

(2015) 06 KAR CK 0175
In the Karnataka High Court
Case No : Criminal Appeal No. 882 of 2009

Joseph Paul Pais

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 08-06-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Evidence Act, 1872 — Section 34
Penal Code, 1860 (IPC) — Section 120B, 409, 477A
Prevention of Corruption Act, 1988 — Section 13(1)(c), 13(1)(d), 13(2), 19(1)(c)

Citation : (2015) 5 KarLJ 209

Hon'ble Judges : Budihal R.B., J

Bench : Single Bench

Advocate : Sarat Chandra Bijai, for the Appellant; P.M. Nawaz and C.H. Jadhav, Sr. Counsel, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Budihal R.B., J.

1. This appeal is preferred by appellant-accused No. 2 being aggrieved by the judgment and order dated 22.10.2009 passed in S.C. No. 35/2004 on the file of XXXII Addl. City Civil and Sessions Judge and Special judge for CBI cases, Bangalore (CCH 34) holding the appellant guilty of the offences punishable under Section 120B r/w Sections 409 and 477A of IPC and Sections 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988 and sentencing him to undergo imprisonment as mentioned in the said judgment.

2. The facts leading to this case are, one P.V. Chadaga, Branch Manager, Central Bank of India, Arouza Building, Mangalore has lodged the complaint dated 25.1.1993 before the Station House Officer, North Police Station, Bunder, Mangalore alleging that he is submitting the complaint in the capacity of official of the Nationalized Bank; their bank has main branch at Arouza building at Hampankatta, Mangalore having an extension counter at the premises of St.

Aloysius college at Mangalore. Sri. K. Balakrishna Bhat was working in their bank as a head cashier at the extension counter at the address given in the complaint above. The duty of the said head cashier consists of taking cash from the main branch to the extension counter and at the end of the business hours bringing back the cash balance of the day and delivering it to the main branch. He has to receive the cash from the customers of the bank and pay the amounts as demanded by the customers at the cash counter of the extension counter. The accused-K.B. Bhat has several other duties apart from making the payments and receiving the cash from the customers and he has to give the amalgamated statement of the daily transactions to the main branch. It is further averred in the complaint that on 13.1.1993, it was realized while balancing the books that there is difference between the figures at the main branch and in the extension counter. On further probing, it was found that the aforesaid cashier Sri. K.B. Bhat had tampered with the voucher/amalgamated statements some time during November 1992 and misappropriated bank's funds entrusted to him while discharging his duties. It is the further allegation in the complaint that the head cashier Mr. K.B. Bhat while making the payments was preparing voucher for higher amounts than what was actually paid to the customers and while preparing receipts for the amount received from the customers, he used to show deflated figures than the amount he actually received and thereby, he misused his position and misappropriated the amount of the bank. On the basis of the said complaint, FIR was registered as per Ex. P13 and matter was taken up for investigation. After the investigation report dated 12.5.1994, another FIR was registered in the case as per Ex. 284 and FIR was registered against Sri. K.B. Bhat, Head Cashier "E", Central Bank of India, St. Aloysius college, Extension counter, Mangalore and again investigation was taken up. After conducting and completing of the investigation, CBI filed the charge sheet in the matter against accused No. 1 Sri. K.B. Bhat and also against accused No. 2 J.P. Pais stating that both accused Nos. 1 and 2 have committed the offences punishable under Section 120B r/w Sections 409, 477A of IPC and under Section 13(2) r/w Section 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 and caused wrongful loss to the Central Bank of India and wrongful gain to themselves to the extent of Rs. 32,50,000/-. As accused No. 1, the Head Cashier Sri. K.B. Bhat was absconding, the case was split up against him and after framing charge against the present appellant-accused No. 2, trial was conducted before the trial Court and the prosecution has examined in all 10 witnesses as P.Ws. 1 to 10 and got marked the documents at Exs. P1 to P296 and on the side of defence, Exs. D1 to D7 were marked. After considering the merits of the case, ultimately, the trial Court has convicted the appellant-accused No. 2 for the offences punishable under Section 120B r/w Sections 409, 477A of IPC and Section 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, 1988 and sentenced him as per the order dated 22.10.2009.

3. Being aggrieved by the judgment and order of conviction, so also, the sentence imposed by the trial Court and also challenging the validity and

correctness of the judgment of the trial Court, the appellant has preferred this appeal on the grounds as mentioned at Sl. Nos. 1 to 27 of the grounds of appeal memorandum.

4. Heard the arguments of learned counsel appearing for appellant-accused No. 2 and also the arguments of the learned Spl. P.P. for the respondent.

5. Learned counsel for the appellant-accused No. 2 during the course of his arguments has submitted that it is accused No. 1 who used to bring money from the main centre to the extension counter and at the end of the day's transaction, accused No. 1 alone used to take back the amount to the main centre. As such, so far as bringing the money from the main centre to the extension counter and taking back the money to the main centre at the end of the day, there was no involvement of appellant-accused No. 2. Even according to the case of the prosecution, it was the work of accused No. 1. No records are maintained by the main centre to show exactly what was the amount brought by accused No. 1 on a particular date and what was the amount taken back to the main centre. So far as accused No. 2 is concerned, he has not received the money from the main centre nor he has prepared the accounts, but he has only countersigned the debit and credit vouchers. The allegation of the prosecution is that it is accused No. 1, the Head Cashier, who inflates the debit voucher and deflates credit voucher. There was no criminal conspiracy between accused Nos. 1 and 2 in showing the inflated and deflated figures in the debit and credit voucher and accused No. 2 reposing trust and confidence in accused No. 1 about the vouchers prepared by accused No. 1 simply countersigned those vouchers. It is further submitted that the consolidated vouchers were used to be prepared by accused No. 1 and signed by him by showing wrong figures and there was no role played by accused No. 2 in preparing those consolidated vouchers. There was no mens rea or guilty mind on the part of appellant-accused No. 2 and no intention to defraud the complainant-bank and to cause wrongful loss. It is his submission that maintenance of payment and receipt registers are not the responsibility of appellant-accused No. 2. The investigation materials show that documents Exs. D4 to D7 are seized from the main office and not from the custody of appellant-accused No. 2. It is also not known by the investigation materials as to how much amount is spent by accused Nos. 1 and 2. The payment and receipt register entries are not correct entries to come to the conclusion that there is misappropriation of bank funds by accused No. 2. It is further submitted that during the course of trial, the appellant-accused No. 2 has made it very clear that he has not signed the vouchers on his own volition but at the instance of the auditor of the bank. He has put his signatures on the vouchers and the auditor who audited the accounts of the bank has also not been examined before the Court to bring out the truth. Control books are not produced as stated by P.W. 6. Regarding morning withdrawals, no documents are maintained and prosecution has failed to produce relevant books and the relevant entries to prove the charges leveled against the appellant-accused No. 2. He also drew the attention of this Court to the relevant portion of the depositions of P.Ws. 5, 7 and 10 and

submitted that looking to the oral evidence of prosecution witnesses itself, it is clear that there is no involvement of appellant-accused No. 2 in the alleged misappropriation of bank funds. In the statement recorded under Section 313 of Cr.P.C. also appellant-accused No. 2 has explained the circumstances under which he has put his signature on the vouchers. In the judgment of the trial Court there is no reference to the defence taken by the accused No. 2 during the course of trial, so also, to the explanation offered by him in his statement under Section 313 of Cr.P.C. about his signatures on vouchers. Hence, he has submitted that the judgment of the trial Court is one sided and it has only considered the prosecution material and not the defence material and has wrongly held that there was criminal conspiracy between accused Nos. 1 and 2 to commit the alleged offences and thereby misappropriated the bank funds by causing wrongful loss to the bank. He has submitted that the judgment and order of conviction passed by the trial Court is not in accordance with the oral and documentary evidence produced in the case and the approach of the trial Court in convicting the accused is also not correct. Hence, he has submitted to allow the appeal and to set aside the judgment and order of conviction passed by the trial Court by acquitting appellant-accused No. 2.

6. Per-contra, the learned Spl.P.P. appearing for the respondent-CBI during the course of his arguments submitted that while receiving the money from the depositors the accused used to show lesser amount. The alleged offence took place during the period of six months. It is also his submission that appellant-accused No. 2 signed 84 payment vouchers and 46 vouchers regarding receipt of the amount from the customers. Looking to the oral evidence of P.Ws. 5, 6 and 7 who are the witnesses of the bank and the evidence of P.Ws. 8 and 9 who are the investigating Officers it clearly shows the involvement of appellant-accused Nos. 2 also along with accused No. 1 in committing the alleged offences. Learned Spl. P.P. drew the attention of the Court to the relevant portion of the evidence of P.W. 5 on page No. 75 at paragraph No. 2 and also the relevant portion in the evidence of P.W. 6 on page Nos. 81 and 84 and document Ex. P23, the extension counter payment register and submitted that these materials show the participation of accused No. 2 also in committing the alleged offences. He has submitted that Exs. P24 to P91 are the vouchers, page No. 100 of the paper book are the payment vouchers so also, Ex. P93 to 127 are the debit vouchers and these materials shows the signature of appellant-accused No. 2 on the vouchers. The contention of appellant-accused No. 2 that he signed those vouchers at the instance of the auditor and not on his own cannot be accepted at all. It is his further submission that it is not one or two vouchers which have been signed by oversight, looking to series of vouchers, it clearly shows that they are signed with the knowledge and intention to misappropriate the bank funds and to have wrongful gain to themselves. He has also drew the attention of this Court to the relevant portions of the judgment of the trial Court and submitted that the trial Court has considered all the aspects of the matter both oral and documentary and has rightly convicted the appellant-accused No. 2 for the

alleged offences. No illegality has been committed by the trial Court. There is no merit in this appeal and hence, it is submitted to dismiss the appeal by confirming the judgment and order of conviction passed by the trial Court.

7. In reply, the learned counsel appearing for the appellant-accused No. 2 submitted that P.W. 5 who is the Branch Manager took charge of the office later and hence he has no personal knowledge about the transaction earlier to his taking charge. To show that there was joint responsibility of accused Nos. 1 and 2 in carrying money from main centre to the extension counter and to prepare the consolidated statement and thereafter taking back the amount at the end of the day to the main centre, the prosecution has not produced the duty list of appellant-accused No. 2. Regarding the allegation of criminal conspiracy and committing the offence under Section 120B of IPC is concerned, there is no evidence regarding meeting of the minds of accused Nos. 1 and 2. There is also no evidence regarding entrustment of the amount to appellant-accused No. 2 and to show that appellant was having the domain over the said money.

8. I have perused the oral evidence of prosecution witnesses P.Ws. 1 to 10, the documents Exs. P. 1 to P. 296 and also the documents Exs. D. 1 to D. 7, judgment and order of conviction passed by the trial court, the grounds urged in the appeal memorandum and also considered the arguments advanced by both sides which are referred above.

9. So far as the sanction order for the prosecution of appellant accused No. 2 is concerned, let me refer to the documents produced by the prosecution. The sanction order is produced as per Ex. P. 283 and it is issued by one N. Balakrishnan, General Manager (PRS). In the said sanction order, it is mentioned that the said General Manager after carefully examining the materials before him, such as copy of FIR, statement of witnesses and other connected documents in regard to the said allegations, considered that Sri. J.P. Pais should be prosecuted in a court of law for the said offences. The said N. Balakrishnan, General Manager of the Central Bank of India has been examined as P.W. 10 and in his oral evidence in the examination in chief, he deposed that from 1993 to November 1997 he was working as General Manager of Central Bank of India and he was having the authority to remove the staff and officers of the bank up to scale-VI. He further deposed that pertaining to this case, the vigilance officer of the Central Bank of India asked him to grant sanction to prosecute accused No. 2 who was working at that time as scale I officer of the Central Bank of India and incharge of extension counter of Central Bank of India at St. Aloysius college, Mangalore. At that time, the FIR, relevant statement of accounts and statement of witnesses were furnished to him and he went through these documents and satisfied himself with regard to the prima facie case being made out against accused No. 2 to prosecute him. Hence, he issued the sanction order as per Ex. P. 283 and his signature is P. 283a. He further deposed that along with sanction order, he enclosed the details of fraud committed at the extension counter of Central Bank of India at St. Aloysius college, Mangalore which are seven sheets

and it bears initials on all the pages with seal of the bank. It also bears the initials of his officers who prepared the said list. The said seven sheets are also marked as Exs. P. 283(1) to 283(7). During the course of cross examination, he deposed that before granting the sanction to prosecute, he had asked for details of departmental enquiry held against accused No. 2. He had not made any mention in the sanction order about the departmental enquiry held against accused No. 2. He cannot say that the documents Exs. P. 26 to 282 shown to him were not signed by accused No. 2. He further deposed and admitted as true that in the sanction order, there is no mention that he had seen the original of Exs. P. 283(1) to 283(7). He also admitted as true that in the sanction order he has not mentioned that he had gone through the auditor's report, DE report, report of the officers of the main branch, even though he had gone through those documents before granting the sanction order. He denied the suggestion that he had not at all gone through these documents. Before granting sanction, he had gone through the documents at Exs. P. 26 to 282 and confirmed himself that they were prepared and signed by the bank officers. He has not stated that he had gone through these documents in his sanction order. At the time of granting the sanction, he was not having duty list of accused No. 2. He denied the suggestion that the sanction order was prepared by the vigilance officer of the bank and he simply signed it without applying his mind.

10. Therefore, looking to the sanction order Ex. P. 283 so also the oral evidence of P.W. 10, it goes to show that though there are minor discrepancy in the evidence of P.W. 10, the materials would show that he was asked to issue the sanction order. The copy of FIR, statement of witnesses and the documents were made over to him and after going through those materials and after his mental application only and after satisfying that there is prima facie case against accused No. 2, he issued the sanction order. It may be true that he has not referred to the documents like the enquiry report, report of the officer of the main branch in the sanction order. But he has deposed that he has gone through those documents also. Therefore, non-mentioning of the DE report and the report of the officer of the main branch in the sanction order, and the other evidence he has deposed on oath that he referred to the FIR, statement of witnesses and the documents of the case, cannot be ignored by the court. Looking to all these aspects of the matter, they go to show that before issuing the sanction order, P.W. 10 was furnished with the materials and he has gone through the same and applied his mind and only after satisfying himself that there is a prima facie case against accused No. 2, he issued the sanction order. Therefore, the sanction order Ex. P. 283 is in compliance of the requirements of section 19(1)(c) of the PC Act. Therefore, the contention of the appellant accused No. 2 that the sanction order is issued without application of mind and it is issued even though there is no case made out against him cannot be accepted and the trial court has rightly appreciated the materials in this regard. Therefore, looking to the evidence of P.W. 10, the sanction order Ex. P. 283 is in accordance with law.

11. It is the case of the prosecution that during the relevant period of time, accused No. 1 was working as head cashier and accused No. 2 was in charge officer of the extension counter of the Central Bank of India, opened at St. Aloysius college Premises Mangaluru. It is also the further case of the prosecution that it was the usual practice that accused No. 1 used to take the money from the main branch by placing the voucher in the morning so as to take the same to the extension counter for the purpose of making the payment to the customers. It is also the case of the prosecution that accused No. 1 used to receive the payments made by the customers and regarding the payments made to the customers, accused Nos. 1 and 2, in conspiracy, were preparing inflated payment vouchers showing excess amount over and above the actual amount paid to the customers. Regarding the receipt of money from the customers, they used to show the deflated figures in the voucher for the amount less than what was actually received from the customers with an intention to misappropriate the amount belonging to the bank by creating the false vouchers. So far as accused No. 2 it is the prosecution case that out of 91 payment vouchers prepared by accused No. 1, he has counter signed to 84 such payment vouchers and he has also signed 46 receipt vouchers and thereby accused Nos. 1 and 2 committed fraud on the said bank for the amount of Rs. 32,50,000/-. So far as the allegation of criminal conspiracy between accused Nos. 1 and 2 is concerned, the court has to ascertain whether there was such conspiracy between accused Nos. 1 and 2. For this, there may not be direct evidence, but the court has to examine on the basis of the materials placed on record. In this regard, certain facts are admitted that the main branch opened its extension counter in the St. Aloysius college premises, Mangalore and accused No. 2 was placed in charge of the said extension counter and, accused No. 1 was working as head cashier of the extension counter. Even with regard to preparing the payment vouchers by showing inflated figures and receipt vouchers by showing the deflated figures, it has been verified by the auditors of the bank and the same has been confirmed looking to the oral evidence of P.Ws. 5 and 6 and also the documents which are referred in the oral evidence of P.Ws. 5 and 6.

12. In the cross examination of P.W6 it was suggested to him that the signatures on the payment vouchers and the receipt vouchers are not at all the signatures of accused No. 2. But in the arguments of the counsel before the trial court as well as before this Court in this appeal, it is submitted that accused No. 2 has signed the said vouchers i.e. the payment and receipt vouchers and also the consolidated voucher after closure of the transaction of the day as routine and not with intention to defraud the bank and without having the knowledge that the said vouchers are not reflecting the actual payments made and the receipts received and they are showing inflated figures in the payment vouchers and deflated figures in the receipt vouchers. This itself goes to show that accused No. 2 is not consistent in his defence. The materials also show that accused No. 1 gave a letter to the bank as per Ex. P. 12 admitting that it is he who committed misappropriation of the funds and the materials produced in the case also show

that accused No. 2 brought to the notice of P.W. 6 about the misappropriation done by accused No. 1. If this evidence is appreciated, how this accused No. 2 came to know about the misappropriation committed by accused No. 1 and at what relevant point of time he came to know about the same, is material for the purpose of appreciating the defence of accused No. 2. As contended by learned counsel for accused No. 2 before the Trial Court as well as before this Court that accused No. 2 signed the vouchers routine without knowing that they are the false and fabricated vouchers, then the question of accused No. 2 informing the bank authorities about accused No. 1 committing the fraud on the bank and misappropriating the amount does not arise. So this material goes to show and it can be inferred that accused No. 2 was having the knowledge about the vouchers showing inflated payments and deflated receipts. Looking to the document Ex. D. 1 produced in the case, it goes to show that to look after the extension counter, it was the joint responsibility of accused Nos. 1 and 2. It is an admitted fact that accused No. 1 used to bring the money from the main branch to the extension counter, accused Nos. 1 and 2 are the custodian of the said amount during the period that it was in the extension counter till the closing of the day's cash transaction at 1.30 p.m. and till the returning of the amount to the main branch. It was the responsibility of accused Nos. 1 and 2. When accused No. 2 was working as officer incharge of the extension counter, his contention that he was not responsible for the amount which was brought for business transaction of the extension counter, cannot be accepted at all. In this regard, perusing the judgment of the trial court and looking to the oral evidence of prosecution witnesses, the Trial Court has also rightly come to the conclusion that there was joint responsibility of accused Nos. 1 and 2 in respect of the amount brought from the main branch and about the transaction of making payment to the customers and the receipt of the amount from the customers and to prepare accounts by making entries in the payment scroll register and also the receipt scroll register. It has further come in the evidence of prosecution witnesses that some times, during the absence of accused No. 1, accused No. 2 used to bring the amount from the main branch to the extension counter. When the payment and receipt vouchers are to be signed by accused No. 2, which are prepared by accused No. 1, as an officer of the bank who was incharge of the extension counter, he was supposed to verify the correctness of the figures in the payment vouchers and also the receipt vouchers and only after satisfying himself regarding correctness, he has to put his signatures to the said vouchers. So far as the signature of accused No. 2 on 84 payment vouchers and 46 receipt vouchers, P.W. 6 has spoken in his oral evidence in detail referring to each of the vouchers in his examination in chief. In view of the submissions made by learned counsel appearing for the accused that accused No. 2 put his signature as a routine also goes to show that there are signatures of accused No. 2 on the said vouchers. Learned counsel for the appellant accused No. 2 during the course of his arguments before this court made the submission that accused No. 2 signed the vouchers at the instance of the auditor and not of his own. If that is so, then it is the burden of accused No. 2 to establish the said fact. Regarding this fact

the accused has not placed any material before the court to show that he signed the vouchers at the instance of the auditors of the bank, unless and until there is supporting material, the bare contention of accused No. 2 that he signed at the instance of the auditor of the bank cannot be accepted. There was an opportunity to the accused to take the summons to the auditor of the bank and to examine him on his behalf to prove the said contention, which he has not done. Therefore, the contention that accused No. 2 put his signature on the vouchers at the instance of the auditor as canvassed by the learned counsel appearing for the appellant cannot be accepted at all and the said contention is also contrary to the defence of the accused before the Trial Court that he signed the vouchers as a routine.

13. Looking to the answers given by the appellant accused in the statement under Section 313 of Cr.P.C., he has filed his detailed written statement in answer to question No. 779 of the said statement. Perusing the written statement of the appellant accused, there also he has contended that as the auditor asked him to sign the debit and credit vouchers, accordingly, he put his signatures on the said vouchers. In paragraph Nos. 31 and 32 of the written statement, he has contended that as per the advice of the auditor Sri. M.S. Raghunath, the then chief internal auditor, Hyderabad Branch of Central Bank of India, he put his signatures. This also goes to show that accused No. 2 has admitted that he has signed the payment vouchers as well as the receipt vouchers. Therefore, the written statement filed by the appellant accused No. 2 is again contrary to the defence taken by him during the course of cross examination of P.Ws. 5 and 6 making a suggestion to the said witnesses that those signatures are not the signatures of accused No. 2.

14. As I have already observed above and in view of Ex. D. 1, there is joint responsibility of accused Nos. 1 and 2 for maintaining the correct accounts in respect of the amount brought from the main branch to the extension counter and also about the payment made to the customers and receipt of the amount from the customers and at the closure of the cash transaction of the day and returning the balance amount to the main branch so as to maintain zero balance at the extension counter. It is not the one or the two transactions wherein he can contend and it can also be accepted that he put the signatures as a routine. But looking to the documents i.e. the payment vouchers and the receipt vouchers marked under Ex. P. 23(1) to (136) and also the consolidated vouchers and the oral evidence of P.Ws. 5 and 6, it clearly goes to show that series of transactions took place under the payment vouchers with inflated figures and the receipts vouchers with deflated figures. As it is observed above, it is not the fact that the bank authorities will come to know about the fraud and embezzlement of the amount by accused Nos. 1 and 2 from any other source, but it is came to be known by the bank by accused No. 2 himself that there was misappropriation of the amount to the tune of Rs. 32,50,000/- during the said period which is supported by the documentary evidence and also the oral evidence of prosecution witnesses more particularly the evidence of P.Ws. 5 and 6 and the

audit reports Exs. P. 21 and 22.

15. With regard to relevancy and admissibility of the documents pertaining to maintaining the accounts during said period is concerned, the said accounts were maintained in the ordinary course of the business of the bank and the trial court in its judgment has elaborately considered about this aspect with reference to the decisions relied upon by both sides which are referred in the said judgment of the trial court. The prosecution in order to prove the alleged offences committed by the appellant accused No. 2 along with accused No. 1 has not only relied upon the documents regarding the accounts maintained in respect of the said transactions but it has also relied upon by the evidence of the witnesses P.Ws. 5 and 6 who have spoken in detail with reference to the documents which is also supported by the audit report under Exs. P. 21 and 22. Therefore, the reasoning adopted by the trial court regarding the relevancy and admissibility of the accounts books like vouchers, consolidated vouchers and registers got exhibited in the case are relevant piece of evidence as per Section 34 of the Evidence Act and the correctness of those entries in the said account books, registers and vouchers has also been satisfactorily established by the prosecution by oral evidence of prosecution witnesses so also the documents produced in the case. Therefore, the reasoning recorded by the trial court is in accordance with the materials placed on record, both oral and documentary. Perusing the entire materials on record, they clearly go to show that accused Nos. 1 and 2 had conspired with each other to misappropriate the funds belonging to the extension counter of the Central Bank of India with a malafide intention to cause wrongful loss to the bank and to have wrongful gain to themselves. The materials also show that in order to achieve the same, the appellant accused No. 2 in collusion with accused No. 1 has created false documents and the trial court has discussed each points framed for consideration in detail and recorded its affirmative findings. All the materials placed on record both oral and documentary and the decisions relied upon by both sides were properly appreciated and considered by the trial court in recording such findings. Therefore, the findings recorded by the trial court are in accordance with law and the materials placed on record. No illegality has been committed by the trial court nor there is any perverse or capricious view taken by the trial court in coming to such conclusion. The appellant accused though has contended that he has signed the payment vouchers and also the receipt vouchers as instructed by the auditor of the bank but he has failed to establish the said fact by producing the cogent and satisfactory materials. It is only his bare contention not supported by any materials. Under the circumstances, I am of the opinion that the prosecution has proved all the charges leveled against the appellant accused No. 2 beyond all reasonable doubts.

16. There is no merit in the appeal and it is accordingly dismissed confirming the judgment and order of conviction passed by the trial court.