IN THE COURT OF SH. ABHISHEK GOYAL, ADDITIONAL SESSIONS JUDGE-03, CENTRAL DISTRICT, TIS HAZARI COURTS, DELHI

CNR No.: DLCT01-011375-2021
CRIMINAL REVISION No.: 163/2021

SHRI. RAKESH DEWAN,
S/o. Late Dr. Govind Ram,
R/o. 1402/1, 1st Floor,
Wazir Nagar, Gali No. 7,
Kotla Mubarakpur,
New Delhi. **… REVISIONIST/ PETITIONER**

VERSUS

STATE (NCT OF DELHI). **… RESPONDENT**

Date of filing	:	07.09.2021
Date of institution	:	08.09.2021
Date when judgment was reserved	:	04.05.2026
Date when judgment is pronounced	:	29.06.2026

AND,

CNR No.: DLCT01-016742-2021
CRIMINAL REVISION No.: 258/2021

SHRI. ARUN KUMAR SHRIVASTAVA,
S/o. Late Shri. Anokhe Lal,
R/o. 11, New Mangla Puri,
Mehrauli,
New Delhi-110030. **… REVISIONIST/ PETITIONER**

VERSUS

STATE (NCT OF DELHI),
Through, its Standing Counsel. **… RESPONDENT**

Date of filing	:	03.12.2021
Date of institution	:	04.12.2021
Date when judgment was reserved	:	04.05.2026
Date when judgment is pronounced	:	29.06.2026

JUDGMENT

1. The present common judgment shall determine the aforenoted criminal revision petition bearing; ***Crl. Rev. No. 163/2021***, preferred by Shri. Rakesh Dewan (*hereinafter referred to as '**revisionist no. 1**' for the sake of prolixity*) in terms of the provisions under Section 397 of the Code of Criminal Procedure, 1973 (*hereinafter, referred to as '**Cr.P.C./Code**'*)/*pari materia* with Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as '**BNSS**'*) and criminal revision petition bearing; ***Crl. Rev. No. 258/2021***, preferred by Shri. Arun Kumar Srivastava (*hereinafter referred to as '**revisionist no. 2**'; hereinafter revisionist no. 1 and revisionist no. 2 are collectively referred to as the '**revisionists**'*) in terms of the said provision(s). At the outset, it is observed that both the said proceedings emanate out of the order dated 30.03.2021[1] (*hereinafter referred to as '**impugned order**'*), passed by learned Additional Chief Metropolitan Magistrate-01/Ld. ACMM-01, Central, Tis Hazari Courts, Delhi (*hereinafter referred to as the '**Ld. Trial Court/Ld. ACMM**'*) in case bearing, '***State v. Anil Kumar & Ors., Cr. Case No. 287926/2016***', arising out of **FIR No. 347/2004, PS. IP Estate** under Sections 420/467/468/471/120B of the Indian Penal Code, 1860 (*hereinafter referred to as '**IPC**'*). Pertinently, by virtue of

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[1] Notably, the instant criminal revision petitions were filed, though, beyond the statutory period of limitation, as specified under Article 131 of the Schedule of the Limitation Act, 1963, which prescribed a period of 90 (ninety) days, from the date of the order sought to be challenged, as the statutory period of limitation. However, it is noted that the impugned order dated 30.03.2021, came to be passed by the Ld. Trial Court during the period when the restrictions, in view of covid-19 pandemic were ongoing. Nevertheless, it is observed that the Hon'ble Supreme Court in ***Re: Cognizance for Extension of Limitation, Suo Motu Writ Pet. (C) No. 3/2020, dated 10.01.2022*** had directed for exclusion of period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation *inter alia* holding, *"*** I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the **period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings**. *** III. In cases **where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022**. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply…" (Emphasis supplied).* Ergo, under such circumstances, it is noted that the benefit of the said decision would even be applicable to the present case/petitions.

the impugned order the Ld. Trial Court directed framing of charges *inter alia* against the revisionists for the offences under Sections 420/465/467/468/471/120B IPC.

2. Succinctly, the case of the prosecution is premised on the complaint of Ms. Veena Raj, Assistant Commissioner of Income Tax/ACIT, 32(1) CR Building, IP Estate, New Delhi (*hereinafter referred to as the '**complainant**'*). As per the complainant, one, Jastinder Singh filed his return of income *vide* acknowledgment no. 71, dated 31.07.2003, claiming a refund of a sum of Rs. 1,68,645/- (Rupees One Lakh Sixty Eight Thousand Six Hundred and Forty Five only). As per the complainant, the said claim of refund was based on the tax deducted at source (*'**TDS**' for short*) amounting to Rs. 1,85,435/- (Rupees One Lakh Eighty Five Thousand Four Hundred and Thirty Five only) from the income of Rs. 7,25,352/- (Rupees Seven Lakhs Twenty Five Thousand Three Hundred and Fifty Two only), shown under the head '*salary*'. Notably, it is further the case of the complainant that the said return was processed under Section 143(1) of the Income Tax Act, 1961 (*hereinafter referred to as the '**IT Act**'*), and a refund of Rs. 1,75,322/- (Rupees One Lakh Seventy Five Thousand Three Hundred and Twenty Two only), including interest of Rs. 6,677/- (Rupees Six Thousand Six Hundred and Seventy Seven only) was determined as payable to Jastinder Singh. Consequently, refund was issued to the said claimant *vide* Refund Voucher/RV No. 218347, dated 21.11.2003. Subsequently, on 24.12.2003, as per the complainant, Jastinder Singh, filed a letter dated 23.12.2003, enclosing a mutilated refund order, seeking revalidation of the refund. Consequently, on the request of the said claimant, as per the complainant, fresh refund order was issued by the department

vide RV No. 218418, dated 24.12.2003 for a sum of Rs. 1,75,322/- (Rupees One Lakh Seventy Five Thousand Three Hundred and Twenty Two only).

2.1. Markedly, the complainant's complaint further chronicles that subsequently, information was received in the office of the complainant that a number of returns had been filed in the name of Jastinder Singh in different income tax wards/circles for Assessment Year 2003-04, claiming the following refunds;

Sr. No.	***Name of the assessee and address***	***PAN***	***Circle/ Ward***	***Amount of refund claimed (in INR)***	***Refund issued or not***
A.	*Jastinder Singh, S/o. Late Sh. Amar Singh, R/o.* ***J-169, Saket, New Delhi****.*	*ATBPS5979G*	*W. 47(4)*	*1,72,660/-*	*Refund issued Rs. 1,80,631/-*
B.	*Jastinder Singh, S/o. Late Sh. Jaspal Singh, R/o.* ***1437, Gali No. 6, 2nd Floor, Kotla Mubarakpur, New Delhi.***	*ATYPS0873J*	*Cir. 32(1)*	*1,68,645/-*	*Refund issued Rs. 1,75,322/-*
C.	*Jastinder Singh, S/o. Late Sh. Jaspal Singh, R/o.* ***BG-2, Rose Wood Aptt., Mayur Vihar, Phase-II, Delhi****.*	*Originally mentioned in the retrn as ATBPS9797G, but later on corrected as ATYPS0873J*	*W. 36(4)*	*1,68,645/-*	*Not issued as found by the AO to have already been issued.*

2.2. As per the complainant, that in the aforenoted returns of income, filed by Jastinder Singh in different wards/circle, the income from salary was consistently shown as Rs. 7,25,352/- (Rupees Seven Lakhs Twenty Five Thousand Three Hundred and Fifty Two only), including arrears of salary for the years 1986-87 to 2001-02. In fact, under the TDS certificate issued by the UCO Bank, same particulars, except the address of the claimant, Jastinder Singh, were found specified. Concomitantly, as per the complainant, it was determined that same amount of Rs. 1,68,645/- (Rupees One Lakh Sixty Eight Thousand Six Hundred and Forty Five only) was claimed in the aforenoted returns. Noticeably, it was further avowed by the complainant under her complaint that on further verification, it was determined that no person in the name of Jastinder Singh was present at the address, specified under the return of income, filed with the complainant's circle*, i.e.,* at address bearing; 1437, 2nd Floor, Gali No. 6, Kotla Mubarakpur, New Delhi. Correspondingly, as per the complainant, details of the bank accounts in which the amount credited into the account of Jastinder Singh from the complainant's circle was obtained by her/the complainant from RBI. Markedly, as per the complainant, on the basis of the information received, copy of account opening in the Central Bank of India, Gulmohar Park branch, against account no. 12950, along with account opening form was obtained and it was realized that Jastinder Singh had encashed both the refund vouchers, bearing no. 218347, dated 21.11.2003 and that bearing no. 218418, dated 24.12.2003, cumulatively for a sum or Rs. 3,50,644/- (Rupees Three Lakhs Fifty Thousand Six Hundred and Forty Four only).

2.3. Noticeably, as per the complainant, from a further scrutiny of the particulars of the aforenoted account bearing no. 12950, it was determined that a sum of Rs. 2,80,000/- (Rupees Two Lakhs Eighty Thousand only) was withdrawn in the name of one, Shri. Kailash in account bearing no. 13721, State Bank of India, KG Marg, Delhi. Consequently, particulars of the said person/Shri. Kailash were obtained. However, it is the case of the complainant that it was determined that no person in the name of Kailash was found present at the address, specified under the particulars of the bank account, so obtained. Correspondingly, as per the complainant, it was determined from both the aforenoted accounts that large number of entries of deposits and withdrawal of huge amount were reflected therein. However, it was further discovered that no persons in the names of Jastinder Singh and/or Kailash were available at their respective addresses, as specified hereinabove. Ergo, under her complaint, the complainant *inter alia* expressed an apprehension that the aforesaid transactions were sham/bogus, being nefariously carried out by unscrupulous persons, entities, etc. It was further proclaimed by the complainant under her complaint that she conducted further enquiries from the Central Bank of India, regarding the opening of bank account no. 12950, whereupon it was determined that the said account was opened on the introduction of one, Yogesh Sharma, who was ascertained to be the son of Sh. R.S. Sharma, Manager, Central Bank of India, Gulmohar Park branch.

2.4. Subsequently, as per the complainant, statement of Jastinder Singh, S/o. Late Sh. Amar Singh, S/o. J-169, Saket, New Delhi, was recorded by the concerned Income Tax Officer, Ward no. 36(4), where Jastinder Singh denied any knowledge of having filed any other return of income, claiming refund from the Income Tax Department. Ergo, the complainant *inter alia* suspected of the operation of some racket in the department for claiming refund on the basis of bogus TDS claims/certificates, stated to be accentuated by another complaint/letter dated 01.05.2004 received form the Manager, Central Bank of India, Gulmohar Park, with respect to another account bearing no. 13006, opened in the name of one, Pushkar Nath Verma, on the introduction of Yogesh Sharma, who is also avowed to have introduced Jastinder Singh with the said bank. Consequently, in light of the said facts and circumstances, and on the basis of the complainant's complaint, the instant FIR came to be registered, and investigation ensued.

2.5. Remarkably, during the course of investigation, it was determined that several complaints were received by the Income Tax Department, alleging bogus refund of claims by several persons in the bogus accounts opened at UCO Bank, Saket branch and Central Bank of India, Gulmohar Park branch. Correspondingly, during the ongoing investigation, the concerned Investigating Officer/IO, collected the original documents of said bogus accounts from concerned banks. Consequently, it was *inter alia* determined, pursuant to the ensuing investigation, that bogus refund orders were got encashed in the name of Jastinder Singh in the accounts of Central Bank of India, bearing no. 12950, whereupon the amount/money was transferred into the name of Kailash, account bearing no. 13721, State Bank of India, KG Marg, Delhi. Further, the IO determined that the bogus accounts were opened on the introduction of Yogesh Sharma. Simultaneously, as per the IO, it was noted that amounts were being deposited in the said accounts from the cheques issued from UCO Bank, Saket. Concomitantly, it was found out by the IO that from the bogus accounts *inter alia,* from the account bearing no. 13006, Central Bank of India, Gulmohar Park branch, a payment of Rs. 95,000/- (Rupees Ninety Five Thousand only) was made in the account of one, Neeraj Sharma S/o. Ramesh Sharma, maintaining account bearing no. 8405, Central Bank of India, Gulmohar Park branch. Consequently, the IO contacted Neeraj

Sharma and Sh. Ramesh Sharma, who *inter alia* proclaimed under their statements that being desirous to purchase a property at Hauz Khas, they approached their bank for loan, where they were assured by RS Sharma, Manager, Central Bank of India, Gulmohar Park branch for a loan of Rs. 15,00,000/- (Rupees Fifteen Lakhs only). Consequently, as per Neeraj Sharma and Ramesh Sharma, they were introduced to one Anil Kumar Srivastava by the said Manager, who professed himself to be a Chartered Accountant. Correspondingly, it was asserted by the said persons that Anil Kumar Srivastava got their loan sanctioned from Syndicate Bank, Housing Finance, Rajender Nagar branch and since they were required to make a payment of Rs. 2,00,000/- (Rupees Two Lakhs only) to the proposed seller of the said house, as per Neeraj Sharma and Ramesh Sharma, Anil Kumar Srivastava, gave them a cheque of Rs. 95,000/- (Rupees Ninety Five Thousand only) from bogus account bearing no. 13006 of Pushkar Narain Verma, Central Bank of India, Gulmohar Park branch, which was encashed in their account. Subsequently, as per Neeraj Sharma and Ramesh Sharma, the said amount was repaid by them to Anil Kumar Srivastava through cheque along with commission/interest, for getting the loan sanctioned. Markedly, as per the IO, it was revealed in the investigation that the return payment made by Neeraj Sharma to Anil Kumar Srivastava was got encashed by the latter in his account bearing no. No. 010104000035556, maintained with IDBI Bank, Siriford branch.

2.6. Conspicuously, is further the case of the prosecution that pursuant to the investigation, relevant records pertaining to the aforesaid accounts of Anil Kumar Srivastava were obtained, wherein several transactions were found, including entry dated

27.02.2004, proving deposit of cheque of Rs. 95,000/- (Rupees Ninety Five Thousand only) and entry dated 08.03.2004, proving deposit of commission of Rs. 50,000/- (Rupees Fifty Thousand only) from the account of Neeraj Sharma and further corroborating the statement of said victim/Neeraj Sharma. At the same time, it was determined that Anil Kumar Shivastava had used photograph of Ramesh Sharma on a ration card in the name of one non-existent, Sanjay Sharma, to open a bogus account bearing no. 437913 with Union Bank of India, Yusuf Sarai branch for facilitating the said loan. Concomitantly, statement of Jastinder Singh was recorded by the IO, wherein he *inter alia* proclaimed that he contacted Anil Kumar Srivastava to claim his IT returns. However, since Anil Kumar Srivastava is proclaimed to have demanded a higher fee for processing such TDS refunds, Jastinder Singh refused to get the said amount refunded, with the assistance of Anil Kumar Srivastava. Consequently, as per the prosecution, Anil Kumar Srivastava's complicity in opening various bogus account, including the bogus account of Jastinder Singh, while acting in connivance with other accused persons was determined. It is further the case of prosecution that from a closed scrutiny of the particular of Kailash's accounts and account bearing no. No. 010104000035556, it was determined that the payments from the said accounts were made in the account bearing no. 4129034030159286, Standard Chartered Bank, in the name of Anil Kumar Srivastava. At the same time, it was determined by the IO from a close scrutiny of the account opening form of Kailash that the telephone numbers mentioned in the said forms, pertained to Anil Kumar Srivastava. It was correspondingly determined by the IO from the original documents received from

IDBI Bank, Sirifort pertaining to account no. 010104000035556 of Anil Kumar Srivastava that *vide* cheques bearing nos. 155058, 155059 and 155060, payments of the bills in relation to the said telephone numbers were made from the said bank account. Ergo, as per the prosecution, Anil Kumar Srivastava was operating the said account of Kailash, besides it was determined that several bogus accounts were opened with UCO Bank, Saket, where the refunds were encashed. Needless to mention that it was determined by the IO that from the bogus account bearing no. 13006, in the name of Pushkar Narain Verma, Central Bank of India, Gulmohar Park branch, a payment of Rs. 3,365/- (Rupees Three Thousand Three Hundred and Sixty Five only) *vide* cheque bearing no. 721625, was made towards telephone bill of number bearing; 01133179395 which was further discovered to belong to revisionist no. 1, Rakesh Dewan.

2.7. Consequently, during the course of further investigation, role of various accused persons, including the revisionists herein was determined. Ergo, the accused persons (including the revisionists) were arrested in the present case, further investigation, search and seizure proceedings, recovery, etc., were conducted and on completion of the investigation, chargesheet came to be filed *inter alia* against the revisionists (as accused no. 4/revisionist no. 2 and accused no. 5/revisionist no. 1) by proclaiming that the accused persons, in connivance with each other, managed to open accounts in the names of non-existent account holders by *inter alia* pasting photos of different persons, procured from various sources and thereafter, such illegally gotten claim amounts/refunds, were obtained by the accused persons from the Income Tax offices and deposited in such bank accounts.

Correspondingly, as per the prosecution, bogus bank accounts were opened, either in the identical names which existed on the refund cheques/instruments or in the names of resembling to those on the refund cheques/instruments, all resulting in wrongful loss to the exchequer and wrongful gain to themselves.

2.8. Markedly, upon such chargesheet having been filed, Ld. ACMM *vide* order dated 15.04.2005, took cognizance of the offences and issued summons, *inter alia* against the revisionist. Subsequently, compliance of provisions under Section 207 Cr.P.C. was carried out and matter was listed for arguments on charge. Markedly, during the course of proceedings before the Ld. Trial Court, accused Kuldeep Singh left for heavenly abode and the proceedings *qua* the said accused were abated on 04.05.2006, upon a report in this regard having been filed by the concerned IO. Relevantly, during the course of proceedings before the Ld. Trial Court, it was *inter alia* determined that co-accused Kuldeep Singh left for heavenly abode and pursuant to the verification report filed by the IO, proceedings *qua* the said accused were abated on 04.05.2006. Subsequently, arguments on charge were addressed on behalf of the State as well as the accused persons, including the revisionists herein. Thereafter, *vide* order dated 30.03.2021/impugned order, the Ld. Trial Court, directed framing of charges *inter alia* against the revisionists. Apposite here to reproduce the relevant extracts of the impugned order, as under;

> *"*** I have heard ld. respective counsels for the accused persons (except counsel for accused Anil Srivastava) and order on the point of charge has been dealt with separately.*
>
> **** *** ****
>
> ***Accused Arun Srivastava***
>
> *As per the prosecution accused Arun Srivastava was posted as officer in UCO Bank Saket when the*

above bogus accounts were opened. On scrutiny of account most of the accounts were found contained improper pan number. ***Some of the account opening form even do not contain the photograph of the account holder. The same were opened by accused Arun Srivastava and accused Rakesh Diwan. As per the prosecution during his tenure he authorised opening of dozen of such fake accounts in the name of fictitious persons by fixing photographs of fictitious persons and filing the account opening form and making signature of different persons. Hence prima facie a case U/s 420/ 465/467/468/471/120-B IPC is made out against him****.*

Accused Rakesh Diwan*.*

As per the prosecution accused Rakesh Diwan was posted as officer in UCO Bank Saket when the above bogus accounts were opened. On scrutiny of account most of the accounts were found contained improper pan number. ***Some of the account opening form even do not contain the photograph of the account holder and same were authorized to be opened by accused Rakesh Diwan and accused Arun Srivastava. As per the prosecution during his tenure he authorised opening of dozen of such fake accounts in the name of fictitious persons by fixing photographs of fictitious persons and filing the account opening form and making signature of different persons. It has also emerged during investigation that he received a payment of Rs.3365/- for paying the mobile phone bill from bogus account no. 13006 in the name of fictitious person Sh Pushkar Narayan Verma with Central Bank of India. Hence prima facie a case U/s 420/465/467/468/471/120-B IPC is made out against him****.*

*** *** ***

However, in view of above discussion ***prima facie case against accused persons*** *Anil Kumar Srivastava, Hukam Singh,* ***Rakesh Diwan****, Yogesh Sharma, S N Kesri,* ***Arun Srivastava*** *and Rakesh Kumar* ***U/s 420/ 465/467/468/471/120B IPC is made out****.*

*Be listed for appearance of accused Anil Kumar Srivastava, Hukam Singh, Rakesh Diwan, Yogesh Sharma, S N Kesri, Arun Srivastava and Rakesh Kumar for receiving the charge on ***"*

(Emphasis supplied)

2.9. Apposite here to further reproduce the charges, consequently, framed against revisionist no. 2/Arun Kumar Srivastava on 06.12.2021, pursuant to the aforesaid order, as under;

> *"*** I, ***, ACMM, Tis Hazari Courts, Delhi do hereby charge you accused* ***Arun Srivastava S/o. Late Sh. Anokhe Lal*** *as under:*
>
> ***Firstly****, that you* ***on between 2002 to 2004*** *you in the <u>criminal conspiracy with accused Anil Kumar Srivastava (Bank employee of UCO bank), Rakesh Kumar, S.N. Kesari, Hukum Singh, Rakesh Diwan (Bank employee) and Kuldeep Singh (expired)</u>, authorized the opening of* ***<u>35 fake bank accounts out of 91 fake bank accounts with UCO Bank</u>****, Saket in the name of different persons (fictitious persons) by* ***<u>fixing the photographs of different persons and filling the fake account opening form and making the signatures of different persons and these bank accounts were fraudulently used for claiming Income Tax Refund</u>*** *and thereby you committed an offence punishable* ***u/s 420/467/468/471/120B IPC*** *within the cognizance of this court.*
>
> *And I hereby direct that you be tried by me for said offence. ***"*
>
> *(Emphasis supplied)*

2.10. Here, this Court deems it pertinent to further reproduce the charges framed against accused, Rakesh Dewan/revisionist no. 1 on 05.04.2022, pursuant to the aforesaid order, as under;

> *"I, ***, ACMM, Tis Hazari Courts, Delhi do hereby charge you accused* ***Rakesh Diwan S/o Sh. G.R. Diwan*** *as under:*
>
> ***Firstly****, that you* ***on between 2002 to 2004*** *you in the <u>criminal conspiracy with accused Anil Kumar Srivastava (Bank employee of UCO bank), Rakesh Kumar, S.N. Kesari, Hukum Singh, Arun Srivastava (Bank employee) and Kuldeep Singh (expired)</u>,* ***<u>authorized the opening of 51 fake bank accounts out of 91 fake bank accounts with UCO Bank</u>****, Saket in the name of different persons (fictitious persons) by* ***<u>fixing the photographs of fake persons and filling the fake account opening form and making the signatures of different persons and these bank accounts were fraudulently used for claiming Income</u>***

> *Tax Refund and you also received payment of Rs. 3365/- for paying the mobile phone bill from bogus account no. 13006 in the name of fictitious person Sh. Pushkar Narayan Verma with Central Bank of India* *and thereby you committed an offence punishable* ***u/s 420/467/468/471/120B IPC*** *within the cognizance of this court.*
>
> *And I hereby direct that you be tried by me for said offence. ***"*
>
> *(Emphasis supplied)*

3. Ld. Counsel for the revisionists submitted that the impugned order was passed by the Ld. Trial Court on mere conjunctures, surmises and in contravention of the settled cannons of law, deserving to be set aside at the outset, as suffering with gross illegality. Correspondingly, it was argued that the impugned order is perverse in as much as the Ld. Trial Court did not apply judicial mind to the facts presented in the chargesheet and failed to appreciate the law, statutory as well as judicial precedents pertaining to *prima facie* establishment of offence against the revisionists, which was *sine qua non* for proceeding with framing of charges. Correspondingly, it was argued that while passing the impugned order, Ld. Trial Court failed to appreciate that the present FIR was registered as early as in 2004 and since then, the revisionists have been suffering with ordeal of trial, grossly jeopardizing the career prospects of the revisionists. Even otherwise, it was argued that while passing the impugned order, the Ld. Trial Court did not consider that the chargesheet was filed by the IO, without there being any evidence and/or material against the revisionists. It was further submitted that the Ld. Trial Court while proceeding *inter alia* against the revisionist, erroneously opted not to proceed against; Jastinder Singh, Kailash Bihari Srivastava, and Pushkar Narayan Verma, in whose names

the alleged fake/bogus bank accounts are asserted to have been opened. Further, as per the Ld. Counsel, the Ld. Trial Court did not even consider that even from the material brought on record, even *prima facie* material to sustain the ingredients of offence of criminal conspiracy/Section 120B IPC is not forthcoming in the instant case. In this regard, Ld. Counsel strenuously contended that the prosecution/IO has failed to even alleged and/or make out, basic ingredients for the offence of criminal conspiracy, evidenced from the observation under the chargesheet that there is no direct evidence of conspiracy and that the revisionists have been roped in the present case solely on the basis of the nature of their employment. Congruently, as per the Ld. Counsel, the Ld. Trial Court further erred in not even considering that whether the revisionists were ever in any sort of contact with each other or other accused persons, on which aspect, even the chargesheet is completely silent. Ergo, it was argued that without any sort of contact being proven between the revisionists and other accused persons, any presumption that the revisionists were a part of alleged conspiracy, was against all cannons of law, and merely premised on conjunctures, surmises and bare opinion, negating any prosecution against the revisionists.

3.1. Ld. Counsel for the revisionists further submitted that the Trial Court further did not consider that under the chargesheet, names of several persons and accounts have been mentioned, all pertaining to different transactions of various persons at varied banks/branches. Correspondingly, despite there being several transactions, no evidence is forthcoming to establish/elucidate the particulars of the alleged victims or the proposed accused, belying the charges under Sections 419/420 IPC. As per the Ld. Counsel, in order to attract the said provisions, specific roles ought to have been assigned to the accused persons, besides the alleged offence should have emanated from a single transaction, which is not the case before the Ld. Trial Court. Ergo, it was vehemently reiterated that the Ld. Trial Court passed the impugned order, without appreciating the evidence on record and connecting evidence, if any, in the charge sheet with the revisionists. On the contrary, it was argued that the impugned order was passed in utter haste, whimsically as well as in violation of principal of natural justice, grossly affecting the rights of the revisionists. Ld. Counsel for the revisionists further submitted that the Ld. Trial Court further failed to consider that the chargesheet is completely silent on the aspects of forgery/Section 467 IPC as to, which accused person committed the said offence. In this regard, it was further submitted that the chargesheet only specifies of Jastinder Singh and Anil Kumar Srivastava, however, the connection between the said persons has not been established with the aid of any evidence. Ergo, it was submitted that merely naming the accused persons in the chargesheet does not suffice the requirement for proceeding further with the framing of charge against an accused. Correspondingly, it was argued that even the *prima facie* ingredients of the offences under Sections 468/471 IPC have not been made out against the revisionists in as much as no evidence is forthcoming on record to even attribute *prima facie* criminality of the revisionists for the said offences. As per the Ld. Counsel, the impugned order is not only totally against the material on record, rather, also a misinterpretation of the facts and material placed before the Ld. Trial Court. Ergo, it was submitted that the impugned order is non-speaking, unfair and unreasoned, making the same liable to be outrightly set aside.

3.2. Ld. Counsel for the revisionists further fervently argued that the Ld. Trial Court grossly erred in not appreciating that there is no grave suspicion against the revisionists and the material on record, clearly demonstrates that the revisionists are innocent and have been falsely implicated in the present case. As per Ld. Counsel for revisionist no. 1 allegations against the said revisionist are concocted and have been made solely to make him a scapegoat for the wrongs of other. It was further submitted that no charges under Sections 420, 467, 468, 471 IPC read with Section 120B IPC are made out against revisionist no. 1. Even otherwise, as per the Ld. Counsel, while passing the impugned order, the Ld. Trial Court failed to consider that even from material placed on record, prosecution has not been able to establish that the documents in question were either made, executed or signed by revisionist no. 1, even from forensic examination/report(s). Ld. Counsel for revisionist no. 2 additionally argued that while passing the impugned order, Ld. Trial Court did not consider that revisionist no. 2 was posted as an officer in United Commercial Bank, Saket, Delhi at the relevant point in time and was not responsible for the opening of accounts. Even otherwise, it was argued that at the time of opening of accounts, merely documents are annexed with the forms and their scrutiny can be properly undertaken only once the form filling procedure is concluded. Further, as per the Ld. Counsel, while passing the impugned order, Ld. Trial Court miserably failed to consider that there is no witness, specified under the chargesheet who deposed anything against revisionist no. 2. It was further submitted by Ld. Counsel for the revisionists that the Ld. Trial Court also failed to give any sound, cogent or justified reasons for passing the impugned order, which adversely affects the rights of the revisionists. Consequently, the Ld. Counsel for the revisionists prayed that the impugned order, being passed in gross violation of law and settled judicial precedents, deserves to be set aside, in so far as the revisionists are concerned.

4. *Per contra*, Ld. Addl. PP for the State submitted that the impugned order was passed by the Ld. Trial Court after due appreciation of the facts and circumstances of the present case and, as such, deserves no interference by this Court. It was further submitted that no irregularity, impropriety, or incorrectness can be attributed to the impugned order, which was passed by the Ld. Trial Court, cognizant of the principles of law, as well as wary of the facts and circumstances brought forth. As per the Ld. Addl. PP for the State, the arguments contended by/on behalf of the revisionists are in the nature of revisionists' defence, which cannot be considered by the Court at the stage of framing of charge. Even otherwise, sufficiency of the material/evidence placed on record, is not a fact which can be considered at the stage of framing of charges.

5. The arguments of Ld. Counsel for the revisionists (revisionist no. 1 and revisionist no. 2) as well as that of Ld. Addl. PP for the State, heard as well as the records, including the Ld. Trial Court records as well as the other material brought forth have been thoroughly perused.

6. Before proceeding with the determination of the merits of the present case, this Court deems it apposite to outrightly make a reference to the relevant provisions under law, in

particular that under Section 397 Cr.P.C.[2], as under;

> *"**397. Calling for records to exercise powers of revision-**(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the **correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court**, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.*
>
> **** *** ****
>
> *(2) The powers of revision conferred by sub-section (1) **shall not be exercised in relation to any interlocutory order** passed in any appeal, inquiry, trial or other proceeding. ***"*
>
> *(Emphasis supplied)*

7. Pertinently, from a scrutiny of the aforenoted provision, it is quite patent that the revisional jurisdiction of this Court can be agitated either *suo motu* or an application of parties, that too in a case(s) where there is a palpable error, non-compliance of the provision of law, decision of Trial Court being completely erroneous or where the judicial decision is exercised arbitrarily. In this regard, reliance is placed upon the decision of the Hon'ble Supreme Court in ***Amit Kumar v. Ramesh Chander, (2012) 9 SCC 460***, wherein the Hon'ble Court while explicating the various contours of the provision under Section 397 Cr.P.C. (*pari materia* with Section 438 BNSS), observed as under:

> *"12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as*

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[2] *Pari materia* provision under Section 438 BNSS, which provides, *"**438. Calling for records to exercise of powers of revision-**(1) The **High Court or any Sessions Judge** may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the **correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court**, and may, when calling, for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement that he be released on his own bond or bail bond pending the examination of the record.*** (2) The powers of revision conferred by sub-section (1) **shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding**..." (Emphasis supplied)*

to the legality and regularity of any proceedings or order made in a case. The ***object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law****. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are* ***grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely****. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.*

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should ***not be against an interim or interlocutory order****. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforestated. Even framing of charge is a much advanced stage in the proceedings under the CrPC."*

(Emphasis supplied)

8. Similarly, the Hon'ble High Court of Delhi in ***V.K. Verma v. CBI, 2022 SCC Online Del 1192***, in an akin context, remarked as under;

"67. The revisional jurisdiction is not meant to test the waters of what might happen in the trial. The Revisional Court has to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of the court below. While doing so, the ***Revisional Court does not dwell at length upon the facts and evidence of the case, rather it considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its***

own conclusion on an elaborate consideration of evidence. *In the instant case, the Petitioner has failed to make out a case for exercise of the revisional jurisdiction since there is no patent error in the impugned order on the face of record."*

(Emphasis supplied)

9. Unmistakably, it is seen from above that the revisional jurisdiction of the higher court is quite limited and cannot be exercised in a routine manner. In fact, as aforenoted, the revisional Court can interfere only in the instances where an order of trial court was passed, unjustly and unfairly. Further, it is a settled law[3] that trite law that in a case where the order of subordinate Court does not suffer from any illegality*, "merely because of equitable considerations, the revisional Court has no jurisdiction to re-consider the matter and pass a different order in a routine manner."* Reference in this regard is made to the decision in ***Taron Mohan v. State, 2021 SCC Online Del 312***, wherein the Hon'ble High Court of Delhi expounded as under;

> *"9. The scope of interference in a revision petition is extremely narrow. It is well settled that Section 397 CrPC gives the High Courts or the Sessions Courts jurisdiction to consider the correctness, legality or propriety of any finding inter se an order and as to the regularity of the proceedings of any inferior court. It is also well settled that while considering* ***the legality, propriety or correctness of a finding or a conclusion, normally the revising court does not dwell at length upon the facts and evidence of the case****. A court in revision considers the material only to satisfy itself about the legality and propriety of the findings, sentence and order and refrains from substituting its own conclusion on an elaborate consideration of evidence."*

(Emphasis supplied)

10. Notably in the context of the foregoing, it is further pertinent to observe here that it is no longer *res integra* that the

[3] ***Juned v. State of M.P., 2023 SCC OnLine MP 4458; and Dilip Damor v. State of M.P., 2024 SCC OnLine MP 958.***

orders framing charges or refusing discharge are neither interlocutory nor final in nature, rather, intermediate in nature[4], and are, therefore, not affected by the bar of Section 397(2) Cr.P.C./Section 438(2) BNSS. However, the scope of interference under Section 397 Cr.P.C./Section 438 BNSS at a stage, when charge had been framed, is also equally settled[5]. In this regard, it is pertinent to make a reference to the decision of the Hon'ble Apex Court in ***Manendra Prasad Tiwari v. Amit Kumar Tiwari, 2022 SCC Online SC 1057***, wherein the Hon'ble Court enunciated the law in regard the foregoing as under;

> *"22. The scope of interference and exercise of jurisdiction under Section 397 of CrPC has been time and again explained by this Court. Further, the scope of interference under Section 397 CrPC at a stage, when charge had been framed, is also well settled. At the stage of framing of a charge, the court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The **framing of charge is not a stage, at which stage the final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with the scheme of Code of Criminal Procedure**.*
>
> *23. Section 397 CrPC vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The **object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in the proceeding**."*
>
> *(Emphasis supplied)*

11. Germane for the purpose(s) of present discourse to

[4] ***Sanjay Kumar Rai v. State of U.P., (2022) 15 SCC 720.***

[5] ***State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198.***

now consider the principles governing framing of charges. In this regard, it is relevant to outrightly note the settled law[6] that at the stage of framing of charges, neither can the truth, veracity and effect of the prosecution case be meticulously[7] judged, nor can any weight to be attached to the probable defence of the accused. On the contrary, at such a stage, only the sufficiency of ground for proceeding against the accused, on a general consideration of materials placed before the Court by the investigating police officer is relevant. Further, though, sifting of evidence is permissible[8], however, scanning of evidence in detail is not. Quite understandably, the Hon'ble High Court of Delhi in ***Reena v. State (NCT of Delhi), 2020 SCC Online Del 630***, iterated the said principles in unequivocal terms as under;

> *"12. Thus it is settled position of law that at the time of framing of charge, the Court is not supposed to look into the evidence of the case in detail and is only to consider whether there is a strong suspicion against the accused on the basis of the material that comes before it. The* ***court has the power to sift the evidence for the limited purpose of finding out, whether or not a prima facie case is made out against the accused. However, the Court is not supposed to delve deeply into the merits of the matter and start a roving expedition into the evidence that is brought forth it, as if conducting a trial****. Further there is no one fixed definition that may be ascribed to the term prima facie' nor can the term strong suspicion have a singular meaning. While coming to the conclusion of a strong prima facie case or strong suspicion, the Court shall have to decide each case on the basis of its own independent facts and circumstances."*
>
> *(Emphasis supplied)*

12. Concomitantly, it is settled law[9] that the

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6 ***State of Bihar v. Ramesh Singh, AIR 1977 SC 2018***

7 ***Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460.***

8 ***State of Maharashta v. Priya Sharan Maharaj & Ors., (1997) 4 SCC 393.***

9 ***Sheoraj Singh Ahlawat v. State of U.P., (2013) 11 SCC 476.***

inconsistency in the material produced by the prosecution or the defect in investigation[10], cannot be looked into for discharge of an accused, in the absence of full-fledged trial. In fact, the probative value[11] of the material on record cannot be gone into, and the material placed on record by the prosecution has to be accepted as true at that stage. Reference in this regard is made to the decision of the Hon'ble Supreme Court in State through ***State of T.N. v. R. Soundirarasu, (2023) 6 SCC 768***, wherein the Hon'ble Court remarked as under;

> *"59. Reiterating a similar view in Sheoraj Singh Ahlawat v. State of U.P. [Sheoraj Singh Ahlawat v. State of U.P., (2013) 11 SCC 476 : (2012) 4 SCC (Cri) 21], it was observed by this Court that* ***while framing charges the court is required to evaluate the materials and documents on record to decide whether the facts emerging therefrom taken at their face value would disclose existence of ingredients constituting the alleged offence. At this stage, the court is not required to go deep into the probative value of the materials on record****. It needs to evaluate whether there is a ground for presuming that the accused had committed the offence and it is not required to evaluate sufficiency of evidence to convict the accused.* ***It was held that the court at this stage cannot speculate into the truthfulness or falsity of the allegations and contradictions and inconsistencies in the statement of witnesses cannot be looked into at the stage of discharge****."*
>
> *(Emphasis supplied)*

13. Relevant to further note that it is trite law[12], at the stage of framing of charge, only the police report is required to be considered and the defence of the accused[13] cannot be looked into. Needless to mention that the superior courts[14] have

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[10] *State of Tamil Nadu by Inspector of Police v. N. Suresh Ranjan & Ors., (2014) 11 SCC 709.*

[11] *Soma Chakravarty v. State, (2007) 5 SCC 403.*

[12] *State Anti-Corruption Bureau, Hyderabad & Anr. v. P. Suryaprakasam, (1999) SCC (Crl.) 373 and State of Orissa v. Debendra Nath Padhi, 2005 (1) SCC 568.*

[13] *State of Gujarat v. Dilipsinh Kishorsinh Rao, 2023 SCC OnLine SC 1294.*

[14] *Indu Jain v. State of M.P., (2008) 15 SCC 341.*

persistently deprecated the practice of holding a mini trial at the time of framing of charge. Relevantly, in this regard, reference is made to the decision of the Hon'ble Supreme Court in ***Bharat Parikh v. CBI, (2008) 10 SCC 109***, wherein the Hon'ble Court enunciated the judicial principle(s), as under;

> *"19. As observed in Debendra Nath Padhi case [(2005) 1 SCC 568: 2005 SCC (Cri) 415] at the stage of **framing charge roving and fishing inquiry is impermissible and a mini trial cannot be conducted at such stage**. At the stage of framing of charge the submissions on behalf of the accused have to be confined to the material produced by the investigating agency. The accused will get an opportunity to prove the documents subsequently produced by the prosecution on the order of the Court, but the same cannot be relied upon to reopen the proceedings once charge has been framed or for invocation of the High Court's powers under Section 482 of the Code of Criminal Procedure."*
>
> *(Emphasis supplied)*

14. Apposite to further emphasize[15] that at the stage of charge, court(s) is/are not even required to record detailed reasons for framing charge, rather[16], a very strong suspicion founded upon materials placed before it, which leads the court to form a presumptive opinion as to the existence of factual ingredients constituting the offence alleged, may justify the framing of charges. In fact[17], it is only when no case is made out even after presuming entire prosecution evidence, can an accused be discharged. Needless to accentuate[18], *"at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only*

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[15] ***Bhawna Bai v. Dhanshyam & Ors., (2020) 2 SCC 217***

[16] ***Supdt. and Remembrance of Legal Affairs, West Bengal v. Anil Kumar Bhunja, AIR 1980 SC 52 and Sajjan Kumar v. CBI, (2010) 9 SCC 368***

[17] ***Manjit Singh Virdi v. Hussain Mohammed Shattaf, (2023) 7 SCC 633***

[18] ***Sonu Gupta Vs. Deepak Gupta & Ors., (2015) 3 SCC 424***

if the court finds that the materials are wholly insufficient for the purpose of trial." Notably, the Hon'ble Supreme Court in ***Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia, (1989) 1 SCC 715***, while *inter alia* illuminating the principles as well as the scope of enquiry for the purpose of charge/discharging an accused, observed as under;

> *"14. …In fact, Section 227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that "the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused". The "ground" in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor is it necessary to delve deep into various aspects.* ***All that the court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into****."*
>
> *(Emphasis supplied)*

15. Germane for the purpose of the present discourse to further observe that the superior courts have persistently avowed that where the material/evidence produced before court, gives rise to *'some/mere suspicion'*, in contradistinction to *'grave suspicion'* against an accused, court would be fully justified in discharging such an accused. Reference, in this regard is made to the decision in ***Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135***, wherein the Hon'ble Supreme Court, in unambiguous terms, noted, as under;

> *"12. Now the next question is whether a prima facie case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing*

the charges under the said section has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; <u>where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial</u>; by and large ***<u>if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial</u>*** *(see Union of India v. Prafulla Kumar Samal [(1979) 3 SCC 4 : 1979 SCC (Cri) 609]).”*

(Emphasis supplied)

16. Similarly, the Hon’ble High Court of Delhi in ***Kavita v. State (Govt. of NCT of Delhi), 2016 SCC Online Del 5382***, expressed akin sentimentalities, by noting as under;

“11. Thus ***<u>at the stage of framing charge, on evaluation of the entire material if the Court finds that there is no strong suspicion against the accused for having committed the offence alleged, the accused is entitled to be discharged</u>****. As noted above the Court considered the entire material placed on record by the prosecution and in view of the unimpeachable documentary material in the form of CCTV footage which as per the CFSL report was not tampered with, no such incident as alleged of molestation or rape having taken place, the learned Trial Court rightly came to the conclusion that there was no strong suspicious for the accused to have committed the offence and discharged them.”*

(Emphasis supplied)

17. Ergo, being mindful of the principles hereinunder noted, this Court would now proceed with the determination of the

issue, *'whether from the material brought on record, Ld. Trial Court was justified in framing charges under Sections 420/467/468/471/120B IPC against the revisionists?'*, in other words, *'whether any illegality and/or impropriety can be attributed to order dated 30.03.2021/impugned order of the Ld. Trial Court?'*. However, in order to appreciate the said contention, this Court deems it pertinent to reproduce the relevant provisions under law/IPC as under;

> *"**120A. Definition of criminal conspiracy-** When two or more persons agree to do, or cause to be done-*
>
> *(1) an **illegal act**, or*
> *(2) an **act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy**:*
>
> *Provided that no agreement except an agreement to **commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof**.****
>
> ***120B. Punishment of criminal conspiracy-** (1) Whoever is a party to a criminal conspiracy to commit **an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence**.*
>
> *(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.*
>
> ***   ***   ***
>
> ***415. Cheating-** Whoever, by deceiving any person, fraudulently or dishonestly **induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived**, and which act or omission causes or is likely to cause damage or harm to that*

person in body, mind, reputation or property, is said to "cheat".

*Explanation-A **<u>dishonest concealment of facts is a deception within the meaning of this section</u>**.*

*** *** ***

420. Cheating and dishonestly inducing delivery of property- *Whoever cheats and **<u>thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security</u>**, or anything which is signed or sealed, and which is **<u>capable of being converted into a valuable security</u>**, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

*** *** ***

463. Forgery- *Whoever makes **<u>any false documents or false electronic record or part of a document or electronic record with intent to cause damage or injury</u>**, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.*

*** *** ***

467. Forgery of valuable security, will, etc.- *<u>Whoever</u> **<u>forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquaintance or receipt acknowledging the payment of money</u>**, or an acquaintance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

468. Forgery for purpose of cheating- *Whoever <u>commits forgery,</u> **<u>intending that the document or electronic record forged shall be used for the purpose of cheating</u>**, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

*** *** ***

471. Using as genuine a forged document or electronic record- *Whoever **<u>fraudulently or</u>***

dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged *document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record."*

(Emphasis supplied)

18. Notably, it is observed from above that in order to attract culpability under provisions under Sections 467 and 468 IPC, the prosecution is *inter alia* required to establish[19], commission of forgery as defined under Section 463 IPC. Notably, as per the provisions under Section 463 IPC, *"Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery".* Needless to mention, making of false document, as per Section 464 IPC *inter alia* amounts to the making, signing, sealing or execution of a document or part of a document or electronic record in the manner specified under the said provision, *"with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed'*. Reference in this regard is made to the decision of the Hon'ble Apex Court in ***Mohd Ibrahim v. State of Bihar (2009) 8 SCC 751***, wherein the Hon'ble Court, while enunciating the ingredients of offence of making of false

[19] ***Dharmala Venkata Subrahmanya Sarma v. The State of A.P., Criminal Petition No. 10174 of 2018, dated 27.03.2024 (Hon'ble High Court of Andhra Pradesh).***

document(s)/Section 464 IPC, noted as under;

> *"10. An analysis of section 464 of Penal Code shows that it divides false documents into three categories:*
>
> *10.1. The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.*
>
> *10.2. The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.*
>
> *10.3. The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practised upon him, know the contents of the document or the nature of the alteration.*
>
> *11. In short, a person is said to have made a 'false document', if (i)* ***he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his senses****."*
>
> *(Emphasis supplied)*

19. Here, it is further pertinent to refer to the decision of the Hon'ble High Court of Madhya Pradesh in ***Karan Kohli v. The State of Madhya Pradesh, Criminal Revision No. 199/2018, dated 11.10.2018***, wherein the Hon'ble High Court observed that for liability under Section 468 IPC to attract, prosecution is not required to prove that an accused actually commits the offence of cheating. On the contrary, *"what is material is the intention or purpose of the offender in committing forgery. For proving the case under Section 468 of the IPC prosecution is required to*

establish that the accused had committed forgery and that he did it with the intention that document forged shall be used for the purposes of cheating." Correspondingly, provisions under Section 471 IPC would be attracted[20] in a case where an accused, fraudulently or dishonestly uses as genuine, any document or electronic record, which he knows or has reasons to believe to be forged. Lastly, in so far as the provisions under Section 120B IPC is concerned, this Court deems it pertinent to make a reference to the decision in ***Ajay Agarwal v. Union of India, 1993 (3) SCC 609***, wherein the Hon'ble Supreme Court, noted with approval, as under;

> *"*** It is <u>not necessary that each conspirator must know all the details or the scheme nor be a participant at every stage. It is necessary that they should agree for design or object of the conspiracy. Conspiracy is conceived as having three elements:</u> **<u>(1) agreement (2) between two or more persons by whom the agreement is effected, and (3) a criminal object, which may be either the ultimate aim of the agreement, or may constitute the means, or one of the means by which that aim is to be accomplished</u>**. It is immaterial whether this is found in the ultimate objects. ***"*
>
> *(Emphasis supplied)*

20. Markedly, in so far as the provisions under Section 120B IPC is concerned, this Court deems it pertinent to outrightly note that the superior courts have incessantly clarified[21] that Section 120B IPC prescribes punishment for criminal conspiracy, which by itself is an independent offence and punishable separately from the main offence. Clearly, the objective behind inducting the offence of criminal conspiracy under the statute book is to prevent riotous supremacy which an accused may gain by involvement of several persons. In fact, Section 120A/120B IPC

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[20] ***Deepak Gaba v. State of Uttar Pradesh, Criminal Appeal No. 2328 of 2022, dated 02.01.2023 (SC).***

[21] ***State of Kerala v. P. Sugathan & Anr., AIR 2000 SC 3323: 2000 (8) SCC 203.***

specifically envisage that a person, singularly, may not be in a position to commit an offence, however, when he enters into an agreement with other, the others may give him impetus as well as support to commit the same. Apposite at this stage to make reference to the decision of the Hon'ble Supreme Court in ***Esher Singh v. State of Andhra Pradesh, AIR 2004 SC 3030***, wherein the Hon'ble Court while *inter alia* explicating the ingredients and scope of provisions under Section 120B, noted as under;

> *"*** The elements of a criminal conspiracy have been stated to be:* ***(a) an object to be accomplished, (b) a plan or scheme embodying means to accomplish that object, (c) an agreement or understanding between two or more of the accused persons whereby, they become definitely committed to co-operate for the accomplishment of the object by the means embodied in the agreement, or by any effectual means, (d) in the jurisdiction where the statute required an overt act****. The essence of a criminal conspiracy is the unlawful combination and ordinarily the offence is complete when the combination is framed. From this, it necessarily follows that unless the statute so requires, no overt act need be done in furtherance of the conspiracy, and that the object of the combination need not be accomplished, in order to constitute an indictable offence. Law making conspiracy a crime, is designed to curb immoderate power to do mischief which is gained by a combination of the minds. The* ***encouragement and support which co-conspirators give to one another rendering enterprises possible which, if left to individual effort, would have been impossible, furnish the ground for visiting conspirators and abettors with condign punishment****. The conspiracy is held to be continued and renewed as to encompass all its members wherever and whenever any member of the conspiracy acts in furtherance of the common design. (See: American Jurisprudence Vol.II See 23, p. 559). For an offence punishable under section 120-B, prosecution need not necessarily prove that the perpetrators expressly agree to do or cause to be done illegal act; the agreement may be proved by necessary implication. Offence of criminal conspiracy has its foundation in an agreement to commit an offence. A conspiracy consists not merely in the intention of two or more, but in the agreement*

*of two or more to do an unlawful act by unlawful means. So long as such a design rests in intention only, it is not indictable. When two agree to carry it into effect, the very plot is an act in itself, and an act of each of the parties, promise against promise, actus contra actum, capable of being enforced, if lawful, punishable if for a criminal object or for use of criminal means. ***"*

(Emphasis supplied)

21. Here, it is further apposite to make a reference to the decision in ***Ajay Agarwal v. Union of India, 1993 (3) SCC 609***, wherein the Hon'ble Supreme Court explicitly remarked that in order to attract culpability against an accused/co-conspirator, it is not necessary of all the participants to be aware of each and every detail at every stage, rather, there must be consensus/commonality of mind and action. Relevant extract from the said dictate is reproduced as under;

> *"*** It is not **necessary that each conspirator must know all the details or the scheme nor be a participant at every stage. It is necessary that they should agree for design or object of the conspiracy. Conspiracy is conceived as having three elements: (1) agreement (2) between two or more persons by whom the agreement is effected, and (3) a criminal object, which may be either the ultimate aim of the agreement, or may constitute the means, or one of the means by which that aim is to be accomplished**. It is immaterial whether this is found in the ultimate objects..."*

(Emphasis supplied)

22. Germane for the present purpose(s) to note that in order to attract culpability under the provisions of Section 420 IPC, prosecution is required to prove the commission[22] of, *"(i) cheating as defined under Section 415 IPC[23]; (ii) dishonest*

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[22] ***Binod Kumar v. State of Bihar, 2014 (10) SCC 663*** and ***Prof. R.K. Vijayasarathy v. Sudha Seetharam, (2019) 3 SCALE 563.***

[23] Section 415 of IPC provides, *"Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."*

inducement to deliver property or to make, alter or destroy any valuable security or anything which is sealed or signed or is capable of being converted into a valuable security, and (iii) mens rea of the accused at the time of making the inducement.” Here, it is further pertinent to note that as per Section 415 IPC, cheating encompasses, fraudulently or dishonestly inducing a ‘person so deceived’ to deliver any property to any person, or to consent that any person shall retain any property, or even includes, intentionally inducing a person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived. Quite evidently, in so far as the latter part of Section 415 IPC is concerned, ‘*property*’, at no stage, is involved. In fact, it is the doing of an act or omission to do an act by the person so cheated, as a result of intentional inducement by the accused, which is material. However, even in this regard, law is settled that the damage or harm caused or likely to be caused must be the necessary consequence of the act done by reason of the deceit practiced, or must be necessarily likely to follow therefrom, and the law does not take into account remote possibilities that may flow from the act. In other words, law does not take into account remote possibilities that may flow from the act. Clearly, such damage or harm must be proximate and natural result of the act or omission and does not include vague and contingent injury. Reference in this regard is made to the decision of the Hon’ble Calcutta High Court in ***Harendra Nath Das v. Jyotish Chandra Datta, AIR 1925 Cal. 100***, wherein the Hon’ble Court, while iterating similar sentimentalities, remarked as under;

> *“6. *** Under Section 415 of the Indian Penal Code,* ***<u>the damage or harm caused or likely to be caused must be the necessary consequence of the act</u>***

<u>done by reason of the deceit practiced, or must be necessarily likely to follow therefrom, and the law does not take into account remote possibilities that may flow from the act [Mojey v. Queen-Empress (1890) I. L. R. 17 Calc. 606]. The proximate and natural result only of the act has to be judged, and not any vague and contingent injury that may possibly arise</u> *[Milton v. Sherman (1918) 22 C. W. N. 1001]. The prosecution allege in the present case that the accused used the name of a bogus or non-existent firm, with the object of not fulfilling the contract in the event of the market going up, and as the market did go up he did not supply the jute with the result that Mr. Pithie suffered loss. Such remote consequences must, in my opinion, be ignored for the purposes of Section 415 of the Indian Penal Code. ***"*

(Emphasis supplied)

23. Consequently, being mindful of the above, this Court would now proceed with the evaluation of the rival contentions of the parties, in light of the material brought on record. In this regard, it is outrightly noted from a conscientious perusal of the material brought on record that the prosecution has averred that the accused persons, while acting in collusion, connivance and in furtherance to criminal conspiracy with each other, engaged in claiming refund from Income Tax department in bogus accounts, in names of persons, entities, etc., non-existent/pseudo-named. Correspondingly, as per the prosecution, the accused persons, while acting in collusion with each other as well as in connivance of the officials of bank, manager, etc., opened bank accounts in the name of non-existent/pseudo-named account holders by pasting photos of different person which were procured from various sources or by using non-existent PAN or with the account opening form, not even containing photographs of such 'so called' account holder. Subsequently, as per the prosecution, such refund obtained from the income tax officials, illegally and in ill-gotten means

were conveyed/transferred in the said bank accounts. As aforenoted, Anil Kumar Srivastava, acted as one of the linchpins, in the said conspiracy to commit the offence of cheating the government authorities, as well as indulged in forgery, forgery for the purpose of cheating, use of forged documents for the purposes of cheating, etc., thereby causing wrongful loss to the government exchequer and other individuals and wrongful gain to himself and co-accused persons.

24. Markedly, is seen from a scrupulous analysis of the records that co-accused Anil Kumar Srivastava is avowed to have engaged in obtaining refunds from IT Department under bogus claims, which amounts from such bogus claims were further deposited in several bogus bank accounts *inter alia* maintained in UCO Bank, Saket branch. Further, it was a case of the prosecution that the said amount was misappropriated and illegally/eventually transferred and/or conveyed *inter alia* into the accounts of the such co-accused/Anil Kumar Srivastava. Pertinently, it is further noted from the records that the prosecution has recorded the statements of various witnesses, wherein the said witnesses *inter alia* asserted that co-accused Anil Kumar Srivastava obtained their photographs/particulars by wrongful means/representation and subsequently, opened accounts with UCO Bank, without such persons neither visiting the said bank, nor conceding to such opening of accounts. Needless to mention that in this regard, such witnesses, professed that such bogus accounts were opened in UCO Bank, with wrong particulars and without any knowledge on their part. Apposite in this regard, to reproduce the statement of one such witness, *i.e.,* Sh. Sachin Chhatwal, S/o. Sh. KK Chhatwal, R/o. K-28, Kailash Colony, Delhi, recorded by the

concerned IO on 19.02.2005, in terms of the provisions under Section 161 Cr.P.C., as under;

> *"*** Stated that I am residing at the above address and doing the business of import/export. Earlier my father was running a fruit shop in the name and style of Janta Fruit & Vegetables Shop from 25A, Khanna Market, Lodhi Road, N. Delhi. Sh. Anil Kr. Srivastava had introduced himself as a CA and was keeping the account works for our shop. I was also assisting my father in the shop and had met Anil Srivastava a number of times.* ***In order to file some sale tax documents, he had asked for p/graphs of my father, myself and that of my brother and he was having them.*** *Later on we had sold the said shop in the yr. 2002. Today, you have shown me the* ***original bank account opening form of UCO Bank, Saket, A/c No. 40517 on which my p/graph has been affixed and name of the person is Devender Raina. The said p/graph is some 5/6 years back and the said p/graph was given to Anil Srivastava by me****. The* ***particulars as mentioned in the account opening form are wrong, and I had never visited UCO Bank nor operated the said account****. It appears that Sh. Anil Srivastava* ***in connivance with bank officials had managed to open this account and had affixed my p/graph****. Today I have also seen the original a/c opening, form of a/c No 40622 of Yashwant Kumar Singh, in UCO Bank, Saket. The photograph is that of Late Sh Ravi Sharma S/o LR Sharma R/o K-20, Kailash Colony which is opposite to my house. He had died 2 years back i.e. in the month of January 2003. I would request necessary legal action be taken against Anil Srivastava and bank officials.***"*
>
> *(Emphasis supplied)*

25. Similarly, reference is made to the statement of one, Shri. KK Chattwal, S/o. Late Shri. Malu Chand Chatwal, R/o. K-28, Kailash Colony, Delhi, recorded under Section 161 Cr.P.C., on 20.02.2005, wherein the witness is stated to have asserted, as under;

> *"*** Stated that I am residing at the above address. Earlier I was running a fruit shop in the name and style of Janta Fruit & Vegetables Shop from 25A, Khanna Market, Lodhi Road, N. Delhi. Sh. Anil Kr. Srivastava had introduced himself as a CA and was*

keeping the account works for our shop. In order to file some sale tax documents, he had asked for p/graphs of myself and that of my 2 sons and he was having them. Later on we had sold the said shop in the yr. 2002. Today, you have shown me the ***original bank account opening form of UCO Bank, Saket, A/c No. 40631 on which my p/graph has been affixed and name of the person is Manohar Lal****.* ***The said p/graph was given to Anil Srivastava by me****. The particulars as mentioned in the account opening form are wrong and* ***I had never visited UCO Bank nor operated the said account****. Today I have also seen the* ***original a/c opening form of a/c No 40622 of Yashwant Kumar Singh, in UCO Bank, Saket****. The photograph* ***is that of Late Sh Ravi Sharma S/o LR Sharma R/o K-20, Kailash Colony which is opposite my house. He had died 2 years back i.e. in the month of January 2003****. It appears that Sh. Anil Srivastava in connivance with bank officials had managed to open these account and had affixed p/graphs. I would request necessary legal action be taken against Anil Srivastava and bank officials. ***"*

(Emphasis supplied)

26. Quite evidently, it is seen from above that it is the case of the prosecution that several bogus accounts were opened in UCO Bank by co-accused Anil Kumar Srivastava, while acting in collusion/in furtherance of criminal conspiracy with co-accused persons, in an unauthorized manner in the names of several persons, including the names of deceased persons. Relevantly, along with the chargesheet, the prosecution has filed the statements of several such persons/proposed witnesses, who professed that co-accused Anil Kumar Srivastava, obtained their coordinates/particular and photographs by wrongfully inducing them and/or under false pretext, which were subsequent abused and misutilized for opening bank accounts with UCO bank. Needless to mention that under the statements of said proposed witnesses, recorded under Section 161 Cr.P.C., they have declared that they never visited UCO Bank for the purpose of either opening

said bank accounts nor operated the accounts so opened, at any point in time, in any manner. Correspondingly, it is determined from the perusal of the records that the accounts in UCO Bank, where such ill-gotten claims from IT Department were transferred were found even to be opened in the names of non-existent persons, not only by illegally and wrongly abusing the particulars of such proposed witnesses/persons, rather, even by deploying the particulars of deceased individuals. Needless to mention that it is further seen from the records that several of the '*introducers*' of the said bogus accounts, *i.e.,* Monika Srivastava, Shailesh Jawa, Rekha Gupta, SD Mahapatra, Jiji Bhataharya, Sarabjit Singh, Harbinder Singh Gulati, Alok Mishra, Mohd. Khalid, Vikram Raizada, Shiva Kumar, Vivek Anand, Bharat Bhushan, Hari Prasad Thapliyal, JS Saini, Ashwani Kr. Dhanda, Madhulika, VK Taneja, etc., were found to be non-existent. Correspondingly, it is the case of the prosuction that during the investigation, it was further determined that the '*introducer*', namely, Ms. Sangita Vashisht for several accounts was found to be working as a Teacher in Kendriya Vidhyalaya and, was not present in Delhi, at the relevant point in time, when the said accounts were stated to be opened in UCO Bank.

27. In so far as the role of the revisionists is concerned, it is the case of the prosecution that the revisionists were posted as officers in UCO Bank, Saket, when the aforenoted bogus accounts were found to be opened. As aforenoted, it was further determined by the prosecution that the said accounts were opened with improper particulars, including incorrect PAN details; containing photographs and particulars of persons, without the consent of such persons; besides some of such accounts were found, not to

even contain photographs of the account holder. Correspondingly, as per the prosecution, such accounts were found to be opened during the tenure of the revisionists. Further, it was found out that from the bogus account bearing no. 13006, in the name of Pushkar Narain Verma, Central Bank of India, Gulmohar Park branch, payment of Rs. 3,365/- (Rupees Three Thousand Three Hundred and Sixty Five only) was made towards telephone bill of number bearing; 01133179395, which was further discovered to belong to revisionist no. 1, Rakesh Dewan. Apposite for the purposes of present discourse to further reproduce the relevant extracts from the chargesheet, explicating the role of the revisionists, as under;

> *"*** From the scrutiny of above mentioned account opening forms and their statement of accounts it has been found that <u>these accounts were opened in the year 2002- 03 and were utilized for getting encashed the refund vouchers fraudulently got issued from Income Tax Department</u> in connivance with co-accused of Income Tax Department namely (Hari Hari Prasad, Prakash Chand and Gajraj and after encashment of the same, no other transaction took place in these accounts. Further the addresses and tel. Nos. mentioned in these account opening forms are either of the accused persons or are false.*
>
> *** *** ***
>
> *2. Further on scrutiny of these account opening forms, it was found that **<u>most of the forms contain improper PAN No. Some of the account opening forms even do not contain the photograph of account holders</u>**. The same **<u>have been opened by accused Arun Srivastva and accused Rakesh Diwan who were then posted as officer in UCO Bank, Saket</u>**. It may also be mentioned that a **<u>payment in favour of a reliance telephone Bill in the name of Rakesh Diwan has also been made from the bogus account No. 13006 of Pushkar Narain Verma, maintained with Central Bank of India, Gulmohar Park, Delhi</u>**. ***"*
>
> *(Emphasis supplied)*

28. Consequently, in light of the foregoing this Court finds itself in concurrence with the finding of the Ld. Trial Court

that revisionists, engaged in criminal conspiracy with each other and co-accused persons, facilitating opening of several bank accounts in UCO Bank with improper/wrong particulars, in name of persons who were not even in existence, *prima facie* without ensuring the presence of the persons in whose names the said accounts are stated to have been opened or even by ensuring that the '*introducers*' were *prima facie* present at the time of such opening. Needless to reiterate that several of such account holders as well as '*introducers*' were found to be not in existence or present at the relevant place/time, when the said accounts are stated to have been opened with UCO Bank. Needless to further mention that as per the prosecution that the accused persons, while so acting, illegally obtained claims/refunds from the IT Department in the names of such bogus persons and under bogus accounts. Correspondingly, there is also *prima facie* material to demonstrate that several accounts were opened by the revisionists, while acting in furtherance of their criminal conspiracy with co-accused persons, in the names of non-existent/pseudo-persons by wrongfully deploying the particulars, photographs of several persons, without their consent/approval, which were further procured illegally/wrongfully from various sources. Thereafter, the refund cheques/instruments obtained by them from the income tax offices were deposited in such bank accounts. Needless to also mention that there is also material on record to demonstrate that the particulars/coordinates of such persons were used in opening such bank accounts, notwithstanding the fact that such persons neither visited UCO bank, nor proper particulars were mentioned under such bank opening forms. Correspondingly, as aforenoted, it is seen from the records that from the bogus account bearing no.

13006, in the name of non-existent, Pushkar Narain Verma, Central Bank of India, Gulmohar Park branch, payment of Rs. 3,365/- (Rupees Three Thousand Three Hundred and Sixty Five only) was found to be made towards telephone bill of number bearing; 01133179395, which was further discovered to belong to revisionist no. 1, Rakesh Dewan. Ergo, under such circumstances, in the considered opinion of this Court *prima facie* case, strong suspicion and reasonable grounds exist in the instant case against the revisionists for the charges under Sections 467/468/471 IPC read with Section 120B IPC. Pertinent to further note that there is *prima facie* material to demonstrate that the documents were made/executed in the names/particulars of non-existent persons or with particulars of pseudo-persons, with an intention of causing the same to be believed that such document or part of document were made/executed by or by the authority of a person by whom or by whose authority the same were known, not to be made and/or executed. Needless to mention that the said documents were deployed as genuine, besides created for the purposes of cheating, *prima facie* attracting the said provisions.

29. Correspondingly, it is reiterated that the said documents were deployed for illegally claiming returns from IT Department, thereby causing wrongful loss to the exchequer and wrongful gain to the accused persons, *prima facie,* attracting the provisions under Section 420 IPC read with Section 120B IPC *inter alia* against the revisionists. Consequently, it is reiterated that even in the considered opinion of this Court, there is sufficient material/grounds to proceed against the revisionists for framing of charges/allegations under Sections 420/467/468/471 IPC read with Section 120B IPC. In so far as the contention of Ld. Counsel

for the revisionists pertaining to absence of direct evidence of criminal conspiracy is concerned, without delving profoundly into the merits of this case, this Court deems it apposite to note that the law is trite that direct evidence is difficult to find for the offence under Section 120B IPC/criminal conspiracy, as generally[24], *"a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same. The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial."* Nonetheless, this Court observes that the same is a subject matter of trial, which cannot be delved into with detail at this stage.

30. Here, it is further pertinent to deal with the contention of the Ld. Counsel for the revisionists *inter alia* to the effect that there are variations in the statements of the witnesses. However, as aforenoted, law is trite that contradictions and inconsistencies in the statement of witnesses cannot be looked into at the stage of charge. In as much as the contention of Ld. Counsel for the revisionists pertaining to their false implication in the present case or that of revisionists neither being complicit or engaged with conspiracy with any co-accused persons or that of the revisionists been roped in the present case solely on the basis of the nature of their employment or that of the revisionists' not being engaged in the opening of the bank accounts with UCO Bank at the relevant point of time or that of the transactions being unrelated/unconnected with each other or of the absence of any contact between the co-accused persons are concerned, same, in

[24] ***Mukesh and Ors. v. State for NCT of Delhi & Ors., MANU/SC/0575/2017.***

the considered opinion of this Court, are all subject matters of trial, which can only be determined only once evidence is led before the Ld. Trial Court. Further, this Court unambiguously observes that it is also not convinced with the contention of the Ld. Counsel for the revisionists that since the material placed on record is (allegedly) insufficient to convict the revisionists, they ought to be discharged. In fact, in this regard, it is reiterated that at the stage of framing of charge, sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only if the court finds that the materials are wholly insufficient for the purpose of trial, which is not the case here. Congruently, this Court deems it apposite to reiterate that mere defect in investigation, cannot be a ground for discharge in light of the aforenoted judicial dictates. On the contrary, under circumstances, this Court reiterates that *prima facie* case, strong suspicion and sufficient grounds exist to proceed with the framing of charge under Sections 420/467/468/471 IPC read with Section 120B IPC against the revisionists.

31. Consequently, in conspectus of above, further being wary of the aforenoted judicial principles, in light of the arguments addressed by the Ld. Counsel for the revisionists as well as by Ld. Addl. PP for the State, this Court observes that from the facts and circumstances of the case, material and the documents placed on record of the Ld. Trial Court, including *inter alia* the contents of the chargesheet, statements of witnesses, including that of the complainant and other witnesses, as well as other material/documents placed on record, *prima facie* case under Section 120B IPC; and Sections 420/467/468/471 IPC read with Section 120B IPC, stands established against revisionists in as

much as the revisionists, while acting in criminal conspiracy with co-accused persons, engaged in as well as authorized, opening of fake bank accounts with UCO Bank, Saket in the name of different persons, who were found to be fictitious/non-existent/pseudo-identities, by fixing the photographs of fake persons and filling the fake account opening form and making the signatures of different persons, which bank accounts were fraudulently used for claiming Income Tax Refund.

32. Accordingly, in light of the aforesaid discussion, this Court unswervingly records and reiterates that the Ld. Trial Court did not commit any illegality and/or impropriety under the impugned order. Consequently, in the considered opinion of this Court the present revision petitions bearing; ***Crl. Rev. No. 163/2021***, preferred by Shri. Rakesh Dewan/revisionist no. 1 and ***Crl. Rev. No. 258/2021***, preferred by Shri. Arun Kumar Srivastava/revisionist no. 2 deserve to be dismissed and are hereby ***dismissed***. As a corollary, the impugned order/order dated 30.03.2021 passed by Ld. ACMM-01, Central, Tis Hazari Courts, Delhi in case bearing, '***State v. Anil Kumar & Ors., Cr. Case No. 287926/2016***', arising out of **FIR No. 347/2004, PS. IP Estate**, directing framing of charges under **Sections 420/467/468/471 IPC** read with **Section 120B IPC** against the revisionists, Rakesh Dewan and Arun Kumar Srivastava is hereby ***upheld***.

33. **Trial Court Record** along with a **copy of this order/judgment** be sent to the Ld. Trial Court concerned for information and compliance. Further, the Ld. Trial Court is requested to expedite the trial of the present case, considering the pendency of the board/roster, however, being wary that the present proceedings are pending for significant duration, now. Needless

at this stage to note that nothing stated hereinabove shall be construed as opinion on merits/final outcome of the case, which shall be determined as per law.

34. Revision files be **consigned to record room** after due compliance.

ABHISHEK GOYAL Digitally signed by ABHISHEK GOYAL Date: 2026.06.29 16:14:14 +0530

Announced in the open Court **(Abhishek Goyal)**
on 29.06.2026. ASJ-03, Central District,
Tis Hazari Courts, Delhi