DLCT110003012019

IN THE COURT OF MS. JYOTI KLER
SPL. JUDGE (PC ACT), CBI-18
ROUSE AVENUE DISTRICT COURTS: NEW DELHI

Case No. CBI/69/2019
FIR No. RC/07-A/2006/SCU.V/SCR-II/CBI/New Delhi
u/Sec. 120B/420/467/468 IPC & 13(2)/13(1)(d) PC Act

Central Bureau of Investigation (CBI)

Vs.

1. **P. D. Sharma**
   S/o Late J. D. Sharma
   R/o House No. 1/3099, Ram Nagar
   Shahdara, Delhi.

2. **R. P. Singh** ***(Proceedings abated vide Order dated 23.04.2014)***
   S/o Late B. P. Singh
   R/o House No. 175-A, Cariappa Marg,
   Sainik Farm, New Delhi.

3. **P. N. Sharma**
   S/o Late R. S. Sharma
   R/o Flat No. 231, Pocket-5, Mayur Vihar
   Phase-I, Delhi-110091.

4. **Arjun Singh**
   S/o Sh. Ram Swarup
   R/o House No. 12/9, Spring Field Colony,
   Sector-31, Faridabad.

5. **Maha Singh** ***(Proceedings abated vide Order dated 06.08.2018)***
S/o Sh. Ram Swarup
R/o House No. 312/15, Gandhi Nagar,
P. S. Gannaur, Distt. Sonepat.

6. **Urmila Gupta** ***(Proceedings abated vide Order dated 18.10.2021)***
W/o Sh. T. R. Gupta
R/o House No. 1534, Chanrawal Road,
Clock Tower, Delhi.

7. **R. K. Srivastava**
S/o Late G. S. Srivastava
R/o G-12, HUDCO Place,
Andrews Ganj, New Delhi.

….. Accused Persons

Date of Institution	**:**	**19.12.2008**
Date of Conclusion of Final Arguments	**:**	**06.06.2026**
Date on which Judgment Reserved	**:**	**11.06.2026**
Date of Judgment	**:**	**12.06.2026**
Decision	**:**	**Acquittal**

JUDGMENT

Background

1. The *genesis* of this case lies in the Order dated 13.02.2006[1] whereby the Hon'ble High Court of Delhi directed the CBI to conduct investigation into allotment of land to 97 Cooperative Group Housing Societies (hereinafter *'CGHS'*) in the year 2000, observing that a nexus between the builders & Government Officials was suspected.

[1] Passed by the Hon'ble High Court of Delhi in CWP No. 10066/2024 & CMS No. 15487/2005

2. CBI registered a preliminary enquiry bearing No. 3(A)2006/SCU.V/SCR.II on 10.03.2006 against five CGHS pursuant to the aforesaid directions. Sarvottam CGHS was one of those five.

Registration of FIR

3. The preliminary enquiry resulted into registration of FIR with allegations that the Registrar Cooperative Societies (hereinafter *'RCS'*), Delhi, namely, R. K. Srivastava (hereinafter the *'accused no.7'*) along with P. D. Sharma (hereinafter the *'accused no.1'*), the then Deputy Registrar and V. P. Singh, the then Assistant Registrar, in the office of RCS, entered into a criminal conspiracy with A. S. Kushwaha (hereinafter the *'accused no.4'*), the then President of Sarvottam CGHS and other unknown persons. Pursuant to the said conspiracy, GNCT of Delhi was cheated by committing the offences of impersonation, forgery, cheating and abuse of official position by public servants, in revival of defunct Sarvottam CGHS on 28.04.2000 by the office of RCS and in fraudulent allotment of land by the Delhi Development Authority (hereinafter the *'DDA'*).

Investigation

4. CBI conducted investigation on registration of FIR which revealed as follows:

4.1. Sarvottam CGHS (hereinafter the *'Society'*) was registered on 03.10.1983 vide registration No. 707(GH). The registered address of the Society was 'Office of Member Audit Board & Ex-officio, Director of Commercial Audit, Indraprastha Bhawan, Third Floor, New Delhi-110002'.

4.2. The Society initially had 63 promoter members. Four members were later on deleted as they had resigned and 61 new members were added from time to time. The RCS approved a list of 120 members of the Society on 30.12.1985.

4.3. R. P. Singh (hereinafter '*accused no.2*') was the secretary of the Society, hence, all records of the Society were in his custody, lying at his residence. The members of the Society stopped taking interest in its activities after a gap of 7 to 8 years of its formation.

4.4. Satish Mathur, the then Deputy Registrar in the office of RCS, ordered winding up of the Society on 31.10.1990 because the Society was not functioning as per the provisions of Delhi Cooperative Societies Act, 1972 (hereinafter the *'DCS Act'*). A copy of this Order was sent to the Society for intimation and file was sent to the Deputy Registrar (Liquidation), who received it on 16.11.1990.

4.5. Rakesh Munjal, an Advocate, filed an appeal before the Hon'ble Lieutenant Governor, GNCT of Delhi against the Order of winding up in the year 1991. This appeal was heard by the Financial Commissioner, Delhi, who set aside the impugned order on 26.08.1994 with stipulation that a final chance be given to the Society to remove all the irregularities by 31.12.1994 and apply to the RCS for consideration of the request for revival.

4.6. The accused no. 2 applied for revival of the Society, in his capacity as secretary, on 10.09.1997. Address of the Society in this application was reflected as '175-A, Cariappa Marg, M.B. Road, Sainik Farm, New Delhi' though registered office of the Society was at Indraprastha Bhawan, New Delhi.

4.7. The RCS office observed that the application was moved at a belated stage and advised the Society to first get the delay condoned from the Financial Commissioner and thereafter approach RCS again for revival.

However, the accused no.2 filed a petition for condonation of delay before the RCS itself on 21.07.1998.

4.8. The accused no. 2 came in contact with P. N. Sharma (hereinafter *'accused no. 3'*), and accused no. 4 in August 1998, who assured him that they will get the Society revived. Hence, accused no. 2 handed over all the records of the Society to the accused no. 3 & 4 in September, 1998.

4.9. The accused no. 3 & 4 prepared fake resignations and refund receipts of existing members on receiving the record from accused no. 2. This was confirmed by the Government Examiner of Questioned Documents (GEQD) in its report as well as by 37 out of total 124 genuine members in their statements recorded during investigation. The fake resignations were attested by accused no.2 thereby suggesting that the false documents were prepared by these accused persons in connivance.

4.10. The accused no. 3 & 4 also prepared fake enrollment forms and added imaginary persons as members of the Society. Total 107 such members were added by them in the membership register starting from serial no. 125 to 231. All these persons were found non-existent except the accused no. 3 & 4 themselves and one Vinod Kumar. The accused no. 3 & 4 enrolled themselves as fake members under assumed names of P. N. Samadhiya (membership No. 179) and A. S. Kushwaha (membership number 204) respectively. Vinod Kumar, the third person found existent, revealed that he was a daily wage worker in National Building Organisation (NBO), Nirman Bhawan, Delhi; the accused no. 3 was working as economic officer in NBO & residing in Government Quarters at Aram Bagh; and the accused no. 3 was known to his father. This suggested that the fake enrollments were prepared by accused no. 3 & 4.

4.11. The accused no. 3 & 4 also prepared fake minutes of meetings in the proceedings register to show that the Society continued to exist. This fact is also confirmed in the report of GEQD. These fake minutes were prepared to show acceptance of resignations of genuine members and induction of fake members in the Society. The accused no. 3 posed as secretary of the Society and accused no. 4 posed as President, under their assumed names.

4.12. The accused no. 4, under fake name of A. S. Kushwaha, declaring himself as president of the Society, submitted an application dated 29.10.1998 in the office of RCS for revival of the Society. A recommendation letter issued by the then Secretary of All India Congress Committee (I) [AICC (I)], addressed to the then Chief Minister, Delhi, had also been annexed with this application.

4.13. The RCS office sent the file to the Central Zone for further necessary action on 14.01.1999 in view of VIP reference annexed with the application seeking revival.

4.14. The accused no. 4, posing as A. S. Kushwaha and president of the Society, produced an audit form bearing No. 4864 on 03.02.1999, reflecting address of the Society as 'B-II/184, Shiv Mandir Park, Madangir, New Delhi'. The audit of the Society from 1987-88 to 1997-98 was conducted by Urmila (hereinafter '*accused no.6*'). She did not mention in the audit form about any discrepancies, like those found in the proceedings registers that had blank pages and missing signatures of few members shown as present in the meeting. She further conducted the inspection at Aram Bagh, residence of accused no. 3 instead of the address shown in the audit form, thereby reflecting connivance.

4.15. The accused no. 1 mentioned in office Noting at page 32/N that "A. S. Kushwaha, President" had attended the office of RCS on 28.10.1999 and "P. N. Samadhiya, Secretary" had attended on 28.11.1999. The accused no. 1 further recorded in office Noting dated 06.03.2000 at page 33/N & 34/N that the office of RCS was attended by the president and secretary of the Society and previous objections regarding conducting of elections, meetings and audit had been removed, proof regarding which was placed on file. However, this record which was filed, had been forged. The accused no. 1 ignored this fact and gave an impression in the Noting that he had examined & scrutinized the record at various stages and the Society was found functioning in routine & maintaining its record upto date. The accused no. 1 recommended revival of the Society on the said basis.

4.16. The accused no. 7 called the president & secretary of the Society to attend a meeting in his chamber by the Noting dated 06.03.2000 that was put up before him. The Office Noting dated 23.03.2000 at page 36/N reflects that the accused no. 3 & 4 had appeared and intimated the accused no. 7 that last elections of the Society were held in the year 1998, further elections were to be held on 15.04.2000 and audit of the Society was complete till the year 1998. They also assured that they will file separate affidavits undertaking that the Society shall comply with all the statutory obligations in future.

4.17. On the directions of accused no. 7, Maha Singh (hereinafter *'accused no. 5'*) was appointed as observer to attend the General Body Meeting (GBM) of the Society on 15.04.2000.

4.18. The accused no. 5 filed his report before the accused no. 7 on 17.04.2000. He mentioned in his report that the elections for the office bearers of the Society were held at 10:00 AM on 15.04.2000 in which

President and Vice President of the Society were elected unopposed. The Society had further elected 7 more members including two women. Details of the office bearers was given as below:

S.No.	Name	Designation
1.	P. N. Samadhiya	President
2.	A. S. Kushwah	Secretary AGM
3.	Roop Basant	Treasurer
4.	Kamla Rani	MC Member
5.	Veena Kapoor	MC Member
6.	Ramesh Kushwaha	MC Member
7.	Karan Singh	MC Member
8.	Ram Vilash	MC Member
9.	Brij Mohan	MC Member
10.	R. P. Singh	Election officer

4.19. Investigation revealed that the meeting dated 15.04.2000 did not actually take place as the following facts came into the notice of the Investigating Officer:

4.19.1. Occupants of B-II/184, Shiv Mandir Park, Madangir, New Delhi stated that no meeting was held in the said premises on 15.04.2000.

4.19.2. All the persons shown as office bearers were imaginary names; accused no. 3 & 4 also used their fake names; & many persons were not found at the addresses mentioned in the report of accused no. 5.

4.19.3. One Maharaj was shown as Chairman of the GBM dated 15.04.2000 but it was found that no such person had attended the meeting. The said person was not found available at his address also. The GEQD confirmed in its report that the signature of Maharaj were done by accused no.3. The same conclusion was reached by GEQD regarding the enrolment application; membership register and affidavit of Maharaj also.

4.19.4. GEQD also confirmed that the accused no. 3 had forged signatures of some other persons also did not actually attend the meeting dated 15.04.2000.

4.20. The accused no. 1, vide Noting dated 20.04.2000, observed that the Society had fulfilled all the statutory requirements for revival. He recommended revival of the Society vide the said Noting. This recommendation of accused no. 1 was approved by the accused no.7 who then issued the revival Order bearing No. F.47/707/GH/Coop.464-469 dated 28.04.2000.

4.21. Since the freeze list of members of the Society had already been approved, a copy of the revival order was forwarded to the Deputy Director, Group Housing, DDA, by the office of RCS for allotment of land.

4.22. The accused no. 4, with the assumed name of A. S. Kushwaha, submitted an application dated 22.06.2000 to the Deputy Director, Group Housing, DDA for allotment of land with the approved list of 120 members.

4.23. A draw of lot was held by the DDA on 11.03.2002 and plot No. 10 at Dhirpur, Delhi, measuring 7000 square meters, was allotted to the Society. Possession of the land was however not given to the Society and the entire sum towards the cost of land was also not deposited.

Pre-Trial Proceedings

5. On completion of investigation, chargesheet was filed in the Court on 19.12.2008, since the facts disclosed commission of offences punishable u/Sec. 420/468/467/471/419 IPC r/w Section 120B IPC & Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter *'PC Act'*).

6. Court took cognizance of the offences on 21.11.2009 after which summons were issued to all the accused persons, except to the accused no. 7, since sanction for his prosecution had not been received from the competent authority till then.

7. Sanction for prosecution of accused no. 7 was received later and a supplementary chargesheet was filed, notice of which was accepted by accused no. 7 on 08.07.2010 because he was present in the Court at that time in some other matter.

8. Section 207 Cr.P.C. was complied and copy of original & supplementary chargesheets was supplied to all the accused persons.

9. Arguments were heard on the point of charge and Order on charge was pronounced on 29.08.2011. Formal charges were accordingly framed against the accused persons on 12.09.2011 as per below:

S.No.	Name of the Accused	Substantive Charge Framed
1.	Accused No.2	Section 467 & 468 IPC
2.	Accused No. 2, 3 & 4	Section 420 & 471 IPC
3.	Accused No. 3 & 4	Section 419 IPC
4.	Accused No. 1, 5, 6 & 7	Section 13(2) r/w 13(1)(d) PC Act.

10. A common charge for the offences punishable u/Sec. 120B r/w Section 420/467/468/471/419 IPC and Section 13(2) r/w Section 13(1)(d) PC Act was also framed against all the accused persons.

11. The charges were explained to the accused persons and they were asked if they pleaded guilty. All the accused persons pleaded not guilty to the charges and claimed trial; hence, prosecution was directed to lead evidence to prove their case.

12. The accused no. 2, 5 & 6 expired during the trial and proceedings against them stood abated vide Orders dated 23.04.2019, 06.08.2018 and 18.10.2021 respectively.

Evidence of Prosecution

13. Prosecution examined total 66 witnesses in order to prove its case, out of whom examination-in-chief of PW12 was deferred and this witness was not recalled for further examination. The remaining 65 witnesses can be categorized as below:

13.1. Members of the Society;

13.2. Witness pertaining to the process of revival;

13.3. Witnesses pertaining to the location of office of the Society post-revival.

13.4. Witnesses from the office of RCS;

13.5. Witness from the office of DDA;

13.6. Witnesses to prove identity of accused no.3 & 4;

13.7. Expert witness;

13.8. Sanctioning authority; and

13.9. Witness involved in investigation;

14. The ***first category*** of witnesses can be further sub-divided as *promoter members; members enrolled after registration of Society but before its winding up; members enrolled after winding up but before revival;* and *members enrolled after revival of the Society*.

15. A brief gist of the testimony of prosecution witnesses (according to the categories and sub-categories described hereinabove), shall help understand about the case that was proved by the prosecution and it shall become easier to examine if the prosecution was able to establish the guilt of the accused persons. The gist is captured in the forthcoming table[2]:

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[2] As per Form A of Practice Directions No. 180/Rules/DHC dated 26.05.2026 issued by the Hon'ble High Court of Delhi, modified slightly to adapt to the requirements of this judgment without compromising the essentials that are required to be included in the table as per aforesaid Practice Directions.

S.No.	Witness No.	Name of Witness (with Member No. in case of Ist Category)	Gist of Testimony
Description/Role: Promoter Members of the Society			
1.	PW1	A. S. Sahi (19)	**These witnesses proved that:** The Society was formed by the employees working in the office of CAG or its sub-offices, in the year 1983, having its registered office at Indraprastha Bhawan, Delhi. Accused no.2 was the secretary of the Society at that time. The Society had 63 promoter members and it was registered in the office of RCS in the year 1983 itself. These witnesses were genuine promoter members of the Society and the documents related to registration of the Society contained their genuine signatures. The resignation letters, refund receipts and some of the minutes of meetings in the proceedings register carried their forged signatures.
2.	PW4	G. D. Kapoor (43)	
3.	PW5	S. C. Nathani (55)	
4.	PW9	Shiv Bhajan Ram (31)	
5.	PW10	Shashi Pathak (17)	
6.	PW13	S. P. Chandele (49)	
7.	PW15	Dharam Dev Singh (16)	
8.	PW16	Shant Kumar (28)	
9.	PW17	Dal Chand (38)	
10.	PW21	Usha Rani Sant (22)	
11.	PW22	H. G. Sindwani (51)	
12.	PW24	M. K. Aggarwal (12)	
13.	PW25	Gopi Chand (13)	
14.	PW26	Rakesh Bhardwaj (57)	
15.	PW27	Jiwan Singh (3)	
16.	PW28	Rajender Prasad (53)	
17.	PW29	Chander Prakash (21)	
18.	PW30	B. S. Negi (27)	
19.	PW31	Bache Singh (26)	
20.	PW32	Gulshan Relan (25)	
21.	PW33	R. S. Sharma (40)	
22.	PW63	Bhagwan Singh (35)	
23.	PW23	Manoj Garg	Being son-in-law of one Naresh Chand Jain (Membership No. 4), he appeared in the witness box to identify signatures of his late father-in-law. He proved

			that his father-in-law was the promoter member of the Society; he never resigned from his membership; and his signature on the resignation letter and refund receipt had been forged by someone.
Description/Role: Members Enrolled after Registration but before Winding up of the Society			
24.	PW2	Gurinder Singh Chawla (82)	They became members of the Society in 1984/85, after its registration. Accused no.2 was one of the office bearers of the Society at that time too. The membership register contained their genuine signatures but the resignation letters and refund receipts qua them had been forged, as they had never resigned from the membership of the Society.
25.	PW3	Kamalendu (81)	
26.	PW6	Pramod Kumar (119)	
27.	PW7	Surender Singh (93)	
28.	PW8	B. M. Sharma (96)	
29.	PW11	S. K. Shukla (66)	
30.	PW18	Urmila Bahuguna (97)	
31.	PW50	Rajiv Gaur (107)	
32.	PW56	Narender Kumar Gupta (79)	
Description/Role: Members Enrolled after Winding up but before Revival of the Society			
33.	PW19	Gurbachan Singh (236)	They deposed that they were genuine members of the Society. Their signatures on all the documents, including resignations and refund receipts, were genuine. All the meetings of the Society shown in the proceedings registers as attended by them, also carried their genuine signatures. **PW34** specifically deposed that he had visited the office of the Society at B-II/184, Madangir, New Delhi 2-3 times; accused no.3 & 4 had informed him that they had got the Society revived from the office of RCS and that
34.	PW34	Manoj Kumar (-)	
35.	PW35	Kamaljeet Vohra (235)	
36.	PW36	Harish Chander (232)	
37.	PW39	S. P. Tyagi (239)	
38.	PW45	Anish Gupta (251)	
39.	PW52	Ravinder Kumar Vohra (233)	

			he had visited the residence of accused no.3 once. No illegality in the functioning of the Society was pointed out by any of these witnesses.
Description/Role: Members Enrolled after Revival of the Society			
40.	PW14	Basant Kumar Birla	Gauri Shankar Birla (Membership No. 377), father of PW14, became a member in the year 2005 and later resigned. His entire money was refunded by the Society. No illegality in the functioning of the Society was pointed out by this witness.
41.	PW40	Harnam Singh (-)	They became members of the Society after its revival and later resigned. Entire money paid by them was refunded. No illegality in the functioning of the Society was pointed out by them.
42.	PW43	Rajender Prasad Arora (-)	
43.	PW46	S. C. Narang (252)	
44.	PW20	Ashok Kumar Bajaj (300)	Genuine existing members of the Society, who obtained membership after its revival. No illegality in the functioning of the Society was pointed out by them.
45.	PW37	Rakesh Arora (331)	
46.	PW38	Fakir Chand (298)	
47.	PW41	Vishwanath Goenka (361)	
48.	PW42	Raj Kumar Rateja (308)	
49.	PW51	Gurdita Ram (301)	
Description/Role: Witness involved in Revival of the Society			
50.	PW44	Sr. Advocate Rakesh Munjal	He deposed that he took up the case of the Society before the Hon'ble LG for setting aside of Winding up Order dated 31.10.1990, that was set aside on 26.08.1994. Pursuant thereto, he filed an application dated 20.07.1998 for revival of the Society.

Description/Role: Witnesses pertaining to Office location of the Society Post Revival			
51.	PW47	Khyali	These witnesses confirmed that the accused no.4 resided on rent at the first floor of house no. B-II/184, Madangir, New Delhi for about 2 years. PW47 deposed that accused no.4 was running office of some Society from the portion of the aforesaid premises under his tenancy, while PW 48 deposed that some office was being run by the accused no.4 from the aforesaid portion though not office of the Society.
52.	PW48	Sanjay	
53.	PW53	Ramesh Kumar	
Description/Role: Witnesses from the Office of RCS			
54.	PW49	Kartar Singh, Assistant Registrar (Central), in the office of RCS till the year 1999.	These witnesses had dealt with the file of the Society in the office of RCS, Delhi during their respective tenure. They proved various Office Noting related to revival of the Society and approval of enrollments and resignations of members. They also proved the signatures of themselves as well as of accused no. 1, 5 & 7 on these Office Noting.
55.	PW57	Vijay Kumar, Dealing Assistant (LDC), in the office of RCS from 1994 to 2001.	
56.	PW59	Krishan Kumar, Joint Registrar, in the office of RCS 1999 to 2002.	
57.	PW61	Gopal Singh Bisht, Dealing Assistant (LDC) from March, 2000 to February, 2004.	
58.	PW62	Umesh Singh Nimesh, Stenographer in the office of RCS from 1997 to January, 2001.	
59.	PW54	Virender Kumar Bansal, Assistant Registrar in the office of RCS from 2004 – 2008.	This witness deposed about the functions of the RCS. He stated that the Societies used to be registered for various purposes; RCS used to monitor the

			holding of elections, Audits and AGMs by the Societies as per the provisions of the DCS Act and the rules framed thereunder i.e. the DCS Rules, 1973.
Description/Role: Witness from the Office of DDA			
60.	PW55	Virender Singh Verma, Assistant Director, Group Housing Society in the office of DDA, Vikas Sadan from 2001 to May, 2004.	He had dealt with the file of the Society in the office of DDA. He proved various communications and Office Noting related to allotment of land to the Society; demand raised for payment; extension sought for making the payment; and permission granted to mortgage the land.
Description/Role: Witnesses to prove Identity of Accused No.3 &4			
61.	PW58	Jag Jiwan, Section Officer, Department of Industrial Policy & Promotion & Ministry of MSMEs, Udyog Bhawan, New Delhi from 1999 to 2000.	He identified photocopy of the ID Card of accused no. 4 to prove that in his official circle accused no. 4 was known as Arjun Singh and not Arjun Singh Kushwaha. Accused no. 4 was working as personal staff of the Minister of Small-Scale Industries when the said ID Card was issued to him.
62.	PW60	P. Pulamte, Section Officer, National Building Organization (NBO), Ministry of Housing & Urban Poverty Alleviation, Nirman Bhawan, New Delhi.	He identified photocopy of the ID Card of accused no. 3 to prove that in his official circle accused no. 3 was known as P. N. Sharma and not P. N. Samadhiya. Accused no. 3 was working as Economic Officer in the NBO when the said ID Card was issued to him.
Description/Role: Expert Witness			
63.	PW64	Mohinder Singh, Deputy Govt. Examiner of Questioned Documents (GEQD), Shimla	He is the handwriting expert who, on the request of CBI, had compared the questioned signatures/writings with

			specimen signatures/writings and furnished his opinion with reasons.
Description/Role: Sanctioning Authority			
64.	PW65	S. G. Mulchandaney, posted as Under Secretary to the Govt. of India in the Department of Personnel & Training in June, 2010.	He had conveyed the decision of Hon'ble President of India to accord sanction for prosecution of accused no. 7 and authenticated the sanction order.
Description/Role: Witness involved in Investigation			
65.	PW66	R. R. Sahay, Sr. SP, CBI	He had supervised the investigation of this case conducted by the IO Inspector S. R. Thakur and had forwarded the charge sheet. He mainly identified the signatures of IO on various documents prepared during investigation. IO himself could not be examined as he expired during the pendency of trial.

16. The documents relied upon by the prosecution in the charge sheet and exhibited during the recording of testimonies of the prosecution's witnesses are detailed in the forthcoming table[3]:

S.No.	Description of the Document	Exhibit No.	Identified by	Relevant Deposition regarding the Document
Document No. D-1 to D-3				
1.	FIR	Ex. PW66/A (D-1)	PW66	Identified signatures of self & the IO Inspector S. R. Thakur on the FIR.
2.	Handing/Taking Over Memo dated 29.09.2006.	Ex. PW66/B (D-2)	PW66	Identified signatures of IO Inspector S. R. Thakur & Inspector R. N. Maharia. Files pertaining to the

[3] As per Form A of Practice Directions No. 180/Rules/DHC dated 26.05.2026 issued by the Hon'ble High Court of Delhi, modified slightly to adapt to the requirements of this judgment without compromising the essentials that are required to be included in the table as per aforesaid Practice Directions.

				Society seized from the office of RCS were handed over to the IO by Inspector R. N. Maharia vide this memo.
3.	Seizure Memo dated 27.10.2006.	Ex. PW66/C (D-3)	PW66	Identified signatures of IO Inspector S. R. Thakur on the memo. Record of the Society was seized vide this memo from its President.
Document No. D-4				
4.	The complete file containing Office Noting pertaining to the Society seized from the office of RCS vide D-2.	Ex. PW49/A	PW49, 57, 59, 61 & 62.	Witnesses identified the file as pertaining to the Society & dealt by them during their tenure in the office of RCS.
5.	Office Noting A to A initiated on 22.01.1999 by the Dealing Assistant & moved to AR (Central), who commented from A1 to A1; & DR (Central); on 27.01.99 & 29.01.99 respectively.	Ex. PW49/B (Colly) (Page No. 20/N & 21/N)	PW49 & PW57	A proposal to call the office bearers of the Society with relevant record was moved vide this Noting; was approved by the AR & DR; & put up before the JR, in the office of RCS. The proposal was moved on receipt of the application for revival of the Society. Witnesses identified the signatures of their own & of accused no.1 at points X, B & C, in their deposition.
6.	Office Noting A2 to A2 initiated on 03.02.1999 by the Dealing Assistant & moved to AR (Central) on 04.02.99; back to the Dealing Assistant who again had put his Noting from A3 to A3 on 06.04.99 that was then moved to AR	Ex. PW49/C (Colly) (Page No. 22/N & 23/N)	PW49 & PW57	The proposal to call the office bearers of the Society with relevant record & condoning the delay in moving the revival application was further discussed vide this Noting on initiation of Dealing Assistant; office bearers of the Society were called; & they appeared on 06.04.1999. The proposal was recommended by the

	(Central) & DR (Central) on 09.04.99 & 16.04.99 respectively.			AR & DR, in the office of RCS. Witnesses identified the signatures of their own & of accused no.1 at points X, D, E & F.
7.	Office Noting A4 to A4 initiated on 29.04.1999 by the Dealing Assistant & moved to AR (Central) & DR (Central) on 03.05.99 & 05.05.99 respectively; back to the Dealing Assistant who again had put his Noting from A5 to A5 on 10.05.99 that was moved to AR (Central) on 11.05.99.	Ex.PW49/D (Colly) (Page No. 24/N & 25/N)	PW49 & PW57	The proposal to call the office bearers of the Society with relevant record & condoning the delay in moving the revival application was further discussed vide this Noting on initiation of Dealing Assistant. The proposal was approved by the AR & DR, in the office of RCS. Witnesses identified the signatures of their own & of accused no.1 at points X, F, G & H.
8.	Office Noting dated 12.05.99, of DR (Central), pursuant to the Noting dated 11.05.99 of AR (Central) which is part of Ex. PW49/D (Colly); marked back to AR (Central) and taken up by him on 14.05.99.	Ex. PW49/E (Page No. 26/N)	PW49	Witness identified the signatures of his own & accused no. 1 at points K & J respectively. Noting relates to the proposal to call office bearers of the Society & condone delay.
9.	Office Noting B to B initiated on 17.05.1999 by the Dealing Assistant & moved to AR (Central), DR (Central) & JR (Central) who commented from A6 to A6, on	Ex. PW49/F (Colly) (Page No. 27/N to 29/N)	PW49; PW57; & PW59.	A proposal to call the office bearers of the Society with relevant record & condonation of delay was further discussed vide this Noting; was approved by the AR & DR & the JR, in the office of RCS. Witnesses identified the signatures of their own &

	18.05.99, 19.05.99 & 21.05.99 respectively.			of accused no.1 at points X, M & L, in their deposition.
10.	Office Notings of Dealing Assistant from A7 to A7; A8 to A8; B1 to B1; B2 to B2 & B3 to B3 initiated on 27.05.99; 25.06.99; 16.07.99; 17.09.99; & 14.10.99 respectively, moved to AR (Central) on the same dates and Noting A8 to A8 also moved to DR (Central) on 16.07.99.	Ex. PW49/G (Colly) (Page No. 30/N to 32/N)	PW49 & PW57.	The proposal to call the office bearers of the Society with relevant record & condonation of delay was further discussed vide these Noting and was approved by the AR & DR in the office of RCS. Witnesses identified the signatures of their own & of accused no.1 at points X, N, O, P, Q, R & S in their deposition.
11.	Office Noting dated 08.03.2000, of JR in the office of RCS, from X1 to X1.	Part of Ex.PW49/A *(No separate exhibit number given)* (Page No. 35/N)	PW59	Witness identified his own signature at point X2. Vide this Noting PW59 proposed that the request for revival of the Society may be considered after hearing the office bearers of the Society.
12.	Office Noting dated 09.03.2000 of RCS from Y1 to Y1.	Part of Ex.PW49/A *(No separate exhibit number given)* (Page No. 35/N)	PW62	Signature of accused no.7 as RCS at point Y and his handwriting on the Noting Y1 to Y1 identified by the witness. Vide this Noting accused no. 7 directed the JR to issue notice and fix up a meeting with President/Secretary of the Society.
13.	Office Noting from point 1 to 1 and 2 to 2 dated 23.03.2000 & 30.03.2000	Ex. PW59/A (Page No. 36/N)	PW59	Signature of accused no.7 and his own identified by the witness at Point A & B respectively, proving that

	respectively.			the accused no.7 had directed that an Observer be sent to the meeting of the Society pursuant to which accused no.5 was appointed by the witness.
14.	Office Noting from Point 3 to 3 dated 17.04.2000 placed before the RCS on 18.04.2000.	Part of Ex. PW59/B (Colly) (Page No. 37/N)	PW59	The report regarding elections in the GBM of the Society (Ex. PW59/C) prepared by accused no.5 was put up by him before the accused no.7 vide this Noting, along with minutes of the meeting & details of newly elected members of the managing committee. Accused no.7 accepted this report. Witness proved signatures of both the accused on this Noting at points C & D respectively.
15.	Office Noting dated 20.04.2000, of DR (Central), from Point 4 to 4, approved by the RCS vide Noting from Point 5 to 5 dated 24.04.2000.	Part of Ex. PW59/B (Colly) (Page No. 37/N & 38/N)	PW59	Proposal to revive the Society was put up by the accused no.1 and approved by the accused no.7 vide these Noting, whose signatures identified by the witness at points E & F respectively.
16.	Office Noting dated 01.10.2001; 09.10.2001; & 29.10.2001.	Ex. PW36/D (Colly) (Page 41/N)	PW36	Witness admitted his signatures at points A, B & C in the margin of the Noting. The Noting pertain to production of original record by the witness and its verification by the office of RCS.
17.	Office Noting dated 26.03.2002, of Dealing Assistant, placed before AR (South) on the same day.	Ex. PW61/A (Colly) (Page No. 42/N to 50/N)	PW61	On this Noting regarding enrollment & resignation of members of the Society, signature of his own and AR (South) identified by the witness at points A & B respectively.

18.	Office Noting dated 28.03.2002, of JR (South) in the office of RCS, from X3 to X3.	Part of Ex.PW49/A *(No separate exhibit number given)* (Page No. 50/N to 51/N)	PW59	Witness identified his own signature at point X4. Vide this Noting the witness recommended approval of the proposal regarding enrollment & resignation of members.
Document No. D-5 to D-35 (Seized from the Office of RCS vide D-2)				
19.	Intensive Enquiry Proforma	Ex.PW1/B (D-5)	PW - 1, 4, 5, 9, 10, 13, 15 to 17, 22, 24 to 33 & 63.	All the witnesses, except PW29, identified their signatures against entries corresponding to their membership number. Some of the entries also separately exhibited as Ex.PW13/F; 15/D; 16/D; 24/B; 25/C; 26/B; 27/C; 28/B; 29/B; 30/F; 31/C; 32/B; & 33/C.
20.	Application for Registration of the Society	Ex.PW1/D (D-5)	PW - 1, 4, 5, 9, 10, 13, 15 to 17, 24 to 27, 29 & 31.	All the witnesses identified their signatures against entries corresponding to their membership number. Some of the entries also separately exhibited as Ex.PW13/H; 15/F; 16/F; 24/D; 25/E; 26/D; 27/E; 29/D; & 31/B.
21.	Application for Registration of the Society	Ex.PW13/J (D-5)	PW - 13, 15 to 17, 24 to 28, 30, 32 & 33.	All the witnesses identified their signatures against entries corresponding to their membership number. Some of the entries also separately exhibited as Ex.PW13/K; 15/G; 16/G; 24/E; 25/F; 26/E; 27/F; 28/D; 30/B; 32/A; & 33/A.
22.	List of Promoter Members annexed with the Bye Laws	Ex.PW1/C (D-6)	PW - 1, 4, 5, 9, 10, 13, 15 to	All the witnesses, except PW29, identified their signatures against entries

			17, 24 to 33 & 63.	corresponding to their membership number. Some of the entries also separately exhibited as Ex.PW13/G; 15/E; 16/E; 24/C; 25/D; 26/C; 27/D; 28/C; 29/C; 30/C; & 31/D.
23.	Letter dated 10.09.1997	Ex. PW24/F (D-18)	PW24	Witness deposed that this letter, requesting for consideration of revival of the Society, was written to RCS by the accused no.2 whose signature was also identified by the witness.
24.	Application dated 20.07.1998	Ex. PW44/A (D-19)	PW44	Witness identified signatures of his own and accused no. 2 on the application and deposed that it was filed in the office of RCS requesting to declare that the irregularities have been removed by the Society and it be cleared for allotment of land.
25.	Report dated 17.04.2000 regarding elections of Managing Committee of the Society, held in the GBM dated 15.04.2000.	Ex. PW59/C (D-34)	PW59	Witness identified the signature of accused no.5 at point A on the report.
26.	Revival Order dated 28.04.2000	Ex. PW62/A (D-35)	PW62	Witness identified the signature of accused no.7 at point A on the Order.
Document No. D – 90 to 142, Vol III/1 (Seized from the Office of RCS vide D-2)				
27.	Attested Copy of Resignation Letter of S. P. Chandale	Ex. PW13/E (Page No. 000606)	PW13	Signature denied, as having been forged.
28.	Attested Copy of Resignation Letter of Dharam Dev Singh, dated 01.06.95	Ex. PW15/C (Page No. 000612)	PW15	Signature denied, as having been forged.

29.	Attested Copy of Resignation Letter of Bhajan Ram, dated 15.06.88	Ex. PW9/PX-1 (Page No. 000633)	PW9	Signature denied, as having been forged.
30.	Attested Copy of Resignation Letter of Shant Kumar, dated 31.03.88	Ex. PW16/C (Page No. 000635)	PW16	Signature denied, as having been forged.
31.	Attested Copy of Resignation Letter of Shashi Sharma, dated 31.03.88	Ex. PW10/PX-1 (Page No. 000638)	PW10	Signature denied, as having been forged.
32.	Attested Copy of Resignation Letter of Urmila Bahuguna, dated 25.11.87	Ex. PW18/C (Page No. 000651)	PW18	Signature denied, as having been forged.
33.	Attested Copy of Refund Receipt of Shashi Sharma, dated 25.04.88.	Ex. PW10/PX-2 (Page No. 000804)	PW10	Signature denied, as having been forged.
34.	Attested Copy of Refund Receipt of Urmila Bahuguna, dated 30.12.87.	Ex. PW18/D (Page No. 000817)	PW18	Signature denied, as having been forged.
35.	Affidavit of S. C. Narang, dated 10.10.2000.	Ex. PW46/A (Page No. 000938)	PW46	His signatures admitted by the witness.
36.	Affidavit of Anish Gupta, dated 10.10.2000.	Ex. PW45/A (Page No. 000940)	PW45	His signatures admitted by the witness.
37.	Affidavit of S. P. Tyagi, dated 10.10.2000	Ex. PW39/B (Page No. 000964)	PW39	His signatures admitted by the witness.
38.	Affidavit of Gurbachan Singh, dated 10.10.2000	Ex. PW19/D (Page No. 000970)	PW19	His signatures admitted by the witness.

39.	Affidavit of Kamaljeet, dated 05.12.2000	Ex. PW35/A (Page No. 000972)	PW35	His signatures admitted by the witness.
40.	Affidavit of Manoj Kumar, dated 05.12.2000	Ex. PW34/B (Page No. 000974)	PW34	His signatures admitted by the witness, further clarifying that when it was signed by him it had already been typed and was got notarized by accused no. 3.
41.	Affidavit of Ravinder Vohra, dated 05.12.2000	Ex. PW52/A (Page No. 000976)	PW52	His signatures admitted by the witness.
42.	Affidavit of Harish Chander	Ex. PW36/A (Page No. 000978)	PW36	Signature & purchasing of stamp paper admitted.
Document No. D – 90 to 142, Vol III/2 (Seized from the Office of RCS vide D-2)				
43.	Entry no. 21 pertaining to Jiwan Singh in the List of Resigned Members	Ex. PW27/H (Page No. 001282 to 001284)	PW27	Entry denied, further clarifying that father's name written in the entry was also incorrect.
Document No. D – 143 to 206				
44.	Resignation Letter of Gaurishankar Birla, dated 15.12.2005.	Ex. PW14/A (Page No. 001604)	PW14	Signature of his father admitted by PW14.
45.	Receipt dated 13.02.2006 regarding refund of Rs.5,00,100/- to Gaurishankar Birla.	Ex. PW14/B (Page No. 001605)	PW14	Signature of his father and refund of Rs.5,00,100/- admitted by PW14.
46.	Resignation Letter of Kamaljeet Vohra, dated 16.06.2005.	Ex. PW35/B (Page No. 001628)	PW35	His signature admitted by the witness.
47.	Receipt regarding refund of Rs.3,55,300/- to Kamaljeet Vohra.	Ex. PW35/C (Page No. 001629)	PW35	Signature and Refund of Rs.3,55,300/- vide cheque no. 848940 admitted.

48.	Resignation Letter of S. C. Narang, dated 10.05.2005 & Receipt regarding refund of Rs.4,65,100/- to him.	Ex. PW46/B (Colly) (Page No. 001632 - 001633)	PW46	His signature on both the documents and refund of Rs.4,65,100/- admitted by the witness.
49.	Resignation Letter of Harish Chander, dated 14.05.2005.	Ex. PW36/B (Page No. 001638)	PW36	His signature admitted by the witness.
50.	Receipt dated 31.10.05 regarding refund of Rs.5,55,600/- to Harish Chander.	Ex. PW36/C (Page No. 001639)	PW36	Signature and Refund of Rs.5,55,600/- admitted.
51.	Resignation Letter of Gurbachan Singh, dated 11.02.2005.	Ex. PW19/E (Page No. 001655)	PW19	His signature admitted by the witness.
52.	Receipt dated 24.03.05 regarding refund of Rs.4,300/- to Gurbachan Singh.	Ex. PW19/F (Page No. 001656)	PW19	Signature and Refund of Rs.4300/- admitted.
Document No. D – 207				
53.	Register of Members	Ex. PW4/PX	PW4 to 11; PW13; PW15 to 22; PW24 to 39; PW41 to 42; PW45 to 46; PW50 to 52; PW56; and PW63.	All the witnesses, except PW8, 50 & 56, identified their signatures against entries corresponding to their membership number, proving that they were genuine members of the Society. Some of the entries also separately exhibited as Ex.PW13/A; 15/A; 16/A; 18/A; 19/C; 20/A; 24/A; 25/B; 26/A; 27/A; 28/A; 29/A; 30/D; 31/A; 32/A1; 33/B; & 34/A. PW8, 50 & 56 identified their particulars against relevant entries as correct & confirmed that they had

				become members of the Society. Remarks 'resigned' against their respective entries in the register denied by PW4 to 5; PW8 to 11; PW21 to 22; PW24 to 33; PW56 & PW63. PW11 also identified the signatures of his two brothers, namely, Sushil Kumar Shukla & Sudesh Kumar at Sr. No. 67 & 68 and denied the remarks 'resigned' against these entries.
Document No. D - 208 to 214 (Proceedings Register)				
54.	Minutes of Managing Committee dated 25.05.1987	Ex. PW6/B	PW6	Witness denied attending the meeting though he was shown as resigned as per minutes.
55.	Minutes of Annual General Meeting dated 15.01.1988	Ex. PW4/PX-3	PW4	Witness denied his signature at Sr. No. 5 & stated that the said meeting was not attended by him.
56.	Minutes of Managing Committee dated 14.04.1988	Ex. PW7/A	PW7	Witness denied attending the meeting though he was shown as resigned as per minutes.
57.	Minutes of Annual General Meeting dated 30.11.1994	Ex. PW22/C	PW22	Witness denied his signatures at Sr. No. 8 under agenda no. 4 & stated that the said meeting was not attended by him.
58.	Minutes of Managing Committee Meeting dated 30.06.1995	Ex. PW4/PX-2	PW4	Witness denied attending this meeting though his name was mentioned at Sr. No.6.
59.	Minutes of Managing Committee Meeting	Ex. PW22/D	PW22	Witness denied his signatures at Sr. No. 1 under agenda no. 2

	dated 30.11.1995 & Minutes of AGM dated 31.12.1995.			(30.11.1995) and Sr. No. 19 under agenda no. 3 (31.12.1995).
60.	Minutes of the Annual General Meeting dated 15.04.2000	Ex. PW35/D *with entry no. 56 & 57 separately exhibited as Ex. PW19/G & Ex. PW34/C respectively.*	PW19, 34, 35, 36 & 52	Witnesses admitted their signatures on the minutes.
Document No. D - 215 (Proceedings Register – Ex. PW6/PX)				
61.	Minutes of General Body Meeting dated 30.08.1983	Ex. PW1/A	PW1, 4, 5, 9, 10, 13, 15 – 17, 22, 24, 25, 27, 29, 30, 63.	Bye-laws of the Society were adopted in this meeting. All the witnesses admitted their signatures.
62.	Minutes of the Managing Committee Meeting dated 27.12.1983	Part of Ex. PW6/PX	PW22	His signatures admitted by PW22, who is shown as Vice President of the Managing Committee of the Society. Accused no.2 is shown as Secretary of the Society in these minutes, whose signature also identified by the witness.
63.	Minutes of General Body Meeting dated 31.12.1983	Part of Ex. PW6/PX	PW13 & PW15	Signatures admitted and entries no. 26 & 8 qua PW13 & 15 respectively, are separately exhibited as Ex.PW13/C & Ex.PW15/B1.
64.	Minutes of Managing Committee Meeting dated 28.09.1984	Ex. PW2/C	PW2, 3, 7 & 8	Though the minutes mention names of the witnesses at Sr. No. ii, i, xiii & xvi respectively they denied attending the meeting.

				Signatures of office bearers of the committee however identified.
65.	Minutes of Managing Committee Meeting dated 15.03.1985	Ex. PW6/A	PW6	Membership of PW6 was confirmed in this meeting.
66.	Minutes of Annual General Body Meeting dated 17.02.1986	Part of Ex.PW6/PX	PW13	Signatures admitted and entry no. 16 qua PW13 is separately exhibited as Ex.PW13/D.
67.	Minutes of General Body Meeting dated 01.08.1986	Ex. PW33/F	PW33	His signatures admitted by PW33. This meeting was adjourned to 08.08.1986.
68.	Minutes of General Body Meeting dated 08.08.1986	Ex. PW33/G	PW33	His signatures admitted by PW33.
69.	Minutes of General Body Meeting dated 22.05.1987	Ex. PW25/A	PW25, 27 & 33.	Their signatures admitted by PW25, 27 & 33 at sr. no. 4, 8 & 14 respectively.
70.	Minutes of General Body Meeting dated 27.06.1990	Ex. PW27/B	PW27	His signatures admitted by PW27 at sr. no. 6.
71.	Minutes of Managing Committee Meeting dated 01.04.1998	Ex. PW26/G	PW26	Witness denied attending the meeting though his name appeared under agenda no. 2 at sr. no. 17.
72.	Minutes of Special General Body Meeting dated 25.08.2000	Ex. PW34/J *with some entries separately exhibited as Ex.34/D; 34/E; & 19/H.*	PW19, 34, 35, 36, 39 & 54.	PW19, 34, 35, 36 & 54 admitted their signatures on the minutes, while PW39 denied attending the meeting though his name was mentioned in the minutes.
73.	Minutes of Managing Committee Meeting dated 09.01.2001	Ex. PW34/F	PW34	His signature admitted by the witness.

74.	Minutes of the Managing Committee Meeting dated 22.08.2001	Ex. PW34/G	PW34	His signature admitted by the witness.
75.	Minutes of Managing Committee Meeting dated 05.09.2001	Ex. PW34/H	PW34	His signature admitted by the witness.
76.	Minutes of Managing Committee Meeting dated 02.10.2001	Ex. PW34/I	PW34	His signature admitted by the witness.
Document No. D – 216 (Applications & Receipts of Resigned Members)				
77.	Resignation – cum – Receipt dated 03.04.98 & 16.04.98 respectively, pertaining to R. S. Sharma	Ex. PW33/D (Page No. 002068)	PW33	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
78.	Resignation – cum – Receipt dated 03.04.98 & 16.04.98 respectively, pertaining to S. K. Shukla	Ex. PW11/A (Page No. 002071)	PW11	Signature on the resignation and receipt denied, as having been forged.
79.	Resignation – cum – Receipt dated 03.04.98 & 16.04.98 respectively, pertaining to H. S. Sindhwani	Ex. PW22/A (Page No. 002072)	PW22	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- and handwriting on the name also denied.
80.	Resignation – cum – Receipt dated 22.03.98 & 04.04.98 respectively, pertaining to Kamelendu	Ex. PW3/A (Page No. 002091)	PW3	Signature on the resignation and receipt denied, as having been forged.

81.	Resignation – cum – Receipt dated 22.03.98 & 04.04.98 respectively, pertaining to R. Bhardwaj	Ex. PW26/F (Page No. 002092)	PW26	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- & handwriting on the name & membership also denied.
82.	Resignation – cum – Receipt dated 22.03.98 & 04.04.98 respectively, pertaining to S. C. Naithani	Ex. PW5/A (Page No. 002093)	PW5	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
83.	Resignation – cum – Receipt dated 07.05.97 & 04.06.97 respectively, pertaining to Rajiv Gaur	Ex. PW50/A (Page No. 002100)	PW50	Signature on the resignation and receipt denied, as having been forged. Refund of money shown at point X also denied.
84.	Resignation – cum – Receipt dated 01.05.97 & 02.06.97 respectively, pertaining to B. S. Negi	Ex. PW30/A (Page No. 002118)	PW30	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- & handwriting on the name & membership also denied.
85.	Resignation – cum – Receipt dated 01.05.97 & 02.06.97 respectively, pertaining to Chander Prakash.	Ex. PW29/E (Page No. 002119)	PW29	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- denied.
86.	Resignation – cum – Receipt dated 01.05.97 & 02.06.97 respectively, pertaining to A. S. Sahi.	Ex. PW1/E (Page No. 002120)	PW1	Signature denied, as having been forged.
87.	Resignation – cum – Receipt dated 01.11.95 &	Ex. PW8/PX (Page No.	PW8	Signature on the resignation and receipt denied, as having been

	02.12.95 respectively, pertaining to B. M. Sharma.	002132)		forged.
88.	Resignation – cum – Receipt dated 01.06.95 & 07.07.95 respectively, pertaining to Narender Kumar Gupta.	Ex. PW56/A (Page No. 002138)	PW56	Signature on the resignation and receipt denied, as having been forged. Refund of money shown at point X also denied.
89.	Resignation – cum – Receipt dated 01.06.95 & 05.07.95 respectively, pertaining to G. D. Kapoor.	Ex. PW4/PX-1 (Page No. 002417)	PW4	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
90.	Resignation – cum – Receipt dated 01.06.95 & 05.07.95 respectively, pertaining to Bhagwan Das.	Ex. PW63/A (Page No. 002148)	PW63	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
91.	Resignation – cum – Receipt dated 01.06.95 & 05.07.95 respectively, pertaining to Usha Rani Sant.	Ex. PW21/A (Page No. 002150)	PW21	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
92.	Resignation – cum – Receipt dated 01.06.95 & 05.07.95 respectively, pertaining to Dharam Dev Singh.	Ex. PW15/H (Page No. 002151)	PW15	Signature on the resignation and receipt denied, as having been forged.

93.	Resignation – cum – Receipt dated 20.06.88 & 10.07.88 respectively, pertaining to Pramod Kumar.	Ex. PW6/C (Page No. 002154)	PW6	Signature on the resignation and receipt denied, as having been forged.
94.	Resignation – cum – Receipt dated 18.06.88 & 10.07.88 respectively, pertaining to Suvinder Singh.	Ex. PW7/B (Page No. 002161)	PW7	Signature on the resignation and receipt denied, as having been forged.
95.	Resignation – cum – Receipt dated 18.06.88 & 10.07.88 respectively, pertaining to G. S. Chawla.	Ex. PW2/B (Page No. 002165)	PW2	Signature on the resignation and receipt denied, as having been forged.
96.	Resignation – cum – Receipt dated 15.06.88 & 10.07.88 respectively, pertaining to Rajinder Prasad.	Ex. PW28/E (Page No. 002169)	PW28	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- & handwriting on the name & membership also denied.
97.	Resignation – cum – Receipt dated 15.06.88 & 12.07.88 respectively, pertaining to Bhajan Ram.	Ex. PW9/PX (Page No. 002173)	PW9	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
98.	Resignation – cum – Receipt dated 31.03.88 & 30.04.88 respectively, pertaining to Shant Kumar.	Ex. PW16/H (Page No. 002175)	PW16	Signature on the resignation and receipt denied, as having been forged.
99.	Resignation – cum – Receipt dated 31.03.88 &	Ex. PW32/C (Page No. 002176)	PW32	Signature on the resignation and receipt denied, as having been

	30.04.88 respectively, pertaining to Gulshan Relan.			forged. Receipt of Rs.100/- also denied.
100.	Resignation – cum – Receipt dated 31.03.88 & 25.04.88 respectively, pertaining to Shashi Sharma.	Ex. PW10/PX (Page No. 002179)	PW10	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
101.	Resignation – cum – Receipt dated 31.03.88 & 25.04.88 respectively, pertaining to M. K. Aggarwal.	Ex. PW24/G (Page No. 002180)	PW24	Signature on the resignation and receipt denied, as having been forged.
102.	Resignation – cum – Receipt dated 31.03.88 & 20.04.88 respectively, pertaining to Jiwan Singh	Ex. PW27/G (Page No. 002185)	PW27	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- & handwriting on the name & membership also denied.
103.	Resignation – cum – Receipt dated 25.11.87 & 30.12.87 respectively, pertaining to Urmila Bahuguna.	Ex. PW18/B (Page No. 002191)	PW18	Signature on the resignation and receipt denied, as having been forged.
104.	Resignation – cum – Receipt dated 25.05.87 & 27.05.87 respectively, pertaining to Shushil Shukla.	Ex. PW11/B (Page No. 002196)	PW11	Signature of Sushil Shukla on the resignation and receipt denied, as having been forged.

105.	Resignation – cum – Receipt dated 21.04.87 & 25.05.87 respectively, pertaining to Bache Singh.	Ex. PW31/E (Page No. 002201)	PW31	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- also denied.
106.	Resignation – cum – Receipt dated 20.04.87 & 27.05.87 respectively, pertaining to Gopi Chand.	Ex. PW25/G (Page No. 002205)	PW25	Signature on the resignation and receipt denied, as having been forged. Receipt of Rs.100/- and handwriting on the name & membership also denied, clarifying that resignation could not have been dated 20.04.87 because PW25 had attended the meeting dated 22.05.87, minutes of which are Ex.PW25/A.
107.	Share Certificate pertaining to G. S. Chawla	Ex. PW2/A (OSR) (Page No. 002164)	PW2	Witness deposed that this share certificate was issued to him by the Society when he obtained membership.
Document No. D – 222 to D – 238 [DDA File]				
108.	The complete file containing Office Noting & communications pertaining to the Society seized from the office of DDA	Ex. PW55/A (Colly)	PW55	Witness identified the file as pertaining to the Society & dealt by him during his tenure in the office of DDA.
109.	Office Noting vide which proposal dated 01.11.2001 regarding issuance of offer of allotment of land to the Society was approved on 02.11.2001.	Ex. PW55/H (Page No. 002297)	PW55	The witness identified his own signature as originator of the proposal as well as signatures of higher officials of the rank of Assistant Director, Deputy Director and Director, by whom the proposal was considered and finally approved.
110.	Offer Letter dated 02.11.2001 sent by	Ex. PW55/B (Page No.	PW55	Signature of his own and the Deputy Director

	the DDA to the Society.	002484 to 002489)		identified on the letter by the witness. Vide this letter Society was invited to fill up application form for expressing preference regarding allotment of land at Dwarka / Karkardooma / Dhirpur and make payment accordingly.
111.	Letter dated 26.03.2002 sent by the DDA to the Society.	Ex. PW55/C (D-224) (Page No. 002442)	PW55	Signature of his own and the Deputy Director identified on the letter by the witness. Vide this letter the DDA informed the Society that a draw of lots was held on 22.01.2002 and a plot measuring 7000 sq. mts. was allotted to it at Dhirpur, Delhi.
112.	Demand – cum - Allotment Letter dated 13.02.2003 sent by the DDA to the Society.	Ex. PW55/D (Page No. 002431 to 002432)	PW55	Signature of his own and the Deputy Director identified on the letter by the witness. Vide this letter DDA asked the Society to deposit the balance of 50% of the land premium towards allotment of plot at Dhirpur, Delhi.
113.	Letter dated 20.05.2003 sent by the DDA to the Society.	Ex. PW55/E (Page No. 002425)	PW55	Signature of his own and the Deputy Director identified on the letter by the witness. Vide this letter DDA granted extension of time to the Society w.e.f. 13.04.2003 to 12.08.2003 for making payment of 65% of land premium.
114.	Letter dated 24.06.2003 sent by the DDA to the Society.	Ex. PW55/F (D-231) (Page No. 002407 to 002408)	PW55	Signature of his own and the Deputy Director identified on the letter by the witness. Vide this letter DDA permitted the Society to mortgage plot no.10, Dhirpur, Delhi for raising loan.

115.	Letter dated 23.02.2004 sent by the DDA to the Society	Ex. PW55/G (D-235) (Page No. 002376 to 002377)	PW55	Signature of his own and the Deputy Director on the letter identified by the witness. Vide this letter a demand was raised by the DDA upon the Society for payment of differential amount towards plot no. 10, Dhirpur, Delhi.
Document No. D – 239				
116.	Production – cum – Seizure Memo dated 29.03.2007.	Ex. PW66/D (Page No. 002502)	PW66	Signature of IO Inspector S. R. Thakur identified by the witness. Copy of ID card & electricity bill pertaining to accused no. 3 were seized vide this memo.
Document No. D – 242				
117.	Production – cum – Seizure Memo dated 29.03.2007.	Ex. PW66/E (Page No. 002505)	PW66	Signature of IO Inspector S. R. Thakur identified by the witness. Copy of ID card & house tax receipt pertaining to accused no. 4 were seized vide this memo.
Document No. D – 245				
118.	Letter dated 30.06.2006 regarding fraudulent removal of members from the Society.	Ex. PW9/PX-2	PW9, 10 & 24-31.	Witnesses admitted their signatures on the letter and deposed that it was sent to the Director CBI through M. K. Aggarwal.
Document No. D – 246 (Specimen Signatures/Writings)				
119.	S-1 to S-76 (of accused no.3)	Ex. PW66/H (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
120.	S-77 to S-145 (of accused no. 4)	Ex. PW66/H-1 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
121.	S-146 to S-155 (of accused no.2)	Ex. PW66/H-2 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.

122.	S-156 to S-160 (of PW27)	Ex. PW27/I (Colly)	PW27 & PW66	Specimen admitted by PW27. Signature of IO Inspector S. R. Thakur identified by PW66.
123.	S-161 to S-165 (of M. K. Aggarwal)	Ex. PW66/H-3 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
124.	S-166 to S-170 (of PW 15)	Ex. PW15/K (Colly) *Inadvertently marked as PW15/J (Colly) on the file*	PW15 & PW66	Specimen admitted by PW15. Signature of IO Inspector S. R. Thakur identified by PW66.
125.	S-171 to S-175 (of PW29)	Ex. PW29/F (Colly)	PW29 & PW66	Specimen admitted by PW29. Signature of IO Inspector S. R. Thakur identified by PW66.
126.	S-176 to S-180 (of PW21)	Ex. PW21/B (Colly)	PW21 & PW66	Specimen admitted by PW21. Signature of IO Inspector S. R. Thakur identified by PW66.
127.	S-181 to S-185 (of PW31)	Ex. PW31/F (Colly)	PW31 & PW66	Specimen admitted by PW31. Signature of IO Inspector S. R. Thakur identified by PW66.
128.	S-186 to S-190 (of PW30)	Ex. PW30/E (Colly)	PW30 & PW66	Specimen admitted by PW30. Signature of IO Inspector S. R. Thakur identified by PW66.
129.	S-191 to S-193 (of PW16)	Ex. PW16/K (Colly)	PW16 & PW66	Specimen admitted by PW16. Signature of IO Inspector S. R. Thakur identified by PW66.
130.	S-194 to S-198 (of Vijay Singh Dayal)	Ex. PW66/H-4 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
131.	S-199 to S-201 (of PW63)	Ex. PW63/B (Colly)	PW63 & PW66	Specimen admitted by PW63. Signature of IO Inspector S. R. Thakur identified by PW66.

132.	S-202 to S-206 (of PW17)	Ex. PW17/C (Colly)	PW17 & PW66	Specimen admitted by PW17. Signature of IO Inspector S. R. Thakur identified by PW66.
133.	S-207 to S-211 (of PW33)	Ex. PW33/E (Colly)	PW33 & PW66	Specimen admitted by PW33. Signature of IO Inspector S. R. Thakur identified by PW66.
134.	S-212 to S-216 (of S. P. Chandele)	Ex. PW66/H-5 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
135.	S-217 to S-221 (of PW22)	Ex. PW22/B (Colly)	PW22 & PW66	Specimen admitted by PW22. Signature of IO Inspector S. R. Thakur identified by PW66.
136.	S-222 to S-226 (of PW28)	Ex. PW28/F (Colly)	PW28 & PW66	Specimen admitted by PW28. Signature of IO Inspector S. R. Thakur identified by PW66.
137.	S-227 to S-231 (of PW5)	Ex. PW5/A-1 (Colly)	PW5 & PW66	Specimen admitted by PW5. Signature of IO Inspector S. R. Thakur identified by PW66.
138.	S-232 to S-236 (of PW26)	Ex. PW26/H (Colly)	PW26 & PW66	Specimen admitted by PW26. Signature of IO Inspector S. R. Thakur identified by PW66.
139.	S-237 to S-239 (of V. R. Khanna)	Ex. PW66/H-6 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
140.	S-240 to S-244 (of PW7)	Ex. PW7/C (Colly)	PW7 & PW66	Specimen admitted by PW7. Signature of IO Inspector S. R. Thakur identified by PW66.
141.	S-245 to S-249 (of PW8)	Ex. PW8/PX-1 (Colly)	PW8 & PW66	Specimen admitted by PW8. Signature of IO Inspector S. R. Thakur identified by PW66.
142.	S-250 to S-253 (of Urmila Bahuguna)	Ex. PW66/H-7 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.

143.	S-254 to S-258 (of Rajiv Gaur)	Ex. PW66/H-8 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
144.	S-259 to S-263 (of PW6)	Ex. PW6/D (Colly)	PW6 & PW66	Specimen admitted by PW6. Signature of IO Inspector S. R. Thakur identified by PW66.
145.	S-264 to S-268 (of Vinod Kumar)	Ex. PW66/H-9 (Colly)	PW66	Signature of IO Inspector S. R. Thakur identified.
		Document No. D-247		
146.	Letter dated 09.02.2007 sent by the CBI to the GEQD, Shimla	Ex. PW66/F (Page No. 002515 to 002524)	PW66	Witness identified his signature on the letter. Vide this letter questioned documents with specimen signatures & writings and questionnaire were sent to the GEQD for examination and expert opinion.
147.	Specimen (in ink) of the seal used by the CBI in sealing the questioned documents which were sent to the GEQD, Shimla.	Ex. PW66/G (Page No. 002525)	PW66	Witness identified the signature of IO Inspector S. R. Thakur on the document.
		Document No. D-248		
148.	Forwarding letter dated 09.05.2007 sent by the GEQD, Shimla to the CBI.	Ex. PW64/C (Page No. 002529)	PW64 & PW66	PW64 identified signature of his senior official on the letter. Vide this letter, expert's opinion on questioned documents was forwarded to the CBI by the GEQD, Shimla. PW66 identified signatures of his own and IO Inspector S. R. Thakur at points B & C on the cover of D-248, put in acknowledgment of receipt of opinion.

149.	Opinion of the Expert from GEQD, Shimla on Questioned Documents	Ex. PW64/B (Page No. 002530 to 002535)	PW64	Witness identified his own and colleague's signature on the report. Vide this report, opinion was expert on the questioned signatures and handwritings sent for examination by the CBI.
150.	Reasons for Opinion Ex. PW64/B.	Ex.PW64/D (Page No. 002536 to 002556)	PW64	Witness identified his own signature on this document.
Un-numbered Documents				
151.	Endorsement regarding receipt of the letter dated 09.02.2007 by the GEQD, Shimla from CBI.	Ex. PW64/A (Page No. 002825)	PW64 & PW66	PW64 identified signatures of GEQD official on the endorsement. PW66 identified his own signature on the letter.
152.	Main Chargesheet & Supplementary chargesheet	Ex. PW66/I	PW66	Witness identified signatures of his own & IO Inspector S. R. Thakur on both the chargesheets. The main chargesheet was filed against all the accused persons, while sanction for prosecution of accused no. 7 under PC Act was filed vide the supplementary chargesheet.
153.	Sanction Order dated 04.06.2010 granted as per Sec.19 of the PC Act.	Ex. PW65/A	PW65	Sanction for prosecution of accused no. 7 under the PC Act was granted by the Competent Authority vide this Order.
Statements u/Sec.161 Cr.P.C. exhibited during recording of PE				
154.	Statement of Manoj Garg	Ex. PW23/X	PW23	Witness deposed that his statement was correctly recorded by the IO, when it was shown to him in the Court.
155.	Statement of Kamal Jeet Vohra	Ex. PW35/E	PW35	Witness deposed that he did not remember telling the IO what is recorded in Portion X to X of his

				statement, as per which he had stated that the minutes of meeting Ex.PW34/J were written by accused no.3. Witness further deposed that the portion X1 to X1 of his statement was not stated to the IO by him, as per which the witness had disclosed that he did not attend the meeting dated 15.04.2000 and its minutes Ex. PW35/D were signed by him at the residence of accused no. 3 at Aram Bagh.
156.	Statements of Harish Chander	Ex. PW36/E (Colly)	PW36	Witness deposed that he did not remember telling the IO that the minutes of meeting Ex.PW34/J were written by accused no.3; that the minutes of meeting Ex.PW35/D were signed by him at the instance of accused no. 3 though he did not attend the meeting; and that all the enrollments and resignations were done during the tenure of accused no. 3 & 4.
157.	Statement of Ravinder Kumar Vohra	Ex. PW52/PX	PW52	Witness deposed that his statement in portion A to A was incorrectly recorded, as per which he had disclosed to the IO that the meeting dated 15.04.2000 was not attended by him; he had signed the minutes of that meeting on the request of accused no. 3; and that he had never seen the observer Maha Singh (accused no. 5).

17. The documents detailed in the table[4] below were relied upon by the prosecution in the charge sheet, but were not admitted in evidence being photocopies:

S.No.	Description of the Document	Exhibit No.	Identified by	Relevant Deposition regarding the Document
Document No. D – 90 to 142, Vol III/1 (Seized from the Office of RCS vide D-2)				
1.	Attested Copy of Resignation Letter of Dal Chand, dated 07.12.2000	Mark PW17/A (Page No. 000500)	PW17	Signature denied, as having been forged.
2.	Attested Copy of Resignation Letter of M. K. Aggarwal, dated 31.03.88	Mark A (Page No. 000640)	PW24	Signature denied, as having been forged.
3.	Attested Copy of Refund Receipt of Dal Chand, dated 11.01.2001	Mark PW17/B (Page No. 000666)	PW17	Signature denied, as having been forged.
4.	Attested Copy of Refund Receipt of M. K. Aggarwal, dated 25.04.88.	Mark B (Page No. 000806)	PW24	Signature denied, as having been forged.
Document No. D – 90 to 142, Vol III/2 (Seized from the Office of RCS vide D-2)				
5.	Attested Copy of Application dated 05.05.98 for enrollment as Member by S. C. Narang.	Mark PW46/X (Page No. 001329)	PW46	His signature admitted by the witness.
6.	Attested Copy of Application dated 05.05.98 for enrollment as Member by Anish Gupta.	Mark PW45/X (Page No. 001330)	PW45	His signature admitted by the witness.
7.	Attested Copy of Application dated 08.04.98 for enrollment as	Mark PW39/X (Page No. 001342)	PW39	His signature admitted by the witness.

[4] As per Form A of Practice Directions No. 180/Rules/DHC dated 26.05.2026 issued by the Hon'ble High Court of Delhi, modified slightly to adapt to the requirements of this judgment without compromising the essentials that are required to be included in the table as per aforesaid Practice Directions.

	Member by Satya Pal Tyagi.			
8.	Attested Copy of Application dated 26.03.98 for enrollment as Member by Gurbachan Singh.	Mark PW19/A (Page No. 001345)	PW19	His signature admitted by the witness.
9.	Attested Copy of Application dated 26.03.98 for enrollment as Member by Kamaljeet Vohra.	Mark PW35/X (Page No. 001346)	PW35	His signature admitted by the witness.
10.	Attested Copy of Application dated 26.03.98 for enrollment as Member by Manoj Kumar.	Mark PW34/X (Page No. 001347)	PW34	His signature admitted by the witness.
11.	Attested Copy of Application dated 25.03.98 for enrollment as Member by Harish Chander.	Mark PW36/X (Page No. 001349)	PW36	His signature admitted by the witness.
12.	Copy of the Payment Receipt dated 04.04.98 pertaining to Gurbachan Singh	Mark PW19/B (Page No. 001491)	PW19	Issued for having paid Rs.110/- towards membership fee.
Document No. D-240				
13.	Photocopy of ID proof of accused no. 3	Mark PW60/X (Page No. 002503)	PW60	Witness deposed that the ID card had been issued by the Ministry of Home Affairs, Govt. of India.
Document No. D-243				
14.	Photocopy of ID proof of accused no.4	Mark PW58/X (Page No. 002506)	PW58	Witness deposed that the ID card had been issued by the Ministry of Home Affairs, Govt. of India.
Statement u/Sec.161 Cr.P.C. marked during recording of PE				
15.	Statement of Manoj Kumar	Mark PW34/X1	PW34	Witness admitted having told the IO that he had visited the office of Society

				at B-II/184, Madangir, New Delhi, where he had deposited his filled application form for obtaining membership and had signed an affidavit that had already been typed and was given to him by accused no. 3; that he did not know from where the said affidavit was got notarized; and that accused no. 3 & 4 had informed them in the meeting dated 25.08.2000 that they had got the Society revived. Witness denied having told the IO that the meeting dated 15.04.2000 was not attended by him and its minutes were signed by him at the residence of accused no. 3 on latter's request.

18. The ***accused no. 7*** relied upon a notification dated 16.02.2002 published in the Gazette of India, Extraordinary Part II – Section 3 – Sub-section (ii) dated 18.02.2002, vide which Order no. S. O. 211 (E) dated 16.01.2002 made by the President of India was notified for general information. This notification was put on record by ***PW65 (who proved sanction for prosecution of accused no. 7) during his cross-examination*** and is **Ex.PW65/DX.** The Order that was notified empowers an Under Secretary to the Govt. of India to authenticate all Orders and other instruments made and executed in the name of the President, by putting his own signature.

19. No ***material objects*** were exhibited by the prosecution during recording of PE.

Inquiry into the Mental Health of Accused No. 1

20. The accused no. 1 appeared before this Court regularly till completion of PE. He participated in examination of witnesses too. His health however deteriorated before recording of statements of the accused persons u/Sec.313 Cr.P.C. could begin.

21. A report regarding mental health condition of accused no. 1 was received from IHBAS according to which he was unfit to stand the trial. Examination into the mental health condition of accused no. 1 was carried out by IHBAS pursuant to the Orders of various CBI Courts of co-ordinate jurisdiction where also he was facing trial in other criminal cases. Hence, an inquiry was conducted by this Court after which trial against accused no. 1 was separated & postponed in terms of Section 329(1) Cr.P.C till receipt of next report, vide Order dated 09.05.2024.

22. Another report regarding mental health of accused no.1 was received on 21.04.2025 which reflected that no improvement was found in his condition and a review was required after six months. Hence, the trial was again postponed qua him vide Order dated 21.04.2025.

23. This Court received third report regarding ill health of accused no. 1 on 23.03.2026 stating that "*based on the history, assessment, treatment given and available scientific literature, his status regarding fitness to stand trial is unlikely to improve*". Hence, an inquiry was again held and ***Dr. Om Prakash, Professor of Psychiatry, IHBAS, Delhi,*** was examined by the Court as ***CW-1***[5] and cross-examined by the Ld. Sr. PP for the CBI.

[5] No separate table as per Form A of Practice Directions No. 180/Rules/DHC dated 26.05.2026 issued by the Hon'ble High Court of Delhi is made as only one person was examined as Court Witness who proved just one document i.e. Medical Report regarding mental health condition of accused no.1.

24. ***CW-1*** proved the ***report Ex.CW1/A*** and deposed that the accused no.1 was examined by a medical board that consisted of professors from Neurology, Clinical Psychology & Psychiatry department of IHBAS and Ophthalmology & ENT departments of GTB Hospital. He specifically deposed that the accused was unfit to stand trial & his status was unlikely to improve.

25. CW-1 deposed in his cross-examination that the accused no.1 was suffering from severe Dementia which is the last stage of Dementia and had likely forgotten about any such activity that he was not performing regularly.

26. On conclusion of inquiry, ***Sh. Yogesh Verma,*** Ld. Counsel for ***accused no. 1*** sought an opportunity to advance arguments on the point of next legal recourse available qua accused no.1 in view of the report of medical board that his status regarding fitness to stand the trial was unlikely to improve. The request was allowed & Arguments in this regard were advanced by the Ld. Counsel at the stage of final arguments.

Statements of Accused Persons

27. On completion of PE and inquiry into the mental health of accused no. 1, the matter was posted for compliance of Sec. 313 Cr.P.C. All the incriminating circumstances were put to the accused no. 3, 4 & 7 as per Sec. 313(1) Cr.P.C. & their statements were recorded. The accused persons were also given liberty to file written statements as per Section 313 (5) Cr.P.C. which was not availed by them. ***Statement*** of ***accused no. 1*** was ***not recorded*** considering the report of medical board that he was not fit to stand the trial.

28. The ***accused no. 7*** denied all the incriminating circumstances in his statement for want of knowledge, except the proceedings undertaken in the office of RCS which he admitted being matter of record. He disclosed that he had joined the office of RCS in September, 1999 and was transferred from there on 10.02.2001. Registration of FIR was also admitted by this accused being matter of record. He however stated that he was framed wrongly in the present case due to lack of understanding of the DCS Act and the rules framed thereunder as well as because of misunderstanding of facts by the IO. He stated that the revival Order was passed by him on merits and as RCS he was competent to pass the said Order as per Section 63(3) of the DCS Act. Accused no. 7 stated that he had exercised his powers to revive the Society u/Sec. 63(3) of the DCS Act as per opinion received from the Law Department of GNCT of Delhi. He asserted that he could not be prosecuted for the offences punishable under the IPC because sanction u/Sec. 197 Cr.P.C. was not obtained. So far the sanction u/Sec. 19 PC Act was concerned, accused no. 7 averred that PW65, who was examined to prove the said sanction, was not the sanctioning authority, hence, PW65 was not a competent witness to prove that the sanctioning authority had applied their mind before granting sanction.

29. The ***accused no.3 & 4*** also denied all the incriminating circumstances against them. ***Accused no. 3*** stated that he became member of the Society through his brother Uma Kant Samadhiya in the year 1995/1996. His form was filled by his brother and hence he did not come to know that his brother had added their actual surname 'Samadhiya' with his name. ***Accused no.4*** stated that he had become member in the year 1997/1998 through accused no.2. He asserted that he had never appeared in the office of RCS and it is accused no. 2 who used to run the Society from his address at B-II/184, Shiv Mandir, Delhi that he was occupying as a tenant. Accused no. 4 also stated that his full name was A. S. Kushwaha only and he did not impersonate anyone.

30. ***Both accused no. 3 & 4*** further stated in their respective statements u/Sec. 313(1) Cr.P.C. that they were not named in the preliminary enquiry. They were innocent and genuine members of the Society. They never gave their specimen signatures/writings to the IO. The expert witness who had examined the questioned signatures/writings was not a qualified person because he himself admitted in his cross-examination that he did not possess any formal qualification in the science of handwriting comparison and had only received training in the office of GEQD from his seniors. They both stated that they were falsely implicated and the witnesses had deposed against them under the influence of CBI.

Defence Evidence

31. None of the accused chose to lead evidence in their defence.

Final Arguments

32. Final arguments were heard on completion of trial.

33. Written submissions were also filed on behalf of the accused no. 1, 3, 4 & 7 and taken on record.

34. ***Sh. Ashutosh Tripathi, Ld. Sr. PP for the CBI*** referred to the facts mentioned in the chargesheet and contended that the prosecution had been able to prove its case against all the accused persons beyond reasonable doubts. Ld. Sr. PP referred to the testimony of the witnesses as well as the documents that they had relied upon and contended that these witnesses proved a large-scale forgery having been committed in the documents furnished in the office of RCS by the accused no. 3 & 4. Ld. Sr. PP referred to the report of GEQD, specifically in respect of the following:

S.No.	Q-Number	Particulars of Document	Report of GEQD
1.	Q-387	Refund Receipt of Rs.100/- (Ex.PW18/D)	Forged signature on the receipt attested by accused no.3 on behalf of the Society.
2.	Q-555	Resignation of PW-16 (Ex.PW16/C)	Forged signature on the resignation attested by accused no.3 on behalf of the Society.
3.	Q-832	Resignation of PW-33 (R. S. Sharma) (Ex.PW33/D)	Signature of R. S. Sharma forged by accused no.3.
4.	Q-1048; Q-1049; Q-1051; & Q-1054.	Minutes of Special GBM dated 25.08.2000 (Ex.PW34/J)	Q-1048 & Q-1049 written in the handwriting of accused no.3 who also signed as P. N. Samadhiya (Q-1051) as well as Maharaj Singh (Q-1054).
5.	Q-1060	Minutes of Meeting dated 25.05.1987 (Ex.PW6/B)	Written in the handwriting of accused no.3.
6.	Q-1087; Q-1088; & Q-1110	Minutes of Meeting dated 15.04.2000 (Ex.PW35/D)	Q-1087 & Q-1088 written in the handwriting of accused no.3 who also signed as Maharaj Singh (Q-1110).

35. Ld. Sr. PP further drew Court's attention to the testimony of PW-34 who had deposed that in the meeting dated 25.08.2000, the accused no. 3 & 4 had informed him that they had got the Society revived from the office of RCS.

36. ***Sh. Yogesh Verma, Ld. Counsel*** for ***accused no. 1, 3 & 4,*** referred to the Order on charge and contended that the prosecution had failed to travel the mandatory distance between 'a prima facie case giving rise to grave suspicion' and 'the case proved beyond reasonable doubts'. Ld. Counsel contended that the process for revival of the Society had begun in the year 1991 itself when appeal was filed before the Hon'ble LG and decided by the Ld. Financial Commissioner in the year 1994. Hence, conspiracy, if any, for revival of the Society started in 1991 itself when accused no. 3 & 4 were not even in picture. It was contended that the prosecution had failed to prove forgery against either of the accused persons. The accused persons had not impersonated anyone because 'Samadhiya' and 'Kushwaha' that were added by them to their names, were their own surnames. Ld. Counsel argued that the credibility of the proceedings register was doubtful because there were lots of blanks, errors & cuttings etc. which were not investigated by the CBI or explained by the prosecution. The alleged forged minutes of meetings had been written in different handwritings but CBI did not investigate all the handwritings. Only one handwriting, imputed to accused no.3, was marked as questioned in each of the minutes. CBI did not furnish any explanation during the trial for adopting such a restrictive approach in its investigation. The prosecution had also failed to prove the alleged specimen signature of accused no. 3 & 4. Not a single witness of the prosecution physically identified the accused no. 3 & 4 in the Court. The alleged signatures of accused no. 3 & 4 on the Office Noting (D-4) were never sent to CFSL for comparison and thus they could not be connected to the said Noting. Ld. Counsel also contended that sanction was required for prosecuting accused no. 3 because he was serving as public servant when the present case was registered against him.

37. Ld. Counsel contended that ***accused no. 1*** was entitled to acquittal without any requirement of holding or postponing further trial because the constitutional mandate as per Article 21 is that *no person shall be deprived of his life and personal liberty except according to a procedure established by law*. It was contended that right of the accused to undergo fair trial as per procedure established by law emanated from Article 21 however it was not possible in this case to provide fair trial to the accused no. 1. It was because he was not likely to become fit again to stand the trial as per the medical report which stated that his mental illness was progressive in nature and irreversible. Hence, the only option that this Court had, was to acquit the accused no. 1. Ld. Counsel moreover contended that entire prosecution evidence had already been led against accused no. 1 and he had availed opportunity to cross-examine all those witnesses. The witnesses of prosecution were not able to prove its case against accused no. 1 beyond reasonable doubts. Hence, the accused no. 1 was entitled to acquittal even on this ground and non-recording of his statement u/Sec. 313 Cr.P.C. was not prejudicial to him.

38. ***Dr. Sushil Gupta, Ld. Counsel*** for ***accused no. 7*** contended that the prosecution had failed to prove conspiracy on the part of this accused. The other officials, who were similarly placed as accused no. 7, were not arrayed as accused but as witnesses. Prosecution had failed to explain why such a discriminatory approach was adopted during investigation. Sanction u/Sec. 197 Cr.P.C. was not obtained. Provisions of DCS Act were misinterpreted. Prosecution failed to take note of the fact that winding up Order in this case had already been set aside by the Financial Commissioner & RCS had just condoned delay due to ill health of secretary. Ld. Counsel argued that it was essential to prove the element of *mens rea* in order to bring home the guilt for the offence of criminal misconduct defined in Sec. 13 of the PC Act, which the prosecution had failed to establish. Verification of record before passing the revival Order was not done by the accused no. 7. Most of it had rather been done already when the accused no.7 joined the office as RCS. However, the CBI did not array any of the officials involved in verification of record, as accused, for reasons best known to them. The following judgments were relied upon by the Ld. Counsel for accused no. 7 in support of his contentions:

Regarding Conspiracy

38.1. *Kehar Singh* v. *Union of India*[6]
38.2. *Natwarlal Sakarlal Mody* v. *The State of Bombay*[7]
38.3. *V. C. Shukla* v. *State (Delhi Admn.)*[8]
38.4. *State of Kerala* v. *P. Sugathan*[9]
38.5. *L. K. Advani* v. *CBI*[10]
38.6. *State* v. *Nalini*[11]

Regarding Sanction u/Sec.197 Cr.P.C.

38.7. *State of M. P.* v. *Sheetla Sahai and Ors.*[12]
38.8. *N. K. Ganguly* v. *CBI New Delhi*[13]
38.9. *A. Srinivasulu* v. *State of T. N.*[14]
38.10. *A. Sreenivasa Reddy* v. *Rakesh Sharma & Anr.*[15]
38.11. *Rakesh Bhatnagar* v. *CBI*[16]
38.12. *CBI* v. *Rakesh Bhatnagar*[17]
38.13. *Krishna Kumar* v. *Central Bureau of Investigation*[18]

Regarding Interpretation of Sec. 13(1)(d) PC Act

38.14. *State of Punjab* v. *Mohar Singh*[19]
38.15. *T. Barai* v. *Henry Ah Hoe*[20]
38.16. *S. P. Bhatnagar* v. *State of Maharastra*[21]
38.17. *Major S. K. Kale* v. *State of Maharastra*[22]

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6 1988 (3) SCC 609.
7 1961 SCC OnLine SC 1.
8 1980 (2) SCC 665.
9 2000 (8) SCC 203.
10 1997 SCC OnLine Del 382.
11 1999 (5) SCC 253.
12 2009 (8) SCC 617.
13 2016 (2) SCC 143.
14 2023 (13) SCC 705.
15 2023 (8) SCC 711.
16 2023 SCC OnLine Del 7440.
17 Special Leave to Appeal (Crl.) No. 16946/2024 decided by the Hon'ble High Court of Delhi on 03.12.2024.
18 Crl. M.C. No. 3481/2018 decided by the Hon'ble High Court of Delhi on 21.08.2024.
19 AIR 1955 SC 84.
20 1983 (1) SCC 177.
21 1979 (1) SCC 535.
22 1977 (2) SCC 394.

38.18. *Abdulla Mohammed Pagarkar* v. *State (Union Territory of Goa, Daman)*[23]
38.19. *Union of India* v. *K. K. Dhawan*[24]
38.20. *Runu Ghosh* v. *CBI*[25]
38.21. *Union of India and another* v. *Major J. S. Khanna etc.*[26]
38.22. *M. Narayanan Nambiar* v. *State of Kerala*[27]

Analysis & Reasons for decision

39. I have considered the rival contentions and perused the record.

40. Written arguments filed on behalf of the accused persons after conclusion of final arguments, have also been perused carefully and considered.

41. The prime charge that was framed against all the accused persons is of conspiracy. It is the case of prosecution that the accused persons committed the offences of cheating, impersonation, forgery, using forged documents as genuine & criminal misconduct by public servants, in pursuance to a conspiracy allegedly hatched between them.

42. Conspiracy presupposes existence of an agreement to do an illegal act or a legal act in an illegal manner. It is defined u/Sec. 120A IPC and is punishable u/S 120B IPC. Section 120A IPC reads as below:

> ***"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 as agreement is designated a criminal conspiracy:*

23 1980 (3) SCC 110.
24 1972 (3) SCC 873.
25 2011 SCC OnLine 5501.
26 1972 (3) SCC 873.
27 AIR 1963 SC 1116.

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.

Explanation: It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object."

43. Prior agreement is *sine qua non* to show existence of conspiracy as is the settled law. Prosecution in this case has however not led any direct evidence to prove existence of prior agreement between the accused persons. Hon'ble Higher Courts have held in a plethora of cases that conspiracy is hatched in secrecy and direct evidence of it is rarely available, hence, it can be proved through circumstantial evidence also.

44. In ***State v. Nalini***[28] the Hon'ble Apex Court had laid down some broad principles governing the law of conspiracy. The relevant paragraphs of the said judgment read as below:

"583. Some of the broad principles governing the law of conspiracy may be summarized though, as the name implies, a summary cannot be exhaustive of the principles.

1. Under Section 120-A IPC ***<u>offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is a legal act by illegal means overt act is necessary.</u>*** *Offence of criminal conspiracy is an exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intentions. Not only the intention but there has to be agreement*

[28] (1999) 5 SCC 253.

to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused have the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever horrendous it may be that offence be committed.

2. ***Acts subsequent to the achieving of the object of conspiracy may tend to prove that the particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any subsequent act, which may be unlawful, would not make the accused a part of the conspiracy*** *like giving shelter to an absconder.*

3. ***Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its object have to be inferred from the circumstances and the conduct of the accused.***

4. Conspirators may for example, be enrolled in a chain – A enrolling B, B enrolling C, and so on; and all will be members of a single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrols. There may be a kind of umbrella-spoke enrolment, where a single person at the centre does the enrolling and all the other members are unknown to each other, though they know that there are to be other members. These are theories and in practice it may be difficult to tell which conspiracy in a particular case falls into which category. It may however, even overlap. Then there has to be present mutual interest. Persons may be members of single conspiracy even though each is ignorant *of the identity of many others who may have diverse roles to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.*

5. When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such persons to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. ***To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.***

6. It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.

7. A charge of conspiracy may prejudice the accused because it forces them into a joint trial and the court may consider the entire mass of evidence against every accused. ***Prosecution has to produce evidence not only to show that each of the accused has knowledge of the object of conspiracy but also of the agreement.*** *In the charge of conspiracy the court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided.* ***By means of evidence of conspiracy, which is***

otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. *There is always difficulty in tracing the precise contribution of each member of the conspiracy but then* ***there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy.*** *As observed by Judge Learned Hand* ***"this distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders".***

8. As stated above ***it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy.*** *Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the* ***unlawful agreement which is the gravamen of the crime of conspiracy.*** *The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.*

9. It has been said that ***a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan.*** *Thus, if two or more persons enter into a conspiracy,* ***any act done by any of them***

> ***pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor.*** *This means that everything said, written or done by any of the conspirators in execution or furtherance of a common purpose is deemed to have been said, done or written by each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incidental to and growing out of the original purpose.* ***A conspirator is not responsible, however, for acts done by a co-conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators,*** *and the mere fact that conspirators individually or in groups perform different tasks to a common and does not split up a conspiracy into several different conspiracies.*
>
> *10. A man may join a conspiracy by word or by deed. However,* ***criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy.*** *One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the others put the conspiracy into effect, is guilty though he intends to take no active part in the crime……..*

662. From a survey of cases, referred to above, the following position emerges:

> *In* ***reaching the stage of meeting of minds, two or more persons share information about***

doing an illegal act or a legal act by illegal means. *This is the* ***first stage where each is said to have knowledge of a plan for committing an illegal act or a legal act by illegal means.*** *Among those sharing the information some or all may form an intention to do an illegal act or a legal act by illegal means. Those who do form the requisite intention would be parties to the agreement and would be conspirators but those who drop out cannot be roped in as collaborators on the basis of mere knowledge unless they commit acts or omissions from which a guilty common intention can be inferred. It is not necessary that all the conspirators should participate from the inception to the end of the conspiracy; some may join the conspiracy after the time when such intention was first entertained by any one of them and some others may quit from the conspiracy. All of them cannot but be treated as conspirators. Where in pursuance of the agreement the conspirators commit offences individually or adopt illegal means to do a legal act which has a nexus to the object of conspiracy, all of them will be liable for such offences even if some of them have not actively participated in the commission of those offences."*

(Emphasis supplied).

45. A reading of the well settled law is sufficient to clarify that conspiracy can be proved through circumstantial evidence, like, the conduct or overt acts of the co-conspirators. Each circumstance should be consistent with the hypothesis of guilt and inconsistent to the hypothesis of innocence. The circumstances should further form a complete chain leading to an inescapable conclusion of guilt.

46. Since there is no direct evidence in this case, prosecution has sought to prove conspiracy through overt acts of the accused persons, some of which constitute independent substantive offences too. It is to be seen now if the prosecution has been able to prove the alleged overt acts constituting substantive offences qua each of the accused persons beyond reasonable doubts and has also shown links between these acts to establish the charge of conspiracy. The overt acts shall be discussed in the forthcoming paragraphs under separate heads, each covering one or more substantive offences too.

Forgery of Documents

47. The starting point of conspiracy as per prosecution's case was August, 1998 when accused no. 2 met accused no. 3 & 4. The accused No. 2 handed over records of the Society to the accused no. 3 & 4 in September, 1998, as per story put forth by the prosecution. The accused no. 3 & 4, along with accused no. 2, thereafter allegedly forged the records of the Society in order to make out a case for revival.

48. It is necessary to clarify here before proceeding further that no charge for the substantive offence of making forged documents u/Sec.468 IPC was framed against the accused no. 3 & 4. Only accused no. 2 was charged with the said offence. The Order on charge was not challenged by the prosecution and thus it attained finality. However, evidence regarding forgery having been committed by the accused no. 3 & 4 was led by the prosecution and rebutted by the accused persons. Hence, relevant material proved in this regard shall be appreciated in the forthcoming paragraphs qua accused no. 3 & 4 also.

49. The ***first record*** which was forged by the accused persons as per case of the prosecution is the **membership register** bearing No. D-207

(Ex.PW4/PX). It is alleged that the accused persons had added 107 fake members from serial no. 125 to 231 in the membership register. The signatures against these entries in the membership register were marked as questioned signatures no. Q-132, Q-133 and Q-138 to Q-240.

50. Prosecution has averred that the **enrolment forms & affidavits** of aforesaid 107 members were also forged alongside. The questioned signatures in the enrollment forms (D-36 to D-89), seized from the Society as per seizure memo Ex.PW66/C (D-3), are Q-1 to Q-107. Alleged forged signatures in the affidavits found in the RCS office file (D-90 to D-142, Volume III/2) seized vide seizure memo Ex.PW66/B (D-2), are Q-241 to Q-347.

51. The report of GEQD, which is Ex.PW64/B, opines that the aforementioned record was forged by the accused no. 3 & 4.

52. The report states in para no. 2 that the questioned signatures at Q-5, Q-6, Q-8, Q-9, Q-11, Q-12, Q-16, Q-18, Q-21, Q-23, Q-24, Q-32, Q-34, Q-36, Q-37, Q-39, Q-41, Q-43, Q-44, Q-46, Q-47, Q-48, Q-51, Q-52, Q-53, Q-59, Q-62, Q-63, Q-64, Q-66, Q-67, Q-69, Q-70, Q-74, Q-75, Q-78, Q-88, Q-89, Q-92, Q-94, Q-95, Q-98, Q-99, Q-101, Q-102, Q-104, Q-106, Q-107, Q-132, Q-133, Q-139, Q-141, Q-142, Q-144, Q-145, Q-148, Q-149, Q-154, Q-155, Q-165, Q-168, Q-169, Q-173, Q-174, Q-176, Q-177, Q-179, Q-180, Q-181, Q-184, Q-190, Q-191, Q-192, Q-195, Q-196, Q-197, Q-199, Q-200, Q-202, Q-204, Q-206, Q-207, Q-209, Q-211, Q-218, Q-219, Q-221, Q-224, Q-226, Q-230, Q-231, Q-233, Q-234, Q-236, Q-237, Q-241, Q-242, Q-244, Q-246, Q-247, Q-249, Q-250, Q-253, Q-254, Q-256, Q-259, Q-260, Q-270, Q-273, Q-274, Q-278, Q-279, Q-281, Q-282, Q-284, Q-285, Q-286, Q-289, Q-295, Q-296, Q-297, Q-300, Q-301, Q-302, Q-304, Q-305, Q-307, Q-309, Q-311, Q-312, Q-314, Q-316, Q-324, Q-325, Q-327, Q-330, Q-332, Q-336, Q-337, Q-339, Q-340, Q-342 & Q-343 were written by the person whose specimen signatures were marked as S-1 to S-76. The specimen signature S-1 to S-76 are of accused no. 3 as per the case of prosecution.

53. The report opines in para no. 3 that the questioned signature at Q-3, Q-4, Q-7, Q-60, Q-84, Q-87, Q-156, Q-159, Q-183, Q-235, Q-238, Q-239, Q-261, Q-264, Q-288, Q-341, Q-344 & Q-345 were written by the person whose specimen signatures were marked as S-77 to S-145. These specimen signatures are of accused no. 4 as per prosecution.

54. It is necessary to point out at this stage, before proceeding further, that the enrolment forms (D-36 to D-89), affidavits (D-90 to D-142, Volume III/2) and entries at serial no. 125 to 231 in the membership register (D-207, Ex.PW4/PX) were not exhibited in evidence by the prosecution through any of its witnesses. The questioned signature thus remained unproved. The prosecution's case is that the total 107 persons whose names are reflected from serial No. 125 to 231 of the membership register were found non-existent except accused no. 3 & 4 themselves and one Vinod.

55. The prosecution led no evidence to prove that 104 members out of 107 enrolled from serial no. 125 to 231, did not exist. Vinod, the only existent person as per prosecution apart from accused no. 3 & 4, was cited in the list of witnesses but was not examined in the Court. It appears from the record that he had expired during pendency of trial. The prosecution however made no efforts to examine any other substitute witness, like family members of Vinod, to prove that he never obtained membership of the Society. Similarly, no such material was brought on record which would clarify how had the IO concluded that other 104 members reflected from serial no. 125 to 231 of the membership register were non-existent. There is no report of any person who may have conducted spot verification to conclude about non-existence of 104 members. Leave aside the spot verification report, there isn't even an averment in this regard. It is not clarified if some official of CBI or IO himself had gone to the spot. The list of witnesses annexed with the chargesheet also does not refer to any such witness. The theory regarding non-existing members propounded by the prosecution thus remained unproved.

56. Even further, the prosecution has failed to prove that the specimen signatures marked as S-1 to S-76 and S-77 to S-145 were of accused no. 3 & 4 respectively. The specimen signature S-1 to S-76 were exhibited by the prosecution through PW-66 as Ex.PW66/H (Colly) and S-77 to S-145 were exhibited as Ex.PW66/H1 (Colly). PW-66 Sr. SP R. R. Sahay is not the investigating officer who had obtained the said specimen signatures. He is the supervisory officer who had forwarded the chargesheet. He merely identified the signature of Insp. S. R. Thakur, who was the IO of this case, in his testimony. The IO had expired during pendency of trial and hence could not be examined by the prosecution. PW-66 R. R. Sahay did not depose anything about the procedure that was followed by the IO while obtaining specimen signatures of accused no. 3 & 4.

57. The accused no. 3 & 4 denied that their specimen signatures were taken by the CBI during the course of investigation. The testimony of PW-66 can help the prosecution only to the extent that a presumption of the *official act of taking specimen signatures of the accused persons having been performed regularly by the IO*[29], can be raised in its favour. Nothing more than this can be stated to have been proved by the prosecution in this regard, especially

[29] Section 114 r/w Illustration (e) of the Indian Evidence Act, 1872.

considering that in his cross-examination, PW66 had admitted that he did not conduct any investigation after registration of FIR. This admission on the part of PW-66 is sufficient to suggest that he was not personally involved in the process of obtaining specimen signature of the accused persons. Hence, the accused persons could not cross-examine him about their defence of non-obtaining of their specimen by the IO and thus did not get due opportunity to dispel the aforesaid presumption that arose in favour of prosecution. In such a scenario, the presumption cannot be used in favour of prosecution because that will violate the basic tenets of fair trial.

58. The CBI could have proved genuinity of the specimen signatures by examining the independent witnesses in whose presence those signatures were taken. The record reflects that specimen signatures S-1 to S-76 were obtained on 24.01.2007 and 02.02.2007 in the presence of one M.C. Gaur, a government official. Similarly, S-77 to S-145 were obtained on 02.02.2007 in the presence of one Mahipal Singh, again a government official. Both these independent persons were not cited in the list of witnesses. The CBI did not move any application at the later stage either, for seeking permission to summon and examine them. Hence, despite having the best evidence available, CBI did not make any efforts to produce the same before the Court thereby suffering adverse presumption that *such evidence if produced would have been unfavourable to its case*[30].

59. An expert's opinion even otherwise cannot be the sole basis of conviction. It is the settled law that *though it is not impermissible to base a finding with regard to authorship of a document solely on the opinion of a handwriting expert but, as a rule of prudence, because of imperfect nature of*

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[30] Section 114 r/w Illustration (g) of the Indian Evidence Act, 1872.

the science of identification of handwriting and its accepted fallibility, such opinion has to be relied on with caution and may be accepted if, on its own assessment, the court is satisfied that the internal and external evidence relating to the document in question supports the opinion of the expert and it is safe to accept his opinion[31].

60. No internal or external support to the expert's opinion is however available in this case. It has already been discussed in the foregoing paragraphs how prosecution had failed to bring on record every probable material that could have strengthened its case regarding non-existence of 104 out of 107 members that were added in the membership register from serial no. 125 to 231. None of the witnesses examined by the prosecution identified the handwriting/signatures of the accused persons. Even the documents carrying questioned signatures were not exhibited in evidence and thus were not proved as per law. Resorting to Section 311 Cr.P.C. for examining the independent persons in whose presence specimen signature were taken, as Court's witnesses, would thus have been a futile exercise.

61. The ***second set*** of forged documents that were allegedly prepared by the accused persons are the fake resignation forms of genuine members. The CBI examined PW-1 to PW-11, PW-13, PW-15 to PW-18, PW-21 to PW-33, PW-50, PW-56 & PW-63 in order to prove **(a)** that they were genuine members of the Society; **(b)** that they had never resigned from its membership; and **(c)** that their resignations had been forged. The forged Resignations-cum-Receipts which were identified by these witnesses are Ex.PW1/E; Ex.PW2/B; Ex.PW3/A; Ex.PW4/PX-1; Ex.PW5/A; Ex.PW6/C; Ex.PW7/B; Ex.PW8/PX; Ex.PW9/PX; Ex.PW10/PX; Ex.PW11/A;

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[31] *Santosh @ Bhure* v. *State (GNCT) of Delhi* (2023) 19 SCC 321

Ex.PW11/B; Ex.PW15/H; Ex.PW16/H; Ex.PW18/B; Ex.PW21/A; Ex.PW22/A; Ex.PW24/G; Ex.PW25/G; Ex.PW26/F; Ex.PW27/G; Ex.PW28/E; Ex.PW29/E; Ex.PW30/A; Ex.PW31/E; Ex.PW32/C; Ex.PW33/D; Ex.PW50/A; Ex.PW56/A; & Ex.PW63/A. All these documents are available in D-216.

62. The questioned signatures in these documents are marked as Q-815 to Q-982 & Q910A. However, not all the questioned signatures were exhibited in evidence by the prosecution. The forged signatures which were identified in the documents those were exhibited in evidence are as per below details:

S.No.	**Questioned Signature Number**	**Exhibit Number of the Document**	**GEQD Opinion**
1.	Q-832	Ex.PW33/D	No opinion expressed on the authorship of remaining documents Ex.PW33/D. GEQD opined that ***Q-832 is forged by the accused no. 3, the person who had written specimen signatures/writings marked as S-1 to S-76.***
2.	Q-836	Ex.PW22/A	
3.	Q-857	Ex.PW26/F	
4.	Q-859	Ex. PW5/A	
5.	Q-867	Ex.PW50/A	
6.	Q-884	Ex.PW30/A	
7.	Q-886	Ex.PW29/E	
8.	Q-900	Ex.PW8/PX	
9.	Q-915	Ex.PW63/A	
10.	Q-918	Ex.PW21/A	
11.	Q-920	Ex.PW15/H	
12.	Q-924	Ex.PW6/C	
13.	Q-932	Ex.PW7/B	
14.	Q-940	Ex.PW28/E	
15.	Q-948	Ex.PW16/H	
16.	Q-953	Ex.PW24/G	
17.	Q-959	Ex.PW27/G	
18.	Q-967	Ex.PW18/B	
19.	Q-978	Ex.PW31/E	

63. The forged signatures in the resignations-cum-receipts referred in para no. 61 above were verified by the accused no.2 in his capacity as President of the Society which showed connivance and conspiracy, as per prosecution. The alleged signatures of accused no.2 in those documents were also marked as questioned signatures and sent to the GEQD for opinion. These signatures are Q-835, Q-837, Q-856, Q-858, Q-860, Q-868, Q-885, Q-887, Q-888, Q-901, Q-907, Q-914, Q-916, Q-919, Q-921, Q-925, Q-933, Q-936, Q-941, Q-946, Q-949, Q-950, Q-952, Q-954, Q-960, Q-968, Q-973 & Q-979 in documents Ex.PW11/A; Ex.PW22/A; Ex.PW3/A; Ex.PW26/F; Ex.PW5/A; Ex.PW50/A; Ex.PW30/A; Ex.PW29/E; Ex.PW1/E; Ex.PW8/PX; Ex.PW56/A; Ex.PW4/PX-1; Ex.PW63/A; Ex.PW21/A; Ex.PW15/H; Ex.PW6/C; Ex.PW7/B; Ex.PW2/B; Ex.PW28/E; Ex.PW9/PX; Ex.PW16/H; Ex.PW32/C; Ex.PW10/PX; Ex.PW24/G; Ex.PW27/G; Ex.PW18/B; Ex.PW11/B; & Ex.PW31/E respectively. GEQD opined in its report Ex.PW64/B that these signatures were made by the person whose specimen signatures were marked as S-146 to S-155. These specimen signatures as per prosecution are of the accused no. 2 who had expired during the trial.

64. It has already been observed that the prosecution could not connect the specimen signatures S-1 to S-76 to the accused no. 3 because **(a)** neither the IO who had obtained these signatures could be examined in the witness box due to his demise **(b)** nor the independent witness in whose presence these signatures were obtained was summoned and examined. The independent witness was not even included in the array of witnesses. Prosecution committed similar mistakes qua accused no.2 also. The specimen signatures S-146 to S-155, which are Ex.PW66/H-2 (Colly), were not proved by examining the independent witness, namely Sat Narain, in whose presence the same were obtained. This person also was neither cited in the list of witnesses filed along with the chargesheet nor summoned during the trial. Prosecution may say the witness was unnecessary because accused no.2 had expired, however, this argument would not hold ground in the present case where accused persons have been charged with conspiracy. Consequently, if existence of conspiracy is proved, each would be liable for the act of another. Hence, each circumstance that may be admitted to prove conspiracy is evidence against all the accused persons who are facing joint trial. Prosecution however failed to pay attention to this during the trial and has left serious lacunae which compounded the impact of sub-par and defective investigation.

65. The ***third set of documents*** which were forged by the accused persons as per prosecution, are the proceedings registers. These are two in number i.e. D-208 to 214; and D-215. It is the case of prosecution that these proceedings registers were forged by writing fake minutes of meetings which were never held. These minutes were forged in order to make out a case of revival by showing that the Society was active all along; and had accepted resignations & new enrollments.

66. Prosecution had examined the genuine members of the Society in order to prove that some of the meetings were never held. The ***following six minutes*** in D-208 to D-214 were identified as fake by the prosecution's witnesses:

66.1. The ***minutes of managing committee meeting dated 25.05.1987*** which is Ex.PW6/B: PW-6 was shown as having resigned vide these minutes but as per his testimony the said meeting was not attended by him. Handwriting of these minutes was marked as Q-1060 and one signature on behalf of the Society was marked as Q-1061. It is opined by GEQD that Q-1060 was written by accused no. 3 and Q-1061 was written by accused no.2 (since expired).

66.2. The ***minutes of AGM dated 15.01.1988*** which is Ex.PW4/PX-3: PW-4 deposed that though his name was reflected at serial no. 5 of these minutes, the signature against this entry were not put by him. He stated that the said meeting was not attended by him. Neither the handwriting nor signatures were sent to the GEQD for seeking their opinion by the CBI. Hence, there is no material on record to state who had forged these minutes.

66.3. The ***minutes of managing committee meeting dated 14.04.1988*** which is Ex.PW7/A: PW-7 was shown as resigned in the said meeting however he deposed that the said meeting was not attended by him. One signature was marked as Q-1064 in these minutes which were opined to be of accused no.2 by the GEQD.

66.4. The ***minutes of GBM dated 30.11.1994*** which is Ex.PW22/C: PW-22 deposed that these minutes were bearing his forged signatures under agenda no. 4 at serial no. 8 and it was not attended by him. Neither any signature nor handwriting of these minutes were sent to the GEQD for opinion.

66.5. The ***minutes of managing committee meeting dated 30.06.1995*** which is Ex.PW4/PX-2: PW-4 deposed that at serial no. 6 of these minutes his name was shown as having resigned but he neither attended this meeting nor had resigned ever. One signature was marked as Q-1068 in these minutes but no opinion was expressed by GEQD on the same.

66.6. The ***minutes of managing committee meeting dated 30.11.1995 & AGM dated 31.12.1995*** which is Ex.PW22/B: PW-22 deposed that though he was shown as present per serial no. 1 under agenda no. 2 on 30.11.1995 & per serial no. 19 under agenda no. 3 on 31.12.1995 however he did not attend these meetings and his signature against serial no. 19 had been forged.

Neither handwriting nor any of the signatures in either of these minutes were sent to the GEQD for opinion.

67. The minutes of ***managing committee meeting dated 01.04.1998 in D-215 (Ex.PW6/PX)*** were also relied upon by prosecution in order to prove the case of forgery. These minutes are Ex.PW26/G. PW-26 deposed that he did not attend the said meeting though he was shown as resigned here and his name appeared under agenda no. 2 at serial no. 17. No handwriting or signatures in these minutes were sent to the GEQD for opinion.

68. No other minutes recorded in the proceedings register D-208 to D-214 and D-215 were denied by any of the prosecution witnesses. The opinion of GEQD was expressed only with respect to Ex.PW6/B and Ex.PW7/A however again for reasons already stated hereinabove the concerned specimen S-1 to S-77 and S-146 to S-155 could not be connected to the accused no. 2 (since expired) & 3.

69. The sub-par investigation and serious lapses in the chargesheet as discussed above have created holes in the story of prosecution which could not prove beyond reasonable doubts that the forgery committed in the exhibited documents was indeed done by the accused no. 2 to 4. The only material that the prosecution is relying upon to secure conviction of the accused persons is the report of GEQD which cannot be the sole basis to consider the case as proved. This is not the rule of law but the rule of prudence, as held by the Hon'ble Supreme Court in ***Santosh (Supra)***.

Personation, Cheating & Using Forged Documents as Genuine

70. It is the case of prosecution that accused no.3 & 4 enrolled themselves as members of the Society under the assumed names of P. N. Samadhiya and Arjun Singh Kushwaha. It is alleged that the real names of accused no. 3 &

4 were P. N. Sharma and Arjun Singh. They added Samadhiya and Kushwaha to their names in order to assume a fake identity. The accused persons in their statements u/Sec. 313(1) Cr.P.C. however averred that Samadhiya and Kushwaha were their surnames and they were popularly known by these names only.

71. The prosecution examined PW-58 & PW-60 in order to prove that the real names of accused no. 3 & 4 were P. N. Sharma and Arjun Singh respectively and not P. N. Samadhiya and Arjun Singh Kushwaha. These two witnesses were shown the photocopies of identity proofs of accused no. 3 & 4 which they marked as Mark PW60/X and Mark PW58/X respectively without verifying those from the original record of their respective offices. It was suggested to PW-58 & PW-60 during their cross-examination that the accused no. 4 & 3 were also known as Arjun Singh Kushwaha and P. N. Samadhiya respectively in their office circle, but these suggestions were denied by the witnesses. The accused no. 3 & 4 thereafter during the recording of their statements u/Sec.313 (1) Cr.P.C., had placed on record photocopies of certain documents to buttress their claim. Accused no. 3 filed photocopies of various wedding invitations reflecting that Samadhiya was his family name and accused no. 4 filed photocopy of an official letter addressing him as Arjun Singh Kushwaha. These documents were however not proved by the accused persons as per law by producing the originals and examining relevant witnesses in their defence. This is but of no consequence because even the prosecution did not prove the identity cards of accused no. 3 & 4 as per law.

72. It was the duty of prosecution to prove the case of personation beyond reasonable doubts by bringing the best evidence on record. It is the settled law that weakness in the case of defence cannot accrue to the benefit of prosecution that has to stand on its own legs. Role of defence will come into play only if the prosecution has first been able to prove its case beyond reasonable doubts. The prosecution however had failed to summon the original record from the concerned government offices where accused no. 3 & 4 were working and thus could not prove that the accused no. 3 & 4 had personated imaginary persons by adding 'Samadhiya' and 'Kushwaha' to their original names. Court also here will have to be mindful of the fact that many a times formal name of a person is different from how he is popularly known. The prosecution did not bring any such material on record which would suggest that the accused no.3 & 4 were popularly known as P. N. Sharma and Arjun Singh only and had no connection whatsoever with surnames 'Samadhiya' and 'Kushwaha'.

73. The accused persons were charged for the offence of ***'Cheating by personation'*** which is defined u/Sec.416 IPC and punishable u/Sec.419 IPC. Sec. 416 IPC reads as below:

> *"**416. Cheating by personation:***
>
> *A person is said to "cheat by personation" if he **cheats** by **pretending to be some other person**, or by **knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is**.*
>
> *Explanation: The offence is committed whether the individual personated is a real or imaginary person."*

74. A reading of aforementioned section makes it clear that not only personation was to be proved by the prosecution to bring home guilt for the said offence, but prosecution also was required to prove that cheating was committed because of personation. Case of the prosecution is that the RCS office was cheated in reviving the Society and DDA was cheated in allotting land to the Society on concessional rates. There is nothing on record however to suggest how personation by accused no. 3 & 4 aided in committing the offence of cheating. No material on record suggests that the Society was revived or land was allotted only because the surnames 'Samadhiya' & 'Kushwaha' were used by the accused no. 3 & 4. The record rather reflects that with request for allotment of land to the Society vide application dated 22.06.2000, the old list of 120 approved members was sent to the DDA. Old list is the one which was approved on 30.12.1985 and accused no. 3 & 4 were not part of this list as per own case of the prosecution. Hence, there is no material to say that the office of RCS and DDA were cheated because of alleged personation by the accused no. 3 & 4.

75. It is further the case of prosecution that in the process of committing cheating in getting the Society revived and allotment of land to it, a revival application was first filed by the accused no. 2. The said application/letter is dated 10.09.1997 and is exhibited as Ex.PW24/F (D-18). However, later after meeting of accused no.2 with accused no. 3 & 4 in August 1998, a fresh revival application was filed along with a recommendation of the chairman of AICC (I). This application as per prosecution is dated 29.10.1998 & was filed by the accused no. 4. The prosecution however did not produce the original application on record, neither any investigation into the reasons of missing original application was conducted, though the original recommendation, which is part of D-20, is available. The copy of the application or the original recommendation were not tendered in evidence by the prosecution for reasons best known to them. The signatures of accused no. 4 on the application dated 29.10.1998 were also not sent to the GEQD for seeking their opinion. No investigation was conducted on the recommendation letter either, to know at whose instance such a recommendation was given by AICC (I). Hence, there is no proved material on record to suggest that any application for seeking revival of the Society was ever moved by the accused no. 4.

76. The prosecution has further alleged that the accused no. 4 had furnished an audit form bearing S. No. 4864 on the basis of which accused no.6 had conducted audit of the Society till the year 1998 and prepared a fake audit report. It is alleged that the said fake audit report was designed to cheat the office of RCS as it was prepared to aid in achieving the purpose of conspiracy i.e. revival of the Society by suggesting that the Society was functioning properly. The said audit form or the audit report (D-23) furnished by accused no. 6 pursuant thereto, were not exhibited in evidence by the prosecution. The audit form having S. No. 4864 (D-23) bears marking as Ex.PW64/E-1, put on 19.02.2020, however a reading of the testimony of PW64 recorded on 19.02.2020 reflects that this document was not referred by him at all. It appears from the record that the exhibit mark on this document was inadvertently put. The purported signature of accused no. 2 were marked as Q-799 in this document. However, GEQD in their report Ex.PW64/B have not expressed any opinion qua this questioned signature. No other witness of the prosecution identified the signature marked as Q-799 to be of accused no. 4. Signature of accused no. 6 on the audit report annexed with this form were not identified either. The prosecution thus could not connect the accused no. 4 or 6 to the audit form no. 4864 or the audit report prepared on its basis.

77. An application dated 23.03.2000 (D-30), apart from the documents referred hereinabove, was also filed with the chargesheet by the CBI in order to show that the accused no. 3 & 4 were involved in cheating the office of RCS. This application bears signature of persons named A. S. Kushwaha & P. N. Samadhiya. Two affidavits, undertaking that the Society shall abide by all the statutory obligations in future, signed by the said two persons, were filed in the office of RCS alongwith the aforementioned application. However, neither the said application nor the affidavits were exhibited in evidence by the prosecution. Further, the signatures in the name of A. S. Kushwaha & P. N. Samadhiya, marked as Q-801 to Q-806, on the application and the affidavits were not attributed to either of the accused persons by the GEQD in its report Ex.PW64/B (Colly). Hence, there is nothing to suggest that the said application and affidavits were filed in the office of RCS by the accused no. 3 & 4.

78. One more document that the CBI filed along with the chargesheet to show involvement of accused no. 3 & 4 in the process of revival by cheating the office of RCS, is the application dated 18.04.1998. Photocopy of this application is available in the file no. D-90 to D-142, Volume III/2 and it bears signatures in the name of accused no. 4. Lists of enrolled and resigned members of the Society till 31.03.98 were filed in the office of RCS vide this application. Original of the application is not available on record. Chargesheet does not reflect if any investigation into the missing original application was done. Signatures of accused no. 4 from the copy of the application were not identified by any of the witnesses. The application was not tendered in evidence by the prosecution. Similarly, the list of enrolled members was also not tendered in evidence. The questioned signatures, attesting the list of enrolled members are Q789 to Q796, out of which Q790 & Q796 are connected to the specimen signatures of accused no.3 by the report Ex.PW64/B but the specimen signatures remained unproved for reasons already discussed hereinabove. One of the entries i.e. Ex.PW27/H was exhibited in the list of resigned members by PW27 stating it to be a false entry. The questioned signatures, attesting this list are Q-784 to Q-788 & Q-785A, out of which Q-784 & Q-785A were connected to the specimen signatures of accused no. 3 but specimen were not proved as per law. Resultantly, prosecution could not establish that the aforesaid two lists containing fake details were filed in the office of RCS by the accused no. 3 & 4 and thus prosecution failed to prove that these two accused persons were involved in cheating the office of RCS.

79. Going further, the prosecution alleged that the accused no. 3 & 4 had submitted the forged documents prepared by them, in the office of RCS after filing the application for seeking revival. These forged documents were used by them in cheating the office of RCS by making them believe that the society continued to exist during its winding up period too, and obtaining the revival order on that basis. However, prosecution could not connect the accused no. 3 & 4 with the usage of forged documents too, for reasons detailed hereinbelow:

79.1. The application dated nil, numbered as D-24, purportedly signed by the accused no. 4, vide which the alleged fake audit report (D-23 & D-22), compliance report (part of D-21) and copy of the minutes of last AGM dated 26.12.1998 (part of D-21) were filed, was not tendered in evidence by the prosecution. The report of GEQD, which is Ex.PW64/B, did not connect any of the signatures on the application or the documents filed along with it, to the accused no. 4. The signatures on the application and documents are Q797 to Q800 and Q797A to Q900A. Some of the signatures i.e. Q797A, Q803A, Q806A, Q809A, Q812A, Q821A, Q824A, Q827A, Q845A, Q848A, Q851A, Q854A, Q857A, Q860A, Q863A, Q866A, Q869A, Q872A, Q876A, Q883A, Q886A, Q889A and Q892A were connected with the specimen signatures of accused no. 3 in para no. 2 of the report Ex.PW64/B however the specimen signatures were not proved through independent witness. Needless to reiterate that apart from the report of GEQD nothing else in support of the case of prosecution, connecting accused no.3 to the alleged forged documents, was brought on record.

79.2. The photocopy of the enrollment forms (D-36 to D-89) submitted in the office of RCS are available in the file D-90 to D-142, Volume III/2. The photocopies of resignation forms and receipts proved as forged by the witnesses from the file D-216 and already detailed hereinabove while discussing the offence related to forgery, as well as copies of the minutes of meetings dated 25.05.87; 14.04.88; 30.06.95; and 30.11.95, which were proved as fake, are available in the file D-90 to D-142, Volume III/1. These files were seized from the office of RCS as per seizure memo Ex.PW66/2 (D-2). The prosecution has alleged that these photocopies were attested by the accused no. 3 in his capacity as President of the Society. The questioned signatures on these photocopies are Q-678 to Q-783 (enrolment forms); Q-373 to Q-677 (resignation forms and receipts), Q-348 to Q-349 (minutes dated 25.05.87), Q-354 to Q-355 (minutes dated 14.4.88); Q-359 to Q-361 (minutes dated 30.06.95) and Q-362 (minutes dated 30.11.95). Out of these Q-685, Q-687, Q-688, Q-692, Q-715, Q-717, Q-737, Q-739, Q-740 & Q-780 (on the enrolment forms), Q-374, Q-375, Q-387, Q-391, Q-399, Q-402, Q-

403, Q-404, Q-406, Q-411, Q-413, Q-423, Q-427, Q-431, Q-435, Q-436, Q-439, Q-446, Q-462, Q-465, Q-473, Q-474, Q-475, Q-487, Q-488, Q-489, Q-490, Q-491, Q-492, Q-493, Q-494, Q-495, Q-496, Q-497, Q-500, Q-501, Q-502, Q-503, Q-504, Q-505, Q-506, Q-507, Q-508, Q-510, Q-511, Q-512, Q-513, Q-514, Q-516, Q-517, Q-518, Q-519, Q-520, Q-521, Q-522, Q-523, Q-525, Q-526, Q-532, Q-533, Q-542, Q-554, Q-555, Q-556, Q-569, Q-571, Q-583, Q-588, Q-610, Q-634, Q-635, Q-636, Q-637, Q-638, Q-639, Q-643, Q-646, Q-648, Q-653, Q-655, Q-656, Q-657, Q-660, Q-661, Q-662, Q-663, Q-664, Q-665, Q-667, Q-668, Q-670 & Q-671 (on the photocopies of the resignation forms and receipts) and Q-348, Q-355, Q-359 & Q-361 (on the fake minutes) were opined to be of person whose specimen signature were marked as S-1 to S-76, by the GEQD. However, it is reiterated again that these specimen signature could not be connected to the accused no.3 by the prosecution for reasons already stated hereinabove.

79.3. The alleged original fake affidavits about which discussion has already been undertaken in para no. 50 to 53 of the judgment, could not be connected to the accused no. 3 & 4 for reasons already given. There is further nothing on record to show that these fake affidavits were filed in the office of RCS by the accused no. 3 or 4, as alleged by the prosecution. None of the witnesses of the prosecution stated to this effect either.

80. The prosecution claimed that accused no. 3 & 4 used to regularly appear in the office of RCS in order to pursue the case of revival of the Society. None of the witnesses of prosecution however deposed to this effect. The prosecution based its case upon the office Noting dated 06.04.1999 [Ex.PW49/C (Colly), page 22/N & 23/N], office Noting dated 28.10.1999 (page 32/N), office Noting dated 28.11.1999 (page 32/N), office Noting dated

06.03.2000 (page 33/N) and office Noting dated 23.03.2000 (Ex.PW59/A, page 36/N). It is the case of prosecution that these office Notings reflected presence of accused no. 3 in the office of RCS on 28.11.1999, 06.03.2000 & 23.03.2000 and of accused no. 4 on 06.04.1999, 28.10.1999, 06.03.2000 & 23.03.2000. Prosecution claimed that the accused no. 3 & 4 had signed in the margins of office Notings dated 06.04.1999, 28.10.1999 & 28.11.1999 in acknowledgment of their presence. It is however surprising to note that none of these signatures in the margins of office Notings were sent by the CBI to the GEQD for seeking their opinion. The accused no. 3 & 4 categorically denied that they had ever visited the office of RCS in order to pursue the case of revival of the Society. They claimed that accused no. 2 used to visit the office of RCS on behalf of the Society. The prosecution did not prove the presence of accused no. 3 & 4 in the office of RCS either through physical identification by some official from the said office or by proving their signatures in the margins of office Notings. PW34 is the only witness who stated during his cross-examination by the prosecution that the accused no. 3 & 4 had informed them in a meeting that they had got the Society revived from the office of RCS. This statement was made by the witness on a leading question put to him by the prosecution. There is no material on record which corroborates the testimony of PW34 on this aspect. The testimony of PW34 therefore cannot be relied upon safely on this point. Hence, it could not be established beyond reasonable doubts that the accused no. 3 & 4 used to visit the office of RCS for pursuing the case of revival of the Society and had thus likely filed the forged documents also in order to strengthen the said case.

81. The prosecution also alleged that accused no. 4 had written to the DDA vide letter dated 22.06.2000 (D-222) for allotment of land, once the Society had been revived. This letter however was not tendered in evidence by the prosecution. Purported signature of accused no. 4 on this letter was not marked as questioned signature and hence was not sent to the GEQD for opinion. There is thus no material on record to say that the accused no. 4 was involved in getting the land allotted to the Society from DDA and in that process he had cheated the DDA by seeking allotment of land at concessional rates to a Society which was got revived through fraudulent means.

82. For the reasons discussed hereinabove, in my considered view the prosecution has failed to establish the case of personation, cheating & using forged documents as genuine also, against the accused persons beyond reasonable doubts because of the lapses highlighted in the foregoing paragraphs.

Criminal Misconduct under the PC Act

83. The substantive charge for criminal misconduct was framed against accused no. 1, 5, 6 & 7, who were public servants, working in the office of RCS during the period relevant to this case.

84. It is necessary to first understand what had transpired in the office of RCS, before proceeding to examine if the actions of public servants amounted to criminal misconduct. As observed already, no direct evidence reflecting adoption of corrupt or illegal means or abuse of office, by the public servants, is available on record. There is no evidence of any monetary consideration having been accepted by the public servants from private persons. The material available on record to examine the conduct of public servants consist of four files seized from the office of RCS. These consist of one Noting file (D-4) and three Correspondence files (D-3 to D-35; and D-90 to D-142, Volume III/1 & Volume III/2). The correspondence files pertain to the communications exchanged between the Society and the office of RCS. The Noting file contains discussion that had taken place amongst the public servants while deciding the revival request of the Society and thus the office Notings reflect the mind and will of the public servants. These office Notings provide valuable insights into what had transpired in the office of RCS.

85. The Noting file reflects that on 22.01.1999, the Dealing Assistant PW-57 (Vijay Kumar) had put up a Noting A to A which is part of Ex.PW49/B (Colly). He had detailed the reasons for which the Society was put under liquidation, in this Noting. He also spoke about the appeal that was filed by the Society against the Order of liquidation and the decision of Financial Commissioner to allow the appeal vide Order dated 26.08.1994, thereby setting aside the impugned Order and giving a final chance to the Society to remove irregularities and apply for revival before the RCS. The Noting mentions that irregularities were to be removed before 31.12.1994 but the Society could not take any action because the Secretary was suffering from thyroid cancer. PW-57 also mentions that a VIP reference regarding revival of the Society was received from AICC (I). This Noting of PW-57 was signed by AR (Central), who is PW-49 (Kartar Singh). He observed in his Noting A1 to A1 as below:

> *"Spoken. Keeping in view the above situation, if approved we may call the society alongwith all the relevant records within a fortnight."*

86. The proposal put up by PW-49 was accepted by DR (Central) i.e. accused no. 1 and JR (Central), after which a call letter was issued to the Society.

87. The Noting A3 to A3 dated 06.04.1999, which is part of Ex.PW49/C (Colly) at page 22/N & 23/N of the Notings file, was then prepared by the

Dealing Assistant (PW-57). It reflects that one A. S. Kushwah, President of the Society had appeared and brought the record. This Noting again gives the entire background under which the Society was liquidated and Order was set aside by the Financial Commissioner. It also talks about illness of the Secretary of the Society as the prime reason for delay. The Noting was forwarded as it is by PW-49. The DR (Central) observed that the tribunal had remanded the case of the Society for re-determination and recommended that it be examined as per the Orders of the Tribunal. The JR (Central) however highlighted his concerns regarding delay in applying for revival and sought clarifications from the officials subordinate to him.

88. Vide Noting dated 29.11.1999, which is part of Ex.PW49/D (Colly) at page no. 24/N, the Dealing Assistant (PW-57) reiterated that the delay was caused because Secretary of the Society was suffering from thyroid cancer. The Dealing Assistant also highlighted that there was no provision in the DCS Act and the rules that provided for time limit to apply for re-determination of a liquidated case. He further highlighted that only a liquidation order was passed in the case of the Society and no further action was taken, hence, re-determination was possible. The Noting of PW-57 was as it is forwarded by PW-49 as AR (Central) and by the accused no. 1 as DR (Central) on 03.05.1999 and 05.05.1999 respectively. The JR (Central), who is PW-59 (Krishan Kumar), however again sought a report regarding elections of the Society between 1990 to 1999. He further directed that details of office bearers be placed on file.

89. The Dealing Assistant PW-57, vide office Noting dated 10.05.1999 at page 25/N [Part of Ex.PW49/D (Colly)], again highlighted that Secretary of the Society was suffering from thyroid cancer. Details of elections were also highlighted along with the period upto which audit had been conducted. Dealing Assistant stressed upon the VIP reference filed along with the revival request, in his Noting. His Noting was again forwarded by the AR (Central) i.e. PW-49 as it is. The DR (Central) i.e. accused no. 1, further recommended that in view of the details given by the Dealing Assistant, Society may be called for verification of records and for re-determining of its revival as per Orders of Financial Commissioner. The Noting Ex.PW49/E at Page 26/N, of the JR (Central) i.e. PW59, followed the aforesaid Notings whereby he sought specific details of the irregularities committed by the Society and detailed action taken by the Society to remove those irregularities.

90. The Dealing Assistant (PW57) thereafter had put up the Noting dated 17.05.1999, which is part of Ex.PW49/F (Colly) (page 27/N & 28/N), wherein again the reasons for liquidating the Society were cited. It was also reflected in the Noting that the record of the Society was produced and had been seen. The details of the elections held by the Society were mentioned in the last para of the Noting along with details of the audits done. The AR (Central) i.e. PW-49 and DR (Central) i.e. accused no. 1 forwarded this Noting as it is. The JR (Central) i.e. PW59 also agreed with the proposal put forth by his subordinate officials and observed that the Society had been given one more opportunity to remove irregularities by the financial commissioner; that the Society had been liquidated but no liquidator had been appointed till date; that the Society had removed all the irregularities and sought condonation of delay with respect to the time granted by the Financial Commissioner for applying for revival; that no time limit had been provided in the DCS Act and the rules framed thereunder for applying for re-determining of the case for revival; and that u/Sec. 63(3) of the DCS Act the

RCS was competent to pass the revival order. File was then put before the then RCS, who, vide his Noting dated 21.05.1999, sought details of a meeting dated 01.05.1998 that had taken place in the chamber of ex-Chief Minister. The file was marked back to the subordinate officials after which the DR (Central) i.e. accused no. 1 directed regarding issuance of call notice to the office bearers of the Society.

91. The directions were complied and the Society was again called in the office of RCS alongwith the relevant record, as per office Notings at page 30/N, 31/N & 32/N which are part of Ex.PW49/G (Colly). The Society however sought extension of time though its President and Secretary appeared in person on 28.10.99 and 28.11.99 respectively.

92. The record was finally produced by the President and Secretary of the Society on 06.03.2000 as is recorded in the office Noting at page 33/N & 34/N. This Noting is of DR (Central) i.e. accused no. 1 vide which he recommended that the Society be revived. File was put up before JR-I i.e. PW59, who observed that query of the RCS regarding meeting dated 01.05.1998 still remained to be answered. The DR (Central) i.e. accused no. 1 observed on this Noting that query was not required to be answered because pursuant to the said meeting an opinion dated 11.10.1999 was received from the Secretary, Law and Judicial Opinion who stated that the RCS was empowered to deal with the application for revival. This Noting was put up before the JR (PW-59) on 08.03.2000. He observed at page 35/N that the proposal for revival of the Society as proposed at page 28/N vide Noting Ex.PW49/F (Colly) may be considered after giving a hearing to the office bearers of the Society.

93. The aforesaid observation of the JR (Central) i.e. PW-59 was put up before the accused no. 7 on 09.03.2000. This is the first date when file was put up before the accused no. 7, who joined the office of RCS in September, 1999. The accused no.7 accepted the recommendation of PW-59 and directed him to issue notice and fix up a meeting with the President/Secretary of the Society. PW59 thereafter directed the subordinate officials on 09.03.2000 to call the President/Secretary of the Society *in the chamber of RCS* on 23.03.2000 at 11.00AM.

94. President & Secretary of the Society, namely Arjun Singh and P. N. Samadhiya, accordingly appeared before the RCS on 23.03.2000, as per Noting Ex.PW59/A at page no. 36/N and apprised him that the society was conducting elections and audit regularly and the next elections were due on 15.04.2000. The accused no. 7 then directed JR-I, i.e. PW-59, to appoint an observer for the elections. The JR-I appointed Sh. Maha Singh as observer for the elections scheduled to be held by the Society on 15.04.2000.

95. It is the case of prosecution that the said meeting dated 15.04.2000 never took place and the observer i.e. accused no.5 (since expired) filed a fake report, Ex.PW59/C on 17.04.2000, which was taken on record by the RCS vide office Noting Ex.PW59/B (Colly) at page 37/N. The prosecution alleged that the said report was fake because **(a)** it contained signatures of many non-existent and fake members; **(b)** the genuine members of the Society disclosed that they did not attend any such meeting; **(c)** the occupants of the premise in which the meeting had been shown to have taken place denied that any such meeting had ever happened; and **(d)** one Maharaj was shown as chairman of this GBM but he was found non-existent and his signatures had been forged by the accused no. 3.

96. The Noting file reflects that once the report Ex.PW59/C was received, the accused no.1 had put up a Noting dated 20.04.2000 from 4 to 4 at page 37/N, which is part Ex.PW59/B (Colly), recommending revival of the Society as all the statutory requirements had been fulfilled by it. The accused no. 7 approved this proposal vide office Noting 5 to 5 dated 24.04.2000 which is at page no. 38/N and is part of Ex.PW59/B (Colly).

97. Pursuant to the aforesaid approval, the revival order Ex.PW62/A was issued by the accused no. 4 on 28.04.2000.

98. It is the case of prosecution that after reviving the Society, accused no. 7 had also sent a copy of the revival letter to the DDA to aid the accused who were private persons in allotment of land to the Society. The freeze list of members had already been approved before liquidation of the Society; hence, this fact also was also intimated to the DDA pursuant to which DDA initiated the process of allotment of land. The land was allotted to the Society indeed but its possession was not given due to non-depositing of complete payment.

99. The prosecution also alleges that the revival order was based upon the audit report of accused no. 6 too because revival was allowed on the strength of the said report which reflected that the Society had been audited till the year 1998. It is alleged that the audit was not done properly, as the auditor did not note down about the discrepancies in the proceedings register and it was not conducted at the registered office of the Society.

100. Prosecution asserted that the above noted irregularities in the report of observer (Ex.PW59/C) and the audit report were sufficient to suggest that the officials in the office of RCS were not acting *bonafide.* Prosecution alleged that lack of *bonafide* was because the public servants and private persons were acting in conspiracy.

101. The question is if the prosecution was able to prove beyond reasonable doubt that the public servants had engaged with private persons in criminal misconduct defined in Section 13(1)(d) of the PC Act. The relevant section reads as:

> *"**13. Criminal misconduct by a public servant***
>
> *(1) A public servant is said to commit the offence of criminal misconduct, --*
>
> *…………*
>
> *(d) if he,-*
>
> *(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*
>
> *(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*
>
> *(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest…*

102. It is to be noted here that charge against the accused persons was framed only with respect to Section 13(1)(d)(i) and Section 13(1)(d)(ii) of the PC Act. It shall be worthwhile to reiterate the charge as it is, which reads herein below:

> *"That during the year 1999-2000 at Delhi, in pursuance to criminal conspiracy you accused P. D. Sharma recommended the revival of the said society based on bogus reports submitted by accused Maha Singh as well as Smt. Urmila Gupta and bogus records submitted by other accused private persons. In pursuance to the said criminal conspiracy, you accused Maha Singh submitted a false report as an observer wherein you have mentioned that the meeting of the society was held on 15.04.2000. You had mentioned that the election of the office bearers was shown to be conducted whereas no such meeting was held of the said society members on said*

date. In pursuance of the said criminal conspiracy you accused Smt. Urmila Gupta submitted a false audit report in respect to the accounts of the society. In the said audit report you mentioned that audit was conducted at the office address of the society whereas society was never existed at the given address mentioned in the audit report. In pursuance to the said criminal conspiracy you R. K. Srivastava revived the Sarvottam CGHS on the basis of false and bogus documents/reports and submitted by accused private persons and other public servants without getting the physical verification of enrolled members of the said society as well as the record of the society. Furtherance to said criminal conspiracy, false list of members was approved by you and sent to the DDA for allotment of land and land was allotted to the society. That you all in the above capacity, ***by corrupt and illegal means and abusing your official position as public servants****, caused wrongful loss to the RCS/DDA and caused pecuniary advantage to accused private persons by way of facilitating to get the land of society from the DDA at concessional rate and thereby committed an offence of criminal misconduct punishable u/s Sec. 13(2) r/w sec. 13(1)(d) of Prevention of Corruption Act, 1988 within my cognizance and jurisdiction."*

103. It is clear on reading the above that the accused persons were charged for criminal misconduct on the ground that they had engaged into corrupt or illegal practices and had abused their official position to obtain pecuniary advantage for private persons. It is reiterated here that there is no evidence on the record to suggest that the public servants had obtained any kind of pecuniary or other valuable advantage for themselves from any of the private persons in any manner.

104. The prosecution alleges that accused no. 6 had prepared a fake audit report. It needs to be reiterated here that no audit report was tendered in evidence by the prosecution. Allegation also is that the audit report was prepared at the residence of accused no.3 and not at the registered office of the Society. However, the prosecution did not examine a single witness in support of this fact. The audit report itself has not been proved on record. On the contrary, the prosecution witness, PW-48 deposed that some Society was being run from the first floor of the premises owned by his father. It is the same premises which was shown as registered office of the society, located at B-II/184, Shiv Mandir Park, Madangir, Delhi. PW-34 also deposed that he had visited the aforesaid premises to attend a few meetings of the Society. Testimony of these witnesses suggest that the Society was being run from the aforesaid address and thus the likelihood of accused no. 6 not going there to prepare the audit report has not been proved by the prosecution beyond reasonable doubt.

105. The prosecution has further alleged that the report of observer i.e. accused no.5 with respect to the elections held on 15.04.2000 was fake. It is alleged that the signatures on the report were of fake people. Maharaj Singh, shown as Chairman of the meeting was a non-existing person and his signatures were forged by the accused no.3. It is also alleged that as per prosecution witnesses no meeting of the Society had ever taken place at B-II/184, Shiv Mandir Park, Madangir, Delhi. All these allegations however are not supported by any of the witnesses examined by the prosecution. On the contrary, PW-48 deposed that some Society was being run from the first floor of the premises at Madangir and PW34 deposed that he had visited the said premises for attending the meetings of the Society. Veracity of none of these witnesses could be shaken by the prosecution. The so-called imaginary persons attending the meetings have not been specifically named in the chargesheet and otherwise also the prosecution did not examine any such witness who could have proved that the residences mentioned against the names of so-called fake members were either found non-existent or no such person was found residing there. The specimen signature allegedly imputed to the accused no. 3 were not proved as discussed already. Prosecution thus could not prove that the accused no.3 had signed as Maharaj Singh. Testimony of PW-19, PW-34, PW-35, PW-36 and PW-52 also digged a hole in the case of prosecution because these witnesses deposed that the meeting dated 15.04.2000 was attended by them. They even identified their signatures on the minutes of meeting thereby indicating that the meeting was indeed held during which elections were conducted for choosing the members of managing committee of the Society.

106. Apart from this the only circumstance that prosecution relies upon to show connivance between the public servants and the private persons is that the record of the Society, which was found to have been forged, was not verified by the officials. It was contended by Ld. Prosecutor during arguments that the RCS did not use his powers u/Sec. 54 of the DCS Act to conduct spot inspection and to verify genuinity of the members that were shown as resigned. The RCS as accused no.7 and Deputy Registrar as accused no.1 were sent to face trial on the basis of aforesaid reasons.

107. It is already discussed hereinabove how various office Notings related to verification of record had travelled between PW-57, PW-49, accused no. 1 and PW-59. Accused no. 7 had not even joined as RCS till that time. He joined in September, 1999 as disclosed by him during recording of his statement u/Sec.313 (1) Cr.P.C. which gets support from the Noting file itself where a different RCS has signed the Noting dated 21.05.1999 at page 29/N of D-4. The first time this file was placed before the accused no.7 is on

09.03.2000 when a Noting at page 35/N was signed by him. Verification of record had already taken place by then. It is so reflected in the Noting B to B dated 17.05.99, which is Ex.PW49/F (Colly) that the record had been seen already. Noting dated 06.04.99 from A3 to A3 at page 22/N which is part of Ex.PW49/C (Colly) reflects that the record was produced by the President of the Society on that day. Both these Notings originated from the Dealing Assistant PW57 and AR (Central) PW 49. The JR (Central) PW 59 noted on 21.05.99 at page 28/N which is part of Ex.PW49/F (Colly) that the Society had removed all the irregularities in its functioning. The earlier RCS vide his Noting dated 21.05.1999 at page 29/N did not raise any objection regarding the manner in which record of the Society was seen and verified. None of these officials have however been made accused before this Court. Some of them, as noted above, were rather examined as witnesses.

108. The accused no. 1 also had no role in verification of the record. He was middle in the hierarchy and the office Notings related to verification of record were only routed through him to the JR (Central) PW 59 and the then RCS by Dealing Assistant PW57 & AR (Central) PW49. This Court even hardly finds any Notings on behalf of accused no.1 on the proposals of PW57 & PW49. He was simply forwarding the proposals of the two aforesaid witnesses.

109. Prosecution had failed to clarify during the trial how only accused no.1 & 7 were held responsible for the alleged wrongdoings in revival of the Society when the proposal of revival was deliberated amongst them, the witnesses examined as PW49, PW47 & PW59 and the earlier RCS. There is nothing on record to suggest how roles of accused no. 1 & 7 differed from the roles of other officials in verification of records of the Society. It is not clear how the CBI picked up only accused no. 1 & 7 from the chain of hierarchy, while giving a clean chit to the others. The Notings do not reflect that the officials who were made witnesses had any different role compared to accused no. 1 & 7. These rather reflect that similar kind of recommendations were put/approval were given by all the officials including the aforesaid three witnesses, the earlier RCS and the accused no.1 & 7.

110. Since prosecution had failed to explain the discriminatory approach adopted by CBI, this Court did some digging of the record. One of the explanations that appeared for picking up only the accused no.1 & 7 is that the office Notings dated 20.04.2000 and 24.04.2000, which are part of Ex.PW59/B (Colly) and through which the Society was finally revived, were shared only between the accused no.1 & 7. These Notings were not routed through the Joint Registrar but had gone to the AR (Central) and the Dealing Assistant for information. While the explanation appears sound apparently, a deeper examination of Notings reveals it is highly flimsy. One cannot fail to note that in the Noting dated 20.04.2000 the accused no. 1 had simply reiterated what had already been put forth by his subordinate colleagues i.e. PW-57 and PW-49 and endorsed by the officers senior in hierarchy i.e. PW59 and the earlier RCS. No new recommendation was made by the accused no.1 vide office Noting dated 20.04.2000. The said Noting reads as below:

> *"Worthy RCS may kindly refer to his observation dt. 23-3-2000 reg. the revival of the society. The RCS has desired that in the G.B. Meeting to be held on 15-04-2000, JR-I will send an observor in the G.B. Meeting and submit his report to take further action in the matter.*
>
> *Accordingly Sh. Maha Singh Gd. II was assigned the job. The report of the observor is placed opposite at page 248/C. As reported the election was held unopposed for one post of President, one post of Vice-President and seven*

posts of M.C. members including two women candidates. A list of the office bearers and the M.C. members alongwith the proceeding of the G.B. Meeting is placed opposite in the file.

Other ***details of the case has already been discussed from page 33/N onwards*** *and the society has fulfilled all the statutory requirements for revival. The President/Secretary of the society has also filed an affidavit that they will comply all the statutory requirements and continuation of the society in future also.*

In view of the opinion given by the Secretary (Law & Judicial), the Registrar Cooperative Societies is competent to order the revival of such cases. The case is therefore re-submitted for consideration pl."

(Emphasis supplied)

111. It is thus clear that the accused no.1 was merely referring to the Notings on earlier pages and the report of Observer. These Notings on earlier pages travelled between the accused no.1, PW59 and accused no.7. The first Noting on page 33/N refers to the Notings from page 20/N onwards, thereby bringing the Notings that originated from PW57 & PW49 in its ambit. Hence, the Noting of accused no.1, dated 20.04.2000, cannot be read in isolation. So far the report of Observer is concerned, it is reiterated that the prosecution has not been able to prove that the said report was fake.

112. The prosecution alleged connivance between the accused no.7 (RCS) and accused no.5 (Observer). The case put forth by the prosecution is that the accused no. 5 was appointed on the directions of RCS in furtherance to a conspiracy between them and he submitted fake report in pursuance thereto. What prosecution however has failed to notice is that the accused no.7 as RCS had merely directed that an Observer be appointed, but name of the Observer was suggested by PW59 vide Office Noting dated 30.03.2000 at

Page 36/N. Let's remind ourselves here that JR-I is not an accused before this Court, he is rather a witness i.e. PW59. It becomes difficult to fathom how a conspiracy existed between the accused no.5 (Observer) and accused no. 7 (RCS) who had no direct connection while the JR-I who appointed accused no.5 became a witness of the prosecution.

113. Ld. Prosecutor had contended that conspiracy between the accused no.7 as RCS and office bearers of the Society was clearly apparent from the Noting Ex.PW59/A and the pre-Notings to this, as the RCS had called the office bearers for a meeting in his chamber and not in open Court. This argument to my mind is also completely unthoughtful. The RCS merely directed the JR-I i.e. PW59 to fix up a meeting with the office bearers. It is the JR-I who had directed that the office bearers be called for a meeting in the chamber of RCS, vide Office Noting dated 09.03.2000 at page 35/N. When the meeting took place with the office bearers as recorded in the Noting dated 23.03.2000 which is Ex.PW59/A, the JR-I i.e. PW59 was also present there. He did not however depose about any kind of untowardness that he had noticed in the said meeting which may point out towards existence of conspiracy between the RCS i.e. accused no. 7 and office bearers of the Society. PW-59 rather deposed that he had recommended revival of the Society after ensuring that all the irregularities had been removed by it and there was no illegality involved.

114. At the end, this Court may also point out that the office Noting dated 06.03.2000 records that *the then Hon'ble CM, as mentioned by the Ex. RCS at page 29/N had also asked the RCS to revive the Society in view of the recommendations made by the AICC office vide its letter dated 23.12.98.'* It is clear on reading of this Noting that even the office of Hon'ble CM was of the view that the Society was required to be revived.

115. Office Notings having been discussed, let's now come to the ingredients of the offence of criminal misconduct to see if prosecution could make out a case there. One of the most important essential of the offence of criminal misconduct is obtainment of pecuniary advantage for oneself or private persons. One may say that by reviving the Society without following strict procedures of verification and spot inspection, the accused no.7 obtained pecuniary advantage for certain private persons by enabling them to claim priority in allotment of land and this in itself is sufficient to point out that the revival was not *bonafide*. However, to raise this argument the prosecution will first have to establish identity of those private persons for whom advantage was obtained by the public servants.

116. In this case prosecution has claimed that the private persons were accused no. 2, 3 & 4 however as has already been discussed, none of them could be connected either to forgery or to the visits made by the office bearers of the Society to the office of RCS thereby giving them exposure to the public servants. None of the private persons could be connected to the business that had been transacted inside the office of RCS regarding the revival request of the Society. The only signatures of private person that have been proved by the prosecution are of Harish Chander at page 41/N exhibited as Ex.PW36/D (Colly). However, Harish Chander himself is a witness and not an accused in this case, which means that he is not the one for whom advantage was obtained by the public servants.

117. Ld. Counsel for accused no. 7 had referred to certain judgments regarding requirement of element of *mens rea* in establishing the offence u/Sec.13(1)(d)(iii) of the PC Act. I do not find it necessary to refer to those judgments because no charge for the said offence was framed against the accused persons. They were only charged for the offences u/Sec.13(1)(d)(i) & Sec.13(1)(d)(ii) of the PC Act as discussed already.

118. Since the issues raised hereinabove regarding the case of prosecution remained unanswered all through out, this Court has no hesitation in holding that the prosecution had failed to prove the charge of criminal misconduct also beyond reasonable doubts.

Existence of Conspiracy

119. Since none of the overt acts on the part of private persons could be proved it becomes difficult to fathom that they were part of conspiracy, if any existed. The only link that could have proved existence of conspiracy between the public servants and private persons are the office Notings. It is reiterated that the office Notings are important key to understand the mind and will of public servants. These give a good insight into the manner of functioning of a particular office, which at times provides a strong foundation for establishing the charge of conspiracy. However, the prosecution lost that advantage in this case by adopting a discriminatory approach amongst the officials who were at the same pedestal and whose Notings represented similar mind and will. Some of the officers in the same hierarchy were made witnesses while others were made accused without any reasonable basis for making such a differentiation. None of the private persons who are accused before this Court were linked to any of the office Notings either.

120. Due to above, in my considered view the Notings also were not sufficient to say that a conspiracy existed between the officials of RCS and the private persons in this case.

Lack of Sanction u/Sec. 197 Cr.P.C.

121. Ld. counsel for accused no. 7 contended that the said accused could not be tried for the offences punishable under IPC because requisite sanction u/Sec. 197 Cr.P.C. was not obtained qua him. Ld. Counsel relied upon various judgments of Hon'ble Apex Court and Hon'ble High Court of Delhi in this regard.

122. In my considered view, the judgments relied upon by Ld. Counsel for accused no. 7 are not applicable to the facts of this case in view of the decision of Hon'ble Apex Court in ***Shadakshari* v. *State of Karnataka***[32] wherein Ho'ble Court categorically reiterated that agreeing to commit an offence was not a part of official duty & protection of Sec.197 was not available against such acts. In this case allegations are clear, that the accused persons had conspired. Conspiracy not being part of their duty, the accused persons cannot claim benefit of Section 197 Cr.P.C.

If trial qua accused no.1 is required to be postponed

123. It is already observed hereinabove that the statement of accused no.1 was not recorded u/Sec. 313 Cr.P.C. considering his mental health and trial qua him was postponed. However, this Court received the final report from IHBAS on 23.03.2026 wherein it was opined that the condition of the accused no.1 was unlikely to improve. The accused no. 1 is 85 years old. It was opined by CW-1, who was one of the members of the medical board, that he had examined the accused no.1 who was suffering from severe Dementia which was the last stage of Dementia and hence had likely forgotten all details of the activities which he was not performing regularly.

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124. The aforesaid testimony of CW-1 clearly suggests that not only the accused no. 1 is suffering from unsoundness of mind, he is also incapable of entering his defence because he has likely forgotten about the activities he is not performing regularly. The questioned activities of accused no.1 in this case relate to performance of his duties when he was posted in the office of RCS. The accused no.1 has superannuated since long ago and is 85 years of age now, so obviously he is not regularly performing the said duties and has likely forgotten about the same. Condition of accused no.1 is not likely to improve because the disease is irreversible and progressive in nature, hence, resumption of trial qua him seems unlikely.

125. This Court has already observed that the prosecution had led its entire evidence before the accused no. 1 slipped into Dementia. Hence, accused no. 1 had got full opportunity to rebut the evidence that had been led against him. By not recording his statement u/Sec. 313(1) Cr.P.C. he was not given a chance to explain the incriminating circumstances that had appeared against him during the evidence. However, appreciation of evidence hereinabove qua him suggests that the prosecution has not been able to establish the charge of criminal misconduct or conspiracy against him. In view of this, even if the incriminating circumstances were not put to the accused no.1, no prejudice shall be caused to him if the evidence that has come on record qua him is appreciated and a final determination is done after dispensing recording of his statement. For these reasons, I do not deem it fit to postpone the trial qua accused no.1 any further.

126. A final determination qua accused no.1 vide this judgment is not only in the interest of this trial but also in the interest of justice because such an approach will be in consonance with the well-established constitutional principles of fair trial. Despite coming to the conclusion that the case of prosecution is not strong enough to establish the charges framed, if trial is postponed qua accused no. 1, it will be a mockery of justice and violation of the principles of fair trial. It is because such an approach will be discriminatory to accused no. 1, since all other accused persons will be entitled acquittal but the accused no.1 will not merely because of unsoundness of mind. Hence, conclusion of trial and not its postponement qua accused no.1, is the solution more justifiable under the law.

Decision

127. In my considered opinion, for reasons stated hereinabove, the CBI has failed to establish a complete chain of circumstances and thus could not prove the allegations beyond reasonable doubt, benefit of which must go to the accused persons. All the accused persons are consequently acquitted of the offences charged.

Announced in the Open Court
on 12.06.2026

JYOTI KLER
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Date: 2026.06.22 11:52:18 +0530

(Jyoti Kler)
Special Judge (PC Act) (CBI)-18,
Rouse Avenue District Courts, New Delhi.

Certified that this judgment runs into 100 pages and all the pages have been signed by me.

JYOTI KLER
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(Jyoti Kler)
Special Judge (PC Act) (CBI)-18,
Rouse Avenue District Courts, New Delhi.