

(2002) 10 BOM CK 0120
In the Bombay High Court
Case No : Criminal Appeal No. 113 of 2000

Sou. Bharti Thakkar and Others

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 22-10-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 464
Penal Code, 1860 (IPC) — Section 489A, 489B, 489C, 489D

Citation : (2003) 2 ALD(Cri) 97 : (2003) CriLJ 2583

Hon'ble Judges : R.K. Batta, J

Bench : Single Bench

Advocate : R.H. Rawalani, for the Appellant; Sonare, Assistant Public Prosecutor, for the Respondent

Judgement

R.K. Batta, J.—The appellants had been tried for various offences of counterfeiting currency notes under Sections 489-A, 489-B, 489-C, 489-D, 489-E and 120-B of the Indian Penal Code. By this appeal, the appellants challenge their conviction and substantive sentence of rigorous imprisonment and fine imposed by the trial Court.

2. The prosecution case in brief is that on 14-11-1998 accused/appellant No. 1-Bharti had gone to Sakkardara Market for shopping and in the process of shopping at different places, she purchased certain articles and gave counterfeit currency notes of the denomination of Rs. 500 as also Rs. 50. It appears that appellant No. 1-Bharti was detained in the market by the public and it was being said that appellant No. 1 -Bharti was possessing fake currency notes. In the meantime, police had been informed and the police party headed by PSI Sapkale arrived there. In the presence of panchas, the search of the appellant No. 1-Bharti was conducted and on her search, counterfeit currency notes of Rs. 500 denomination and two counterfeit currency notes of Rs. 50 denomination were recovered. Appellant No. 1-Bharti then took the police to Raghute Bhavan, Dighori, Nagpur where she was staying along with the other co-accused.

Appellant No. 2 is stated to be the second wife of appellant No. 3, first wife being the appellant No. 1. During his search, 21 one sided printed notes of Rs. 50 denomination, 8 one sided printed notes of Rs. 500 denomination and 4 notes of Rs. 100 denomination, blank papers for printing notes" one colour computerised xerox machine; printing kit etc. were recovered. Appellant No. 2 was present in the house during the said search. Appellant No. 3 had absconded and he was arrested only on 24-3-1999 in some other offence and was arrested in connection with the case under consideration on 27-3-1999. At his instance, 48 fake currency notes of Rs. 500 denomination were recovered from his house after opening the lock of a cupboard and from under an idol kept there for worship.

3. All these counterfeit currency notes which were recovered were sent to the Reserve Bank of India for opinion and the Treasurer of the Reserve Bank of India, Nagpur informed that the currency notes which were sent for opinion, were fake currency notes.

4. The trial Court accepted the evidence led before it. The trial Court took cognizance of the conduct of PSI Sapkale on the question of discrepancy in the panchanama especially relating to the seizure of Rs. 2/-currency notes in the carbon copy of the panchanama which actually did not figure in the original panchanama. Accordingly, the trial Court decided to take action against him in terms of Section 344 of the Criminal Procedure Code and show-cause notice was issued to him.

5. Learned Advocate for the appellant took me through the entire evidence on record and his main submissions are--

(1) The recoveries upon which reliance has been placed by the prosecution have not been duly proved.

(2) The prosecution case regarding using of the counterfeit currency is not established inasmuch as only two witnesses have been examined in that behalf whose evidence does not inspire confidence and the other persons to whom the counterfeit notes have been alleged to be given by accused/appellant No. 1-Bharti have not been examined and in this respect, it is further pointed out that there has been no recovery of the counterfeit notes from the persons to whom they are alleged to have been given by accused/ appellant No. 1-Bharti nor there is recovery of items which are alleged to have been purchased by appellant No. 1-Bharti or the balance amount returned to her by the shopkeepers.

(3) No charge in relation to 48 counterfeit currency notes was framed as against accused/appellant No. 3 which has caused serious prejudice to him in his defence and the conviction as against him on this count alone cannot be sustained.

(4) Mere possession of counterfeit currency is not an offence, and

(5) It is lastly argued that the sentence imposed is extremely harsh especially with reference to appellant No. 1-Bharti and appellant No. 2 inasmuch as they

have a number of school-going children and as against accused/appellant No. 2, except for her mere presence at the time of recovery, there is no other material.

Learned Advocate appearing for appellants has relied upon judgments of the Apex Court which shall be referred to at the later stage during the discussion on merit.

6. Learned Additional Public Prosecutor, on the other hand, urged that the prosecution has established all the three recoveries, viz. recovery from the person of appellant No. 1-Bharti; recovery from the house of the appellants as also recovery at the instance of appellant No. 3 from the house. Learned APP pointed out that the prosecution of the house by all the accused is admitted by them in their statement u/s 303, Cr. P.C. as also the fact that lease of the said house was taken by appellant No. 3 who is husband of other accused/appellants. Insofar as omission to frame the charge is concerned, learned APP has pointed out to Section 464, Cr. P.C. and has urged that omission to frame charge as against appellant No. 3 in relation to recovery of 48 counterfeit notes of denomination of Rs. 500/- has not caused any prejudice to the appellant No. 3 since the appellants' counsel had cross-examined the witnesses in that respect at great length. He has also pointed out that for some lapses or defect in the investigation, the prosecution case cannot be thrown over board if otherwise the evidence of witnesses is trustworthy and in this respect, it is pointed out that the evidence of the prosecution witnesses, even after attempt to win over the witnesses, is trustworthy. On the question of sentence, it is argued that taking into consideration the serious nature of the offences and enormous consequence on the economy, the trial Court has rightly imposed sentence of rigorous imprisonment of ten years which does not call for any interference.

7. The prosecution case mainly rests upon the recovery of counterfeit currency notes and I shall refer to the evidence on each recovery one by one. The first recovery is from appellant No. 1-Bharti. The witnesses who have been examined by the prosecution to prove the said recovery are, P.W. 5 Shakuntala P.W. 6 Manda and P.W. 13 Rupwati. P.W. 6 Manda who is social worker has not supported the prosecution case and has been completely won over. In spite of the fact that this witness has stated that she knows the importance of signature; it is her habit to sign the papers after reading the same; she would not sign blank papers if she is asked to do so and would not sign any paper against her will, yet after admitting that she had signed documents Exhibits 23, 26 and 27, she has resiled from them on the ground that police officer asked her to sign and she signed the said documents. P.W. 6 Manda who claims to be a social worker and is aware of importance of signing certain papers, has deposed against the contents of the said signed papers for which no justifiable explanation has come forth from her. In case she was forced to sign the papers, she could have very well complained of the same to the higher authorities and it is moreso when she claims to be a social worker. I have absolutely no doubt in mind that this witness has been won over by the accused.

7A. P.W. 5 Shakuntala is the other witness to the said recovery and right from the beginning of her deposition, she gave indications that she has also been won over by the accused. However, after learned APP questioned her, she stated that she signed the personal search and house search panchanama; that she knows the importance of signature; it is correct that before signing any paper it is necessary to read; it is her habit to sign the paper after reading the same and she would not sign any paper against her will. Thereafter during the cross-examination by learned APP, she admitted that she was at Budhwari market when she was called by PSI Sapkale. Likewise Manda was also called. She admitted that in her presence, appellant No. 1-Bharti was told that the police officers were intending to take search of her person and before doing so, she was told that she had a right to ask for their search. She also admitted that when they searched accused/appellant-Bharti, in her Salwar, there were four currency notes of Rs. 500/- denomination and two currency notes of Rs. 50/- denomination were also found. According to her, currency notes found with appellant No. 1 were forged currency notes. She was then questioned about the house search panchanama with which I shall deal at a later stage while dealing with recovery from the house. During cross-examination, this witness had again shown the same colour which was initially shown by her that search was not taken in her presence after admitting the material particulars in her examination-in-chief. She stated during cross-examination by learned Advocate for the accused that she did not see the notes in possession of Bharti, but saw the notes at the police station and she signed all the panchanamas in the police station. She conveniently accepted without any demur the suggestion given to her that PSI Sapkale had asked accused No. 2 to prepare a xerox copy of currency notes in the police station and the same was prepared by accused No. 2. The categorical evidence of this witness in examination-in-chief cannot be washed away or effaced in the light of her hostility to start with and at the end of her deposition. Her evidence relating to the recovery of four notes of Rs. 500/- denomination and two notes of Rs. 50/- denomination gets complete corroboration from the testimony of lady Police Constable P.W. 13 Rupwati in whose presence the search of appellant No. 1-Bharti was conducted. There was, in fact, no cross-examination on material particulars of her deposition in the examination-in-chief and her cross-examination by learned Advocate for the appellant shows that this witness has tried to favour the appellants. Her testimony in the examination-in-chief particularly after learned APP was allowed to put the questions in the nature of cross-examination, could not be shaken except for the method used for winning over the witness. This witness is a social worker and she knows the importance of signing the papers; importance of signing the same after reading and that she would not sign any paper against her will. If what was recorded in the panchanama had not actually transpired, then this witness should have not only refused to sign the panchanama, but she should have also lodged complaints to the higher authorities and this responsibility is all the more higher when this witness claims to be the social worker, working for social good. This witness has categorically stated that she is

not in the habit of signing the papers without reading the same and would not sign the papers without her will. In the light of this, unless very sound reason is offered by this witness, it is not possible to disbelieve her categorical evidence in the examination-in-chief wherein she has stated that on search of the appellant No. 1, four currency notes of Rs. 500/- denomination and two currency notes of Rs. 50/- denomination were found which were forged currency notes.

8. P.W. 13 Rupwati, Police Constable in whose presence the search of the appellant No. 1 was conducted, has stated that she was told by the members of the mob that the lady was in possession of fake notes. The search of the said lady was taken and during her search, two notes of Rs. 50/-denomination and four notes of Rs. 500/-denomination were recovered. She has stated that lady from whom the notes were seized is Bharti, accused/appellant No. 1. She has identified the fake currency notes seized from her. There was no cross-examination of this witness on material particulars except for bare suggestions. The testimony of this witness, therefore, could not be shaken during cross-examination.

9. The prosecution has thus proved the recovery of four notes of Rs. 500/-denomination and two notes of Rs. 50/- denomination which were found to be counterfeit by P.W. 8 Venkat Rama Aiyer, Treasurer of the Reserve Bank of India and I shall deal with the evidence of P.W. 8 Venkat Rama Aiyer at the end of discussion on all recoveries since the evidence is common in respect of all the recoveries.

10. Coming to the recovery from the house of the accused/appellants, all the appellants in their statement u/s 313, Cr. P.C. have admitted that the house was taken on lease by the appellant. No. 3 who is husband of appellants 1 and 2. The prosecution case is that all the accused were staying in the suit house though, according to the accused, the said premises were used only for the purpose of business. There is, however, no denial of the fact that the house from where counterfeit currency notes and other materials were recovered, was in possession of the appellants. Accused/appellant No. 1 had taken the police party and panchas to the said house. Accused No. 2 was present inside the said house. The prosecution has examined witnesses P.W. 4 Bandu, P.W. 5 Shakuntala and P.W. 6 Manda. I have already pointed out that P.W. 6 Manda has not supported the prosecution case and the observation made by me in respect of her deposition would apply with equal force in relation to the recovery from the house in respect of which she was one of the panchas.

11. P.W. 4 Bandu has stated that on 14-11-1998 he was called by Police Officer for recording panchanama. He along with the police, the lady with whom currency notes were found, proceeded to Raghute Bhavan, Dighori, Nagpur. He identified the said lady as accused No. 1. He has further stated that accused No. 1 pointed out the house and two other ladies who were accompanying them. He further stated that accused No. 1 took out some articles from one almirah which included one colour TV; colour Xerox machine, compact disk; some papers on

which there were prints of currency notes of denomination of Rs. 50/- and Rs. 500/- on one side. According to him, the said articles were seized and panchanama was prepared which is Exhibit 23. He identified Articles 4 and 5 as seized, viz. currency notes of Rs. 50/- and Rs. 500/- denomination. He categorically stated that at the time of seizure, accused no. 2 was present in the house. This witness was also not disclosing complete details and as such, learned APP was permitted to put questions in the nature of cross-examination during which he stated that Police Officers seized in his presence one-side printed four currency notes of Rs. 100/- denomination and Article 6 are the said currency notes. He also states that printing kit was also seized in his presence and two lady panchas signed the panchanama. He also stated that thumb impression of appellant No. 1 was obtained on the panchanama (Exhibit 23). In cross-examination by learned Advocate for appellants he admitted an offence was registered against him of practising medical profession without registration and that in the building, the accused resided on the ground floor and that there was board of "Surya Printers" fixed by accused No. 3. He further stated that he could not exactly say the number of one sided printed notes of Rs. 50/- and Rs. 500/- denominations, but he further stated that there is printing on both sides of some of the papers which were seized. According to him, the owner of the building, Raghute and his wife were present and that Raghute had been arrested in connection with some other matter. Learned Advocate for appellant has urged that said Raghute and his wife have not been examined. It is now well settled that the prosecution need not duplicate the evidence and at any rate, they were not panchas and the police had examined panchas. In case accused felt that the said witnesses were extremely material, nothing prevented the accused from examining the said witnesses. He categorically denied the defence put forward by the accused that in the police station, Police Officer had asked the accused No. 2 to print xerox copy of the notes and compelled her to print xerox copy. According to him accused/appellant No. 3 had obtained the premises in question from Raghute in July, 1998 on rent. He admits that there was dispute between him and accused No. 3 on 1-11-1998. It was suggested to him that the police officers had seized notes from him and some notes from Raghute, which was denied by him. According to learned Advocate for appellants, the deposition of this witness should not be relied upon since this witness has not only animus against the appellant, but that he was facing a case of practising medical profession without registration. In my opinion, the evidence of this witness regarding recovery of printed currency notes of Rs. 50/- and Rs. 500/- denomination as well as the material for printing and the colour xerox machine with the help of which the said printing was done, duly establish the recoveries from the house in question which was in possession of all the appellants. There is no reason whatsoever to discard the evidence of this witness. Besides the printed currency notes, blank papers used for printing currency notes, had also been attached.

12. The evidence of P.W. 4 Balu gets further corroboration from the evidence of P.W. 5 Shakuntala in relation to the recovery from the house. The observations

made by me earlier in respect of this witness would equally apply to the recovery of currency notes from the house as well. According to this witness, she was taken to the house of accused No. 1 along with other pancha. In the house, one lady by name, Neeta Mohan Thakkar (accused No. 2) was present. She has further stated that accused No. 1 pointed out colour xerox machine, printing kit, one side printed currency notes of Rs. 50/- and Rs. 500/- denomination; blank papers and other printed material. Seizure panchanama was recorded and thumb impression of accused No. 1 was obtained and she identified Articles 3 to 21 as seized articles. She has also stated that by mistake she had stated that she simply signed the panchanama at the police station. However, as already pointed out, this witness who had initially shown inclination to favour the accused fulfilled the said inclination during cross-examination. Nevertheless, for the reasons already stated, there is no reason to discard the evidence of this witness on material particulars inasmuch as the witness has been won over by the accused.

13. The evidence of P.W. 1 Dilip and P.W. 3 Brahma by itself may not have inspired confidence, but in the light of the evidence of recovery of fake currency notes from possession of accused No. 1, their evidence cannot be totally brushed aside or ignored. P.W. 1 Dilip has stated that on 14-11-1998 at about 7.30 p.m., accused No. 1 visited his shop for purchasing oil. He stated that accused No. 1 was intending to purchase soyabin oil and she purchased 5 kg. of soyabin oil. Accused No. 1 handed over currency note of Rs. 500/- denomination to him and he repaid Rs. 200/- and odd amount to her. After she left the shop, the accused No. 1 was caught and that time he noticed that the currency note of Rs. 500/- given to him by the accused No. 1 was fake currency note. Though he states that the currency note was seized by Police Officer, the Police Officer does not say so. He has identified accused No. 1 in the test identification parade, but the Magistrate conducting test identification parade was not examined. He admitted that when police recorded his statement; accused No. 1 was present in the Police Station. Therefore, according to learned Advocate for the appellant, the evidence of this witness regarding identification of accused No. 1 cannot be accepted. We have to bear in mind that the accused No. 1 was caught within short time of visiting the shop of P.W. 1 Dilip. It is no doubt true that police have not recovered soyabean oil or balance of Rs. 200/-and odd amount returned to her. The soyabean tin in the rush could be removed by somebody else also from possession of accused No. 1. However, it is now well settled that unless the lapses and mistakes committed by the police go to the root, the judiciary cannot play into the hands of the inefficient Investigating Officer. Defective investigations are becoming order of the day as also winning over of the witnesses. If premium is put on these unfortunate tendencies, the culprits cannot be brought to the book. Therefore, much undue importance cannot be given to the lapses committed by the investigating agency unless, of course, the lapses are fatal in nature. If in spite of the defective investigation and lapses committed by investigating agency the evidence of the witnesses can still be believed, there is no reason whatsoever to discard such evidence.

14. P.W. 3 Brahma likewise has stated that at about 7.30 p.m., accused No. 1 had purchased 1 kg of vegetable flower and gave him Rs. 50/-. He paid her back Rs. 40/-. Accused No. 1 left his shop and was later caught by the public on account of handing over fake currency notes. According to P.W. 3 Brahma, he verified the currency note given by accused No. 1 and found that there was no security wire in that note. He also admitted during his cross-examination that before the incident he had no occasion to see accused No. 1; there was no electric lamp in his shop and that he had not minutely observed the accused No. 1. However, accused No. 1 was immediately caught after she had visited the shop of P.W. 3 Brahma and at that time, she was in possession of fake currency notes. In the light of these facts, the evidence of P.W. 3 Brahma, cannot be totally discarded. The evidence of P.Ws. 1 and 3, though by itself may not be sufficient, but in the light of other evidence on record, it certainly corroborates the prosecution version that the accused No. 1 was in possession of counterfeit currency notes and she had passed the counterfeit currency notes to the shop-keepers.

15. Learned Advocate for the appellants, after placing reliance on Bhimappa Jinnappa Naganur Vs. State of Karnataka, , submitted that in the absence of disclosure statement, recovery from the house search cannot be relied upon. Even if there is no disclosure, but recovery is effected at the instance of the accused, such recovery has been held to be admissible u/s 8 of the Indian Evidence Act. In this respect, it is also pointed out by learned Advocate for the appellants that there is discrepancy in Exhibit 23 which was stated to be original panchanama and panchanama (Exhibit 23-A) which is stated to be the carbon copy and in the later panchanama, an addition relating to recovery of Rs. 2/- is also mentioned. On the basis of this, it is urged by him that the genuineness of the original panchanama is doubtful and placing reliance on Sadot Britto Carvalho v. State of Goa (1996) 1 CCR 132, it is urged that no reliance can be placed on the recovery panchanama. First of all, the pancha witnesses who were examined in respect of this panchanama have not at all been questioned about the same. The Investigating Officer has given some explanation which was not found to be quite satisfactory by the trial Court and the trial Court had decided to take action against the Investigating Officer. According to the Investigating Officer, the original panchanama was damaged since ink had fallen over it as a result of which reliance was placed on the carbon copy of the panchanama and original thereof was prepared on 20-11-1998. According to learned Advocate for appellants, in this original panchanama which was prepared on 20-11-1998 there was no mention about the currency notes of Rs. 2/-denomination and in this respect, the Investigating Officer has stated that it is on account of burden of work that the said mistake had occurred. At any rate, not much importance can be attached to this discrepancy since it was not prosecution case that there was any recovery of Rs. 2/- denomination notes during the house search of the appellants. This discrepancy, therefore, does not have any serious impact on recovery. The fact that copy of panchanama was not given to the; accused at the

time it was prepared by itself would not be fatal to the recovery when the recovery is duly established by the panchas. Therefore, I am of the opinion that the recovery of the counterfeit currency notes as also blank papers meant for the purpose of printing currency notes and the other material found, have been duly established by the prosecution.

16. Coming to the recovery made at the instance of accused No. 3, it has been contended by learned Advocate for the appellant that no charge has been framed as against the appellant on the recovery of 48 counterfeit currency notes of Rs. 500/- denomination from accused No. 3. The prosecution has examined P.W. 9 Faiz Mohammad who has spoken about this recovery, has been cross-examined on that aspect by learned Advocate for the appellants. Section 464(1), Cr. P.C. deals with the effect of omission to frame, or absence of, or error in, charge and provides that no finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including misjoinder of charges unless, in the opinion of the Court, a failure of justice has in fact been occasioned thereby. In the facts and circumstances, I am of the opinion that no prejudice has been caused to the appellant/ accused No. 3 on account of omission to frame charge in relation to the recovery of counterfeit currency notes from his possession in the light of evidence of P.W. 9 Faiz Mohammad who was duly cross-examined on that aspect by the learned Advocate for appellants. At any rate, it cannot be said that there is failure of justice since the appellants had full opportunity to deal with such charge though not framed. P.W. 9 Faiz Mohammad has stated that accused-Mukesh told that the currency notes were in his house and he would hand over the same. The police wrote on a paper which was signed by him which is Exhibit 39. Thereafter the police along with accused-Mukesh went to his house. The other panchas also accompanied them. They went to the house situated at Dighori as pointed out by accused. One lady was present in his house and informed that she was his sister. All of them entered into the house of accused. There was one plastic idol of Lord Krishna. Accused took out 48 currency notes of Rs. 500/- from the said idol. The seizure panchanama was prepared. He identified the seized currency notes kept in envelope No. 21 as the same notes. During cross-examination he stated that the idol was kept in one almiarah and the idol was taken out after unlocking the almirah and the notes before the Court were initially signed by him at the time of seizure. This evidence could not be shaken during cross-examination relating to the said recovery at the instance of the appellants.

17. Learned Advocate for appellant has urged before me that the identification of the notes was not possible. I may here point out that the details of the number of notes were recorded in the panchanama and P.W. 9 Faiz Mohammad has categorically identified the said currency notes and in respect of the identification of currency notes, there was absolutely no cross-examination. Therefore, identification by this witness of the counterfeit notes which were seized, cannot be discarded. Learned Advocate has placed reliance on *Arjun Marik v. State of*

Bihar 1994 B Cr C 305 . In my opinion, the said ruling is not attracted to the facts and circumstances of the case since in the case under consideration, not only the number of notes had been recorded in the seizure panchanama, but the witness has in categorical terms, identified the same. Learned Advocate for the appellants submitted that even though, according to P.W. 9 Faiz Mohammad, the idol was of Lord Krishna, but according to the Investigating Officer, it was the idol of Lord Shankara. In this respect, learned APP has pointed out that P.W. 9 is Mohamedan by religion and may not be able to decipher Hindu Gods. However, P.W. 9 Faiz Mohammad was never questioned in his cross-examination as to whose idol it was nor his attention was drawn to any part of panchanama wherein it was mentioned that it was Lord Shankara's idol. Unless witness is given opportunity to explain the same, mere putting the same through Investigating Officer, is not sufficient compliance of law so as to give benefit to the accused.

18. All the currency notes attached from the personal search of the accused No. 1, house search of the in the presence of accused/appellant No. 1 as also appellant No. 2 who was present in the house as also the recovery of 48 currency notes at the instance of accused No. 3 were sent for opinion to the Reserve Bank of India. In this respect, the prosecution has examined P.W. 8 Venkat Rama who has stated that on 11th February, 1999 he received requisition from Police Station Officer, Sakkardara and was called upon to give opinion about the genuineness of currency notes of Rs. 500/- and Rs. 50/- denomination. He examined the said currency notes and found that all of them were forged notes and he has given reasons in support of the same, viz. (1). Poor quality of paper; (2). Ashok Pillars and water marks were not available on those notes; (3). The quality of printing was poor and the manner was crude; (4). Absence of intaglio printing and (5). Alignment of number panel was not uniform, he categorically stated that he examined four notes of Rs. 500/- denomination and two notes of Rs. 50/- denomination. He identified the notes in envelope Sr. Nos. 1 and 2. He has further stated that on 6th July, 1999 he had received requisition from Crime Branch, Nagpur and along with this letter, total 48 disputed currency notes of Rs. 50/- denomination were sent. His opinion was called regarding genesis of currency notes and he gave opinion in writing. He mentioned series number prefix and numbers of the disputed notes and denomination. He stated that there were 15 notes of Rs. 500/- denomination bearing Number 3 CV 855131; 8 currency notes bearing Number 2 BH 376701; 8 notes bearing Number 5 AV 780525; 8 currency notes bearing No. 7 BR 537565 and 7 notes bearing Number 4 BW 891181. He identified the said notes in envelope bearing Number 21 as the same 48 disputed notes examined by him. He found that all 48 notes were forged currency notes and the conclusion was arrived on the following grounds :--

1. Water mark was totally absent in the said currency notes.
2. The quality of the paper was inferior.
3. Security thread was absent.

4. Number panels were not in alignment. There were more notes than one bearing the same number.

5. The quality of the printing was inferior.

In this respect, learned Advocate for appellants has stated that according to this witness, final authority to give opinion is the Security Press and as such, opinion given by him cannot be accepted. I do not find any merit in the said submission of the learned Advocate for appellants since P.W. 8 Venkat Rama was working as Treasurer in the Reserve Bank of India and Treasurer has expertise to detect the fake and counterfeit currency notes. He has given valid grounds on the basis of which he has come to the conclusion that the currency notes were counterfeit and in one of them security thread was absent. It is a matter of common knowledge that genuine currency notes have security thread and absence of the same by itself would show that the currency notes were counterfeit in nature.

19. Insofar as recovery of the counterfeit currency notes from the house is concerned, the same are said to have been printed only on one side and obviously without any expert opinion, it can be said that the same are counterfeit currency notes. Besides that, from the house 21 blank papers were recovered on which two blocks of denomination of Rs. 50/- and eight blank papers one side of which had printing with two blocks of denomination of Rs. 50/-.

20. The evidence on record thus establishes the charge of conspiracy u/s 120-B of the Indian Penal Code for printing counterfeit notes which were found in possession of the accused/appellants. There is evidence that partly printed counterfeit notes were also found from the house of appellants. The house, admittedly, was taken on lease by accused No. 3 and the other two appellants are his wives. Obviously these currency notes were counterfeit and the accused were knowing and having reason to believe the same to be forged and counterfeit and intending to use the same as genuine or that it may be used as genuine. It is also established that the appellants were performing the process of counterfeiting the currency note and were found in possession of the instruments and materials for forging or counterfeiting currency notes. The appellant No. 3 who seems to be the brain behind counterfeiting currency notes, absconded and could be arrested only after about four months of the incident in question. In view of the above, I am of the opinion that the prosecution has duly proved the charges against the appellants and they have been rightly held guilty of the same by the trial Court.

21. Learned Advocate for the appellants has urged before me that the appellants 1 and 2 are not only women, but they have small children to look after and that it can be presumed that they had worked under the influence of their husband on account of which they should be leniently treated. Even in respect of appellant No. 3, it is urged by him that taking into consideration the recoveries effected and the fact that counterfeit currency notes could be easily detected, the question of large scale impact on the economy could not be there.

22. In the result, I pass the following order.

1. The conviction of all the appellants/ accused for the offences of which they are found guilty, is maintained. However, taking into consideration the nature of offence, recovery of amount of counterfeit currency notes, several defects in the currency notes which would lead to early detection of its circulation, the appeal is partly allowed insofar as reduction of sentence is concerned. The substantive sentence of 10 years" rigorous imprisonment imposed on the accused/ appellant No. 3 for the offences punishable under Sections 489-A, 489-B and 489-D of the Indian Penal Code is hereby reduced to seven years" rigorous imprisonment. The sentence of seven years" rigorous imprisonment imposed on the accused/ appellant No. 3 for an offence punishable u/s 489-C of the Indian Penal Code is hereby maintained.

2. Similarly, the substantive sentence of ten years" rigorous imprisonment for the offences punishable under Sections 489-A, 489-B and 489-D of the Indian Penal Code and seven years" rigorous imprisonment imposed for an offence punishable u/s 489-C of the Indian Penal Code on the accused/appellants Nos. 1 and 2 is hereby reduced to five years" rigorous imprisonment on the said counts.

3. The order of the trial Court as regards imposition of fine and further sentence in default of payment of fine against the accused/appellants is maintained on all counts. Similarly, the order of the trial Court imposing no separate sentence on the accused/appellants for the offence u/s 120-B of the Indian Penal Code is also maintained. All the sentences to run concurrently and the period of detention undergone by the accused/appellants shall be set off. The appeal stands disposed of in aforesaid terms.

4. Appellant No. 1 is on bail and appellant No. 2 is on temporary bail up to 28th October, 2002. Appellant No. 3 is in jail and he has been released on furlough, but has not reported back as yet. All the accused/ appellants shall, therefore, surrender with-out fail before the trial Court on 29th October, 2002. In case they do not surrender, the trial Court shall take coercive steps including issuance of warrants of arrest as also forfeiture of their bail bonds.

Copy of this order be sent to the learned Sessions Judge for action and compliance as also to the concerned Superintendent of Jail.