid submission in exercise of the power vested in this Court u/s 391 of the Code of Criminal Procedure, we direct the 2nd Additional Judicial Commissioner, Ranchi, who has passed the conviction and sentence against the

appellant in S. T. No. 817 of 1998, to get the seized currency notes examined by its expert and submit a report to this Court within a period of two months with a copy of the report of the expert served on the defence and privilege will be given to the defence to cross-examine the expert.

For the time being the prayer for bail of the appellant is kept abeyance."

21. In pursuance of the order aforesaid the alleged forged or counterfeit currency notes were sent to Reserve Bank of India, Patna for their examination by the expert which was examined by P.W. 15, Krishna Kant Sharma, Treasurer of Reserve Bank of India, Patna and his report dated 31-5-2002 in respect thereof is Ext. 12 which has been forwarded to the Court by the Manager. Reserve Bank of India and the said forwarding letter dated 7-6-2002 is Ext. 13 in this case P.W. 15, Krishna Kant Sharma has deposed that he was the Treasurer in the Reserve Bank of India, Patna prior to 31-7-2002 and he had examined the alleged recovered notes of this case and he found the said recovered currency notes as forged and counterfeit. In para 4 of his evidence he has deposed that those recovered currency notes were not sent to Currency Note Press, Nasik/Bank Note Press, Devas, Madhya Pradesh for confirmation of his report in respect thereof. In para 6 of his evidence he has deposed that Reserve Bank of India, Patna has no arrangement for the chemical test of the currency notes which is done at Nasik and Devas and the chemical test is the scientific method of the examination of currency notes. In para 21 of his evidence he has deposed that the currency notes were unsealed when he had received them. In para 35 of his cross-examination he has deposed that he has advised in his report for sending those notes to Nasik and Devas for confirmation of his report in view of the fact that he has not examined the notes scientifically. However, it is apparent from the report of P.W. 15 read with his evidence that the alleged recovered currency notes are forged and counterfeit currency notes, though there is no confirmative test in respect thereof by any other expert of Nasik and Devas. In course of hearing of this case this Court had the occasion on the request of the learned counsel for the appellants to personally peruse and examine those recovered currency notes and in pursuance thereof those recovered currency notes were called for from the learned Court below and after perusing the aforesaid currency notes this Court is of the view that the said recovered currency notes are definitely not genuine currency notes in view of their get up, manner of printing, quality of paper, absence of nylon thread running across the note as well as crude printing of index and serial numbers thereof. Therefore, it stands established beyond all reasonable doubts that the said recovered currency notes from the conscious possession of the appellants are definitely forged or counterfeit currency notes.

22. From the evidence referred to above it is crystal clear that forged or counterfeit currency notes were recovered from the conscious possession of Golo Mandla Rama Rao, Manoj Kumar and Ranjit Bahadur Singh alias Munna as well as equipments, tools and other materials besides fully printed counterfeit currency notes as well as partly printed counterfeit currency notes were recovered from

the possession of appellant Uma Shankar Singh from his house at Bihia and from the room in his occupation in the premises of BISCOMAUN at Lohardaga. The said search and recovery was made in presence of two independent witnesses in accordance with law. Both the seizure witnesses in connection with the search and seizure of appellant Golo Mandla Rama Rao in their evidence on oath have corroborated regarding the said search, recovery and seizure. So far the search, recovery and seizure from appellant Manoj Kumar is concerned, only one seizure witness has corroborated it in material particulars whereas other witnesses of search and seizure i.e. P.W. 3 though admitting his signature on the seizure list has deposed that at the time of search and recovery he had gone for nature's call and he has turned hostile in respect thereof. The search witnesses regarding the search, recovery and seizure from appellant Ranjit Bahadur Singh alias Munna Singh as well as from the house of appellant Uma Sankar Singh at Bihia and also the seizure witnesses in respect of the search, seizure and recovery in the room from the premises of BISCOMAUN at Lohardaga though admitting their signatures on the seizure lists have stated that they have put their signatures on the blank papers. In view of the evidence aforesaid can the search, recovery and seizure be said to be tainted and illegal having caused miscarriage of justice in this case. Section 100(4), Cr. P. C. provides that before making a search, the officer conducting the search shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search. Section 100(5), Cr. P. C. provides that the search shall be made in their presence and a list of all things seized in the course of such search shall be prepared by such officer and signed by such witnesses but no person witnessing a search under this section shall be required to attend the Court as a witness of he search unless specially summoned by it. Here in this case search of the person of appellant Manoj Kumar and appellant Ranjit Bahadur Singh alias Munna has been conducted in accordance with law leading to the recovery of the counterfeit currency notes from their conscious possession in presence of the witnesses. Similarly house at Bihia of appellant Uma Shankar Singh was searched in presence of two independent witnesses with the help of the Bihia police as well as the room in the BISCOMAUN premises at Lohardaga in occupation of appellant Uma Shankar Singh as pointed by him was searched by the I.O. with the help of Lohardaga police in presence of two independent witnesses and in accordance with law and incriminating articles referred to above have been recovered from those places. The search at Bihia and at Lohardaga does not at all stand vitiated under Sections 165 read with 166, Cr. P. C. in the facts and circumstances of this case. The last sentence of Section 100(5), Cr. P. C. suggests that it is not imperative that search witnesses should be called for their evidence. However, in this case the evidence of search witnesses are on the record vis-a-vis of the I.O. and the police officials who have participated in the said search which had led to the recovery of incriminating articles aforesaid. The evidence of I.O. read with the evidence of other police officials has ring of truth therein. There is, however,

no law that under no circumstances could a search officers evidence be accepted without corroboration. It is only the duty of Court to satisfy itself as to the truth of such evidence. In the case of *Modan Singh v. State of Rajasthan* AIR 1978 SC 1511 : (1978 Cri LJ 1531) it has been observed by the Apex Court that if the evidence of investigating officer who had recovered the material objects is convincing, the evidence as to the recovery need not to be rejected on the ground that seizure witnesses do not support the prosecution version. The ratio of the case of *State of Punjab Vs. Gurnam Singh*, relied upon by the appellant is of no help to the appellants in the facts and circumstances of this case. Therefore, the prosecution case does not suffer with any inherent legal lacunae regarding the search, recovery and seizure from the conscious possession of appellant Golo Mandla Rama Rao, Manoj Kumar and Ranjit Bahadur Singh alias Munna as well as from the house at Bihia and the room in BISCOMAUN Bhawan at Lohardaga in occupation of appellant Uma Shankar Singh. Therefore, there is no substance in the contention of the learned counsel for the appellants in respect thereof.

23. There is no denying the fact that the recovered forged or counterfeit currency notes from the possession of the appellants, namely, Gola Mandla Rama Rao, Manoj Kumar and Ranjit Bahadur Singh alias Munna and equipments, tools and other materials relating to counterfeiting currency notes besides fully printed and partly printed forged or counterfeit currency notes from the house of appellant Uma Shankar Singh and the room in BISCOMAUN Bhawan at Lohardaga were not sealed on their recovery P.W. 11, the I.O. in para 66 of his evidence has deposed in the most clear and unequivocal terms that the recovered incriminating articles were not sealed at the place of recovery because of the fact that sealing material was not available there. Furthermore, all the seizure lists exhibited in this case bear the signatures of the appellants from whose possession incriminating articles were recovered. The existence of the signatures of the appellants on the seizure lists evidences, the fact that incriminating articles as per seizure list have definitely been recovered from their possession in their presence and the details of the articles mentioned therein is authentic and correct. It further appears from the evidence on the record that the seized incriminating articles were immediately kept in the Malkhana. Therefore, the non sealing of the incriminating articles in this case cannot be termed as an illegality and utmost it may be a case of irregularity in the facts and circumstances of this case and the said irregularity does not at all vitiate the factum of search, recovery and seizure of the said incriminating articles. In this view of the matter the ratio of the case of *Surinder v. State of Haryana* (supra) (AIR 1994 SCW 2820) has no application in the facts and circumstances of this case and the said ratio is of no help to the appellants. It will go without saying in the facts and circumstances of this case that non-sealing of the incriminating articles at the place of recovery for the reasons stated by the I.O. referred to above does not cast a cloud of suspension to the credibility of the prosecution case in respect thereof.

24. It is pertinent to mention that the learned trial Court have found all the

appellants guilty of the offence under Sections 120B and 489A, 489C, I.P.C. and further all the appellants except appellant Uma Shankar Singh were found guilty for the offence u/s 489B, I.P.C. and appellant Uma Shankar Singh was further found guilty u/s 489D, I.P.C. To constitute an offence u/s 120B, I.P.C. there must be an agreement between the appellants who are alleged to conspire and the said agreement should be for doing an illegal act or for doing by illegal means an act which may not itself be illegal and there must be some overt act done by one of them in pursuance of the said agreement, The prosecution has not led any evidence on the record to substantiate the fact regarding the existence of any agreement to forge or counterfeit any currency notes as well as for its trafficking by illegal means. The circumstances emanating on the record also do not lead to such inference conclusively and unerringly in respect thereof. Therefore, there is no legal evidence at all on the record to establish the charge u/s 120B, I.P.C. against all the appellants. There is also no evidence on the record that appellants Golo Mandla Rama Rao, Manoj Kumar and Ranjit Bahadur Singh alias Munna had forged or counterfeited any currency notes in view of the evidence on the record read with the written report (Ext. 5). However, counterfeit currency notes as per evidence on the record have been recovered from their conscious possession. The evidence on the record also does not show that aforesaid three appellants have counterfeited or forged any currency notes. To constitute an offence u/s 489A, I.P.C. the prosecution has to prove that the note in question is a currency note or bank note and the accused counterfeited it or knowingly performed any part of the process of counterfeiting it. For making out a case u/s 489A, I.P.C. it has to be proved by legal evidence that the accused really intended to counterfeit and either did counterfeit or performed any part of the process of counterfeiting. The word counterfeit has been defined u/s 28, I.P.C. which runs hereunder :

"A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception or knowing it to be likely that deception will thereby be practised."

It, therefore, appears from the definition of the word "counterfeit" that counterfeit is a process by which one thing is caused to resemble another thing. It supposes that there is an original. The act of counterfeiting is the effect of producing another so as to resemble the original and the object of which is to practise deception on knowing it to be likely that the deception will thereby be practised. In other words counterfeit does not connote an exact reproduction of the original counterfeited. The difference between the counterfeit and the original is not therefore limited to a difference existing only by reason of faulty reproduction. For the purpose of the Code there can be counterfeiting even though the imitation is not exact and though there are differences in detail between the original and the imitation so long as the resemblance is so closed that the deception may thereby be practised. The pith of the offence u/s 489A, I.P.C. is that it is not necessary to show the deception actually took place rather the intention to practice deception by causing one thing to resemble another is

quite sufficient and the counterfeit must be of such a character that it would be possible to palm it off as genuine. Here in this case there is total lack of evidence on the record that aforesaid three appellants had counterfeited the currency notes or knowingly performed any part of the process of counterfeiting it and their conviction u/s 489A, I.P.C. cannot be maintained unless it is proved that the aforesaid three appellants really intended to counterfeit and either did counterfeit or performed any part of the process of counterfeiting. There is also total lack of any evidence that the aforesaid three appellants have conspired together with appellant Uma Shankar Singh in counterfeiting currency notes or knowingly participated in performing any part of the process of counterfeiting currency notes. Therefore, the conviction of the aforesaid three appellants under Sections 489A and 120B, I.P.C. is illegal in view of the evidence on the record and the same is hereby set aside. The conviction of appellant Uma Shankar Singh u/s 120B is also hereby set aside.

25. Four wooden plates of the size of 8" x 10" used for printing counterfeiting currency notes were recovered from his house situate at Bihia as per Ext. 8/1 and in pursuance of his confessional statement and as pointed by him a large number of equipments, tools and other materials as per Ext.8/2 were recovered from the room in the premises of BISCOMAUN at Lohardaga. It further appears that in course of search some fully printed forged or counterfeit currency notes as well as some partly printed forged or counterfeit currency notes, which were in process of printing, were also recovered as per Ext. 8/2 and all those counterfeit currency notes were in the denomination of Rs. 100/- To constitute the offence u/s 489D, I.P.C. it is to be established that the recovered articles are machinery, instrument or material necessary for or used in forging or counterfeiting a currency note or a bank note and the accused had made or performed some part of the process of making the machinery, instrument or the material in question or that he had it in his possession and the object of the accused is that such machinery instrument or material might be, used for the purpose of forging or counterfeiting currency notes or bank notes or he knew or he had reason to believe that the same was intended to use for such purpose. It is pertinent to mention here that four wooden plates were recovered in presence of this appellant from his house at Bihia and thereafter in pursuance of his confessional statement and as pointed by him a large number of equipments, tools and other materials were also recovered from the room in the premises of BISCOMAUN, Lohardaga. It, therefore, appears that this appellant was in occupation of his house at Bihia as well as the room of BISCOMAUN at Lohardaga wherefrom the instruments for forging or counterfeiting currency notes were recovered and it also appears that he had control over the instruments, tools and equipments aforesaid. The recovery of the incriminating articles as per Ext. 8/1 and Ext. 8/2 clearly establishes the fact that the object of this appellant was that such machinery, instrument and materials which have been recovered might be used for the purpose of forging or counterfeiting currency notes. It is equally relevant to mention here that some printed forged or counterfeit currency notes

as well as some partly printed forged or counterfeit currency notes which were in the process of printing have also been recovered from the room in the premises of BISCOMAUN, Lohardaga. This clearly establishes the fact that this appellant has intentionally involved himself with the making or performing forged or counterfeit currency notes. A mere perusal of the recovered articles as per Exts. 8/1 and 8/2 which are material exhibits in the case clearly establishes the fact that these articles are capable of being used in the making of forged or counterfeit currency notes. I, therefore, hold agreeing with the finding of the learned Court below that appellant Uma Shankar Singh counterfeited currency notes and knowingly performed the part of process of counterfeiting it intentionally with unlawful object. Therefore, the conviction of appellant Uma Shankar Singh under Sections 489A and 489D, I.P.C. does not suffer with any illegality.

26. To constitute an offence u/s 489B, I.P.C. it is essential that the currency notes in question is forged or counterfeit and the accused has sold or brought or received from some person or trafficked in or used as genuine such currency note knowing or having reasons to believe that the said currency note is forged or counterfeit. For the offence u/s 489C, I.P.C. in addition to the ingredients referred to above the accused must be in possession of counterfeit currency notes with intent to use it as genuine. In the case of Uma Shankar v. State of Chattisgarh (supra) relying upon the ratio of the case M. Mammutti Vs. State of Karnataka, , the Apex Court has been pleased to observe in para 8 that "A perusal of the provisions, extracted above shows that mens rea of offences, under Sections 489B and 489C is "knowing or having reason to believe the currency notes or bank notes are forged or counterfeit." Without the aforementioned mens rea selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency notes or bank notes is not enough to constitute offence u/s 489B of I.P.C. So also possessing or even intending to use any forge or counterfeit currency notes or bank notes is not sufficient to make out a case u/s 489C in the absence of the mens rea, noted above". In the case of Ragho Saran Sao (supra) Ragho Saran Sao Vs. The State, , Karunakaran Nadar Vs. State, and also in the case of Bachan Singh and Another Vs. The State of Punjab, , emphasis has been laid regarding mens rea as a necessary constituent on the part of the accused for convicting him under Sections 489B and 489C of the I.P.C. However, in the case of Bachan Singh (supra) it has been observed that "in order to sustain conviction of an accused under Sections 420/511, 489B and 489C, the prosecution has not only to prove that the accused had the possession of counterfeit note, ensuring it or having reason to believe it as such, but further to prove circumstances which lead clearly, indubitably and irresistibly to his/her intention to use the notes on the public. Such intention could be proved by a collateral circumstance that the accused had palmed off such notes before or that he/she was in possession of such notes in such large numbers, that her possession, for any other purpose was inexplicable." (Emphasis has been supplied by me). Here in this case 250

forged or counterfeit currency notes all in the denomination, of Rs. 100/- have been recovered from the conscious possession of appellant Golo Mandla Rama Rao. 50 pieces of forged or counterfeit currency notes of Rs. 100/- denomination have been recovered from the conscious possession of appellant Manoj Kumar whereas 230 pieces of forged or counterfeit currency notes of Rs. 100/- denomination were recovered from the conscious possession of appellant Ranjit Bahadur Singh alias Munna Singh and 160 pieces of forged or counterfeit currency notes of Rs. 100/- denomination which were in the process of printing have been recovered from appellant Uma Shankar Singh. The recovery of forged or counterfeit currency notes in huge quantity from the possession of the appellants unequivocally leads to an inference that they were in possession of those forged or counterfeit currency notes knowing or having reason to believe the same to be forged or counterfeit and intending to use them as genuine and their possession for any other purpose is definitely inexplicable in the facts and circumstances of this case and the only reasonable presumption that could be drawn in the facts and circumstances of this case is that the appellants were in possession of those forged or counterfeit currency notes with intention to use or palm off them as genuine. The fact of the recovery of the forged or counterfeit currency notes aforesaid with intention to use them as genuine has been brought to the notice of the appellants in course of their examination u/s 313 of the Cr.P.C. very specifically and the appellants, did not furnish any examination in respect thereof for the reasons best known to them. The evidence on the record does show that the appellants were in possession of those forged or counterfeit currency notes with requisite mens rea to use them as genuine currency notes. Therefore, in view of the evidence on the record and its meticulous perusal the learned Court below has rightly come to the finding of the guilt of all the appellants u/s 489C, I.P.C. and further, all the appellants except appellant Uma Shankar Singh for the offence u/s 489B, I.P.C. and I see no reason to disagree with the finding of the learned Court below in respect thereof. The contention of the learned counsel for the appellant Manoj Kumar that the allegation if proved shall fall under the ambit of Section 489E, I.P.C. has no substance in the facts and circumstances of this case. The police officials who were members of the raiding party are natural, competent and reliable witnesses of the occurrence in question and they have no animus to depose false against the appellants as well as to falsely implicate them. Their evidence is reliable and trustworthy and I see ring of truth in their evidence. Therefore, in the facts and circumstances of this case no independent corroboration is at all required and the ratio of the case of Sabitri Devi (supra) (1995 (2) Pat LJR 854) has no relevancy in this case. The ratio of the case laws referred by the learned counsel for the appellants, which has not been discussed, has no relevancy in the facts and circumstances of this case.

27. In view of my finding above appellants Golo Mandla Rama Rao, Manoj Kumar and Ranjit Bahadur Singh alias Munna Singh are not found guilty for the offence under Sections 489A and 120B, I.P.C. and their conviction and sentence in

respect thereof are hereby set aside. Appellant Uma Shankar Singh is also not found guilty for the offence u/s 120B, I.P.C. and his conviction in respect thereof is also hereby set aside. The impugned judgment is, therefore, accordingly modified to the extent indicated above. There is no merit in the appeals and they fail. The impugned judgment of the learned Court below with the modification aforesaid is hereby affirmed. The appeals are accordingly, dismissed.

Lakshman Uraon, J.

28. I agree. Appeal dismissed.