

**In the Court of Sh.Darbari Lal, (UID No.PB0087)
Additional Sessions Judge, Amritsar.**

Sessions Case No	:	23051
CNR Number	:	PBAS01-000438-2004
Date of Institution	:	29.8.2003
Date of Decision	:	21.12.2021

S T A T E

Versus

1. Dr.Parveen Kumar Sareen son of late Satya Paul Sareen, resident of 4-A, Police Lines Road, Amritsar (Proceedings against him stands abated vide order dated 1.11.2019).
2. Dr.Parveen Kumar Jain son of Harbans Lal, resident of 25-C, Maqbool Road, Amritsar (Proceedings against him stands abated vide order dated 15.9.2017).
3. Dr.Bhushan Aggarwal son of Ramesh Kumar, aged 56 years, resident of C/O Marwari Hospital, Marwari Quarter, Amritsar.
4. Dr.Bhupinder Singh son of late Niranjan Singh, aged 57 years, resident of 252-B, Ranjit Avenue, Amritsar.
5. Dr.Om Parkash Mahajan, resident of Preet Vihar, Circular Road, Amritsar(Proceedings against him already stayed vide order dated 2.5.2018).
6. Dr.Jagdish Gargi, aged 61 years son of Krishan Lal Gargi, resident of 13-C, New Medical Enclave, Amritsar.
7. Hardial Mehta Manager, aged 81 years son of Budhu Ram, resident of Street No.9, Bhawani Nagar, near Gopal Nagar, Amritsar.
8. Gorakh Ram, aged 53 years son of Ghanakur Ram, resident of village Hanj, Tehsil Palampur, District Kangar, Himachal Pradesh.
9. Rajan Puri son of Parshotam Lal, resident of 38, Guru Teg Bahadur Nagar, Amritsar (Proceedings against him stands abated vide order dated 10.1.2018).
10. Pardeep Saini aged 55 years son of M.L.Saini, resident of Gal No.2, Ghar Kothia, Putlighar, Amritsar.

11. Chandan son of Karam Singh, resident of Haldi, P.S. Ghujar Patty Kesar, District Tirigarhwal, Utranchal (Proceedings against him stands abated vide order dated 10.9.2018).

12. Raj Kumar @ Raju aged 63 years son of Deep Chander, resident of Gali Kabranwali, Kirpal Colony, Tung Bala, Majitha Road, Amritsar.

13. Gurbinder Singh aged 47 years son of Kuldeep Singh, resident of Shaheed Udham Singh Colony, Gali No.5, Sultanwind Road, Amritsar (Proceedings against him stands abated vide order dated 5.10.2010).

14. Pankaj Kumar @ Pankaj Gupta, aged 41 years son of Janardhan Gupta, resident of H.No.42, village Baddiha, Post Office Mirzaganj, Police Station Jagua, District Garidi, Jharkhand(Bihar), also resident of 1732, Bank Colony, Habowal, Ludhiana at present plot No.7, Phase No.3, Jaggi Colony, Ambala City, Haryana.

..... Accused

FIR number	:	101 dated 21.9.2002
Under Sections	:	420, 467, 468, 471, 295-A, 109, 371 of Indian Penal Code and Sections 18, 19, 20 of Transplantation of Human Organs Act, 1994 read with Section 120-B of Indian Penal Code.
Police Station	:	D-Division, Amritsar.

Present: Sh.R.K.Salwan, Special Public Prosecutor for the State.

Accused Dr.Bhushan Aggarwal on bail with counsel Sh.P.M.Zakhmi Advocate.

Accused Dr.Bhupinder Singh and Pankaj Kumar on bail with their counsel Sh.A.K.Vermani Advocate.

Accused Dr.Jagdish Gargi on bail with counsel Sh.Amandeep Singh Bajwa Advocate Amicus Curiae appointed by the predecessor of this court vide order dated 25.3.2021, assisted by Sh.Avtar Singh Randhawa, Advocate.

Accused Pardeep Saini in person.

Accused Hardial Mehta on bail with counsel
Sh.Pardeep Saini Advocate.

Accused Gorakh Ram and Raj Kumar @ Raju on bail
with their counsel Sh.Aman Mahajan Advocate._

JUDGMENT:

1. The above said accused have been sent up by SHO, Police Station D-Division, Amritsar, to face trial for the alleged commission of offences punishable under Sections 420, 467, 468, 471, 295-A, and 371 of Indian Penal Code and Sections 18, 19 and 20 of Transplantation of Human Organs Act, 1994 read with Section 120-B of Indian Penal Code.

2. The prosecution story, in brief, is that on 21.9.2002, ASI Vishwamitter alongwith other police officials was present in front of Railway Station, Amritsar, where secret information was received that Yogesh Kumar @ Tinku son of Ashok Kumar, resident of old Housing Board Colony, Karnal, now at Friends Colony, Amritsar, Raj Kumar son of Ved Ram, resident of Mathura, Lachhman Singh son of Raghbir Singh, resident of District Sultanpur, U.P. (Agent), Raju Mehra son of Nandu, resident of Diwan Gate, Malwipur, Ujjain (M.P.), Ravi Kumar Yadav son of late Sushil Kumar, resident of 14, Survey Road, Uttranchal, Dehradoon, Raj Kumar @ Raju son of Kailash Yadav, resident of Khatauli, District Darbanga, Bihar, Amit Kumar @ Bittu son of Vishnu Singh, resident of village Putana, Police Station Shamli, District Muzafar Nagar, U.P., Gaurav Arora son of Jagdish Chander Arora, resident of main bazaar Bahadur Nagar, District Jhajar, near

Bua Nursing Home, Police Station Bahadurgarh, Haryana, Rupinder Kumar son of Ram Kumar, resident of Nodla, District Kettian, Bihar, Dalip Singh son of Rajjit Singh, resident of village Rajpur, District Bhojpur, Bihar, Prem Kumar son of Hem Singh, resident of Champa Nagar, Police Station Jiripur, District Imphal, Manipur, Raju son of Ramesh, resident of village and Police Station Milan, District Rampur, Umesh son of Shiv Lal, resident of Paanch Gaon, Tehsil Omrade, District Nagpur alongwith other persons were present at Goal Bagh, Amritsar. They with the help of other persons are dealing the business of transplantation of kidneys of poor and innocent persons under the lust of money. These persons are planning for transplantation of kidneys, at Goal Bagh. Tinku, Lachhman Singh and Raj Kumar agents have kept confined some persons with them in their house to sell their kidneys. If, raid is conducted, then, they can be apprehended. Since, the information was trustworthy, so, Ruqa was sent to Police Station for registration of FIR under Sections 18, 19 and 20 of Transplantation of Human Organs Act, 1994 and under Sections 420, 371 and 120-B Indian Penal Code through Constable Harjinder Singh No.3319. After registration of FIR, investigation was initiated. During investigation, accused Raj Kumar son of Ved Ram, Lachhman Singh son of Ragbir Singh, Raju Mehra son of Nandu, Ravi Kumar Yadav son of Sushil kumar, Raj Kumar Yadav son of Kailash Yadav, Amit Kumar @ Bittu son of Bishnu Singh, Gaurav Arora son of Jagdish Chander Arora, Upinder Kumar son of Ram Kumar,

Dalip Singh son of Rajjit Singh and Ravi Sahni son of Besh Raj were arrested from Goal Bagh Amritsar. whereas accused Prem Kumar son of Hira Singh, Raju son of Ramesh Sharma and Umesh Kumar son of Shiv Lal were arrested from the house of Yogesh kumar @ Tinku on the same day. On 22.9.2002, ASI Vishwamitter arrested accused Yogesh Kumar @ Tinku alongwith Maruti car bearing registration No.DL-3-M-9263 white in colour, having Engine No.2170684 and Chassis No.1560166C in this case and during interrogation, accused Yogesh Kumar @ Tinku disclosed that he is having one mobile No.98140-94253 for running this racket and number of this mobile is with Dr.Parveen Kumar Sareen, Dr.Parveen Kumar Jain and Dr.Bhupinder Singh of Kakkar Hospital. He used this mobile number for this business. Yogesh Tinku also disclosed that at large scale, racket of illegal business is also being run by Raj Kumar and Vicky Bhatia agent through their mobile No.98140-86204. The transplantation of kidneys were got done at Kakkar Hospital. On 27.9.2002, Roshan Lal son of Parkash Chand and Miss Rajni, residents of House No. 551/12, Gali Naiyan, Katra Parja, Amritsar were joined in the investigation of this case. Miss Rajni stated that she is suffering from kidney disease, since 1996 and she had got conducted her dialysis for 53 times. After advise of Dr.Parveen Sareen for kidney transplantation, she got admitted in Kakkar Hospital, in May 1997, where Chandan and Tinku, who used to wander near the hospital, came to her room and told that they will arrange a kidney for a sum of Rs.50,000/-and

they will take their commission separately. Tinku met Raju Mehra son of Nandu, resident of Malwipur, Ujjain, District Indore and Dr.Parveen Kumar Sareen got conducted different tests of Raju Mehra and Rajni, who were related to each other. On 6.11.1997, her father gave Rs.50,000/-to Tinku and after operation, her father gave Rs.35,000/-to Dr.Parveen Kumar Sareen. Roshan Lal also endorsed the statement of Miss.Rajni and stated that during that period, all the formalities were completed by Dr.Parveen Kumar Sareen. On 29.9.2002, relevant record was summoned from Spice Telecom, in which, two incoming and outgoing calls were registered from Telephone No.506015 which is registered as phone of Kakkar Hospital number and one outgoing call was registered from Telephone No.563694 which is registered as phone of Clinic of Dr.Parveen Sareen. Mobile Phone No.98140-86204 is registered in the name of Rajan Puri and Vicky Bhatia agents of kidney transplantation. 14 incoming calls and 24 outgoing calls were registered in the name of Yogesh Tinku. Three incoming calls were received at Connect Phone No.392742, which is registered in the name of ASI Surinderjit, who was posted at Police Station Civil Lines and at Phone No.421130, which is registered in the name of HC Jhujar Singh, so many incoming and outgoing calls are registered. On 30.9.2002, Yogesh Tinku, Advocate Rajan Puri and Vicky Bhatia commission agents were joined in the investigation as per ASI Vishwamitter. On 3.10.2002, Sh. Kunwar Vijay Partap Singh, IPS, SP-City-I, Amritsar obtained the printout of mobile

No.98140-86204 and as per which, 50 incoming calls and 26 outgoing calls were made from this mobile phone to phone No.506015 of Kakkar Hospital, one incoming call and two outgoing calls were made from this mobile phone to phone No.563694 of Clinic of Dr.Parveen Sareen. From the mobile phone No. 98144-44529, which is registered in the name of DSP Gurdial Ram, 69 incoming calls and 89 outgoing calls were made. From the mobile Phone No. 98142-90090, which is registered in the name of Vicky Bhatia, 97 incoming calls and 44 outgoing calls were made. From the phone No. 300411, 78 incoming calls and 30 outgoing calls were made by HC Ravi Kumar, who is posted at Civil Lines. From the phone No.392742, which is registered in the name of Sub Inspector Surinderjit, 114 incoming calls and 44 outgoing calls were made and from the phone No. 401038, which is registered in the name of Shivani Sharma, resident of 481-B, Basant Avenue, Amritsar, so many incoming calls and outgoing calls were made. On 5.10.2002, Sh. Kunwar Vijay Partap Singh, IPS, SP, City-1, Amritsar wrote a letter to Dr.O.P.Mahajan, Principal, Government Medical College, Amritsar for summoning the record, vide letter No. 820/5-E dated 5.10.2002 as Principal, Government Medical College, Amritsar is the Chairman/Head of the Authorization Committee, who used to give approval for kidney transplantation. On 7.10.2002, accused Rajan Puri Advocate son of Parshotam Lal, resident of 38, Guru Teg Bahadur Nagar, opposite Guru Nanak Dev, University, Amritsar was arrested by ASI Vishwamitter and mobile

Phone No. 98142-92806 was recovered from his possession. On 8.10.2002, Bagicha Singh son of Ajit Singh, resident of Muradpur, Tehsil Jagraon, District Ludhiana was joined in the investigation by ASI Vishwamitter, who stated that he was forcibly kidnapped by one boy Baljit Singh @ Vicky son of Rajwinder Singh, resident of Fatehgarh Shukarchak, Amritsar and his kidney was transplanted to Suresh Kumar Sharma, resident of Chandigarh after giving him Rs.40,000/- and a separate case bearing FIR No.118/2002 was got registered at Police Station E-Division, Amritsar. On the same day, Sh. Kunwar Vijay Partap Singh, IPC, SP City-1, Amritsar, took into possession 524 files which were passed by the Authorization Committee. On 10.10.2002, ASI Vishwamitter had joined Gurwinder Singh son of Kuldeep Singh, resident of House No. 401, Gali No. 5, Jaspal Nagar, Police Station B-Division, Amritsar in the investigation of this case, who stated that he met with Arun Kumar at Shri Harmandir Sahib, who further got him met with Surinder Kumar. Said Surinder Kumar stated that he is doing the job of sale and purchase of kidneys on behalf of Rajan Puri and Vicky Bhatia. Surinder Kumar etc. took him to Mayur Hotel and arranged his meeting with Ashok Kumar Aggarwal, resident of Gwalior and stated that they will give Rs.40,000/-for transplantation of his kidney and also provided him three times meal, Rs.50/-daily and two pairs of clothes. So, he became ready under greed. On 10.6.2002, they took him to Kakkar hospital and it was made clear that his name was got written as Vijay Kumar son of Darshan Lal

instead of Gurwinder Singh. Where, Dr.Bhupinder Singh also conducted all his tests in the name of Vijay Kumar. Then, on 13.6.2002, they took him to Kothi No.299, Green Avenue, Janta Colony, Amritsar and thereafter, he was produced before the Committee consisting of four persons on 19.6.2002. His file was already got prepared by Rajan Puri. After passing of case on 13.7.2002, his kidney was transplanted to Ashok Kumar Aggarwal by Dr.Parveen Sareen and Dr.Parveen Jain. On 13.10.2002, ASI Vishwamitter had joined HC Ravi Kumar No. 2924 son of Joginder Kumar, resident of village Bhikhiwind, Tarn Taran in the investigation of this case, who stated that he was posted as Reader with Inspector Harminder Singh in the last year. At that time, Charas was recovered from Yogesh Kumar @ Tinku and he was trying to apprehend Rajan Puri but Rajan Puri appeared before I.G. and got them transferred to other Districts. Yogesh Tinku, Rajan Puri, Vicky Bhatia, George Sweet and Pardeep Saini after preparing the fake files under wrong names of donors, in a wrong manner, in connivance with Authorization Committee, used to doing the trade of kidney transplantation and teams of Dr.Parveen Jain and Dr.Parveen Sreen were also indulged in the said trade. The dead body of donor, who died during operation used to be disposed off by using ambulance. In the month of June-July, 2002, 15 persons were apprehended from the Chamber of George Sweet Advocate, who used to prepare fake documents and they were released by Dr.Bhupinder Singh. They were those persons, who were disclosed

by above said Gurwinder Singh in his statement on 10.10.2002. ASI Vishwamitter had joined Sh.Rajesh Sharma, Tehsildar, Dera Baba Nanak and Sh.Bhola Singh, Reader, Tehsildar-1, Amritsar in the investigation of this case. Sh.Rajesh Sharma, Tehsildar stated that the signatures on affidavit No. 487 dated 18.6.2002 of Vijay Kumar son of late Sh.Darshan Lal, resident of Daulat Ganj, Gwalior (now at 30, The Mall, Amritsar) and affidavit No. 489 dated 18.6.2002 of Ashok Kumar Aggarwal son of Babu Ram Aggarwal, resident of Daulat Ganj, Gwalior (now at 30, the Mall, Amritsar) are not of his signatures, nor these are entered in their record. Bhola Singh, Reader has also supported the statement of Rajesh Sharma and stated that they will produce the original record at the time of evidence in the Court. Lokinder Yogi @ Shani son of Santokh Lal, resident of Gautampura, District Indore (M.P.) was joined in the investigation, who stated that Vicky Bhatia and Chuni Lal met him in Company Bagh. They promised to give him Rs.50,000/-for selling his kidney. He became ready under greed and went to Kakkar Hospital alongwith them, where, Vicky Bhatia got conducted his test alongwith test of other persons who belong to Jaipur and Dr.Sareen asked him that his body requires five bottles of blood. As such, he returned back to Company Bagh, from where, Vicky Bhatia and Chuni Lal took him to Jat Tent House, Majitha Road, bye-pass, where he was allured of giving Rs.50,000/-and left him there. His false affidavit was got prepared by Advocate Rajan Puri, Vicky Bhatia and Chuni Lal and, they took him to Happy of

Majitha road after got conducting his blood group. Thereafter, his kidney was transplanted to Happy in New Ruby Hospital, Jalandhar, where, Rs.3900/-were given to him by father of Happy and asked him that the remaining amount has already been received by Vicky Bhatia and Rajan Puri. On 22.10.2002, ASI Vishwamitter arrested Hargurinder Singh @ Happy son of Jaswinder Singh, resident of Kothi No.101, Diamond Avenue, Majitha Road, Amritsar, Chuni Lal son of Ram Shawak, resident of village Kudere, District Faizabad (now at House No.3, Gali No.3, Jagdambey Colony, Amritsar), Sheikh Samim son of Anwar Hussain, resident of Raja Bazaar, Calcutta (now at House No.3, Gali No.3, Jagdambey Colony, Amritsar), Kailash Kumar @ Kashmiri son of Krishan Lal, resident of village Tamud, Police Station Kishangarh, Jammu and Kashmir (now at Company Bagh, Amritsar). On 25.10.2002, ASI Vishwamitter recovered two copies, on which blood groups of different names were written from Chuni Lal and on 26.10.2002, ASI Vishwamitter got recovered one list from Corporation of unknown dead bodies including the dead bodies of some donors cremated in the area of Company Bagh as disclosed by Chuni Lal. On 7.11.2002, ASI Vishwamitter joined Sh.Rajesh Sharma, Tehsildar, Dera Baba Nanak and Sh.Bhola Singh, Reader Tehsildar-1, Amritsar in the investigation of this case. During investigation, Sh. Rajesh Sharma stated that the signatures on affidavits Nos. 495 and 496 dated 18.6.2002 related to kidney transplantation of Smt. Madhu Gupta wife of Kewal Krishan

Gupta, resident of 52, Lane No.3, Vikas Lane, Jammu and Abhinandan Singh son of Jorawar Singh, resident of H.No. 52, Lane No.3, Vikas Lane, Jammu are not of his signatures, nor these are entered in their record. Bhola Singh Reader has also supported the statement of Rajesh Sharma and stated that they will produce the original record at the time of evidence in the Court. On 16.11.2002, ASI Vishwamitter joined Ramesh Kumar son of Kanshi Ram, resident of Mau Ajeer Ganj, Police Staton Ayodhya, District Faizabad, U.P. (now at Gujjarpura, Amritsar) in the present case who stated that one day, he was resting in Company Bagh, then two persons Vicky Bhatia and Yogesh Tinku met him, who got prepared him for transplanting his kidney to Rehana Begam, resident of U.P. for a sum of Rs.40,000/- and thereafter, they produced him before the committee, after get preparing his false affidavits, where, committee has asked nothing from him. Thereafter, his kidney was transplanted to Rehana Begam by Dr.Parveen Jain and Dr.Sareen. From the investigation of this case, on 17.11.2002, challan under Section 173 Criminal Procedure Code was prepared against accused Yogesh Kumar @ Tinku son of Ashok Kumar, resident of old Housing Board Colony, Majitha Road, Amritsar, Raj Kumar son of Ved Ram, resident of Mathura, Lachhman Singh son of Raghbir Singh, resident of Police Station Surapur, District Sultanpur, U.P. (agent), Raju Mehra son of Nandu, resident of Diwan Gate, Malwipur, Police Station Ujjain, Indore, M.P., Ravi Kumar Yadav son of Sushil Kumar, Raj kumar @ Raju son of Kailash Yadav,

resident of Khatauli, District Darbanga, Bihar, Amit Kumar @ Bittu son of Vishnu Singh, resident of village Putana, Police Station Shamli, District Muzafar Nagar, U.P., Gaurav Arora son of Jagdish Chander Arora, resident of Main Bazaar Bahadurgarh, District Jhajar, near Bua Nursing Home, Police Station Bahadurgarh, Haryana, Rupinder Kumar son of Ram Kumar, resident of Naudala, District Kettian, Bihar, Dalip Singh son of Rajjit Singh, resident of village Rajpur, District Bhojpur, Bihar, Prem Kumar son of Hem Singh, resident of Champa Nagar, Police Station Jiripur, District Imphal, Manipur, Raju son of Ramesh, resident of village Milan, Police Station Milan, District Rampur, U.P. Umesh son of Shiv Lal Kurwali, resident of Police Station Paanch Gaon, District Nagpur, Ravi Sahni son of Besraj, resident of Police Station Dohrigha, Ajamgarh, U.P., Kailash Kumar son of Krishan Lal, resident of village Tamoodr, Police Station Kishatwar, District Doda (now at Company Bagh, Amritsar), Hargurvinder Singh @ Happy son of Jaswinder Singh, resident of Kothi No.101, Diamond Avenue, Majitha Road, Amritsar and presented in the Court on 20.11.2002.

3. On 18.11.2002, ASI Vishwamitter arrested accused Pankaj Gupta in this case after obtaining his production warrants, as he was lodged in Central Jail Ludhiana in case bearing FIR No.420/2002, Police Station Simlapuri, Ludhiana. On the same day, Kunwar Vijay Partap Singh, IPS, SP City-1, Amritsar wrote a letter No.990/5-E dated 18.11.002 to Director Research of Medical Education, Chandigarh for giving information, regarding brief facts

of the case and full conspiracy of Authorization Committee in kidney transplantation and for taking appropriate action, which is required under Section 22 of Transplantation of Human Organ Act, 1994. On 20.11.2002, ASI Vishamitter collected copy of letter of instructions issued by Government of Punjab, in which the irregularities committed by Kakkar Hospital, Amritsar and Authorization Committee, Amritsar were mentioned. On 21.11.2002, Sh. Kunwar Vijay Partap Singh, IPS, S.P. handed over file of this case to Sh. A.S.Sandhu, Joint Director Prosecution, office Crime Branch, Chandigarh, as per letter No.26303/C-1 dated 18.11.2002. On 7.12.2002, one letter No.27729/C-1 from Sh. Narinder Pal Singh, IPS, SSP, Amritsar and one letter No.8866/C-1 dated 6.12.2002 from office of SSP, Amritsar, bearing No.443/5.12.2002 of Vigilance Bureau, Chandigarh, were received, in which, it was ordered by the Punjab Government that further investigation of this case be handed over to Vigilance Bureau, Chandigarh. As per said order, the file of this case was sent to Vigilance Bureau, Chandigarh. On 26.11.2002, Clerk Sunil Kumar, Government Medical College, Amritsar handed over to ASI Vishamitter, 1479 files of approval of Authorization Committee in kidney cases and same were taken into possession. He annexed these files with judicial file, these files were got verified by different Investigating Officers, out of which, only few donors were traced and rest of the donors could not be traced on verification because fake names and addresses were mentioned in these files

and the aforesaid doctors of Authorization Committee approved the transplantation of kidneys without verifying the names of donors and their addresses and some of recipients were kept in rented accommodation and their addresses were also not traceable as addresses mentioned in the documents kept in these files were fake. The Special Investigation Team formed by Punjab Government and ASI Vishamitter received official copy of constitution of said Special Investigation Team on 27.12.2002 which bears signatures of Sh.K.K.Attri, Additional Director General of Police, Punjab, Chandigarh. On 11.1.2003, ASI Vishamitter arrested Dr.Parveen Kumar Sareen and from his possession his driving licence, his credit card and cash of Rs.2000/- were recovered and same were taken into possession. He also prepared arrest memo of accused Dr.Parveen Kumar Sareen and intimation of his arrest was given to his mother Amarjit Kumari. During investigation, this fact was revealed that Dr.Parveen Sareen was working as main surgeon of kidney transplant in Kakkar Hospital, Amritsar as recipient surgeon and Dr.P.K.Jain was working as donor surgeon of Kidney transplant and assistant surgeon was Dr.Bhushan and Dr.Bhupinder Singh. Dr.P.K. Jain used to hand over the kidney of donors to Dr.P.K.Sareen for transplantation, who used to transplant the same in the bodies of recipients and rest of aforesaid doctors used to assist them in transplantation of kidneys. This fact was also revealed in investigation that in order to approve the case of donor from Authorization Committee, Dr.P.K. Sareen used to recommend

name of recipients under his signatures and seal and Dr.P.K.Jain used to recommend the names of donors to Authorization Committee, Amritsar, under his seal and signatures as donors and recipients are fit and recommended for transplantation of kidneys but both aforesaid doctors did not verify the names and addresses and relations of donors and recipients. In this way, about 2000 files were got approved by them illegally from Authorization Committee for the purpose of kidney transplantation. On 15.1.2003, Jagdish Kehar, Clerk Kakkar Hospital, Amritsar handed over to ASI Vishwamitter, the admission/discharge register of recipients and donors of kidneys and same was taken into possession. On 17.1.2003, Jagdish Kehar, Clerk handed over to ASI Vishwamitter, 1808 bed head tickets of donors and recipients as per list prepared consisting of 64 pages, which were taken into possession and said 1808 files mentioned in list of 64 pages. ASI Vishamitter also attached the 64 pages with the judicial file. On 19.1.2003, during investigation, this fact revealed that accused Hardial Mehta working as Manager in Kakkar Hospital, Amritsar and from the Almiarh in his office recovered two bed head tickets of recipient Mulakh Raj Goel and donor Sudesh Kumar and same were taken into possession. During investigation, this fact was revealed that donor Sudesh Kumar had died during kidney transplantation. Accused Hardial Mehta ran away from Kakkar Hospital, Amritsar, while they were busy in investigation of this case. ASI Vishamitter also took into possession the operation files of recipients. On 23.1.2003,

Mangat Ram Chowkidar of cremation ground of Marwari, Ghee Mandi, Amritsar produced before him the register maintained in the cremation ground regarding the cremation of dead bodies and this register contains the entry of the cremation of donor Sudesh Kumar and he took this register into possession. After registration of case FIR No.25 of 2003, Police Station Civil Lines, Amritsar, on revealing death of donor Sudesh Kumar in investigation, he handed over aforesaid operation files of recipients Mulakh Raj Goel and donor Sudesh Kumar and two files of Authorization Committee of Mulakh Raj Goel and donor Sudesh Kumar, admission and discharge register of Ram Sharan Dass Kishori Lal Charitable Trust Hospital, Green Avenue, Amritsar alongwith the aforesaid register of Marwari cremation ground to Investigating Officer Arun Sharma, who was conducting the investigation of case FIR No. 25 of 2003 of Police Station Civil Lines, Amritsar. On 20.2.2003, ASI Vishamitter alongwith other police officials arrested Sandeep Singh alias Vicky Bhatia, main agent of kidneys donor suppliers. During course of investigation, this fact revealed that this accused has closed nexus with other kidney suppliers agents Rajan Puri, Yogesh Tinku, Chandan, Raj Kumar, Pankaj Gupta etc. and they in connivance with each other run illegal racket of transplanting kidneys illegally and he used his mobile number 98140-86204 in this racket with the help of his co-accused. On 24.2.2003, while accused Sandeep Singh alias Vicky Bhatia was in police custody and he was interrogated by ASI Vishamitter and he disclosed that he

kept concealed mobile phone set used in commission of offence at his residential flat, situated at Panj Peer, G.T. Road, Amritsar and he only knows about it and he can get recovered the same and at his instance, his disclosure statement was recorded, thereafter, Sandeep Singh alias Vicky Bhatia led the police party to disclosed place and with his own hands, he get recovered mobile phone marka Panasonic at his instance and on verification of mobile, this fact revealed that he had destroyed the Sim used in this mobile, in order to destroy the evidence. The mobile was taken into possession vide separate memo. On arrival to Police Station, ASI Vishamitter deposited the case property as per recovery memo. In further investigation, this fact revealed that mobile bearing no. 98140-86204 was jointly used by Sandeep Singh alias Vicky Bhatia and Rajan Puri in commission of offence. On 2.3.2003, ASI Vishamitter alongwith other police officials arrested accused Gorakh Ram, Ambulance driver of ambulance bearing registration No.PB-02-K-1026 registered in the name of Ram Sharan Dass Kishori Lal Charitable Trust Hospital, Green Avenue, Amritsar alongwith aforesaid ambulance and its Registration Certificate and on personal search of accused Gorakh Ram, Rs.27000/- were recovered. The aforesaid ambulance was taken into possession. He also took into possession Registration Certificate of ambulance. On return to Police Station, case property was deposited with MHC. The aforesaid ambulance was being used for the transportation of kidney donors illegally supplied to aforesaid hospital for illegal

transplantation and for the purpose of transportation of dead bodies of donors, who died in the aforesaid hospital during course of transplantation, in order to dispose off their dead bodies and accused Gorakh Ram was working as driver of the aforesaid ambulance and he worked as ambulance driver on the directions of the doctors involved in this case, as well as of Manager Hardial Mehta. During investigation, this fact also revealed that the said ambulance was earlier registered in the name of hospital and later on, ownership of ambulance was transferred in the name of Gorakh Ram. On 5.3.2003, during course of investigation, ASI Vishwamitter interrogated accused Gorakh Ram and he suffered a disclosure statement that he kept concealed his mobile phone marka Siemon used in commission of offence, at his residence at Rishi Vihar, Majitha Road, Amritsar and he only knows about the same and could get recovered the same. His disclosure statement was recorded. Accused Gorakh Ram led the police party to disclosed place and get recovered the mobile marka Siemon having sim no.98143-39687 with his own hands from his residence and same was taken into possession, vide separate memo. The said ambulance, mobile phone and cash Rs.27000/- is on sapurdari with accused Gorakh Ram. On 7.3.2003, during course of investigation, the call details sent by Incharge Spice Telecom were received and attached with the judicial file and on perusal of same, this fact was revealed that landline phones of aforesaid hospital bearing nos. 506015 and 506053 were used under the supervision of accused

Hardial Mehta in commission of offences in connivance with Dr.P.K.Sareen and Dr.P.K.Jain and there are frequent calls of land line numbers with the donors, recipients and mediators Rajan Puri on his mobile phone No. 98140-86204 and on mobile No.98140-93230 of Dr.Bhupinder Singh and with the mobile of co-accused DSP Gurdial Ram. The aforesaid numbers were used to run racket of kidney by aforesaid persons. Thereafter, supplementary challan against accused Sheikh Shamim son of Anwar, Pankaj Gupta son of Jannardhan Gupta, Dr.Parveen Kumar Sareen, Dr.Om Parkash Mahajan, Dr.Jagdish Gargi, Sandeep @ Vicky Bhatia and Gorakh Ram who were in custody and accused Rajan Puri and Chunni Lal were on bail and Raju and Chandan who were Proclaimed Offenders was filed on 10.3.2003.

4. On 27.4.2003, during course of investigation, ASI Vishamitter arrested accused Dr.Parveen Jain, donor Surgeon of Kakkar Hospital, Amritsar and from his personal search, Rs.2200/- were recovered. During investigation, this fact revealed that Dr.Parveen Jain was working as Donor Surgeon in Kakkar Hospital, Amritsar and he alongwith his assistant surgeons Dr.Bhupinder Singh and Dr.Bhushan Aggarwal was indulged in removing kidneys of donors without any verification illegally due to this illegal removal of kidneys from the bodies of donors, many labourers became physically handicapped and some of them also lost their lives. Dr.Parveen Jain used to remove the kidneys of donors at the time of transplantation and handed over the same to transplanting

surgeon Dr.P.K.Sareen, who transplanted the same in the bodies of recipients. Dr.Parveen Jain was working as donor surgeon in Kakkar Hospital, Amritsar and donors, who gave their kidneys illegally, Dr.Parveen Jain used to recommend their names as donor surgeon after verifying their names and addresses but in the investigation, this fact revealed that the names of the donors mentioned in the recommendation made by Dr.Parveen Jain were fake. On verification, only one, or two persons were found to be correct and remaining names and addresses of donors were dummy and fake. On 28.4.2003, accused Pardeep Saini, Advocate Legal Advisor, Kakkar Hospital, Amritsar was joined in the investigation, who was released on bail by the Hon'ble Punjab and Haryana High Court. Pardeep Saini, Advocate used to prepare files of kidney transplant being conducted in Kakkar Hospital, Amritsar and he took assistance from Navneet Sangotra, Sarabjit Singh and George Advocates for preparing documents. During course of investigation, this fact revealed that the affidavits attached with donors files and recipients files found to be fake and only one affidavit was found to be genuine. This verification was got conducted from the office of Executive Magistrate, Amritsar. After joining Pardeep Saini, Advocate into investigation, he released him on bail, as per orders of Hon'ble Punjab and Haryana High Court. On 20.5.2003, ASI Vishwamitter arrested Hardial Mehta, Manager, Kakkar Hospital, Amritsar, who was controlling authority of total medical record kept in Kakkar Hospital, Amritsar pertaining to transplantation of

kidney and he was working as a Medical Superintendent in a fake manner without holding any degree. He used to recommend the cases of the kidney as Medical Superintendent. While sitting in his office at Kakkar Hospital, Amritsar, he worked as a mediator between kidney couriers, recipients and donors of kidney and transplanting surgeons and he was working as King-pin in the kidney racket. He has close links with members of Authorization Committee, Government Medical College, Amritsar and in connivance with them used to get clear the files of kidney transplantation from Authorization Committee, Government Medical College, Amritsar. Dr.O.P.Mahajan was working as Chairman of Authorization Committee, Government Medical College, Amritsar, Dr.Jagdish Gargi, Member of Authorization Committee of said college. From the land-line numbers of Kakkar Hospital, Amritsar, he managed to contact DSP Gurdial Ram on his telephone no.98144-44529 and he also contacted with kidney couriers and mediators i.e Rajan Puri and Sandeep Singh alias Vicky Bhatia on mobile no. 98140-86204 used commonly by them and with Dr.Bhupinder Singh on his mobile number 98140-93230. He also prepared arrest memo of Hardial Mehta. On 21.5.2003, ASI Vishwamitter arrested Dr.Bhushan Aggarwal, vide memo and intimation of his arrest was given to his father Ramesh Kumar. Dr.Bhushan Aggarwal was a public servant and working as Medical Officer at PHC Issapur, Block Ramdas, District Amritsar and he was working illegally at Kakkar Hospital, Amritsar and used to

assist the transplanting surgeon at Kakkar Hospital, Amritsar, who transplanted the kidneys illegally. During investigation, this fact revealed that CMO Dr.Ajaib Singh Gill had apprehended Dr.Bhushan Aggarwal, while he was conducting transplantation of kidney at Kakkar Hospital, Amritsar illegally and thereafter, he was suspended from the service. Dr.Ajaib Singh Gill, CMO also got recorded his statement to this effect. He also recorded disclosure statement of Dr.Bhushan Aggarwal. Thereafter, supplementary challan against Dr.Parveen Kumar Jain, Dr.Bhupinder Singh, Dr.Bhushan Aggarwal and Hardial Mehta who were in custody, accused Pardeep Saini was on bail and accused Gurdial Ram and George were Proclaimed Offenders, was filed on 11.6.2003.

5. On 1.7.2003, ASI Vishamitter arrested the kidney courier Chandan, who in connivance with Dr.P.K.Sareen, Dr.P.K.Jain and other doctors involved in the racket of kidney scam, used to arrange the donors of kidneys and supplied the same for transplantation at Kakkar Hospital, Amritsar. Accused Chandan was also involved in similar nature cases registered in other districts. At the time of arrest, from his personal search, Rs.30/- was recovered. On 13.7.2003, ASI Vishwamitter arrested accused Raj Kumar son of Deep Chand in this case, who was working as Class IV employee in Guru Nanak Dev Hospital, Amritsar. He in connivance with co-accused doctors of Kakkar Hospital, Amritsar, Manager Hardial Mehta, Yogesh Kumar Tinku, Rajan Puri and Vicky Bhatia alias Sandeep Singh used to arrange the poor and innocent people to give

their kidney in Kakkar Hospital, Amritsar. Accused Raj Kumar was also involved in similar other case registered at different Police Station. He recorded statements of witnesses and personal search belongings and articles recovered from co-accused were deposited with MHC of Police Station D-Division, Amritsar. On 20.7.2003, accused DSP Gurdial Ram since deceased, who was declared as Proclaimed Offender by the court, was arrested by Inspector Gian Singh, SHO of Police Station Sultanwind and he produced him before ASI Vishwamitter and he arrested him in this case, vide memo and mobile phone Panasonic having sim no.98144-44529 was also produced before him by Inspector Gian Singh, which was taken into possession, vide memo alongwith other personal search articles recovered from his possession. The call details of all the telephone numbers used to run the kidney racket were obtained and during investigation, this fact revealed that Dr.Bhupinder Singh and his co-accused were in close contact with each other through land line telephones and mobile phones in the racket of kidney scam. DSP Gurdial Ram was indulged in money transaction in kidney scam case and he used to influence his subordinates and also helped the mediators of kidney and donors and managed to get release them whenever, they were detained by police and he also used to threat his subordinate police officials for their suspension and their transfers in other Police Districts. Thereafter, supplementary challan against accused Gurdial Lal, Chandan and Raj Kumar @ Raju was presented in the court on 28.10.2003.

6. Accused Pankaj Gupta who was declared Proclaimed Offender by the Court of Smt.Preeti Sahni, JMIC, Amritsar was rearrested on 5.7.2012 and supplementary challan against him was also presented on 21.8.2012.

7. It is pertinent to mention here that although, first challan was presented in the court of learned Illaqa Magistrate on 20.11.2002, second challan was presented in the court on 10.3.2003, third challan was presented on 11.6.2003, fourth challan was presented on 28.10.2003 and supplementary challan was presented against accused Pankaj Gupta on 21.8.2012 who was declared Proclaimed Offender by the court of Smt. Preeti Sahni, JMIC, Amritsar and rearrested on 5.7.2012. But perusal of the file reveals that third challan and fourth challan were committed by the court of Smt. Preeti Sahni, JMIC, Amritsar vide order dated 25.10.2004 which were entrusted to the court of Sh.G.S.Saran, learned Additional Sessions Judge, Amritsar on 6.11.2004 and thereafter, second challan was committed by the court of Smt. Preeti Sahni, JMIC, Amritsar vide order dated 7.1.2005 which was also entrusted to the Court of Sh.G.S.Saran, learned Additional Sessions Judge, Amritsar on 21.1.2005 and thereafter, first challan was committed vide order dated 8.10.2005 by the court of Sh.Barinder Singh Ramana, JMIC, Amritsar which was entrusted to the Court of Smt. Archana Puri, learned Additional Sessions Judge, Amritsar on 21.10.2005.

8. The case having been received on commitment, the

matter was examined for the purpose of framing the charge. From the record, a prima facie case triable under Sections 120-B, 419, 420, 467, 468, 471 and 371 of Indian Penal Code and Sections 18, 19, 19-C, 19-D and 20 of Transplantation of Human Organs Act, 1994 stood made out against all the accused and they were charge sheeted accordingly. All the accused pleaded not guilty and claimed trial except accused Umesh Kumar, Ravi Kumar Yadav, Dalip Singh, Raju, Ravi Sahni and Kailash Kumar. Accused Umesh Kumar, Ravi Kumar Yadav, Dalip Singh, Raju, Ravi Sahni and Kailash Kumar were charge sheeted under Section 19-C of Transplantation of Human Organs Act and Section 120-B of Indian Penal Code on 27.3.2006, to which, they pleaded guilty and claimed no trial. As such, they were convicted and sentenced by the court of Mrs. Archana Puri, the then Additional Sessions Judge, Amritsar vide judgment dated 27.3.2006. Thereafter, this case was received by transfer by the Court of Ms. Navjot Kaur, Additional Sessions Judge, Amritsar on 27.9.2013 the Predecessor of this Court.

9. In order to prove its case, the prosecution examined PW1 Kuldeep Singh, PW2 HC Balwinder Singh, PW3 Gurvinder Singh son of Kuldeep Singh. Thereafter, accused Dr. P.K.Sareen filed an application under Section 319 Criminal Procedure Code to summons PW3 Gurvinder Singh as an accused which was allowed vide order dated 18.5.2009.

10. On 21.4.2011, accused Gurvidner Singh joined

proceedings of this case and amended charge was framed against all the accused under Section 420, 467, 468, 471, 295-A, 109, 371 read with section 120-B of Indian Penal Code and Sections 18, 19, 19-C and 19-D and 20 of Transplantation of Human Organs Act, 1994.

11. In order to prove its case, prosecution examined PW1 Harvinder Singh and PW2 Dilbagh Singh. Thereafter, again accused filed an application under Section 319 Criminal Procedure Code to summons PW Dilbagh Singh as an accused in this case which was dismissed vide order dated 12.7.2012.

12. Thereafter, supplementary challan against accused Pankaj Gupta was received on 23.10.2012 and ultimately, amended charge was framed against all the accused under Sections 419, 420, 467, 468, 471, 371, 109 and 120-B of Indian Penal Code and Sections 18, 19, 19-C, 19-D and 20 of Transplantation of Human Organs Act, 1994.

13. In order to prove its case, prosecution examined 63 witnesses i.e. PW1 SI Vishwamitter, PW2 Dr.Vijay Kumar Sharma, PW3 Vijay Seth, PW4 SI Anil Kumar, Reader ADCP Crime, Amritsar, PW5 ASI Ravi Kumar, PW6 Puran Singh, PW7 HC Lal Pal, PW8 SI Surinderjit Singh, PW9 Jaskaran Singh, PW10 Sardool Singh, PW11 HC Gurpartap Singh, PW12 Parduman Singh, PW13 Ajay Kumar, PW14 HC Rashpal Singh, PW15 Usha Gupta, PW16 HC Harjinder Singh, PW17 Datar Singh, PW18 Ashok Kumar, PW19 Davinder Kumar, PW20 Rajesh Kumar Sharma, PW21

Nirmal Singh, PW22 Sanjeev Kumar, PW23 HC Jatinderpal Singh, PW24 Pal Singh, PW25 Sandeep Kumar, PW26 ASI Palwinder Singh, PW27 Bhola Singh SDA, office of SDM, Amritsar-II, PW28 Dr.Prem Arora, PW29 Roshan Lal, PW30 Baldev Singh, PW31 Amar Masih, PW32 Dharam Veer Sharma, PW33 Dr.Ajaib Singh Sandhu, Ex.Civil Surgeon, Amritsar, PW34 Davinder Singh, Senior Assistant, Punjab State Human Rights Commission, Chandigarh, PW35 Karam Singh Khatra, retired Under Secretary Home, PW36 Sarabjit Kaur, Cashier, DTO office, Amritsar, PW37 Rajesh Sharma, District Revenue Officer, Mansa, PW38 Hardeep Singh Clerk, Punjab State Human Rights Commission, Chandigarh, PW39 Sunil Kumar, Junior Assistant, Govt. Medical College, Amritsar, PW40 Dr.Ravinder Singh, PW41 HC Jaipal, PW42 Arun Saini, AIG Law and Order, Punjab, PW43 Mast Ram, PW44 Surinder Kaur, PW45 Inspector Arun Sharma, PW46 Gian Singh, PW47 Jagdish Kahar, PW48 Sh.R.K.Singla, Addl. District & Sessions Judge, Ferozepur, PW49 Ms.Ranjit Kaur JMIC, Amritsar, PW50 Gurmit Singh, retired S.P., PW51 Bimla Sharma, Ex.Regional Manager, Spice Telecom, PW52 Buta Singh Ex.Under Secretary, Punjab Government, PW53 Rajinder Singh, AIG, Counter Intelligence, Jalandhar, PW54 HC Ramesh Kumar, Crime Stopper Wing, Amritsar, PW55 Kunwar Vijay Partap Singh, IPS, PW56 HC Sukhdev Singh, PW57 ASI Dilavtar Singh, PW58 Jagdish Singh Kahlon, retired S.P., PW59 Om Wati, PW60 ASI Ranjit Singh, PW61 HC Harjinder Singh, PW62 Kewal Krishan Arora, PW63

Mohinder Singh Bedi. Thereafter, learned Addl.P.P. for the State after tendering into evidence report of FSL Ex.PZ, closed the evidence of prosecution.

14. After completion of prosecution evidence, statements of the accused under Section 313 Criminal Procedure Code were recorded, vide which, the entire incriminating evidence appearing against the accused was put to them in question answer form. While denying the version of prosecution, accused raised the plea that they are innocent and have been falsely implicated in the present case. In their defence, accused examined DW1 Naveen Sharma, Senior Assistant, office of Director, Medical Education and Research, Punjab, Chandigarh, who while appearing into the witness box produce and proved on the file notification dated 18.6.2003 Ex.D1 and copy of the proceedings Ex.D2 regarding constitution of Appropriate Authorities for conducting the inquiry as well as putting up the challan in the present case.

15. DW2 Inspector Gurmit Singh while appearing into the witness box produced and proved on the file letter dated 25.11.2002 Ex.D3 and he also identified the signatures of Sh.K.S.Katha, Under Secretary Home Ex.D4 on the same. He also produced and proved on the file letter dated 12.2.2002 issued by the office of DSP Ex.D5.

16. DW3 Dr.B.L.Goyal, retired Principal, Government Medical College, Amritsar while appearing into the witness box deposed that he remained posted as Principal in Government Medical College, Amritsar from December, 1999 to June, 2000. He

was Chairman of Authorization Committee, under Transplantation of Human Organs Act. There were three other members of this committee, who were Professor and Head, Department of Medicine, Professor and Head, Department of Forensic Medicines and Civil Surgeon, Amritsar by virtue of their posts, as per Government notification. First of all, committee used to received letter from the concerned Hospital (where transplantation to take place), then a letter would be issued by the Principal/Chairman, Authorization Committee to the members to attend the meeting on a specified date. The office would prepare an Agenda for the meeting and a list of files containing names of patients and donors, the meeting used to be held in the office of Principal, Medical College, Amritsar alongwith the members on the specified times. Patients/recipients and the donors used to be called one by one before the Committee, who were interviewed by the members to ascertain the genuineness of the case and their documents were scrutinized. After all the members were satisfied about the genuineness of the case. The Authorization Certificate was issued to the patients/recipients. Without the appearance of the donors and recipients before the Authorization Committee, the case would not be considered and no certificate was to be issued. He has seen a file of donor Manoj Kumar and recipient Rani Garg dated 3.5.2000, file No.109/2000 and the dispatch number is 14758. He proved on file the said file Ex.D6 consisting of 1 to 60 pages. The certificate bears his initials at point-A and the signatures of other two members at point-B and

point-C. Similarly, he has seen the file No.112/2000 and dispatch No.14764 dated 3.5.2000 and proved on file the said file Ex.D7 consisting of 1 to 50 pages and same bears his initials at point-A on page No.1 and other two members on point-B and point-C. He has seen a file No.104/2000 and dispatch number is 13316 dated 19.4.2000 which is Ex.8 consisting of 1 to 48 pages and same bears his initials at point-A and other members on point-B and point-C. He has seen a file No.103/2000 and dispatch number is 13315 dated 19.4.2000 of donor Deepak Kumar and recipient Sumit Verma which is Ex.D9 consisting of 1 to 38 pages and same bears his initial at point-A and other members at point-B and point-C. He has seen the file No.107/2000 and dispatch number is 14760 dated 3.5.2000 of donor Pardeep Kumar and recipient Om pati, which is Ex.D10 consisting of 1 to 78 pages and he has seen the photo copy of certificate issued by the committee on 3.5.2000 vide dispatch No.14760 which is mark-DW3/A, which bears his signature at point-A and of other members at point-B and point-C. The above said patients as per record also appeared before the Authorization Committee on 4.8.2000 and the dispatch number is 24309 of the certificate issued by the then Authorization Committee on page No.1. It does not bear his signatures because he was no longer the Principal at that time. However, it bears the signatures of the then Chairman and members of the Authorization Committee. The original certificate mark-DW3/A was given to the patient by the office. He has seen file no.107/2000 and dispatch number is 14760

dated 3.5.2000 of donor Pardeep Kumar and recipient Om Pati which is Ex.D11 and same bears his initial at point-A and other members on point-B and point-C at page No.1 and it is the office copy of the same file, which is enclosed with file No.222. He has seen the file of donor Inderjit Kumar and recipient Rajinder Mangal No.111/2000 dated 3.5.2000 having dispatch No.14763 which is Ex.D12 containing pages 1 to 56. He has seen authorization certificate at page No.1 of the file, which is Ex.D12/A which bears his initials at point-A and of members of authorization committee at point-B and C. He has seen the file of donor Dalip Kumar and recipient Inder Singh Arora No.106/2000 having dispatch No.14769 dated 8.1.2000, the photo stat copy of the same is Mark-DW3/B, which bears his signature at point-A and of members of authorization committee at point-B and C. The Photostat copy of certificate is placed at page No.15 of file No.213/2000 dated 4.8.2000 having dispatch No.24293 of donor Dalip Kumar and recipient Inder Singh Arora, who appeared before the Authorization Committee on 4.8.2000. At that time, he had retired after attaining the age of superannuation. This file No.213/2000 also contains file No.106/2000, which is mark-DW3/C. He has seen original kidney transplantation register from 7.12.99 having entry of file No.308/99 to entry of file No.55/2001. The said register is Ex.D13. He has seen page No.49 of the register Ex.D13 which bears entry No.106/2000 of Inder Singh Arora recipient and donor Dalip Kumar son of Krishan Kumar, which is Ex.D14 and bears his

initials at point-A on the stamp documents complete, permission granted. He has seen file No.110/2000 dated 3.5.2000 of donor Rajesh Kumar and recipient Manish Shrivastav having dispatch No.14762, which is Ex.D15 containing pages 1 to 60. In this file, the certificate of Authorization Committee is placed at page No.25 which is Ex.D15/A and bears his initials at point-A and other members of Authorization Committee at point-B and C. He has seen the entry of file No.200/2000 at page No.81 of register Ex.D13 at point-A of Rekha Dyal recipient and donor Ramesh Kumar Singh against which no stamp with his initials regarding the completion of documents and grant of permission has been fixed. He has seen the file No.200/2000 of Rekha Dyal, which is mark-DW3/D containing pages 1 to 42 which bears entry regarding absence of patient. He has seen entry No.23/2000 at page No.23 of register Ex.D13 of recipient Gurjit Singh and donor Guddu, which is at point-B against which no stamp with his initials regarding the completion of documents and grant of permission has been fixed. He has seen entry No.156/2000 at page No.66 of register Ex.D13 of recipient Sadhu Singh and donor Mukesh, which is at point-C against which no stamp with his initials regarding the completion of documents and grant of permission has been fixed. He has seen entry No.180/2000 at page No.74 of register Ex.D13 of recipient Joginder Kaur and donor Pawan Niak Sahni, which is at point-D against which no stamp with his initials regarding the completion of documents and grant of permission has been fixed. This register

contains entries No.155, 156 and 157 at page No.66 of register Ex.D13, the entries of donor Ashok Gupta and recipient Jagdish Sharma is at Serial no.155/2000 which bears his initials on stamp regarding the completion of documents and permission granted. He has seen entry No.157/2000 of recipient Brij Mohan and donor Naranjay which bears his stamp and initials regarding the completion of documents and permission granted. Regarding the entry which is blank against the file No.23/2000 of Gurjit Singh, file No.156/2000 of Sadhu Singh and file No.180/2000 of Joginder Kaur, there are no remarks recorded and it can be revealed from the original files that if, the above said persons who were absent and certificate was not issued to them. He has seen original letter No.452/SS/pend. dated 15.2.2000, letter No.1361/SS/pend. dated 16.5.2000 and letter No.1479/SS/pend. dated 24.5.2000 containing two leaves and he identified his initials on these letters and same were issued by him and he proved on record these letters Ex.D14, Ex.D15 and Ex.D16 respectively.

17. DW4 Manpreet Singh while appearing into the witness box deposed that in the year 1998, his father Sarabjit Singh had developed some kidney problem. Firstly, the treatment was going on with Dr.Varinder Singh of Guru Nanak Dev Hospital, Amritsar but lateron, they went to Kakkar Hospital and treatment was started with Dr.Sareen. Dr.Sareen advised that since, kidney has not been working properly, so he has to undergo kidney transplantation. They were discussing the matter with their family and his mother

became ready to donate her kidney and the matter came to the notice of known persons and uncle of his mother namely Puran Singh son of Ujjagar Singh, resident of village Bharariwal offered to donate his kidney. Puran Singh was taken to Kakkar Hospital and doctor advised to conduct some tests. After conducting the tests, he was fit to donate kidney to his father Sarabjit Singh. Then, the file was got prepared and they went to Medical College, Amritsar. He was shown the certificate issued by the Authorization Committee, vide No.15690 dated 15.5.1998 Ex.PW6/C, where he identified his signatures on the certificate at point-DW4/A. He identified the photograph and signatures of his father Sarabjit Singh on affidavit at points-DW4/B, DW4/C, DW4/D, DW4/E and DW4/F. He also identified the signatures of Puran Singh at point-DW4/G and signature of his father Sarabjit Singh at point-DW4/H. He identified photograph and signatures of his father at points DW4/I and DW5/J. He also identified the photograph and signature of his father at points-DW4/K and DW4/L. He also identified the photograph and signature of his father at points-DW4/M and DW4/N. He also identified the photograph and signatures of Puran Singh at points-DW4/O and DW4/P. He also identified the photograph and signature of Puran Singh on affidavit Ex.D1 at points -DW4/Q, DW4/R and DW4/S. He has brought the original partition deed dated 2.9.1998 Ex.DX which bears signature of Puran Singh son of Ujjagar Singh, executed between his father Sarabjit Singh and his uncle(Taya) Narinder Singh, upon which

Puran Singh uncle of his mother put his signature as a witness. He identified the signature of Puran Singh as he put his signature on transfer deed. He also identified the signature of his father Sarabjit Singh and his uncle Narinder Singh as he has seen them signing. His father Sarabjit Singh and donor Puran Singh appeared before Authorization Committee on 6.5.1998 and he accompanied them. Authorization Committee asked to bring fresh affidavit of his father as well as the affidavit of Puran Singh, which was correct. The members of the committee were one lady doctor as well as one male doctor and some other staff members were present in the committee. He identified Dr.Jagdish Gargi who was present at that time alongwith one lady doctor. Again fresh affidavit of his father was got prepared on 12.5.1998 from Tehsil Complex. Said affidavit is point DW4/1(in the file which is already exhibited as Ex.PW6/C containing pages 1 to 24), which was duly attested by Executive Magistrate and he identified photograph of his father on the same. He alongwith his father and uncle(donor) again appeared alongwith fresh affidavit before committee on 12.5.1998. On 15.5.1998, he received the certificate from the Authorization Committee, the said affidavit is already exhibited as Ex.DW4/A. After that, they submitted the certificate in Kakkar hospital, where his father was admitted and transplantation of kidney was done. His father was not accompanied him at the time when he received the certificate from Authorization Committee. He is about 40 years at present. He has brought his Aadhar Card and proved on record photo copy of the

same (self attested) Ex.DW4/Y. Affidavits were got prepared from one Advocate Puri from the court complex, who attested the same. Puran Singh had donated his kidney to his father out of his free will and consent being uncle of his mother.

18. DW5 Prabhdeep Singh Clerk in the office of Principal, Government Medical College, Amritsar while appearing into the witness box produced and proved on the record, file of letters and minutes of meeting presided by the Principal, Medical College, Amritsar being the Chairman of Authorization Committee. He has seen the copies of letters obtained through RTI letter No.3897 dated 7.9.1999 Ex.D16 containing two leaves, letter No.4050 dated 22.9.1999 Ex.D17, letter No.39852 dated 22.10.1999 Ex.D18 containing two leaves, letter No.41102 dated 10.11.1999 Ex.D19, letter No.3211 dated 4.12.2002, minutes of meeting Ex.D20 containing four leaves, letter No.3270 dated 10.12.2002 Ex.D21, minutes of meeting dated 9.12.2002 Ex.D22.

19. Thereafter, accused Gorakh Ram, Hardial Mehta, Raj Kumar, Dr.Bhupinder Singh, Pankaj Gupta and Dr.Bhushan Aggarwal, as well as accused Pardeep Saini closed their defence evidence. Defence evidence of Dr. Jagdish Gargi closed by order dated 23.2.2021.

20. I have heard the learned Special Public Prosecutor for the State, the learned defence counsels and have gone through the record with their kind assistance.

21. The learned Special Public Prosecutor for the State

contended that in order to prove its case, prosecution examined PW1 SI Vishwamitter Investigating Officer of this case, who while appearing into the witness box fully supported the version of prosecution and proved on file various documents which he prepared during investigation i.e. Ruqa Ex.PW1/1, FIR Ex.PW1/2, arrest memo of accused Raj Kumar son of Ved Ram courier, Lachhman Singh courier, Raj Kumar Yadav courier, Raju Mehra, Ravi Kumar, Ravi Sahni, Upinder Singh, Gaurav Arora, Amit Kumar @ Bittu and Dalip Singh Ex.PW1/2, arrest memo of accused Amit Kumar, Gaurav Arora, Prem Kumar, Upinder Singh Ex.PW1/3, intimation-cum-arrest memo of above said accused Ex.PW1/E, recovery memo Ex.PW1/E, vide which Maruti Car bearing registration No.DL-3CM-9263 was taken into possession alongwith its RC Ex.PW1/E, personal search memo of accused Yogesh Kumar @ Tinku Ex.PW1/A, vide which one mobile phone set Motorola brand having Sim No. 98140-94253 was taken into police possession, mobile phone Ex.MO-1, rough site plan of the place from where Yogesh Kumar @ Tinku was arrested Ex.PW1/4, recovery memo Ex.PW1/M, vide which photo copy of file of authorization committee of 20 leaves was taken into police possession, FIR No.105 of 2002, under Section 411 of Indian Penal Code, Police Station D-Division, Amritsar Ex.PW1/6, arrest memo of accused Rajan Puri Ex.PW1/7, Ex.PW1/8 copy of Follow up card of Kakkar Hospital of Gurwinder Singh having fake name Vijay Kumar which was taken into police possession, vide memo

Ex.PW1/G, recovery memo, vide which 524 files of Authorization Committee related to case was handed over by Anil Kumar, Reader of S.P. City, Amritsar, were taken into police possession Ex.PW4/A, arrest memo of accused Kailash Kashmiri, Raju son of Ramesh, Ravi Sahni, Ravi Kumar, Dalip Singh and Umesh Kumar Ex.PW1/F and Ex.PW1/B, vide which above said accused persons were arrested, Ex.PW1/H disclosure statement of accused Chuni Lal, recovery memos Ex.PW1/9 and Ex.PW1/10, vide which two blood bags were taken into police possession and recovery memo Ex.PW1/J and Ex.PW1/M, vide which two note books were taken into police possession, Ex.PW1/11 rapat No.20 dated 26.5.2014, disclosure statement of accused Hargurwinder Singh @ Happy Ex.PW1/K, recovery memo of 41 pages, which were taken into police possession Ex.PW1/L, copy of letter of instructions issued by Government of Punjab regarding the irregularities committed by Kakkar Hospital, Amritsar and Authorization Committee, Amritsar Ex.PW32/C, Ex.PW39/A vide which 479 files of approval of Authorization Committee in kidney cases were taken into police possession, Ex.PW4/B vide which Special Investigation Team was constituted by ADGP, Punjab, Chandigarh Sh.K.K.Attri, recovery memo Ex.PW1/Q vide which one driving licence, credit card and cash of Rs.2000/-were taken into police possession from Dr.Parveen Kumar Sareen, arrest memo of accused Dr.Parveen Kumar Sareen Ex.PW1/E, memo Ex.PW1/R vide which admission/discharge register of recipients and donors of kidneys

was taken into police possession, recovery memo Ex.PW47/A vide which 1808 bed head tickets of donors and recipients containing 64 pages were taken into police possession, said 1808 files Ex.PW1/12 mentioned in the list of 64 pages. Memo Ex.PW1/S vide which two bed head tickets of recipients were taken into police possession, which were recovered from the almirah lying in the office of Hardial Mehta. His testimony is also duly supported and corroborated with the testimony of PW11 HC Gurpartap who was member of his police party on 24.2.2003, PW61 HC Harjinder Singh who was member of his police party on 5.5.2003 and PW45 Inspector Arun Sharma, who was also member of his police party on 27.4.2003.

22. He further contended that PW2 Dr.Vijay Kumar Sharma proved on file the death certificate of accused Kulwinder Singh son of Harjinder Singh Ex.PW2/A.

23. He further contended that PW3 Vijay Seth father of Varun Seth while stepping into the witness box deposed that in the year 2002, his son Varun Seth became unwell due to kidney problem. He treated his son with allopathic medicine and some ayurvedic medicine. On 8.9.2001, the kidney of his son was transplanted by Dr.P.K.Sareen and Dr.Bhushan Aggarwal and said kidney, which was transplanted in his son donated by his wife Kamlesh Seth. After 3-4 months, again problem of kidney was started to his son Varun Seth and he brought his son to Kakkar Hospital and Dr.P.K.Sareen and associate doctors checked his son

Varun Seth and also conducted his test and Dr.P.K.Sareen told him that the kidney already transplanted has become defected and again there is necessary of the said kidney of his son. He stated to Dr.P.K.Sareen that he offered his kidney for transplanted for his son but Dr.P.K.Sareen stated to him that he has become old now, hence he cannot donate his kidney.s Then. Dr. P.K.Sareen advised him that there are numerous person round about and took out the kidney of said persons and advised him to meet Dr. Bhushan who provided him a mobile number of Vicky Bhatia and his son contacted Vicky Bhatia through mobile phone and said Vicky Bhatia reached his home within 10 minutes after the call of his son Varun Seth and when he reached his home, this fact came to his notice that his son and Vicky Bhatia were school mates and known to each other. He apprised him about the kidney and he demanded Rs.75,000/-for kidney and on saying of his son, said Vicky Bhatia agreed to arrange the kindey for Rs.60,000/-with his son and said agreement was took between his son and Vicky Bhatia and said Vicky Bhatia provided his son a person namely Vinod and he was under went all the medical tests. Then, Dr.P.K.Sareen advised him to prepare his file as the same has to be presented before the Authorization Committee. Then, he and his son went to Clerk Kulwinder Singh, who is posted to sitting in a house, situated at Circular Road, Amritsar and demanded Rs.7500/-for preparation of file and ultimately, Rs.5000/-was given to him for preparation of file. Then, the computer Clerk told him to prepare file from the court and meet

Advocate Pardeep Saini who demanded Rs.2500/-from him for attestation and he took back his file. He personally appeared before the Magistrate and got it attested from him by himself and he handed over the said file in the office of Kakkar Hospital, Amritsar and Clerk gave him a date for appearing before the Authorization Committee in Medical College, Amritsar. His son Varun Seth and donor Vinod appeared before the Authorization Committee and they shown their face to members of Authorization Committee and immediately came out from the office of Authorization Committee. Then, the donor Vinod ran away and his son called Vicky Bhatia, who provided second donor namely Dinesh to his son and again he was undergone medical tests and again the aforesaid procedure. This witness further specifically deposed that in the month of August, 2002, Dr.P.K.Sareen, Dr.Bhushan Aggarwal, Dr.Rajinder Kaur and some of the other doctors transplanted the kidney of his son in the Kakkar Hospital, Amritsar. On the second day of transplantation of kidney, there is bleeding on the person of his son and he brought this fact in the notice of Dr.P.K.Sareen and his associated doctors and he assured him that he is going to conduct the test and then lateron, Dr.P.K.Sareen got conducted the medical tests and after two days, Dr.P.K.Sareen told him at 8.00 p.m. while he was sitting among his team of doctors, he stated to him that the said kidney has also became damaged which was recently transplanted and Dr.P.K.Sareen assured him that he will transplant the kidney of his son Varun Seth and he also stated to him that

Varun Seth is also his son and after three days, his son was discharged from Kakkar Hospital and again after 2-3 days, he went to the Kakkar Hospital for dressing of his son and none was took care of his son and after one hour, Dr.Bhushan came and did the dressing of his son and advised them for going home and after 1-2 days, his son has expired. On 22.8.2002, his son died due to the negligent treatment of aforesaid doctors. He proved on file death certificate of his son Ex.PW2/A, application for approval of kidney transplantation Ex.PW3/C, photograph of his son Ex.PW3/D, photograph of donor Ex.PW3/E, photograph of his son and affidavit of donor Ex.PW3/F on file Ex.PW3/G. He also proved his statement which is got recorded under Section 164 Criminal Procedure Code in the Court of Smt.Ranjit Kaur, JMIC, Amritsar on 14.1.2003 Ex.PW3/H and sealed envelope of the same Ex.PW3/I, bed head ticket of his son Varun Seth Ex.PW3/1, bed head ticket Ex.PW3/2, donor file Ex.PW3/3, donor file i.e. of his wife Kamlesh Seth Ex.PW3/4, his statement Ex.PW3/4.

24. He further contended that PW4 SI Anil Kumar Reader of ADCP Crime, Amritsar while stepping into the witness box deposed that on 12.10.2002, he associated in the investigation of this case and on that day, he went to Govt. Medical College Amritsar, where Clerk Sunil Kumar of Govt. Medical college, Amritsar produced before him, 518 original files and 6 Photostats total 524 files in respect of the transplantation of the kidney. In these files, the names of the donors of kidney and recipients of

kidney were mentioned. After receiving these files, he handed over the same to ASI Vishwamitter, Investigating Officer of this case, who took the same into possession, vide memo Ex.PW4/A.

25. He further contended that PW5 ASI Ravi Kumar while stepping into the witness box deposed that in year 2002, he was posted as Head Constable in Police Station Civil Lines, Amritsar and working as Gun man with SHO/Inspector Harminder Singh. In the jurisdiction of Police Station Civil Lines, Advocate Rajan Puri, Vicky Bhatia and Yogesh Tinku indulged in the illegal sale and purchase of kidney and accused Yogesh Tinku indulged in the smuggling of Charas and an FIR was also registered in the Police Station under NDPS Act against accused Yogesh Tinku and in order to run the racket of kidney, Advocate George Sweet and Advocate Pardeep Saini prepared fake documents including fake affidavits for consideration of Rs.5000/- per case and in connivance with Dr.P.K.Sareen and Dr.Parveen Jain get the case of kidney transplantation passed from Authorization Committee, Amritsar, in connivance with the doctors/members of the Authorization Committee and then, Dr.P.K. Sareen, Dr.Parveen Jain and other doctors of their team used to transplant the kidney of the donor in an illegal manner in Kakkar Hospital and other name Ram Sharan Dass Kishori Lal Charitable Hospital, Amritsar and if, in the process of transplantation of kidney, any donor died and the aforesaid all persons in connivance with each other disposed off the dead body of the donor after using the Ambulance of the aforesaid

hospital in an illegal manner. This information was brought in his notice by Rajan Puri Advocate by way of telephone to him and from time to time, he brought this information in the notice of Senior Police Officer. In the month of July, 2002, 15 persons, who were indulged in the racket of kidney scam and preparation of affidavits in respect of illegal transplantation of kidney were apprehended by the police of Police Station Civil Lines and all the 15 persons were produced before the SHO Harminder Singh after trapping them from the office of George sweet, situated in the area of court compound, Amritsar and on the direction of Rajan Gupta, DSP R.K.Bakshi was deputed to verify the matter and after verification the aforesaid 15 persons, all the apprehended persons were handed over to Dr.Bhupinder Singh assistant of Dr.P.K Sareen alongwith the fake affidavits. All the aforesaid persons with the higher officials of the police and on account of the aforesaid information, which he gave to the Senior Police Official regarding running of racket of kidney, he was transferred to Moga in the vindictive manner and then, he put his appearance before Rajan Gupta alongwith SHO Harminder Singh and he explained his part of duty in a factual manner there and then, he was again transferred at Amritsar. After registration of the present case, he recorded his statement with police, as well as in the court. He proved on file the statement which was got recorded with learned Magistrate Smt.Ranjit Kaur, JMIC, Amritsar Ex.PW5/A and sealed envelope Ex.PW5/B.

26. He further contended that PW6 Puran Singh victim of this case while appearing into the witness box specifically deposed that in the year 1998, he used to do the work of selling toys in front of Gurdwara Baba Shaheedan, Amritsar, in an open space near the footpath. Both Dr.P.K.Sareen and Dr.Parveen Jain used to come there to do the prayer in Baba Shaheedan daily by way of car and they used to park their car at a place, where he used to sell the toy. When, both Dr.P.K.Sareen and Dr.Parveen Jain came out from Gurdwara after their prayer, they took their car from the place, where he used to sell his toys and they oftenly gave Rs.10 to 15 as he used to take care of Car. Thereafter, one day Dr.P.K.Sareen and Dr.Parveen Jain asked him that he is in poor condition and this poor condition can not be removed. Then, both Dr.Parveen Sareen and Dr.Jain asked him that they want to remove an organ from his body and in this way, they can remove his poor position and then, they further asked him to accompany with them. Then, before 15.5.1998, they brought him in Kakkar Hospital. Then, doctor removed his hair from his body against his wishes as he belongs to Sikh community. Then, Dr.P.K.Sareen and Dr.Parveen Jain removed his kidney in Kakkar Hospital, Amritsar. He remained in hospital for 15 days. Before transplantation of his kidney, he never appeared before Authorization Committee. He did not sign any documents in this respect and he also not supplied any photograph to the aforesaid doctors. Dr.Parveen Jain and Dr.P.K.Sareen alongwith two other persons, whom he can identify in the court, if, they come before

him, took him to Kakkar Hospital before his transplantation from that place, where he used to sell the toy. Then, after 14-15 days after his operation, Dr.P.K.Sareen and Dr.Parveen Jain asked him, 'how are you'. Due to the transplantation of kidney, he has become disabled. He cannot earn his living. He is in old age and Dr.Paveen Sareen and Dr.Parveen Jain did not remove his poverty. He got recorded his statement to police. He also proved on file his statement which he got recorded under Section 164 Criminal Procedure Code Ex.PW6/A and the parcel of the same Ex.PW6/B, file of Authorization Committee Ex.PW6/C, his photograph on form of wellness and affidavit Ex.PW6/E and Ex.PW6/F.

27. He further contended that PW7 HC Lal Pal while appearing into the witness box deposed that in the year 2001, he alongwith HC Amrik Singh No.1298 was posted at Chowki Dasaundha Singh. The higher police officials directed them that the kidney racket is running in Kakkar Hospital, Amritsar and apprehended the absconders. They received information that the Kidney brokers Vicky Bhatia, Yogesh Tinku and Rajan Puri, Advocate indulged in the illegal trade of Kidney transfer. They used to allure the poor people and gave them the offer of money in order to give their Kidney and brought them to Dr.P.K.Sareen for giving their Kidney. He alongwith HC Amrik Singh tried to apprehend accused Rajan Puri, Vicky Bhatia and Yogesh Tinku. One day, he alongwith HC Amrik Singh were conducting duty on a Naka point at Chowk Dasaundha Singh, where, DSP Gurdial Ram came and he

instructed them, not to apprehend Yogesh Kumar Tinku, Vicky Bhatia and Rajan Puri and if, he dared to apprehend them, then they will be got transferred to the other District. After three days, accused Vicky met them at Dasaundha Singh road and informed him that he has made complaint to DSP Gurdial Ram against him and HC Amrik Singh and then, DSP Gurdial Ram met him in the camp office of IG Border Range, Amritsar and thereafter, he requested to DSP Gurdial Ram that they are poor personals, why he would get transferred them in other range and they further requested for stopping the proceedings of transfer. Then, DSP Gurdial Ram demanded Rs.15,000/- from him and HC Amrik Singh and he and HC Amrik Singh shown inability to fulfill demand of DSP Gurdial Ram and there was no option with them accept to join at Ferozepur range and accordingly, he and HC Amrik Singh joined there.

28. He further contended that PW8 SI Surinderjit while appearing into the witness box deposed that on 18.6.2002, he was posted as Investigating Officer in Police Station, Civil Line, Amritsar and on that day, he received information that some donors and their relatives are present in the office of Advocate George in the Court compound and they were preparing the fake affidavits there. On this, he alongwith HC Ravi Kumar and other police officials raided the office of Advocate George and apprehended 12-13 persons alongwith having fake affidavits with them and they were brought to Police Station Civil Lines and produced before

SHO Harminder Singh. Then, Dr.Bhupinder Singh came there who gave telephonic calls and one call to DSP Gurdial Ram and staff office of IGP Boarder range. The aforesaid persons were handed over to Dr.Bhupinder Singh. On the next day, the fake affidavits were also handed over to Dr.Bhupinder Singh, Vicky Bhatia, Advocate Rajan Puri and Yogesh Tinku. They were involved in running the racket of Kidney transplantation. They in connivance with Dr.Parveen Jain consulted with Advocate Pardeep Saini in order to disappear the evidence destroyed the dead body of the donor of whom the death was occurred during the course of operation, which was conducted in Kakkar Hospital, Amritsar. There was Authorization Committee, which cleared the case of donor and recipient without inquiry in connivance with each other and Dr.Parveen Sareen and Dr.Jain received huge amount of money for this illegal trade of kidney.

29. He further contended that PW9 Jaskaran Singh brother of Jasbir Singh while appearing into the witness box deposed that his deceased brother namely Jasbir Singh was in Punjab Police and posted at Police Station Ajnala. In the year 2002, he had got some problem in kidney as he was patient of hypertension. Then, he and his brother Jasbir Singh went to Kakkar Hospital, Amritsar, where Dr.P.K.Sareen examined his brother Jasbir Singh. Dr.P.K.Sareen suggested his brother to undergo some tests and after seeing the report of tests, Dr.P.K.Sareen told his brother that he has problem in his both kidneys and the same requires to be transplanted and it will

cost of Rs.4 to 5 lacs, out of which Rs.1 lac had to be paid to the donor and Dr.P.K.Sareen stated that he will arrange the donor. Then, Dr.P.K.Sareen arranged the donor namely Shashi Kumar and introduced to his brother Jasbir Singh and Dr.P.K.Sareen further told his brother Jasbir Singh that he has to give his address to donor Shashi Kumar. Then, Dr.P.K Sareen stated to his brother Jasbir Singh that he has to complete some documents regarding kidney transplantation and he obtained signatures of Jasbir Singh and Shashi Kumar donor at 4-5 places and further stated that he needs not to go to the Court complex as the documents would be prepared automatically. Thereafter, he got Shashi Kumar and Jasbir Singh to undergo certain test. Thereafter, Dr.P.K.Sareen told Jasbir Singh and Shashi Kumar in his presence that the committee would be constituted for the approval of their case. Jasbir Singh was operated upon after getting the approval from the said committee. In August, 2002 in the last week in Kakkar Hospital, Jasbir Singh remained admitted in the hospital for 15 days and after discharge, he came back to their house. After one week, they came to the hospital for re-examination of Jasbir Singh, where Dr.P.K.Sareen told them that the kidneys of Jasbir Singh got infected due to water in it and Jasbir Singh remained admitted in the hospital for one week for his treatment due to infection in kidneys and he was discharged from the hospital. The condition of Jasbir Singh became deteriorated again after four days on discharged of the hospital. They again approached Dr.P.K.Sareen by visiting Kakkar Hospital and after

examination of Jasbir Singh, Dr.Sareen told them that there is a need of another operation but Jasbir Singh told him that he was not in a capacity to bear the expenses again for another operation as he has already arranged the money for previous operation by selling his land. Dr.P.K.Sareen told them that if, they would arrange donor and expenses within three months for medicine, he will not charge his fee for operation. Jasbir Singh died prior to the expiry of three months i.e. on 16.10.2002. They met Dr.P.K.Sareen thereafter, to know about the cause of death of Jasbir Singh but he refused to disclose the cause of death of Jasbir Singh. His brother Jasbir Singh had spent Rs.8 to 10 lacs on his operation. This witness further deposed that computer clerk Kulwinder Singh and Dr.Bhushan Aggarwal prepared the documents of transplantation of Jasbir Singh and they received Rs.18,000/- from his brother Jasbir Singh. He proved on file his statement which he got recorded under Section 164 Criminal Procedure Code before Smt.Ranjit Kaur, JMIC, Amritsar Ex.PW9/A and an envelope of the same Ex.PW9/B.

30. He further contended that PW12 Parduman Singh while appearing into the witness box deposed that in year, 2002, his son Charanjit Singh fell ill, while he was studying in Khalsa College Amritsar in B.Sc. Agriculture. Then, he get him checked from Dr.Dhawan, where, his son undergone some clinical test and ultrasound and after watching the reports of test and ultrasound, Dr.Dhawan disclosed that both the kidneys of his son have been damaged and he refused to treat his son. Then, he advised him to

show his son to a kidney doctor. Then, he brought his son to Dr.Mokha and he also checked his son Charanjit Singh and advised that both of his kidneys failed and same is required to be transplanted. Dr.Varinder Singh also advised him to bring Charanjit Singh to Kakkar Hospital, Amritsar for treatment. Then, in the month of August, 2002, he brought his son to Kakkar Hospital, Amritsar and Dr.Harsharan Kaur conducted dialysis of his son and she also advised him for transplantation of kidney of his son Charanjit Singh. Then, he met Dr.Parveen Kumar Sareen and he also examined his son. He also advised transplantation of kidney of his son. Then, he sent him and his son to a house, situated at Race Course Road, Amritsar, where Dr.Bhupinder Singh, Dr.Bhushan Aggarwal and one computer clerk Kulwinder Singh met them and on their asking, his son signed on the blank papers of the said person. Then, he and his son met Dr.P.K.Sareen and he advised him that Rs.5 lacs are required for transplantation of kidney of Charanjit Singh and he further stated that he will arrange the kidney at his own and he further stated that they will get clear the file from Authorization Committee Medical College, Amritsar for transplantation. Dr.Parveen Sareen and his associates never introduced him with the donor. He deposited Rs.5 lacs in Kakkar Hospital, Amritsar for transplantation of kidney of his son and on 19/20.9.2002, the transplantation of kidney of his son was conducted by Dr.Parveen Kumar Sareen and his associate doctors. Then, his son Charanjit Singh was shifted to ICU after operation

and he remained there for 08 days and thereafter, the condition of his son became serious. Then, Dr.Sareen was told by the subordinates and his son was shifted to Operation Theater and then, Dr.Sareen took out the kidney transplanted in his son and his condition became very serious and after about three hours, his son died. Then, he asked Dr.Sareen, why his son died, but he did not reply. After 02-03 months from the death of his son, the kidney scam was unearthed. Then, he went to Police Station for recording his statement. He proved on record, file of Authorization Committee Medical College, Amritsar of his son Charanjit Singh Ex.PW12/A, bed head ticket of his son Ex.PW12/B, bed head ticket of donor Vinod Tilonkoni mark-PW12/A.

31. He further contended that PW14 HC Rashpal Singh while appearing into the witness box deposed that in September, 2002, a pain crop up in his abdomen and he shown himself to doctor and he advised him to undergo ultrasound. Then, he went to Advance Diagnostics Center, where one Dilbagh Singh, resident of village Bagge Kalan met him, to whom, he knew very well. Then, he inquired that how he has come to Advance Diagnostic Center and he replied that he is going to donate kidney. Then, he further inquired, whether he informed his parents about the fact of donating of kidney and he replied that he had not informed to his parents about the said fact. He further advised him that he will become handicapped by donating the kidney. Then, he further stated to him that who has advised him for giving the kidney and Dilbagh Singh

told him that one doctor at Kakkar hospital asked him to donate the kidney. Then, he alongwith Dilbagh Singh went to Kakkar hospital, where Kulwinder Singh clerk of Kakkar Hospital met him who told him that he is preparing the documentation of Dilbagh Singh and he stated to him that if, Dilbagh Singh is giving kidney to someone, he has paid for it. Then, he further told Kulwinder Singh that he want to meet Dr.Sareen. Then, he and Dilbagh Singh went to the office of Dr.Sareen and talked to him and he questioned him about his status. Then, Dr.Bhupinder Singh and two-three other doctors assaulted him there and made him to sit there forcibly. Then, they called Paramdeep Singh Teja DSP Police Lines, Amritsar City and in the meantime, they made him to talk with IG Border Range, Amritsar. After 5-7 minutes, DSP came there and he started abusing him and then, he brought officials from Police Station Civil Lines, Amritsar and they brought him to Police Station Civil Lines, Amritsar and they locked him in the police lock up in the said Police Station. He remained there for three days in the police lock up of Police Station Civil Lines illegally. After three days, they let him off from the lock up of the Police Station Civil Line and they threatened him not to talk with anybody. After registration of the present case, he appeared before Sh.Kunwar Vijay Partap Singh SP City-1, Amritsar and he disclosed the aforesaid facts. He recorded his statement. He also proved on file his statement Ex.PW14/A and its envelope Ex.PW14/B, which he got recorded before learned Magistrate.

32. He further contended that PW15 Usha Gupta while

appearing into the witness box deposed that her husband was suffering from Diabetes. In the month of April, 2001, the position of her husband became more acute. First of all, she took her husband to Dr.Mokha for treatment of his sugar and he advised her that her husband is not suffering from acute problem of diabetes and simple treatment is required for that. Then, she took her husband to Ganga Ram Hospital at Delhi, where her husband was examined by the doctor of Sir Ganga Ram Hospital, Delhi and he told her that the position of her husband is stable. As per her wishes, he can plant a fistula on the arm of her husband and it will be sufficient for her husband for 10 to 15 years but due to the holidays and meeting of the doctors, the fistula could not be planted on the arm of her husband and her husband told her, he can get plant the same at Kakkar Hospital, Amritsar. Then, she alongwith her husband after returning back from Delhi, went to Kakkar Hospital, Green Avenue, Amritsar for this purpose but they dilly-delayed the tactics. Then, Dr.Bhushan Aggarwal met her in Kakkar Hospital and he told her that he is her Aggarwal brother and asked her to bring two pipes and by inserting these pipes, he will make her husband walking at his own and he sent them back. On the next day, after purchasing the pipes, she alongwith her husband went to Kakkar Hospital, but Dr.Bhushan Aggarwal pushed them in the processes of tests. Then, Dr.Bhushan Aggarwal sent her and her husband in a Kothi at Race Course Road, Amritsar, where Dr.Sareen, Dr.Bhupinder Singh, Dr.P.KJain and Dr.Bhushan

Aggarwal met them and where the employees of the said doctors prepared some documents. Her husband provided photographs and signed the documents. Thereafter, her husband was sent to Advance Diagnostic Center near Mall road accompanied by one person of doctors, where her husband undergone the test and on seeing the test reports, it was revealed that her husband has no problem and they further inquired that who had suggested for these tests and she herself replied that Dr.Sareen has suggested so. Then, they did not conduct medical test on the pretext that the since, the same is suggested by Dr.Sareen and the same is correct. Then, they returned back to their home and one Sikh gentleman came to their house send by Dr.Sareen and his associates. Said Sikh gentlemen asked them about the requirement of kidney, on which, they replied in affirmative. He made a demand of Rs.65,000/- for kidney, out of which Rs.40,000/- was to be paid to the doctor and the remaining Rs.25,000/- was to be given to the donor. He has also stated that amount Rs.5 to 6 lacs would be charged for transplantation of kidney. She alongwith her husband went to Race Course Road Clinic, Amritsar, where Dr.Sareen, Dr.P.K.Khanna, Dr.Bhupinder Singh, Dr.Bhushan Aggarwal met them and she requested them to donate her kidney for her husband, which the doctors, while taunting asked to each other about the test of her and further told her that they themselves could arrange the kidney. Thereafter, the doctors sent her husband to Medical College, Amritsar for further proceedings. Papers work was done at Medical College, Amritsar.

Thereafter, medical tests of her husband, as well as donor were conducted at Kakkar Hospital, Amritsar, in the month of April, 2002. Thereafter, operation was conducted for transplantation of kidney, in the month of May, 2002. Her husband remained admitted for 8-10 days. Her husband was not quite well after operation and he complained different types of problems, due to which, his medical tests were again conducted and he also undergone dialysis. Her husband was discharged from the hospital after 10 days but due to re-creation of problem, they again came to the hospital after 20-22 days and her husband was again got admitted in the hospital, where he remained admitted for another 20-25 days. Her husband was not feeling well and at the last, he expired after four months of the operation. Rs.5-6 lacs might have been spent on the treatment of her husband. She proved on file bed head ticket of her husband Nand Lal Gupta Ex.PW15/A. She also proved on file bed head ticket of donor Mr. Buland Shah Mark-PW15/1. She also proved on record approval file of Authorization Committee of Medical college Ex.PW15/B.

33. He further contended that PW19 Davinder Kumar Sachdeva son of Jai Kishan while appearing into the witness box deposed that in the year 1999, his wife Anita Sachdeva was not well and he used to brought her at Kakkar Hospital for dialysis and both of her kidneys were damaged, where, he used to meet Dr.P.K.Sareen. He conducted dialysis of his wife Anita Sachdeva for two years but Dr.P.K.Sareen advised him for transplantation of

the kidney of his wife Anita Sachdeva. He told Dr.P.K.Sareen that he has no arrangement of donor of kidney. Dr.P.K.Sareen advised him to meet Dr.Bhupinder Singh and he advised him that he will himself arrange the donor of kidney. Thereafter, Dr.Bhupinder Singh arranged the donor and passed the donor but he did not know from whom, said donor was got passed. When, he came to know the position of the hospital, he refused to transplant the kidney of his wife Anita Sachdeva and did not undergo the operation of kidney transplantation. He proved on record file of Authorization Committee Ex.PW19/A.

34. He further contended that PW22 Sanjeev Kumar son of Mast Ram while appearing into the witness box stated that in the year, 1998, his father had problem in his kidney and they started his treatment with Dr.Rohit Kapoor at Rani Ka Bagh, Amritsar. They got his treatment from the said doctors for three years. Then, Dr.Rohit Kapoor informed them that his father needs operation and he recommended Dr.P.K Sareen. Then, he along with his father met Dr.Parveen Kumar Sareen, who informed him that they have their men at his clinic at Race Course Road, Amritsar. Then, they went to his clinic, where they met Dr.Bhupinder Singh and Kulwinder Singh, who informed them to arrange money to the extent of Rs.4,50,000/- for kidney transplant of his father. Then, they obtained their signatures on blank papers and advised them to deposit the money in the Kakkar Hospital, Amritsar and they will themselves arrange the donor of the kidney. Then, they obtained

signatures on blank papers for affidavit of his father. His father was admitted, on 23.7.2002 in Kakkar Hospital for kidney transplant. He was kept in hospital for 3-4 days and thereafter operation was conducted of kidney transplant. His father remained admitted in the said hospital for 20-25 days. Later on, he was discharged from the hospital. The operation was successful but his father had lost his eye sight. Although, he is still alive but not in good condition. The total expenditure incurred by them on the medical treatment of his father was approximately Rs.4/5,00,000/-, which they collected from their nearest. He does not know the donor, who gave the kidney to his father. The donor was not related to them in any way. He proved on record his statement under Section 161 Criminal Procedure Code, which he recorded before police Ex.PB. He also proved on file bed head ticket of his father Ex.PC.

35. He further contended that PW23 HC Jatinderpal Singh, PS Crime stopper PCR, Amritsar while appearing into the witness box tendered into evidence his duly sworn affidavit Ex.PA.

36. He further contended that PW24 Pal Singh son of Beer Singh while appearing into the witness box deposed that in the year 2002, his younger brother Balwant Singh was suffering from Typhoid fever. He was taken to DMC Hospital Ludhiana for treatment, where he remained under treatment for 4-5 months. He was diagnosed for a Kidney treatment. The doctors at DMC Hospital advised them to take their patient to Kakkar Hospital for treatment. They came to Kakkar Hospital for treatment in June

2002. Their patient was examined by Dr.P.K.Sareen and Dr.Bhupinder Singh. He identified Dr.Bhupinder Singh in the court. Dr.P.K.Sareen referred his brother Balwant Singh to the Advanced Diagnostic Center for medical test, where he was tested. On analyzing the test reports, Dr.P.K.Sareen advised them that the kidneys of their patient needs to be transplanted. Dr.P.K.Sareen and Dr.Bhupinder Singh asked him to make arrangement of the funds stating that they would arrange for the kidneys at their own level. These doctors sent an agent named Vicky Bhatia to them, who demanded a sum of Rs.50,000/- to arrange for the kidneys. They deposited Rs.50,000/- with Dr.P.K.Sareen in Kakkar Hospital. Thereafter, the conditions of their patient started deteriorating and he died within two-three days. Whatever document had been given to them by Kakkar Hospital were burnt by them alongwith dead body. Before the transplantation, Dr.P.K.Sareen and Dr.Bhupinder Singh prepared certain documents. Their patient thumb marked on the paper. They had spent around Rs.80,000/- on his treatment. The above said doctors had demanded a sum of Rs.22,50,000/- for the entire treatment including transplantation. Donor Vinod was not related to them. He has no information regarding his whereabouts and particulars. The agent Bhatia had procured this donor. His statement was recorded by the police. He was summoned by the police for recording his statement in year March 2003. He proved on record file of Authorization Committee Mark-PW23/A.

37. He further contended that PW25 Sandeep Kumar son

of late Kishan Dev Mahajan while appearing into the witness box stated that in the month of January, 2002, his elder brother namely Subhash Mahajan suffered with ailment of respiration. They took him to CMC Hospital, Ludhiana for his treatment. Dr.Pawar diagnosed him for kidney problem and his brother was put on dialysis. Ultimately, they were informed that the kidney of his brother has been damaged and he required a kidney transplant. They came to know that there is a treatment available at Kakkar Hospital, Amritsar. He brought his brother to the said Hospital, where he was examined by Dr.P.K.Sareen and he diagnosed the case as of kidney transplant and his brother was subjected to dialysis. He was asked by Dr.P.K.Sareen to arrange kidney Donor. His sister-in-law, wife of patient Subhash Mahajan, volunteered as a donor. She was subjected to various tests. However, her blood group and tissue did not match with the patient. They were unable to arrange any other donor. Dr.Sareen assured them that he would arrange the donor. Within few days, Dr.Sareen arranged the donor, whose name, he does not know. The patient as well as donor was subjected to various test. Dr.Sareen fixed the date for transplantation as 22.5.2002. They were asked to arrange for a sum of Rs.7,00,000/- to Rs.8,00,000/-. Initially, they deposited the cheque of Rs.85,000/- and later, payment was given in cash in installments by arranging from their near relatives. The operation was conducted on 22.5.2002. Then, his brother Subhash Mahajan was shifted to ICU. The operation was conducted by Dr.Sareen and

Dr.Bhupinder Singh and their team. His brother Subhash Chander remained admitted in the aforesaid hospital for 15 days and later on, discharged. He developed a complication. He was examined by Dr.Sareen, who informed that patient had developed serious infection and he was readmitted in the hospital. Thereafter, Dr.Sareen neglected the patient. He did not make himself available to check the patient. Ultimately, Dr.Sareen advised them to shift patient from the hospital. Then, they shifted his brother to their house and on the same day, his physical condition deteriorated and again, they readmitted his brother Subhash Chander in the aforesaid hospital despite resistance on the part of the hospital authority. His brother put into Ventilator but on their repeated requests, Dr.Sareen did not turn up to see his brother. After 2-3 days, the condition of his brother became even worse. He was advised by some doctor, since, there was no chance of revival, so, he should be taken home, as soon as they took him home and removed the Oxygen pipe, he died. Donor was not related to him. He was arranged by Dr.Sareen and his colleagues. He proved on record, file of Authorization Committee Mark-PW25/A, bed head ticket of his brother Mark-PW25/B and bed head ticket of the donor Mark-PW25/C.

38. He further contended that PW26 ASI Palwinder Singh, who was posted as MHC at Police Station D-Division, Amritsar on 21.9.2002 to 14.3.2002 while appearing into the witness box tendered into evidence his duly sworn affidavit EX.PW26/A.

39. He further contended that PW27 Bhola Singh SDA,

office of SDM, Amritsar-II while appearing into the witness box deposed that in the year 2001-02, he was working as reader to Tehsildar, Amritsar-I. He brought the original record of his office regarding the entries of the affidavits entered in their record. He further specifically deposed that whatever the affidavits came in their office for attestation by Tehsildar, Amritsar-I, he used to make their entries in the office record and then, Tehsildar, Amritsar-I attested the same. He had seen affidavits of deponent Vijay Kumar Ex.PW3/A, which is not enlisted in their record at Serial no. 487 on 18.6.2002. Similar, his reply regarding the affidavit of Ashok Kumar Aggarwal son of Babu Lal Aggarwal, resident of Daulat Ganj Lashkar Gwalior (MP) at serial no. 489 dated 18.6.2002. The same is mark-F. As per record, the affidavit of Madhu Gupta wife of Kewal Krisan Gupta, resident of 52, lane 3, Vikas Lane, Talam Tillon, Jammu Mark-2 is not entered at serial no. 495 on 18.6.2002. Similar is his reply to affidavit of Tony Singh son of Jorawar Singh, resident of Vikas Lane, Talam Tillon, Jammu and the entry of the same was not entered at serial no. 496 dated 18.6.2002. The said affidavit is Ex.PW1/E. He had seen the affidavit of Tilak Raj son of Girdhari Lal Vermani aged 54 years, Ahata Faqir Chand, Samrala Road, Ludhiana and the entry of the same is not enrolled at serial no. 490 dated 18.6.2002 in his official record. Similarly, the affidavit of Donor Raju Singh son of Late Narain Singh, aged 24 years, Ahata Faqir Chand, Samrala Road, Ludhiana is not entered at serial No. 492 dated 18.6.2002. The affidavit is mark-PW27/A.

Similarly, he had seen the affidavit of patient Mirch Mal son of Sewa Dass, resident of 222, Sondhi Colony Prithana Itawa (UP), now at 45-M Green Avenue, Amritsar. The entry of the same is not made at serial no. 477 dated 18.6.2002 as per the record brought by him. The affidavit is mark-PW27/B. Similarly, he had seen the affidavit of donor Harish Bhat son of late Tarlok Chand Bhat, aged 25 years, resident of House no.222 Shindy Colony Prithana Itawa, now 45 M Green Avenue, Amritsar. The said entry mark- PW27/C is not made at serial No. 474 dated 18.6.2002 as per his record. He had seen patient Rajinder Pal Singh Anand son of Sangat Singh Anand aged 53 years, resident of 6/76 Rajouri Garden New Delhi, now 44-A Kennedy Avenue, Amritsar. The entry of the said affidavit mark-PW27/D is not made at serial no. 450 dated 18.6.2002. Similarly, he had seen the affidavit of donor mark-PW27/E of Ramesh Kumar son of Late Naresh Kumar, resident of 6J V 76 Rajouri Garden New Delhi, now 44 A Kennedy Avenue, Amritsar. The said affidavit is not entered at serial no. 452 dated 18.6.2002. He had seen the affidavit mark-PW27/F of Sheela Devi wife of Sailash Kumar aged 42 years, resident of Mohalla Gandhi Maidan, Police Station Shivan Town, District Shivan (Bihar), at present 366 Jialal colony, Amritsar. The entry of the said affidavit is not made at serial No. 479 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/G of donor Jaswant Singh son of Shue Narain, aged 22 years Mohalla Gandhi Maidan, Police Station Shivan Town, District Shivan (Bihar) at present 366, Jia Lal colony,

Amritsar. The entry of the said affidavit is not made at serial no. 481 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/H of patient Anil Kumar son of Amar Singh Saini aged 24 years, resident of 1230/1 Saini Anandpura, Rohtak (Haryana), now at 299 Green Avenue, Amritsar. The entry of the said affidavit is not made at serial no. 460 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/1 of donor Shiv Shankar son of Late Gopal Prasad, aged 34 years, resident of 1230/1, Saini Anandpura, Rohtak (Haryana), now at 299 Green Avenue, Amritsar. The entry of the said affidavit is not made at serial no 458 dated 18.6.2002 as per his official record. Similarly, he had seen affidavit mark-PW27/J of patient Kanchan wife of Kanta Prasad, aged 43 years, resident of C-317, Kalyanpur, Kanpur(UP), now B-11, Green Avenue Amritsar. The entry of the said affidavit is not made at serial no.507 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/K of donor Dinesh son of Ganga Ram, aged 26 years, resident of C-317, Kalyanpur, Kanpur (UP), now B-11 Green Avenue, Amritsar. The entry of the said affidavit is not made at serial no. 509 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/L of patient Suda Rai wife of S.K.Jindal, aged 50 years, resident of College Road, Malerkotla, District Sangrur, now at 475 Green Avenue, Amritsar. The entry of the said affidavit is not made at serial no. 472 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/M of donor Santosh Kumar son of Pardeep Kumar aged 24 years, resident of College Road, Malerkotla, District Sangrur, now

at 475 Green Avenue, Amritsar. The entry of the said affidavit is not made at serial no.470 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/N of patient Anju Mehta wife of Jaidev Mehta, aged 44 years, resident of F-3/10 Green Avenue Colony, Bathinda Road, Vikas Nagar, Uttam Nagar, New Delhi, now 661 Ranjit Avenue, Amritsar. The entry of the said affidavit is not made at serial no. 466 dated 18.6.2002. Similarly, he had seen affidavit mark-PW27/O of donor Gajraj Verma son of Lal Singh Verma, aged 27 years, resident of F-3/10 Green Avenue Colony, Bathinda Road, Vikas Nagar Uttam Nagar, New Delhi, now 661 Ranjit Avenue, Amritsar. The entry of the said affidavit is not made at serial no. 466 dated 18.6.2002. As per the record maintained by their office, these affidavits were never attested in their office in his presence. He had seen affidavit mark-PW27/P of patient Narinder Marwaha son of late Vishwamitter, aged 45 years, resident of 27G Court Road, Idea Lane, Court Road, Amritsar. The entry of the said affidavit is not made at serial no. 158 dated 18.6.2002. He has not brought the office record pertaining to the entry of below mentioned affidavit. He had seen affidavit mark-PW27/Q of donor Pardeep Kumar son of Late Ishwar Sanotkh Chander, aged 26 years, resident of 27G Court Road, Idea Lane, Court Road, Amritsar. The entry of the said affidavit is not made at serial no.156 dated 18.6.2002.

40. He further contended that PW28 Dr. Prem Arora while appearing into the witness box deposed that he remained posted as

Head of the Department of Medicines, Unit No.1, Government Medical College, Guru Nanak Dev Hospital, Amritsar from 1.1.2002 to 31.8.2002. He retired on 31.8.2002. Being Professor and Head of the department, he was a member of the Authorization Committee, which approves Kidney transplant cases. This committee is chaired by the Principal, Government Medical College, Amritsar and it consists of three more members and Head Medicines, Professor and Head Forensic Medicines and Civil Surgeon, Amritsar. This committee used to clear cases for the kidney transplant. The case file was put up before the committee along with all the investigation relating to the patients and donors who requires kidney and recommendation of the hospital, which was to do the renal transplant. The aforesaid committee after inquiring and verifying the total record, submitted before the Authorization Committee used to issue approval certificate for transplantation. This committee used to have two sittings in a month, on second and fourth Wednesday on each month during the course of period. In the month of March, he interviewed a donor namely Parkash son of Girdhari Lal, while he was member of Authorization Committee, who had given an affidavit that he is unmarried. On inquiry made by him, he admitted that he is married and subsequently, meeting of the Authorization Committee was held and Mr.Parkash gave another affidavit that he is unmarried. On his inquiry, Mr.Parkash admitted that he is married and has children also. He has just given an affidavit to fulfill the requirement of the

kidney donor affidavit. On 3.4.2002, he wrote this fact to the Chairman of the Authorization Committee about people giving affidavits, which were changed later on. He proved on file copy of his letter Ex.PW28/A. He also wrote this letter to Principal, Chairman Authorization Committee, Government Medical College, Amritsar and he had also given the aforesaid copy of the letter to police, which was taken into possession, vide memo Ex.PW28/A/1. This witness further specifically deposed that said Parkash had come to the Authorization Committee merely as in the capacity of donor. He does not know him personally. He also proved on file his statement, which he got recorded under Section 164 Criminal Procedure Code Ex.PW28/B and sealed envelope of the same Ex.PW28/C.

41. He further contended that PW29 Roshan Lal son of Late Parkash Chand while appearing into the witness box categorically stated that deceased Rajni was his daughter and in the year, 1996, she was suffering from the ailment of Kidney. Then, in the year 1997, he brought her daughter Rajni in Kakkar Hospital and Dr.Parveen Kumar Sareen started her treatment of Kidney ailment. His daughter Rajni undergone 56 dialysis. Then, Dr.P.K. Sareen advised him in writing that there was no other treatment but Kidney transplantation and he gave him in writing, in which, he advised so and issued a certificate. Dr.P.K.Sareen signed a document in his presence. He proved on record said document Ex.PW29/A. This witness further specifically deposed that Dr.P.K.

Sareen advised him that a donor had to be arranged for donating the kidney with perfect matching and that he would inform him, as soon as the donor with the perfect matching will be available. Thereafter, he received an intimation from Dr.P.K.Sareen that a donor had been arranged, whose name was Raju. The donor, as well as his patient were subjected to several tests and thereafter, he was asked, if, he was ready to pay the heavy amount of Rs.10,00,000/-, which he agreed and he deposited the same on different occasions as per directions of the doctor. Dr.P.K.Sareen had obtained the signature of her daughter i.e. recipient and also the donor at various occasions. Thereafter, the signatures of his daughter obtained on Ex.PW29/B. Donor Raju signed on Ex.PW29/C and on Ex.PW29/D. Thereafter, the aforesaid doctor told him that a committee of doctors will sit at Medical College, Amritsar and that committee will give the approval for transplantation of Kidney. The committee sat, on 8.8.1997. His daughter Rajni and donor Raju appeared before the Authorization Committee Medical College, Amritsar and they approved the case of transplantation of Kidney. Then, on 6.11.1997, the transplantation operation of Rajni was conducted by Dr.P.K.Sareen and Dr.P.K.Jain in Kakkar Hospital, Amritsar. He spent Rs.10,00,000/- for transplantation of Kidney of his daughter. His daughter and donor remained admitted for 10 days after the operation and the medicine remained continued but he was not assured about the survival of his daughter. Then, he was called by SI Vishwamitter in May, 2002 and he obtained his signatures on

a blank paper. He gave nothing to SI Vishwamitter. He himself appeared in the court and his statement was recorded on 27.9.2009. He proved on file his statement under Section 164 Criminal Procedure Code which he got recorded before the learned Magistrate Ex.PW29/F and the envelope of the same is Ex.PW29/G. He also proved on file memo Ex.PW29/H, vide which photo copy of bed head ticket of his daughter was taken into police possession by the Investigating Officer.

42. He further contended that PW30 Baldev Singh while appearing into the witness box deposed that on 17.1.2003, he was working as SHO of Police Station C-Division, Amritsar and visited the office of I.G. Intelligence and on that day, IG intelligence handed over him call details of phone no.98140-94253, 98140-27529, 98140-36193, 98140-50349, 98144-44559, 98140-90090, 98140-92608, 98140-53150, 98140-86204, 98140-53693, 98142-92806 and he handed over all details to Kunwar Vijay Partap Singh, S.P. Amritsar City-I, on the same day, vide letter no.60/DIG/CIISPI dated 17.1.2003. He proved on file copy of the same Mark-PW30/A.

43. He further contended that PW31 Amar Masih while appearing into the witness box categorically stated that on 12.2.2003, he was posted as a gunman of Sh. Kunwar Vijay Partap Singh, the then SP City, Amritsar-1. On that day from the office of SP City-1, he received a letter in envelope for bringing a report from FSL, Chandigarh regarding the comparison of signature of

Dr.P.K.Sareen and Dr.P.K.Jain on some documents and after reaching office of FSL, Chandigarh, he collected the report of Handwriting Expert in a sealed envelope on the next day and handed over the same in the office of SP City, Amritsar-1 on his arrival.

44. He further contended that PW32 Dharam Veer Sharma, Superintendent office of DRME, Punjab, Chandigarh while appearing into the witness box brought the original letter no. 990/5E/SP City-1 Amritsar dated 18.11.2002 and proved on file copy of the same Ex.PW32/A and in compliance of the said letter, Dr.Ravinder Singh issued a letter no. 5ME-3- PB/03/3239 dated 26.2.2003 and proved on file copy of the same Ex.PW32/B. He has also brought the original letter bearing no.11/50/96-2 HB5/34424 dated 9.11.1999 and proved on file attested photocopy of the same Ex.PW32/C.

45. He further contended that PW33 Dr.Ajaib Singh Sandhu, Ex.Civil Surgeon, Amritsar while appearing into the witness box categorically stated that he worked as Civil Surgeon, Amritsar from February 2001 to February 2002. Being Civil Surgeon, he was one of the members of the Authorization Committee meant for Transplanting Kidney. Dr.O.P.Mahajan, Principal Medical College, Amritsar was the Chairman and Dr.Jagdish Gargi, Head of the Forensic Department was the member and Dr.Radha Kishan Kumar, the then Head of the Medicine Department was the other member of the committee. He

attended four meetings of the Authorization Committee and found that most of the kidney donors were labourer from U.P, Bihar and Nepal. He suggested to the Chairman of the committee that it is important to establish the identity of these donors, which Dr.Mahajan and Dr.Gargi both refused. In some cases, he gave his dissenting note and after the fourth meeting, he stopped attending the committee meetings, since he found that in-genuine cases were being cleared for the sake of consideration from his own sources. He wrote a letter no.1240/43 dated 25.6.2001. He proved on file copy of the same Ex.PW33/A to the Government Principal Secretary Health of that time. Since that procedure was scandalous, he dis-associated himself from that committee. After 25.6.2001, he did not attend any of the meetings. He inquired from his own sources that most of the cases of transplantation were flopped in a year also after spending a huge amount. Dr.Bhushan Aggarwal was Medical Officer posted at Subsidiary Health Center Issapur under P.H.C. Ramdas. He had not been attending his duties at place of posting and doing private practice at Kakkar Nursing Home, Green Avenue, Amritsar. On further verification, he is regularly coming to that hospital. He requested the Deputy Commissioner, Amritsar of that time to depute a PCS Officer for the raid. He constituted a committee, which was headed over by him alongwith assistant Civil Surgeon, Amritsar Dr.G.K.Uppal, District Family Welfare Amritsar and PGO Mr.Rishipal Singh conducted a raid on 7.9/2001 and found Dr.Bhushan Aggarwal in the corridor of the nursing home.

The entry register of the hospital revealed that entry No.16 at Point-A, at Point-B and at Point-C were of Dr.Bhushan Aggarwal in his own handwriting alongwith the entries of the other doctors namely Dr.Harsharan Kaur, Dr.Kirpal Kaur, Dr.D.P.Sanan and many other visiting doctors. A detailed inquiry was held on 8.9.2001 by the then District Immunization Officer Dr.Amrik Singh Juzz, who visited Issapur and recorded the statement of village Panchayat, hospital employees and many respectables of the village, who all stated that they had not seen the doctors revealed by the Panchayat for the last four years. Employee stated that he had been very rarely coming and mark himself present in the back dates and complete the moment register. He recommended his suspension to the department, vide letter Ex.PW33/B. He also submitted his resignation from his service there, which was also forwarded to the department. At the moment, when he alongwith his companion raided the Kakkar Nursing Home, Amritsar, they found Dr.Bhushan Aggarwal there working in the said hospital and in this respect, the photographs Ex.PW33/C and Ex.PW33/D were taken. He identified these photographs as well as other team members and Dr.Bhushan Aggarwal alongwith PCS officer Rishipal Singh. He had seen Dr.O.P. Mahanjan, Dr.Jagdish Gargi and Dr.Bhushan Aggarwal in the court. He recorded his statement in the court.

46. He further contended that PW34 Davinder Singh, Senior Assistant, Punjab State Human Rights Commission, Chandigarh while appearing into the witness box specifically

deposed that with reference to the mentioned complaint No.1575/AHRC dated 10.10.2003 on the summons, no such complaint relates to their department. Their department never received any such complaint No.1575/AHRC. He has brought summoned record of complaint No. 825/03/PSHRC/2001 with reference to number 46497 dated 6.10.2003 mentioned on summons, same was dispatch number of the complaint No. 825/03/PSHRC/2001. He has brought the original record pertaining to registration of complaint No. 825/03 and entire record maintained by their department in this regard filed by Baljit Singh Nayak, President Sarab Sanjhi Indian Party resident of Sunam, District Sangrur and he has seen the memo No.3500 dated 5.8.2003 and proved on file correct carbon copy of same Ex.PW34/A, which is signed by Director General of Police and Human Rights Commission. He has also brought the original record of inquiry in the court and proved on file correct photostat copy of same Ex.PW34/B.

47. He further contended that PW35 Karam Singh Khattri, Retired Under Secretary Home while appearing into the witness box deposed that he has seen the original record of Government department of Home Affairs and Justice (Home 4) branch memo No.7/228-02-1H4/4828 dated 18.12.2002 in the court and further specifically deposed that on 18.12.2002, he issued letter aforesaid for entrustment of the investigation of Kidney scam cases to the police by the Government of Punjab and letter was written from

Home Department to Sh.A.A.Siddiqui, Addl.Director General of Police, Law and Order, Punjab, Chandigarh. He proved on file copy of the said letter Ex.PW35/A, which bears his signatures. He has also issued copies to Chief Director, Vigilance Bureau, Punjab, Additional Director General of Police Crimes, Punjab and IGP, Border Range, Amritsar and he also proved on record his endorsement Ex.PW35/B.

48. He further contended that PW36 Sarabjit Kaur, Cashier, DTO Office, Amritsar while appearing into the witness box proved on file registration certificate of vehicle No. PB02-K-1026 which is registered in the name of M/s. Ram Sharan Dass Kishori Lal Charitable Trust, Green Avenue, Amritsar, which was transferred in the name of Gorakh Ram son of Kanakaru Ram, resident of Rishi Vihar, Amrit Nagar, Amritsar and proved on file the same Ex.PW36/A and Ex.PW36/B.

49. He further contended that PW37 Rajesh Sharma, District Revenue Officer, Mansa while appearing into the witness box categorically deposed that in the year 2001, he was working as Tehsildar-cum-Executive Magistrate, Amritsar-II. During his tenure, affidavits pertaining to kidney transplantation of Amritsar came to him and said affidavits were duly entered in his office record. No affidavit was attested without entering in the office record. He has seen entry No. 487 dated 18.6.2002 of Vijay Kumar son of Darshan Lal, resident of Daultganj, Gwalior and affidavit at Serial No.489 dated 18.6.2002 of Ashok Kumar Aggarwal son of

Babu Lal, resident of Daulatganj, Gwalior, MP, the same were not entered in his office record and said affidavits were not attested by him. He has seen affidavit Mark A-F of Ashok Kumar and Ex.PW3/A of deponent Vijay Kumar, same do not bear his signatures as Executive Magistrate, Amritsar. Efforts were made to forge his signatures on these affidavits. Similarly, he has seen file of Tony Singh son of Jorawar Singh, resident of H. No. 52, Lane no.3, Vikas Lane, Talak Tola, Jammu, now at 210, Green Avenue, Amritsar and one Madhu Gupta wife of Kewal Kishan Gupta, resident above said. The affidavit of Madhu Gupta Mark-A2 does not bear his signatures as Executive Magistrate, Amritsar and similarly, he did not attest affidavit of Tony Singh Ex.PW1/E as Executive Magistrate, Amritsar and his signatures are forged one thereon. He does not identify his signatures as Executive Magistrate on affidavits of Varun Seth, Dinesh Kumar, again said Varun Seth Ex.PW3/E and on Ex.PW3/F and on file Ex.PW3/G. He also did not attest the affidavits of Varun Seth and Vinod on file pertaining to transplantation of Varun Seth and Vinod. He also did not sign affidavit of V.K.Dutta recipient and Ajay donor on file pertaining to transplantation of V.K.Dutta patient. Similar is his reply to the second file of Patient V.K.Dutta and donor Ajay. Similar is his reply regarding affidavit of Vijay Kumar and Laddi Singh on file of transplantation of Laddi Singh and Vijay Kumar. Similar is his reply regarding another file of transplantation of Laddi Singh. Similar is his reply regarding the affidavit of Jai Kishan Singh and

Raju donor. Similar is his reply regarding file Ex.R3 regarding affidavit of Rajni and affidavit of donor Anil Kumar. He did not attest affidavit of Manmohan Kaur and Joginder Thakur on file of patient Manmohan Kaur and donor Joginder Thakur on file Ex.PW17/A. He did not attest affidavit of Subhash Mahajan and Jaipal on the transplantation file Mark-25/A of aforesaid patient and donor. He did not attest the affidavit of Anita Sachdeva and affidavit of Imran in file Ex.PW19/A regarding transplantation of kidney. He did not attest affidavit of Balwant Singh and Vinod Triloki in file Mark PW23/A but attempts were made to forge his signatures on affidavits Mark-X and Mark-Y. He did not attest affidavit of Sarabjit and Amresh Ballabh in the kidney transplantation file of aforesaid Sarabjit and Amresh Mark-Z. Similar is his reply to another file of Amresh Ballabh and donor Pappu. The said file is Mark-Z the affidavits of Amresh Ballabh and Pappu were not attested by him. He has seen file Ex.R1 pertaining to Ravi and Hargurinder Singh. The affidavits of Ravi and Hargurinder Singh recipient and donor were not attested by him. He has seen file Ex.PW12/A of patient Charanjit Singh and donor Vinod Tilonkani. The affidavits of Vinod Tilonkani and Charanjit Singh were not attested by him. He did not attest affidavit of Kavita Yadav and Hari Parkash on file Mark-Z/2. He did not attest affidavits of Seema Perindia and Bablu Roy on file Mark-Z/3. He has also seen affidavit of Nand Lal Gupta and Buland Shah, same were not attested by him. He has seen affidavits of Sarabjit Singh

recipient in file Ex.PW6/C, which is not attested by him. He did not attest affidavits of Jasbir Singh and Shashi Kumar in file Ex.PW9/A. Similar is his reply towards rest of the kidney transplantation files Mark-Z/4 to Mark-Z/34. The affidavits contained therein were not attested by him as Executive Magistrate. Before 2001, he was posted as Teshildar at Amritsar from 1997 to 2001. He has seen his office record and as per record, the affidavits contained in file Mark-Z/25 to Mark-Z/34 had not entered in his office record. These files pertaining to kidney transplantation relates to year 1998.

50. He further contended that PW38 Hardeep Singh, Clerk Punjab State Human Rights Commission, Chandigarh while appearing into the witness box deposed that as per office record, the record of complaint No. 4648/02 and complaint No. 3005/2003, which were clubbed with each other and said complaints were weeded out. He has brought the order of Sh.O.P.Goyal, Registrar, Punjab Human Right Commission, Chandigarh and proved the same Ex.PW38/A.

51. He further contended that PW39 Sunil Kumar, Junior Assistant, Govt. Medical College, Amritsar while appearing into the witness box deposed that he remained posted as a Clerk and P.A. to Principal Government Medical College, Amritsar, from 1998 to 2007. From 1998, Dr.O.P.Mahajan was Principal of Govt. Medical College, Amritsar-cum-Chairman, Authorization Committee, Amritsar and Dr.Jagdish Gargi was Head of Forensic Department

and Toxicology, Govt. Medical College, Amritsar from 1998 onwards and he was also member of Authorization Committee, since 1998 as Head of Forensic Department. He has brought the original record of his office. As per record, vide letter No.38491 dated 24.12.2002, the files of approval of kidney transplantation from year 1998 to 2001, total 1479 files were handed over to HC Buta Singh, Police Post Durgiana Mandir, Amritsar and in this regard, recovery memo Ex.PW39/A was prepared. He also proved on file letter No.38491 Ex.PW39/B in original on file, which is signed by Dr.O.P.Mahajan as Principal of Govt. Medical College, Amritsar and these files were given to police on the direction of Dr.O.P.Mahajan, Govt. Medical College, Amritsar. He also specifically deposed that being remained as Clerk and PA of Principal in the Govt. Medical College, Amritsar, he worked under Dr.O.P.Mahajan, Principal of Govt. Medical College, Amritsar and Dr.Jagdish Gargi being Head of Forensic Department. He identified the signatures of Dr.O.P.Mahajan and Dr.Jagdish Gargi on file of Authorization Committee, Medical College, Amritsar Ex.PW39/1 containing pages 1 to 42 of Amresh Bhallab, another file Ex.PW39/2 containing pages 1 to 42 of Amresh Bhallab, file Ex.PW39/3 containing pages 1 to 44 of Kavita Yadav, file Ex.PW39/4 containing pages 1 to 42 of Kavita Yadav, file Ex.PW39/5 containing pages 1 to 64 of Arun Bhargva, file Ex.PW39/6 containing pages 1 to 72 of Arun Bhargva, file Ex.PW39/7 containing pages 1 to 38 of Laddi Singh and Qarnesh

Kumar, file Ex.PW39/8 containing pages 1 to 44 of Laddi Singh and Vijay Kumar, file Ex.PW39/9 containing pages 1 to 73 of Nishar Ahmed and Parmod Kumar, file EX.PW39/10 containing pages 1 to 92 of Mohammad Azam and Nishar Ahmed, file Ex.PW39/11 containing pages 1 to 42 of B.K.Dutta and Ajay Donor, file Ex.PW39/12 containing pages 1 to 44 of B.K.Dutta and Ajay Donor, file Ex.PW39/13 containing pages 1 to 42 of Bablu Rai and Seema Perindia, file Ex.PW39/14 containing pages 1 to 44 of Nanda and Seema Perindia, file Ex.PW39/15 containing pages 1 to 64 of Naginder Thapa, Imran, file Ex.PW39/16 containing pages 1 to 64 of Naginder Thapa and Raju, file Ex.PW39/17 containing pages 1 to 48 of Gopal and Ishwar Bai Patel, file Ex.PW39/18 containing pages 1 to 42 of Shanker and Ishwar Bai Patel, file Ex.PW39/19 containing pages 1 to 42 of Vinod and Varun Seth, file ExPW3/G containing pages 1 to 42 of Varun Seth and Dinesh, file Ex.PW39/20 containing pages 1 to 62 of Rupinder Singh and Rakesh Verma, file Ex.PW39/21 containing pages 1 to 106 of Rupinder Singh and Ramesh Kumar, file Ex.PW39/22 containing pages 1 to 62 of Raju and Athurali, file Ex.PW39/23 containing pages 1 to 62 of Baldev Singh and Athurali, file Ex.PW39/24 containing pages 1 to 44 of Balwant Singh and Vinod Tilonkani, file Ex.PW12/A containing pages 1 to 42 of Charanjit Singh and Vinod Tilonkani, file Ex.PW39/25 containing pages 1 to 46 of Jai Kishan and Parkash, file Ex.PW39/26 containing pages 1 to 38 of Raju and Jai Kishan, file ExPW39/27 containing pages 1 to 38 of

Jaswant and Sheela Devi, file Ex.PW39/28 containing pages 1 to 44 of Rajinderpal Singh Anand and Ramesh Kumar, file Ex.PW39/29 containing pages 1 to 44 of Shiv Shanker and Anil Kumar, file Ex.PW39/30 containing pages 1 to 40 of Anju Mehta and Gajraj, file Ex.PW39/31 containing pages 1 to 40 of Mrs.Kanchan and Dinesh, file Ex.P1 containing pages 1 to 67 of Ashok Aggarwal and Vijay Kumar, file Ex.PW39/32 containing pages 1 to 44 of Narinder Marwaha and Sunil Kumar, file Ex.PW39/33 containing pages 1 to 38 of Sudesh Rani and Santosh Kumar, file Ex.PW39/34 containing pages 1 to 40 of Mirchu Mal and Harish Bhatt, file Ex.PW39/35 containing pages 1 to 48 of Madhu and Tony, file Ex.PW39/36 containing pages 1 to 40 of Tilak Raj and Raju Singh, file Ex.PW39/37 containing pages 1 to 40 of Raj Kumar and Anil Kumar, file Ex.PW39/38 containing pages 1 to 46 of Harish Kumar and Vicky, file Ex.PW39/39 containing pages 1 to 44 of Asha Rani and Ajay Kumar, file Ex.PW6/C containing pages 1 to 24 of Sarabjit Singh and Puran Singh, file Ex.PW39/40 containing pages 1 to 48 of Uma Wati and Sunil, file Ex.P8 containing pages 1 to 40 of Surjit Kumar and Mast Ram, file Ex.R1 containing pages 1 to 52 of Hargurinder and Ravi, file Ex.PW39/41 containing pages 1 to 46 of Ashok Malik and Manoj Kumar, file Ex.PW39/42 containing pages 1 to 40 of Inderjit Singh and Sagar Dass, file Ex.PW39/43 containing pages 1 to 32 of Gurbachan Kaur and Manohar, file Ex.PW39/44 containing pages 1 to 38 of Rehana Begum and Ramesh, file Ex.PW39/45 containing pages 1 to 48 of Dalip Kumar

and Vijay Kumar Mehra, file Ex.PW9/A containing pages 1 to 42 of Tasbir Singh and Shashi Kumar, file Ex.PW17/A containing pages 1 to 48 of Manmohan Kaur and Joginder Thakur, file Ex.PW15/B containing pages 1 to 40 of Nand Lal Gupta and Buland Shah, file Ex.PW19/A containing pages 1 to 40 of Anita Sachdeva and Imran, file Ex.PW21/A containing pages 1 to 62 of Jagjit Mohan Singh and Rajesh, file Ex.PW39/46 containing pages 1 to 36 of Jagat Narain Jayaswal and Basant Kumar, file Ex.PW39/47 containing pages 1 to 41 of Jaipal and Bali Ram, file Ex.PW39/48 containing pages 1 to 42 of Dilbagh Singh and AN Gupta, file Ex.PW39/49 containing pages 1 to 20 of Smt.Shanta and Manoj, file Ex.PW39/50 containing pages 1 to 22 of Pitambar Dutt and Rajinder Kumar, file Ex.PW39/51 containing pages 1 to 18 of Mohammad Faruqe Khan and Mohd. Gufran Shekh, file Ex.PW39/52 containing pages 1 to 18 of Ram Krishan Vidroh and Santosh, file Ex.PW39/53 containing pages 1 to 18 of Ram Sharma and Ashok Kumar, file Ex.PW39/54 containing pages 1 to 18 of Rajinder Kumar and Tajinder, file Ex.R3 containing pages 1 to 55 of Raju and Rajni, file Ex.PW39/55 containing pages 1 to 18 of Roshan Lal Pandit and Raju Malhotra, file Ex.PW39/56 containing pages 1 to 18 of Parveen and Om Parkash, file Ex.PW39/57 containing pages 1 to 24 of Kamal Jain and Ravi, file Ex.PW39/58 containing pages 1 to 18 of Sagar Devi and Ajay Singh, file Ex.PW39/59 containing pages 1 to 26 of Harish Kumar and Sudhir Kumar. He further deposed that he identified the signatures on the aforesaid files of

Authorization Committee regarding approval of Dr. O.P. Mahajan as Chairman of Authorization Committee and Dr. Jagdish Gargi as member of Authorization Committee as he worked under them and very well conversant with their signatures.

52. He further contended that PW40 Dr. Ravinder Singh while appearing into the witness box specifically deposed that he remained posted as DRME, Punjab Chandigarh from 18.12.2001 to 30.6.2003. On 21.11.2002 a letter by Kunwar Vijay Partap Singh written to his office in respect of the Kidney Scam cases registered at Amritsar. He has seen said office letter in the Court and then, he was called through a notice under section 160 Criminal Procedure Code by Kunwar Vijay Partap and in compliance, he appeared and gave official information in respect to Kunwar Vijay Partap Singh and in compliance of the letter dated 21.11.2002 and the query of Kunwar Vijay Partap Singh. He wrote a letter No. 5ME-3-PB/03/3239, which bears his signature. He proved on file letter of Kunwar Vijay Partap Singh No. 5E/SP City-1, Amritsar dated 18.11.2002 Ex.PW32/A and his letter Ex.PW32/B.

53. He further contended that PW41 HC Jaipal while appearing into the witness box deposed that he has brought the original record office of IGP Jalandhar Zone. He remained posted in this office from year 2002 till today. He has brought the letter No.339/PA/OSD/L & Chandigarh dated 13.12.02, this letter issued from the office of officer on special duty law and order Punjab, Chandigarh to Sh.S.K.Sharma IPS, IG of Police Zonal Jalandhar

and proved on file the correct copy of the same is Ex.P41/A, which bears the signature of Sh. A.A. Siddiqui, IPS, ADGP, Law and Order. Similarly, letter No. 577882 dated 12.12.02 was issued by DGP Punjab Chandigarh to Sh. A.A. Siddiqui and the carbon copy of the same is Ex.PW41/B, which bears the signature of DGP. He has also brought letter No.12118-25 dated 16.12.02 and proved on file the correct copy of the same Ex.PW41/C, which bears the signature of Sh. S.K.Sharma, IG Zonal of Jalandhar. He also brought letter No.1958 dated 20.12.2002 and proved on file correct copy of the same Ex.PW41/D which bears the signatures of DSP Rajinder Singh on behalf of IGP Zonal Sh.S.K.Sharma and DSP Rajinder Singh. He identified their signatures.

54. He further contended that PW42 Arun Saini, AIG Law and Order, Punjab while appearing into the witness box specifically deposed that he remained posted as DSP, PSHRC from April 2002 to March 2004. Sh.S.K.Verma DGP, PSHRC marked him compliant received from Baljit Singh Naikm, President of Sarab Sanjhi Indian Party, resident of Sunam and he conducted the inquiry on this complaint and gave him report. He proved on file his report Ex.PW42/A.

55. He further contended that PW43 Mast Ram while appearing into the witness box specifically deposed that in the year, 1998, he had problem of kidney and he took his treatment from Dr.Rohit Kapoor for two years. Thereafter, Dr.Rohit Kapoor refused to treat him as he was unable to treat him. Then, his son brought

him in Kakkar Hospital, where he took his treatment from Dr.P.K.Sareen for about two years. Thereafter, Dr.P.K.Sareen suggested him for transplantation of kidneys. Thereafter, Dr.P.K.Sareen, Dr.P.K.Jain and Dr.Bhupinder Singh obtained his signatures on blank papers and Dr.Bhupinder Singh alongwith his co-accused doctors arranged the kidney donors at their own level and they along with Dr.Bhupinder Singh charged from him some amount in lieu of arrangement of kidney donor and that amount was paid by his son. He was operated for the kidney transplant in the year, May 2002. Transplant Surgery was conducted by Dr.Bhupinder Singh, Dr.P.K.Jain and Dr.P.K.Sareen and he did not know name and particular of donor because it was in the knowledge of Dr.Bhupinder Singh and above said doctors. He has been asked by Dr.Bhupinder Singh and aforesaid doctors to arrange the money.

56. He further contended that PW44 Surinder Kaur wife of Sarabjit Singh while appearing into the witness box specifically deposed that her husband Sarabjit Singh had developed a kidney problem in the year 1998. He received initial treatment from Guru Nanak Dev Hospital, Amritsar and then, she took him to Kakkar Hospital, where he was treated by Dr.Bhupinder Singh, Dr.P.K.Sareen and Dr.P.K.Jain. Her husband could not be cured. Dr.Bhupinder Singh along with his co-accused doctors recommended kidney transplant. These doctors assured them of kidney donor and asked them to arrange for payment and Dr.Bhupinder Singh alongwith co-accused doctors arranged some

kidney donor. The donor was not related to them. He was not known to them. She has no knowledge about paper formalities conducted in this regard. She identified the photograph of her husband on Ex.PW6/C on point-A, Point-B and Point-C. She could not identify signatures of her husband at any place. The transplant surgery was conducted by Dr.Bhupinder Singh, Dr.P.K.Sareen, Dr.P.K.Jain and Dr.Bhushan Aggarwal in Kakkar hospital, in the year 1998.

57. He further contended that PW45 Inspector Arun Sharma who is also one of the Investigating Officer of this case while appearing into the witness box specifically deposed that in the year 2003, he was posted as Incharge of Police Post Bus Stand as ASI and he was constituted as a member of Special Investigation Team of this case. On 11.3.2003, the investigation of this case was entrusted to him. He along with HC Balwinder Singh went to Government Medical College, Amritsar and they apprehended Dr.O.P.Mahajan, the then Principal of Government Medical College, Amritsar and brought him to G.O. Mess Amritsar and he interrogated Dr.O.P.Mahajan there and then, he was brought to Police Station D-Division, Amritsar, where he arrested Dr.O.P.Mahajan in this case. He proved on file arrest memo of accused Ex.PW45/1, his personal search memo Ex.PW45/2. During investigation, this fact was revealed that Dr.O.P.Mahajan has nexus with Ram Sharan Dass Kishori Lal Charitable Trust Hospital also known as Kakkar Hospital and with mediators of kidney, who

allured the poor and migrant labourers to give their kidney under consideration and fake documentation was made for the purpose of transplantation. On 13.1.2003, Dr.P.K.Sareen was locked in lockup of Police Station D-Division, Amritsar and he took out him from police lockup and conducted interrogation and during interrogation, he revealed that he owns a Renal Clinic at 255 Race Course Road, Amritsar and he kept concealed two computer systems and some files and documents and registers relating to the transplantation of kidneys and he only knows about the same and he can get recovered the same. He proved on file disclosure statement of Dr.P.K.Sareen Ex.PW45/3, one recovery memo Ex.PW45/4 vide which two computer monitors, two key boards, two mouses, one battery, four speakers, one scanner, one CPU, two modem, 15 registers, 40 files, 3 bundles of discharge summaries, 400 blank papers, the blank certificates bearing signatures of Dr.P.K.Sareen and 50 blank certificates having signatures of Dr.P.K.Jain, 3 blank certificates bearing signatures of Dr.P.K.Sareen and Dr.P.K.Jain. One parcel of blank papers of 400 pages and second parcel of blank certificates bearing signatures of both Dr.P.K.Sareen and Dr.P.K.Jain and 50 blank certificates having signatures of Dr.P.K.Sareen and 03 blank certificates having signatures of Dr.P.K.Jain, were recovered, on the basis of statement of Dr.P.K.Sareen. This witness further deposed that on 19.1.2003, investigation of this case was with ASI Vishwamiiter, who was also member of Special Investigation Team and he alongwith other

police officials went to Kakkar Hospital, Amritsar in respect of investigation of this case, where Record Keeper Jagdish Kaher and Baghirath met police party and ASI Vishwamitter interrogated them regarding record of hospital required in present case and they disclosed that the medical record pertaining to this case only lies with Manager Hardial Mehta of Kakkar Hospital and ASI Vishwamitter demanded said record but they refused to hand over the same to him. Then, ASI Vishwamitter along with their assistance entered the room of Manager Hardial Mehta in order to collect the record required in this case and on search, two files of transplantation of kidney of Mulakh Raj Goyal and donor Sudesh Kumar were recovered from the Almirah lying in a concealed manner and said files (bed head tickets) were taken into police possession, vide memo Ex.PW1/S and Ex.PW1/T, which were attested by him and HC Kuldip Singh. This witness further deposed that during investigation, this fact was revealed that whole fake record of the donors and recipients of kidney transplant was kept in custody of Manager Hardial Mehta of Kakkar Hospital, Amritsar. On arrival in Police Station D-Division, the aforesaid files were annexed with the record. On 23.1.2003, again the investigation of this case was entrusted to him and he was present at Durgiana Mandir, where Dr.Jagdish Gargi and one Dr.Gurmanjit Rai were present. Dr.Jagdish Gargi was called through notice under Section 160 Criminal Procedure Code and he joined them in the investigation of this case and interrogated him and after

interrogation, he was arrested in this case, vide memo Ex.PW45/5. This witness further deposed that during investigation, this fact revealed that Dr.O.P.Mahajan and Dr.Jagdish Gargi have closed nexus with Dr.Bhupinder Singh and doctors of Kakkar hospital namely Dr.P.K.Sareen, Dr.P.K.Jain, Manager Hardial Mehta, mediator of kidney Yogesh Tinku, Vicky Bhatia, Advocate George, Advocate Pardeep Saini, Kulwinder Singh Clerk working in renal clinic of Dr.P.K.Sareen and Dr.Bhupinder Singh along with his co-accused had nexus with each other and the mediators of kidney used to allure poor persons and migrant labours as donors and their fake documentation was prepared and they were illegally produced before Authorization Committee for the purpose of illegal transplantation of their kidneys. This witness further deposed that on 27.1.2003, the investigation of this case was with him and he was present at Police Post Durgiana Mandir, where Kewal Krishan Arora owner of Super international Travels, Court Road, Amritsar was present and he joined the investigation of this case and during investigation, he produced three ticket registers pertaining to entries of traveling abroad of Dr.P.K.Sareen, Dr.Bhupinder Singh, Dr.Bhushan Aggarwal, Dr.P.K.Jain, Dr.Rajinder Kaur alongwith IG Rajan Gupta and after verifying these registers, same were taken into police possession, vide memo Ex.PW45/6. This witness further deposed that on 7.2.2003, the investigation of this case was with him and he along with HC Balwinder Singh went to office of Civil Surgeon, Amritsar, from where, they collected record of

Dr.Bhushan Aggarwal regarding his government service and his practicing as a doctor illegally in Kakkar Hospital, Amritsar and the record by which Dr.Bhushan Aggarwal was nabbed by office of Civil Surgeon, Amritsar alongwith other officials of this department, while he was illegally practicing in Kakkar Hospital, Amritsar. During investigation, this fact revealed that Dr.Bhushan Aggarwal was posted at SHC, Issapur, Ramdas as a Government employee and the record of his inquiry was taken into possession, vide memo Ex.PW45/7. This witness further deposed that on 10.2.2003, investigation of this case was with him and during investigation, he recorded the statement of LC Satpal and LC Harjinder Singh and this fact revealed in investigation that DSP Gurdial Ram, who was working as Staff Officer of the then I.G Border namely Rajan Gupta having close nexus with Yogesh Tinku, Vicky Bhatia, Advocate Rajan Puri the mediators of kidney donors and Dr.P.K.Sareen, Dr.P.K.Jain, Dr.Bhupinder Singh, Dr.Bhushan Aggarwal, Manager Hardial Mehta and said DSP Gurdial Ram under his influence used to get released the mediators and illegal donors apprehended by the police and when, any police official used to make efforts to unearth this nexus, then DSP Gurdial Ram by misusing his position used to pressurize and threatened police officials in order to refrain them from unearthing the racket. DSP used to threatened them that in case, they did so, they would be transferred to remote distant place as punishment. This fact further revealed in investigation that DSP Gurdial Ram had closed relations

with Advocate George and Advocate Pardeep Saini and took legal advice from them to convert the illegal transplantation of kidney in a legal shape. This witness further deposed that on 7.3.2003, investigation of this case was with him and he went to office of SP City-1, Amritsar, where Sh. Rajesh Sharma, Tehsildar Amritsar- I and Reader Bhola Singh and SI Surinderjit were present and he joined them in investigation of this case one by one. Where on his demand, Reader Bhola Singh produced before him one register pertaining to entries of affidavit required for transplantation of kidney and he also shown him many affidavits relating to transplantation of kidneys (donor and recipients) and said Bhola Singh cleared this fact that only two entries at serial no. 156 dated 18.6.2002 and 158 dated 18.6.2002 respectively of Pardeep Kumar and Sh.Narinder Marwaha were mentioned in the register, which is produced by them before him and further made clear that the affidavits of aforesaid entries only bears signatures of Sh.Rajesh Sharma, Tehsildar Amritsar alongwith his office seal and he further clarified that there is no other office record with them, in which entires of affidavits taken into possession in this case is mentioned. Whereas, the entries of affidavits taken into possession in the bed head tickets and files of transplantation should be in the said register maintained in their office. He proved on file memo Ex.PW45/8 in this respect. This witness further deposed that during investigation, this point was pointed out that whatsoever the fake affidavits and documentation was prepared, no corresponding

entries were available in register. This fact is verified from the register, which was taken into custody during investigation. He recorded the statements of PWs and annexed the register with his file. He proved on file said register Ex.PW45/9. This witness further deposed that on 30.4.2003, investigation of this case was with him. He went to office of SP City-1 Amritsar, where Dr.Bhupinder Singh was already present. Dr.Bhupinder Singh was joined in the investigation of this case and he took Dr.Bhpinder Singh to Police Station D-Division, Amritsar, where Dr.Bhupinder Singh was subjected to interrogation and after finding incriminating evidence against Dr.Bhupinder Singh, he was arrested, vide memo Ex.PW45/12. This witness further deposed that on 21.7.2003, investigation of this case was with him. He went to Police Station D-Division, Amritsar, where Inspector Gurdial Ram was already in police lockup and he took him out of police lock up and interrogated him. During interrogation, he revealed that he had mobile number 98144-44529, which he had concealed at house of his relative, which was in his personal knowledge and he can get the same recovered from disclosed place. He proved on file his disclosure statement Ex.PW45/13. Then, he led police party to disclosed place and when, police party was proceeding towards said place, he took a U-turn from his disclosure statement and police party returned to Police Station. This witness further deposed that on 23.7.2003, he again interrogated Inspector Gurdial Ram and he revealed that he kept concealed aforesaid mobile at his residence in

his Almirah and he only knows about it and can get recovered the same and led the police party got recovered the same which was taken into police possession vide memo Ex.PW45/15. His testimony is also duly supported and corroborated with the testimonies of PW1 SI Vishwamitter and PW62 Kewal Krishan Arora.

58. He further contended that PW47 Jagdish Kahar while appearing into the witness box deposed that he handed over the bed head tickets/1808 files of kidneys transplants to the police and the same were taken into possession vide memo Ex.PW47/A. On 15.1.2003, he also handed over to the police admission register pertaining to the admission of the patients which were taken into possession by the police vide memo Ex.PW1/R. He has seen 44 files (bed head tickets) of recipients and donors of kidney patients. The said files are mark-1 to 44. All these bed head tickets which are the subject matter of the aforesaid recovery memo were prepared and generated by their hospitals. Dr.P.K.Sareen and Dr.P.K.Jain were working as a transplant surgeons and their names are mentioned in each file. He identified the signatures of Dr.P.K. Sareen and Dr.P.K.Jain on all these files. This witness further deposed that the bed head tickets in which the names of recipients and donors are mentioned and the transplantation of kidneys took place in Kakkar Hospital, Amritsar in the aforesaid 44 bed head tickets and the transplantation of the kidneys in Kakkar Hospital by the team including Dr.P.K.Sareen, Dr.P.K.Jain assisted by

Dr.Bhupinder Singh and Dr.Bhushan Aggarwal. He alongwith Hardial Mehta Manager of Kakkar Hospital and two other Clerks used to keep the bed head tickets of the hospital.

59. He further contended that PW48 Sh.R.K.Singla, Additional District & Sessions Judge, Ferozepur while appearing into the witness box proved on the file proceedings recorded by him on the application filed by the police officials for recording the statements of the witness Puran Singh in case FIR No.101 of 21.9.2002 Ex.PW6/B, statement of the witness Ex.PW6/A, his certificate Ex.PW6/C, envelope vide which he sent the statement to the concerned quarter Ex.PW6/D.

60. He further contended that PW49 Ms.Ranjit Kaur, Additional District & Sessions Judge/Fast Track Court, Hoshiarpur while appearing into the witness box proved on file statement of witness Vinod Kumar Ex.PW49/A, statement of PW Roshan Lal Ex.PW29/F and at the end, her certificate over the same Ex.PW29/F, statement of witness HC Ravi Kumar Ex.PW5/A and at the end of the statement, her certificate Ex.PW5/B, statement of witness Gurwinder Singh Ex.PW3/E and at the end of the statement, her certificate Ex.PW3/F, statement of witness Ramesh Kumar Ex.PW49/B and at the end of the statement, she recoded the proceedings Ex.PW49/C, statement of witness Sarabjit Singh Advocate Ex.PW49/D, statement of witness Mulakh Raj Goel Ex.PW49/E, statement of witness Lokinder Kumar Yogi Ex.PW49/F, at the end of the statement, she has given certificate

Ex.PW49/G, statement of witness Hem Chand Sharma Ex.PW49/H, statement of witness Navneet Singh Ex.PW49/I, statement of witness Jaswant Kumar Jha Ex.PW9/J, statement of witness Harjinder Singh Ex.P1, statement of witness Dilbagh Singh Ex.PW2/A, statement of witness Nirmal Singh Ex.PW21/B, statement of witness LC Harjinder Singh Ex.PW16/A, statement of witness LC Rashpal Singh Ex.PW14/A, statement of witness Constable Ajay Kumar Ex.PW13/B, statement of witness Jaskaran Singh Ex.PW9/A, statement of witness Vijay Seth Ex.PW3/H and statement of witness Dr.Prem Arora Ex.PW28/B and further specifically deposed that before recording the statements of aforesaid witnesses, she had ensured that they were not in any pressure or coercion and that it was voluntarily account of the version rendered by the witnesses. All the witnesses stated above have signed on their statements in token of correctness of the same.

61. He further contended that PW50 Gurmit Singh retired SP who was appointed as one of the member of Special Investigation Team to conduct the investigation of this case on the letter of Sh.S.K.Sharma, the then IGP of Police Zonal-II, Jalandhar while appearing into the witness box proved on file signatures of Sh.S.K.Sharma Ex.PW41/C on the said letter and deposed that during investigation, he recorded the statements of PW Kanchan Mehra, Gurbachan Singh and other witnesses.

62. He further contended that PW51 Bimal Sharma, Ex. Regional Manager, Spice Telecom, Mohali while appearing into the

witness box proved on file subscriber information report dated 16.1.2003 Ex.PW51/A, call details of phone No.98140-94253 consisting of pages 1 to 359 Ex.PW51/B of one Lalit Kumar. He has seen call details of mobile No.98140-43290 consisting of pages 1 to 81 Ex.PW51/I of one Bhupinder Singh, resident of 252-B, Ranjit Avenue, Amritsar. There are calls on page No.1 and 24 of Dr.Bhupinder Singh from Gurdial Ram.

63. He further contended that PW52 Buta Singh Ex. Under Secretary, Punjab Government, while appearing into the witness box deposed that on 30.6.2003, he was working as Superintendent in Research and Medical Education, Punjab, Chandigarh and on the same day, Sh. Rajesh Chhabra, Principal Secretary, Research and Medical Education, Punjab, Chandigarh accorded sanction for prosecution against Dr.O.P.Mahajan and Dr.Jagdish Gargi. He proved on file sanction for launch of prosecution against Dr.O.P.Mahajan the then Principal, Government Medical College, Amritsar and Dr.Jagdish Gargi, Professor and Head, Forensic Medicine, Government Medical College, Amritsar on Ex.PW52/A which bears the signature of Rajesh Chhabra. He identified his signatures as he worked under him and well conversant with his signatures and seen him while signing in the office. He also proved the letter addressed to Additional Director General Ex.PW52/B which bears his signatures.

64. He further contended that PW53 Rajinder Singh AIG, Counter Intelligence, Jalandhar while appearing into the witness

box deposed that in the year 2002, he was working as DSP-cum-Staff Officer to IG Zone, Jalandhar. Sh.S.K. Sharma, IPS and in this case, he was appointed as member of Special Investigation Team of this case vide order Ex.PW41/C. He also proved on the file letter Ex.PW41/A which bears the signatures of Sh.A.A.Siddiqui the then ADGP, Law and Order. He also proved on the file letter Ex.PW41/A vide which Local Special Investigation Team was constituted. This witness further deposed that during investigation, he joined 21 persons in the investigation. The statements of 12 persons were recorded by him and rest of were let off after joining them in the course of investigation.

65. He further contended that PW54 HC Ramesh Kumar while appearing into the witness box proved on file his report Ex.PW54/A.

66. He further contended that PW55 Kunwar Vijay Partap Singh while appearing into the witness box fully supported the version of the prosecution and proved on file notice No.1787-5P dated 26.12.002 Ex.PW55/A, notice which he given to Principal, Medical College, Amritsar to make available relevant records of the files pertaining to the authorization given by the Committee regarding transplantation of kidney Ex.PW55/B, recovery memo Ex.PW28/A/1 vide which he taken into possession letter and record produced by Dr.Parveen Arora, letter/notice dated 18.11.2002 bearing No.990-5E/SP City-1, Amritsar Ex.PW32/A, letter bearing No.5ME-3-PB/03-3239 dated 26.2.2003 Ex.PW32/B which had

sent by DRME, Punjab in response of his letter Ex.PW32/A.

67. He further contended that PW56 HC Sukhdev Singh while appearing into the witness box proved on file his reports Ex.PW56/A to Ex.PW56/S.

68. He further contended that PW57 ASI Dilavtar Singh while appearing into the witness box proved on file notice under Section 160 of Criminal Procedure Code Ex.PW57/A.

69. He further contended that PW58 Jagdish Singh Kahlon, retired Superintendent of Police while appearing into the witness box deposed that on 19.12.2002, he was working as Superintendent of Police, Vigilance Bureau, Punjab, Chandigarh and investigation of this case was entrusted to Sh.V.K.Uppal, DIG, Vigilance Bureau, Punjab, Chandigarh and he was assisting him in the investigation but subsequently by order of Government of Punjab, the investigation of this case was transferred to ADGP (Crime), Punjab, Chandigarh vide letter No.5862-64/INB dated 18.12.2002. As per the order of the Punjab Government, he handed over the file alongwith relevant documents to Sh.Rajinder Singh, the then DSP of IG Zonal, Jalandhar.

70. He further contended that PW59 Om Wati while appearing into the witness box deposed that in the year 2000, she was suffering from hyper tension. She started her treatment firstly from Sonipat and thereafter, she started her treatment from Batra Hospital, Delhi. Doctor of Batra Hospital told her that her kidney has been badly damaged and same required transplantation. From

the hospital, they came to know that transplantation is being conducted at Kakkar Hospital, Amritsar. On 21.8.2001, she alongwith her husband Krishan came to Kakkar Hospital, Amritsar, where Dr.P.K.Sareen, Dr.Bhushan Aggarwal and Dr.Bhupinder Singh checked her and they advised her that her kidney transplantation is required upon her and the said doctors told them that they will arrange the kidney and she will have to pay Rs.5/6,00,000/-.This fact was brought to her notice by her husband. She was subjected to undergone the various tests. On 25.9.2001, Dr.P.K.Sareen, Dr.Bhushan Aggarwal, Dr.Bhupinder Singh and Dr.Jain transplanted her kidney. The person who gave her kidney was not anywhere related to her. She remained post operated treatment for 10/12 days in Kakkar Hospital, Amritsar. Thereafter, she was discharged from Kakkar Hospital. The doctors of hospital obtained her signatures on blank papers for the purpose of kidney transplantation. She was never produced before any committee. Her husband might be knowing who got prepared above said documents in the hospital. She identified her photograph and photograph of donor on file Ex.PW39/40 at point-A. She was told lateron that the person who is in photograph with her, is her donor. She also identified her signatures at point-B on Ex.PW39/40. She also identified her photograph at point-C and signature at point-D on Ex.PW39/40. She also identified her photograph on point-E on affidavit and photograph of donor at point-F. She also identified her signatures on affidavit at point-G and H. She also identified her

signatures on bed head ticket Ex.PW59/A at point A and at point-B. She has seen the file of donor Ex.PW59/B. The aforesaid record on which her signatures obtained was blank at the time when she put her signatures. The said documents were got prepared by Dr.Bhupinder Singh, Dr.P.K.Sareen and Dr.Bhushan Aggarwal.

71. He further contended that PW60 ASI Ranjit Singh while appearing into the witness box deposed that on 9.3.2003, SI Gurjit Singh the then SHO of Police Station D-Division, Amritsar dictated him the challan of this case and he typed the same and after taking of its print, he put up the same before SI/SHO Gurjit Singh, who signed the same. Similarly, on 11.6.2003, SI/SHO Kashmiri Lal the then SHO of Police Station D-Division, Amritsar dictated him the challan of this case and he typed the same and after taking its print, he put up the same before SI/SHO Kashmiri Lal who signed the same.

72. He further contended that PW63 Mohinder Singh Bedi while appearing into the witness box deposed that on 31.8.2007, he was working as a Reader in the Court of Sh.G.S.Sandhu, Additional Sessions Judge, Adhoc, Amritsar and on that day, PW3 Gurwinder Singh son of Kuldip Singh was examined as prosecution witness on oath in the court and after recording his statement, said witness signed his statement and Sh.G.S.Sandhu, also signed the same as Presiding Officer in his presence. He proved on file certified copy of statement of PW3 Gurwinder Singh as Ex.PW63/A.

73. He lastly contended that from the testimonies of above

said witnesses which have been duly supported and corroborated with each other and with documentary evidence, the prosecution has been able to prove its case against the accused beyond shadow of reasonable doubt. So, the accused may kindly be convicted and sentence according to law.

74. On the other hand, the learned defence counsels on behalf of all the accused contended that Transplantation of Human organs Act, 1994, is a Special Act and the Court cannot take cognizance of an offence under Sections 18, 19 and 20 of the same. Unless, the complaint lodged under Section 22 of the Act by the appropriate authority or by a person who has given a notice of not less than 60 days in such a manner as may be prescribed to the appropriate authority of the alleged offence and of his intention to make a complaint to the Court. Admittedly, the appropriate authority is Director, Research Medical Education, Punjab, Chandigarh. But neither any complaint has been filed by the appropriate authority nor 60 days notice has been given to the appropriate authority by any person in this case and FIR No.101 dated 21.9.2002 was directly registered on the basis of secret information received by ASI Vishwa Mitter under various sections of Indian Penal Code, as well as under Sections 18, 19 and 20 of Transplantation of Human Organs Act, 1994. As such, the case of the prosecution is vitiated on this ground. They further contended that the entire case of the prosecution is based upon circumstantial evidence but the chain of circumstantial evidence is missing in this

case. As such, the prosecution has not been able to prove its case against all the accused beyond shadow of reasonable doubt. Both the learned defence counsel on behalf of accused Dr.Bhupinder Singh and Dr.Bhushan Aggarwal contended that both the accused were not surgeons and they have no concerned with alleged operations of recipients and donors vide which the alleged kidney of donors transplanted to recipients. They were working as Medical Officers and had given pre operative and post operative treatments to the patients admitted in the hospital. Neither they have got prepared any documents of donors and recipients qua the transplantation of kidneys nor conspired with other doctors and mediators in committing such offence. The prosecution has failed to produced and prove on the file any document as well as oral evidence which shows that both these doctors had assisted Dr.P.K.Sareen and Dr.P.K.Jain while they conducted operations of transplantation of kidneys. The prosecution has failed to connect both the accused in the present case. The learned defence counsel on behalf of Dr.Bhushan Aggarwal also contended that if, Dr.Bhushan Aggarwal was not performing his duty honestly at the place of his posting, then the appropriate authority had taken action against him and suspended him from his job. The learned defence counsel on behalf of accused Dr.Jagdish Gargi contended that as per the story of the prosecution, 1479 files were taken into the police possession vide recovery memo Ex.PW39/A from Sunil Kumar, Clerk of Government Medical College, Amritsar approved by the

Authorization Committee for kidney transplantation but only 70 files out of these 1479 files were produced and exhibited in the court. Out of which 59 files were produced and exhibited in the statement of PW39 Sunil Kumar alone and remaining 11 files from the statement of other witnesses also. The prosecution has failed to disclose about the other files which were taken into police possession vide recovery memo Ex.PW39/A. He further contended that approximately 41 files out of these 70 files were signed by Dr.Prem Arora who was also one of the member of Authorization Committee but he has not made accused in this case, rather cited as prosecution witness and examined as PW28. Approximately, 7 files have been signed by Dr.Amrik Singh Multani, 2 files were signed by Dr.K.S.Batra, 1 file was signed by Dr.Tejpall Singh, 1 file was signed by Dr.R.K.Kumra and 1 file was signed by Dr.Sudesh Khanna but these doctors neither cited as prosecution witnesses nor made accused in this case. Only 2 files were signed by accused Dr.Jagdish Gargi, out of which 1 file Ex.PW6/C alongwith Dr.Sudesh Khanna and other file Ex.PW39/40 with other doctors. During cross examination, PW39 Sunil Kumar stated that he has not brought any specimen signatures of these persons in the court. He also admitted that these files were received by him after making dairy number and he himself sent the same to the Authorization Committee for their approval. Those cases approved by the members of the Authorization Committee and after making dispatch number on that file, the approval letters were given to patients,

recipient and donors. He also admitted that except copy of notification Ex.D39/A, he has not brought any other guidelines issued by the Punjab Government. As per notification Ex.D39/A, terms and conditions have been written as under :

- a) The Authorization Committee shall be only for the Districts specified as above.
- b) At least two members shall form the quorum.

He further contended that as per rules passed by Ministry of Health and Family Welfare vide notification New Delhi the 4th February, 1995, the rules was framed in the year 1995 which are called as Transplantation of Human Organs Rules, 1995 and as per Section 6 of these rules, the donor and recipient shall make jointly an application to grant approval for removal and transplantation of a human organ, to the Authorization Committee as specified in Form 10. He further contended that this fact has proved on the file that these two files Ex.PW6/C and Ex.PW39/40 were presented before the Authorization Committee by the donor and recipient as per the recommendation of recipient surgeon Dr.P.K.Sareen and donor surgeon Dr.P.K.Jain. which after scrutinize approved by the Authorization Committee. None of the prosecution witnesses on the side of recipient as well as donor stated anything against Dr.Jagdish Gargi regarding his any involvement with the other doctors of Kakkar Hospital, Amritsar qua the alleged offence. He further contended that PW45 Inspector Arun Sharma, who partly investigated the present case, in his examination in chief stated that on 23.1.2003, Dr.Jagdish Gargi was called through

notice under section 160 of Criminal Procedure Code and he joined him in the investigation of this case and interrogated. After interrogation, he was arrested in this case vide arrest memo Ex.PW45/5. He further stated that during investigation of this case, this fact reveals that Dr.O.P.Mahajan and Dr.Jagdish Gargi were having nexus with doctors of Kakkar Hospital namely Dr.P.K.Sareen, Dr.P.K.Jain, Dr.Bhupinder Singh, Hardial Mehta, mediators of kidney Yogesh Tinku, Vicky Bhatia, Advocate George, Advocate Pardeep Saini, Kulwinder Singh Clerk working in Renal Clinic of Dr.P.K.Sareen and they have nexus with each other but during cross examination, he stated that he particularly did not collect any mobile phone call details of accused as mentioned in his examination-in-chief to find out their nexus with each other. However, voluntarily stated that this aspect was investigated by some other Investigating Officer. He further contended that PW55 Kunwar Vijay Partap Singh during cross examination stated that he personally did not taken into custody any incriminating record against Dr.O.P.Mahajan and Dr.Jagdish Gargi and voluntarily stated that other Investigating Officer did take into custody. He further contended that PW1 SI Vishwamitter during cross examination admitted that during investigation, he has not got call details of Dr.Jagdish Gargi of his personal phone land-line as well as mobile phone regarding any connection or any phone call with any person involved in this case. Moreover, PW1 SI Vishwamitter during cross examination stated that he came to know during investigation that

what procedure of kidney transplant. He admitted that both the donor and recipient get themselves conducted various tests including blood test, HRA test and tissue test to know whether kidney of donor is compatible in the body of recipient. He also admitted that after receiving positive report regarding above said tests, both donors and recipients submit their documents alongwith above said test reports to Authorization Committee for approval of transplant. He also admitted that after the Authorization Committee approved the case after due verification of documents, then only a certificate is granted to the recipient/donor that transplant be conducted on them. After issuance of this certificate by the Authorization Committee in favour of recipient and donor. Both recipient and donor submit this certificate in the hospital, only then transplant is conducted by the donor and recipient surgeons. He also stated that instructions are with regard to this effect that donor and recipient surgeon are responsible to verify the names and addresses of both donor and recipient. He further contended that PW28 Dr.Prem Arora who remained as Head of the department of Medicine Unit-I, Government Medical College and Guru Nanak Dev Hospital, Amritsar and was a member of the Authorization Committee which approved kidney transplant cases in his examination in chief stated that this committee is chaired by the Principal, Government Medical College, Amritsar and it consists of three more members and Head Medicine, Professor and Head Forensic Medicines and Civil Surgeon, Amritsar. This committee

used to clear the cases for kidney transplant. The case file was put up before the committee alongwith all the investigation related to patients and donors who required kidneys and recommendation of the hospital which was to do renal transplant. The aforesaid committee after inquiry and verifying the total record, submit before Authorization Committee used to issue approval certificate for transplantation. During cross examination, this witness stated that he himself had never obtained signatures of recipient and donor on the approval letter of transplant and voluntarily stated that because it was not a part of his duty because file was prepared by the Principal office and all documents whether true or untrue were verified by the Principal office. The learned defence counsel on behalf of accused Pankaj Gupta contended that PW1 SI Vishwamitter in his statement stated that on 18.11.2002, he arrested accused Pankaj Gupta who was lodged in Central Jail, Ludhiana in an other similar case. He was brought on production warrants and formally arrested in this case and during investigation, this fact reveals that he involved in so many similar cases registered in other Districts of Punjab but no such other files have been produced and proved on the file. Even, the FIR in which he was lodged in Central Jail, Ludhiana has not produced and proved on the file. As such, the prosecution has failed to connect the accused Pankaj Gupta in this case. Advocate Pardeep Saini who is accused in this case contended that PW1 SI Vishwamitter during cross examination admitted that all 1800 files which have been produced alongwith the challan,

there is no document which bears the signatures of Pardeep Saini Advocate. The other witnesses examined by the prosecution PW3 Vijay Seth in his statement stated that computer clerk told him to attest the file from the court and meet Advocate Pardeep Saini. Advocate Pardeep Saini demanded Rs.2500/-from him for attestation and he took back his file and he personally appeared before the Magistrate and got it attested from him by himself. Except this evidence, there is no evidence on the file to connect him in the present case. The learned defence counsels on behalf of accused Hardial Mehta, Gorakh Ram and Raj Kumar contended that none of the donor, recipient and relative of donor as well recipient deposed anything against them while stepping into the witness box. As such, there is no evidence on the file against above said accused that they had hatched any criminal conspiracy with any kidney agent, donor and recipient. All the defence counsels lastly contended that it is settled law that the prosecution must prove its case against the accused beyond shadow of reasonable doubt and if, there is any doubt or dent in the case of the prosecution, its benefits must be given to the accused. Here in this case, the prosecution has utterly failed to prove its case against all the accused beyond shadow of reasonable doubt. So, all the accused may kindly be acquitted from the charges framed against them by giving them benefit of doubt.

75. Having heard both the sides, I have gone through the record. Perusal of the file reveals that the accused are facing trial

under Sections 420, 467, 468, 471, 371, 109 and 120-B of Indian Penal Code and under Sections 18, 19, 19-C, 19-D and 20 of the Transplantation of Human Organs Act, 1994.

76. The first and foremost contention raised by the defence counsels that Transplantation of Human organs Act, 1994, is a Special Act and the Court cannot take cognizance of an offence under Sections 18, 19 and 20 of the same. Unless, the complaint lodged under Section 22 of the Act by the appropriate authority or by a person who has given a notice of not less than 60 days in such a manner as may be prescribed to the appropriate authority of the alleged offence and of his intention to make a complaint to the Court. As such, the provisions of Section 22 of the Transplantation of Human Organs Act, 1994 has not been complied by the prosecution in this case. They relied upon the judgment titled as *Jeewan Kumar Raut & another Vs. Central Bureau of Investigation*, reported in 2009(3), Recent Criminal Reports(Criminal)-586 passed by the Hon'ble Supreme Court of India, wherein it has been held that where investigation conducted by CBI under Section 22 of the Transplantation of Human Organs Act is entitled to file complaint and not a police report under Section 173(2) of Criminal Procedure Code. They also relied upon the judgment passed by the Hon'ble Punjab and Haryana High Court in case titled as *Dr.Jagdish Gargi Vs. State of Punjab* in Criminal Appeal No.4101-SB of 2013 (O&M) dated 17.10.2018 vide which the appeal was accepted filed by all the accused who were convicted in FIR No.118 of 2002 by

the Court of Sh.G.S.Bakshi, the then Additional Sessions Judge, Amritsar. Whereas the above said contention raised by the learned defence counsels is not helpful to the accused because PW55 Kunwar Vijay Partap Singh, IPS who is also one of the Investigating Officer in this case in the capacity of Supervising Officer sent a letter bearing No.990-5E/SP,City-I, Amritsar dated 18.11.2002 in the shape of notice which is Ex.PW32/A in which he narrated in express terms regarding the organized racket of kidney scam and involvement of transplant surgeon, official of Kakkar Hospital, Amritsar, middle man and Authorization Committee to Director, Research and Medical Education, Punjab and in response of his letter, Director Research and Medical Education, Punjab sent a letter bearing No.5ME-3-PB/03/3239 dated 26.2.2003 which is Ex.PW32/B.

77. PW35 Karam Singh Khatra, retired under Secretary Home proved on file letter bearing memo No.7/228-02-1H4/4828 dated 18.12.2002 Ex.PW35/A vide which the investigation of the kidney scam case was entrusted to the police by the Government of Punjab.

78. Even otherwise, the question of taking cognizance of a case under Transplantation of Human Organs Act only after compliance of Section 22 had been put to rest in Criminal Revision No.2129 of 2004 titled as Dr.P.K.Sareen Vs. State of Punjab and Criminal Revision No.2229 of 2004 titled as Hardial Mehta Vs. State of Punjab. In the above said revisions, the Hon'ble Punjab &

Haryana High Court vide order dated 6.4.2015 held that the letter sent by Kunwar Vijay Partap Singh, Member of Special Investigation Team to Director Research and Medical Education dated 18.11.2002 and the letter of Director Research and Medical Education dated 26.2.003 goes a long way to show compliance of Section 22 of the Transplantation of Human Organs Act, 1994 in letter and spirit. As such, it is held that the compliance of Section 22 of the Transplantation of Human Organs Act has been made by the prosecution in this case. So, the above said judgment Jeewan Kumar Raut & another Vs. Central Bureau of Investigation(Supra) is not applicable in the present case. So far as above said judgment Dr.Jagdish Gargi Vs. State of Punjab(Supra) is concerned, the appeal against the same is pending before the Hon'ble Supreme Court of India.

79. Perusal of the file further reveals that PW3 Vijay Seth father of Varun Sethi recipient, in his statement stated that on 8.9.2021, the kidney of his son was transplanted by Dr.P.K.Sareen and Dr.Bhushan Aggarwal which was donated by his wife Kamlesh Seth. After 3/4 months, again problem of kidney was started to his son Varun Seth and he brought his son to Kakkar Hospital, where Dr.P.K.Sareen and his associates doctors checked his son and also conducted his tests and Dr.P.K.Sareen told him that the kidney already transplanted has become defected and again there is necessary of said kidney of his son. He offered his kidney but Dr.P.K.Sareen stated that he has become old and cannot donate his

kidney. Then, Dr.P.K.Sareen advised him that there are numerous persons round about and took out the kidney of said person and advised to meet Dr.Bhushan who provided him a mobile number of Vicky Bhatia and his son contacted said Vicky Bhatia through mobile phone, who reached his home within 10 minutes and when he reached his home, this fact came to his notice that his son and Vicky Bhatia were school mates and known to each other. He apprised him about the kidney and he demanded Rs.75,000/-for the same and on saying of his son, he agreed to arrange the same for Rs.60,000/-. Thereafter, Vicky Bhatia provided his son a person namely Vinod and he was undergone all the medical tests. Then, Dr.P.K. Sareen advised him to prepare a file as the same has to be presented before the Authorization Committee. Then, he and his son went to Clerk Kulwinder Singh who is posted to sitting in a house, situated at Circular Road, Amritsar and he demanded Rs.7500/-for preparation of file and ultimately, Rs.5000/-was given to him. Then, Computer Clerk told him to prepare file from the court and meet Advocate Pardeep Saini. Pardeep Saini Advocate demanded Rs.2500/-from him for its attestation and he took back his file and personally appeared before Magistrate and got it attested himself and handed over the said file in the office of Kakkar Hospital, Amritsar and Clerk gave him a date for appearing before the Authorization Committee, in Medical College, Amritsar. His son Varun Seth and donor appeared before the Authorization Committee. Thereafter, donor Vinod ran away and his son called

Vicky Bhatia who provided second donor namely Dinesh to his son and again, he was undergone medical test and again the aforesaid procedure. In Month of August, 2002, Dr.P.K.Sareen, Dr.Bhushan Aggarwal, Dr.Rajinder Kaur and some other doctors transplanted the kidney of his son in Kakkar Hospital, Amritsar. He proved on file approval of kidney transplantation Ex.PW3/C, photograph of his son Ex.PW3/D, photograph of donor Ex.PW3/E, photograph of his son and affidavit of donor Ex.PW3/F on file Ex.PW3/G, his statement Ex.PW3/H which he got recorded under Section 164 of Criminal Procedure Code before the court of learned Magistrate. He also proved on the file bed head ticket of his son Varun Seth Ex.PW3/1, bed head ticket of donor Ex.PW3/2, donor file Ex.PW3/3, donor file i.e. his wife Kamlesh Ex.PW3/4.

80. PW9 Jaskaran Singh brother of Jasbir Singh recipient, in his statement stated that in the year 2002, his brother Jasbir Singh had got some problems in the kidney. He alongwith his brother went to Kakkar Hospital, Amritsar where Dr.P.K.Sareen examined and suggested his brother to undergo some tests and after seeing the reports of tests, Dr.P.K.Sareen told his brother that he has problem in his both kidneys and same required to be transplanted and it will be cost of Rs.4 to 5 lacs, out of which Rs.1 lac had to be paid to the donor and Dr.P.K.Sareen stated that he will arrange the donor. Then, Dr.P.K.Sareen arranged the donor namely Shashi Kumar and introduced to his brother Jasbir Singh and Dr.P.K.Sareen further told his brother Jasbir Singh that he has to give his address to donor

Shashi Kumar. Dr.P.K.Sareen stated to his brother that he has to complete some documents regarding kidney transplantation and he obtained signatures of Jasbir Singh and Shashi Kumar at 4/5 places and further stated that he did not go to the Court complex as the documents would be prepared automatically. Thereafter, he got Shashi Kumar and Jasbir Singh to undergo certain tests. Thereafter, Dr.P.K.Sareen told Jasbir Singh and Shashi Kumar in his presence that the Committee would be constituted for the approval of their case. Jasbir Singh was operated upon after getting the approval from the said Committee. This witness further stated that the computer Clerk Kulwinder Singh and Dr.Bhushan Aggarwal prepared the documents of transplantation of kidneys of Jasbir Singh and they received Rs.18000/-from his brother. He proved on file his statement Ex.PW9/A which he got recorded under Section 164 of Criminal Procedure Code before the learned Magistrate.

81. PW12 Parduman Singh father of Charanjit Singh recipient, in his statement stated that in the year 2002, his son Charanjit Singh fell ill and in the month of August, 2002, he brought his son to Kakkar Hospital, where he met Dr.P.K.Sareen who examined his son and advised transplantation of kidney of his son. Then, Dr.P.K.Sareen sent him and his son to a house, situated at Race Course Road, Amritsar where Dr.Bhupinder Singh, Dr.Bhushan Aggarwal and one compute clerk Kulwinder Singh met them and on their asking, his son signed on the blank papers. Then, he and his son met Dr.P.K.Sareen and he advised him that Rs.5 lacs

are required for transplantation of kidney of Charanjit Singh and further stated that he will arrange the kidney at his own and he further stated that they will get clear the file from Authorization Committee, Medical College, Amritsar for transplantation. Dr.P.K.Sareen and his associates never introduced him with the donor. He deposited Rs.5 lacs in Kakkar Hospital, Amritsar for transplantation of kidney of his son and on 19/20.9.2002, the transplantation of kidney of his son was conducted by Dr.P.K.Sareen and his associates doctors. He proved on record file of Authorization Committee of his son Charanjit Singh Ex.PW12/A, bed head ticket of his son Ex.PW12/B and bed head ticket of donor Vinod Tilonkoni mark-PW12/A.

82. PW15 Usha Gupta wife of Nand Lal Gupta recipient, in her statement stated that her husband was suffering from diabetes. She took her husband to Shri Ganga Ram Hospital at Delhi where her husband was examined by doctor of Shri Ganga Ram Hospital, Delhi and he told her that the position of her husband is stable. As per her wishes, he can plant a fistula on the arm of her husband and it will be sufficient for her husband for 10 to 15 days. But due to holidays and meetings of the doctors, the fistula could not be planted on the arm of her husband and her husband told her that he can get plant the same at Kakkar Hospital, Amritsar. Then, she alongwith her husband after returning back from Delhi, went to Kakkar hospital for this purpose but they dilly-delayed the tactics. Then, Dr.Bhushan Aggarwal met her in Kakkar

hospital and told her that he is her Aggarwal brother and asked her to bring two pipes and by inserting these pipes, he will make her husband walking at his own and he sent them back. On the next day, when she alongwith her husband went to Kakkar Hospital, after purchasing the pipes but Dr.Bhushan Aggarwal pushed them in the process of tests. Then, he sent her and her husband in a Kothi at Race Course Road, Amritsar, where Dr.P.K.Sareen, Dr.Bhupinder Singh, Dr.P.K.Jain and Dr.Bhushan Aggarwal met them and where the employees of the said doctors prepared some documents. Her husband provided photographs and signed the documents. Thereafter, her husband was sent to Advance Diagnostic Center accompanied by one person of doctors, where her husband undergone to tests and on seeing the test reports, it was reveals that her husband has no problem and they further inquired that who has suggested for these tests and she herself replied that Dr.Sareen has suggested so. Then, they did not conduct medical tests on the pretext that since the same is suggested by Dr.Sareen and same is correct. When, they returned back to their home, one Sikh gentleman came to their house sent by Dr.Sareen and his associates. Said Sikh gentleman asked them about the requirement of kidney, on which they replied in affirmative and he demanded Rs.65,000/-per kidney, out of which Rs.40,000/-was to be paid to the doctor and remaining Rs.25000/-was to be given to the donor. He has also stated that amount of Rs.5 to 6 lacs would be charged for transplantation of kidney. She alongwith her husband went to

Race Course Road, Amritsar, where Dr.P.K.Sareen, Dr.P.K.Jain, Dr.Bhupinder Singh and Dr.Bhushan Aggarwal met them and she requested them to donate her kidney for her husband, which the doctor while taunting asked to each other about her test and further told that they themselves could arrange the kidney. Thereafter, they sent her husband to Medical College, Amritsar for further proceedings. Thereafter, medical tests of her husband as well as donor were conducted at Kakkar Hospital, Amritsar and operation was conducted for the transplantation of kidney in the month of May, 2002. She proved on file bed head ticket of her husband Nand Lal Gupta Ex.PW15/A, bed head ticket of donor Buland Shah mark-PW15/1 and file of Authorization Committee Ex.PW15/B.

83. PW19 Davinder Sachdeva husband of Anita Sachdeva recipient, in his statement stated that in the year 1999, his wife Anita Sachdeva was not well and he used to bring her at Kakkar Hospital for her dialysis, where Dr.P.K.Sareen advised him for transplantation of kidney of his wife Anita Sachdeva. He told Dr.P.K.Sareen that he has no arrangement of the donor of kidney, then Dr.P.K.Sareen advised him to meet Dr.Bhupinder Singh, who will arrange the donor of kidney. Thereafter, Dr.Bhupinder Singh arranged the donor and passed the donor but he did not know from whom the said donor was got passed. When he came to know the position of the hospital, he refused to transplant the kidney of his wife Anita Sachdeva. He proved on record file of Authorization Committee Ex.PW19/A.

84. PW22 Sanjiv Kumar son of Mast Ram recipient, in his statement stated that in the year 1998, his father had problem in his kidney. Then, he alongwith his father met Dr.P.K.Sareen who informed him that they have their men at his clinic at Race Course Road, Amritsar. They went to his clinic where they met Dr.Bhupinder Singh and Kulwinder Singh who informed them to arrange money to the extent of Rs.4,50,000/-for kidney transplant of his father. They obtained their signatures on blank papers and advised them to deposit the money in Kakkar Hospital, Amritsar and they will themselves arrange the donor of the kidney. They obtained their signatures on blank papers for affidavit of his father. His father was admitted in Kakkar Hospital, Amritsar for kidney transplant on 23.7.2002. After 3/4 days, the operation was conducted of kidney transplant. He does not know the donor who gave the kidney to his father. The donor was not related to them. He proved on file bed head ticket of his father Ex.PC.

85. PW24 Pal Singh brother of Balwant Singh recipient, in his statement stated that in the year 2002, his younger brother Balwant Singh was suffering from typhoid. In the month of June, 2002, they came to Kakkar Hospital where Dr.P.K.Sareen and Dr.Bhupinder Singh examined his brother. Dr.P.K.Sareen referred his brother to Advance Diagnostic Center for medical tests. On analyzing the test report, Dr.P.K.Sareen advised them that the kidney of their patients needs to be transplanted. Dr.P.K.Sareen and Dr.Bhupinder Singh asked him to make arrangement of the funds

stating that they would arrange for the kidney at their own level. These doctors sent an agent namely Vicky Bhatia who demanded Rs.50,000/-to arrange the kidney. They deposited Rs.50,000/-with Dr.P.K.Sareen in Kakkar Hospital. Thereafter, the condition of the patient started deteriorated and he died within 2/3 days. This witness further deposed that before transplantation, Dr.P.K.Sareen and Dr.Bhupinder Singh prepared certain documents. They had spent Rs.80,000/-on the treatment. The above said doctors had demanded a sum of Rs.2 to 2.5 lacs for the entire treatment including transplantation. The donor was not related to them. He proved on the record, file of Authorization Committee Ex.PW23/A.

86. PW25 Sandeep Kumar brother of Subhash Mahajan recipient, in his statement stated that in the month of January, 2002, his elder brother namely Subhash Mahajan suffered with ailment of respiration. He brought his brother to Kakkar Hospital, Amritsar, where he was examined by Dr.P.K.Sareen and he diagnosed the case as of kidney transplant and his brother was subjected to dialysis. He was asked by Dr.P.K.Sareen to arrange kidney donor. They were unable to arrange kidney donor. Then, Dr.Sareen assured them that he would arrange the donor. Within few days, Dr.Sareen arranged the donor whose name he does not know. The patient as well as donor subjected to various tests. Dr.Sareen fixed the date for transplantation as 25.5.2002. They were asked to arrange for a sum of Rs.7 to 8 lacs. Initially, they deposited the cheque of Rs.85,000/- and later, payment was given in cash in installments by arranging

from their near relatives. He proved on the record, file of Authorization Committee mark-PW25/A, bed head ticket of his brother mark-PW25/B and bed head ticket of donor mark-PW25/C.

87. PW29 Roshan Lal father of Rajni recipient, in his statement stated that in the year 1996, his deceased daughter Rajni was suffering from the ailment of kidney. In the year 1997, he brought her in Kakkar Hospital, where Dr.P.K.Sareen started her treatment. Dr.P.K.Sareen advised him in writing that there was no other treatment but kidney transplantation. Dr.P.K.Sareen advised him that a donor has to be arranged for donating the kidney with perfect matching and he would inform him as soon as the donor with perfect matching will be available. Thereafter, he received an intimation from Dr.P.K.Sareen that a donor has been arranged, whose name was Raju. The donor as well as his patient were subjected to several tests and thereafter, he was asked, if he was ready to pay the heavy amount of Rs.10 lacs, which he agreed and deposited the same on different occasions as per directions of doctors. Dr.P.K.Sareen had obtained the signatures of her daughter i.e. recipient and also the donor at various occasions. Thereafter, the signatures of his daughter were obtained on Ex.PW29/B. Donor Raju signed on Ex.PW29/C and Ex.PW29/D. Thereafter, the aforesaid doctor told him that a committee of doctors will sit at Medical College, Amritsar and that committee will give the approval for transplantation of kidney. His daughter Rajni and donor Raju appeared before the Authorization Committee on

8.8.1997 and they approved the case of transplantation of kidney. Then, on 6.11.1997 the transplantation of operation of Rajni was conducted by Dr.P.K.Sareen and Dr.P.K.Jain in Kakkar Hospital, Amritsar. He proved on file his statement Ex.PW29/F, which he got recorded under Section 164 of Criminal Procedure Code.

88. PW43 Mast Ram recipient, in his statement stated that in the year 1998, he had problem of kidney. His son brought him in Kakkar Hospital, where he took his treatment from Dr.P.K.Sareen for about two years. Thereafter, Dr.P.K.Sareen suggested him for transplantation of his kidney. Dr.P.K.Sareen, Dr.P.K.Jain and Dr.Bhupinder Singh obtained his signatures on blank papers and Dr.Bhupinder Singh alongwith his co-accused doctors arranged the kidney donor at their own level and they charged from him for some amount in lieu of arrangement of kidney donor, which was paid by his son. He was operated for the kidney transplant in the year 2002 by Dr.Bhupinder Singh, Dr.P.K.Jain and Dr.P.K.Sareen. He did not know the name and particulars of the donor because it was in the knowledge of Dr.Bhupinder Singh and above said doctors.

89. PW44 Surinder Kaur wife of Sarabjit Singh recipient, in her statement stated that in the year 1998, her husband Sarabjit Singh had developed a kidney problem. She took him to Kakkar Hospital, where he was treated by Dr.Bhupinder Singh, Dr.P.K.Sareen and Dr.P.K.Jain. Her husband could not be cured. Dr.Bhupinder Singh alongwith his co-accused doctors

recommended kidney transplant. These doctors assured them of kidney donor and asked them to arrange for the payment and Dr.Bhupinder Singh alongwith his co-accused doctors arranged some kidney donor, who was not related to them. She had identified the photograph of her husband on Ex.PW6/C at point-A, point-B and point-C.

90. PW59 Om Wati recipient, in her statement stated that in the year 2000, she was suffering from hyper tension. On 21.8.2001, she alongwith her husband Krishan came to Kakkar Hospital, Amritsar, where Dr.P.K.Sareen, Dr.Bhushan Aggarwal and Dr.Bhupinder Singh checked her and they advised her that her kidney transplantation is required and said doctors told them that they will arrange the kidney and she will have to pay Rs.5 to 6 lacs. This fact was brought to the knowledge of her husband. She was subjected to undergo the various tests. On 25.9.2001, Dr.P.K.Sareren, Dr.P.K.Jain, Dr.Bhupinder Singh and Dr.Bhushan Aggarwal transplanted her kidney. The person who gave her kidney was not related to her. The doctors of hospital obtained her signatures on blank papers for the purpose of kidney transplantation. She was never produced before any committee. Her husband might be knowing who got prepared above said documents in the hospital. She identified her photograph on file Ex.PW39/40 at point-A, photograph of donor at point-B. She proved on file her bed head ticket Ex.PW59/A, bed head ticket of donor Ex.PW59/B.

91. From the statements of PW3 Vijay Seth father of Varun

Seth recipient, PW9 Jaskaran Singh brother of Jasbir Singh recipient, PW12 Parduman Singh father of Charanjit Singh recipient, PW15 Usha Gupta wife of Nand Lal Gupta recipient, PW19 Davinder Sachdeva husband of Anita Sachdeva recipient, PW22 Sanjiv Kumar son of Mast Ram recipient, PW24 Pal Singh brother of Balwant Singh recipient, PW25 Sandeep Kumar brother of Subhash Mahajan recipient, PW29 Roshan Lal father of Rajni recipient, PW43 Mast Ram recipient, PW44 Surinder Kaur wife of Sarabjit Singh recipient and PW59 Om Wati recipient, it has been proved on the file that all transaction regarding the sale and purchase of kidney took place in a house, situated at Race Course Road, Amritsar in connivance with Dr.P.K.Sareen, Dr.P.K.Jain, Dr.Bhupinder Singh, Dr.Bhushan Aggarwal, computer Clerk Kulwinder Singh and other agents/tauts and mediators which clearly shows that all the above said persons hatched criminal conspiracy to sale and purchase of the human organs. So, the prosecution has been able to prove its case under Section 120-B of Indian Penal Code against accused Dr.Bhupinder Singh and Dr.Bhushan Aggarwal.

92. The provisions of Section 18 of the Transplantation of Human Organs Act is reproduced as under :-

(1) Any person who renders his services to or at any hospital and who, for purposes of transplantation, conducts, associates with, or helps in any manner in, the removal of any human organs without authority shall be punishable with

imprisonment for a term which may extend to five year and with fine which may extend to ten thousand rupees.

(2) Where any person convicted under sub-section (I) is registered medical practitioner, his name shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

93. Section 19 of Transplantation of Human Organs Act, 1994 is reproduced as under :-

Whoever-(a) makes or receives any payment for the supply of, or for an offer to supply, any human organ;

(b) seeks to find a person willing to supply for payment any human organ;

(c) offers to supply any human organ for payment;

(d) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, any human organ;

(e) takes part in the management or control of a body of persons, whether a society, firm or company, whose activities consist of or include the initiation or negotiation of any arrangement referred to in clause (d); or

(f) publishes or distributes or causes to be published or distributed any advertisement;-

(a) inviting persons to supply for payment of any

human organ;

(b) offering to supply any human organ for payment; or

(c) indicating that the advertiser is willing to initiate or negotiate any arrangement referred to in clause (d);

shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall be liable to fine which shall not be less than ten thousand rupees but may extend to twenty thousand rupees:

Provided that the Court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years and a fine less than ten thousand rupees.

94. Section 20 of Transplantation of Human Organs Act, 1994 is reproduced as under :-

Whoever contravenes any provision of this Act or any rule made, or any condition of the registration granted, thereunder for which no punishment is separately provided in this Act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees.

95. From the testimony of PW43 Mast Ram recipient, it has come on the record that Dr.Bhupinder Singh and Dr.Bhushan Aggarwal alongwith their co-accused Dr.P.K.Sareen and Dr.P.K.Jain arranged kidney donor at their own level and they charged from him some amount in lieu of arrangement of donor and the amount was paid by his son.

96. From the testimony of PW59 Om Wati recipient, it has also come on the record that the above said doctors told them that they will arrange the kidney and she will have to pay Rs.5 to 6 lacs.

97. From the testimony of PW3 Vijay Seth, it has also come on the record that Vicky Bhatia agent, whose contact number was given by Dr. Bushan Aggarwal demanded Rs.75,000/-from him for the kidney and on asking of his son, he agreed to arrange the same for a sum of Rs.60,000/-.

98. From the testimony of PW9 Jaskaran Singh, it has also come on the record that his brother spent Rs.8 to 10 lacs for the operation of kidney transplantation.

99. From the testimony of PW12 Parduman Singh, it has also come on the record that he spent Rs.5 lacs for the transplantation of kidney of his son.

100. It has also come on record from the statement of PW15 Usha Gupta that her husband gave Rs.65,000/-for the kidney, out of Rs.40,000/-was to be paid to the doctor and remaining Rs.25,000/-was to be paid to the donor.

101. It has also come on record from the statement of PW19 Davinder Kumar Sachdeva that Dr.Bhupinder Singh arranged the donor.

102. It has also come on record from the statement of PW22 Sanjeev Kumar that Dr.Bhupinder Singh and Kulwinder Singh informed them to arrange money to the extent of Rs.4,50,000/-for kidney transplantation of his father. They will arrange the donor of

the kidney.

103. It has also come on record from the statement of PW24 Pal Singh that Dr.P.K.Sareen and Dr.Bhupinder Singh asked him to make arrangement of the funds stating that they would arrange for the kidney at their own level. These doctors sent an agent namely Vicky Bhatia who demanded a sum of Rs.50,000/-to arrange the kidney. They deposited Rs.50,000/-with Dr.P.K.Sareen in Kakkar Hospital, Amritsar and had spent Rs.80,000/-on the treatment of his brother.

104. It has also come on record from the statement of PW25 Sandeep Kumar that when, they were unable to arrange donor, Dr.Sareen assured them that he would arrange the donor and within few days, Dr.Sareen arranged donor. They asked to arrange Rs.7 to 8 lacs.

105. It has also come on record from the statement of PW29 Roshan Lal that Dr.P.K.Sareen advised him that a donor had to be arranged for donating a kidney with perfect matching and he would inform him, as soon as the donor with perfect matching will be available. Thereafter, he received an intimation from Dr.P.K.Sareen that a donor has been arranged. The donor as well as his patient was subjected to several tests and thereafter, he was asked if, he was ready to pay the heavy amount of Rs.10 lacs, which he agreed and deposited the same on different occasions as per the directions of the doctors.

106. From the testimonies of above said witnesses, it has

been proved on the file that Dr.Bhupinder Singh and Dr.Bhushan Aggarwal alongwith their co-accused were making and receiving the payment for the supply of human organ i.e. kidney and they sought to find a person who was willing to supply for payment of human organ i.e. kidney. They also offered to supply any human organ i.e. kidney for payment and also initiated or negotiated payment for the supply of human organ i.e. kidney. As such, the prosecution has been able to prove its case against accused Dr.Bhupinder Singh and Dr.Bhushan Aggarwal under Section 19 of the Transplantation of Human Organs Act read with section 120-B of Indian Penal Code.

107. So far as Sections 419, 420, 467, 468, 471, 371, 109 of Indian Penal Code are concerned, PW6 Puran Singh victim/donor of this case who in his statement stated that in the year 1998, he used to do the work of selling toys in front of Gurdwara Baba Shaheedan, Amritsar, in an open space near the footpath. One day Dr.P.K.Sareen and Dr.Parveen Jain asked him that he is in poor condition and this poor condition can not be removed. Then, both Dr.Parveen Sareen and Dr.Jain asked him that they want to remove an organ from his body and in this way, they can remove his poor position and then, they further asked him to accompany with them. Then, before 15.5.1998, they brought him in Kakkar Hospital. Then, doctor removed his hair from his body against his wishes as he belongs to Sikh community. Then, Dr.P.K.Sareen and Dr.Parveen Jain removed his kidney in Kakkar Hospital, Amritsar. He remained

in hospital for 15 days. Before transplantation of his kidney, he never appeared before Authorization Committee. He did not sign any documents in this respect and he also not supplied any photograph to the aforesaid doctors. Dr.Parveen Jain and Dr.P.K.Sareen alongwith two other persons took him to Kakkar Hospital before his transplantation from that place, where he used to sell the toy. Due to the transplantation of kidney, he has become disabled. He cannot earn his livelihood. He is in old age and Dr.Paveen Sareen and Dr.Parveen Jain did not remove his poverty. Above said witness did not level any allegations against other accused except accused Dr.P.K.Sareen and Dr.P.K.Jain who have died during the pendency of this case. Whereas DW4 Manpreet Singh son of Sarabjit Singh recipient in his statement stated that in the year 1998, his father Sarabjit Singh had developed some kidney problem. Firstly, the treatment was going on with Dr.Varinder Singh of Guru Nanak Dev Hospital, Amritsar but lateron, they went to Kakkar Hospital and treatment was started with Dr.Sareen. Dr.Sareen advised that since, kidney has not been working properly, so he has to undergo kidney transplantation. They were discussing the matter with their family and his mother became ready to donate her kidney and the matter came to the notice of known persons and uncle of his mother namely Puran Singh son of Ujjagar Singh, resident of village Bharariwal offered to donate his kidney. Puran Singh was taken to Kakkar Hospital and doctor advised to conduct some tests. After conducting the tests, he was fit to donate kidney to

his father Sarabjit Singh. Then, the file was got prepared and they went to Medical College, Amritsar. He was shown the certificate issued by the Authorization Committee, vide No.15690 dated 15.5.1998 Ex.PW6/C, where he identified his signatures on the certificate at point-DW4/A. He identified the photograph and signatures of his father Sarabjit Singh on affidavit at points-DW4/B, DW4/C, DW4/D, DW4/E and DW4/F. He also identified the signatures of Puran Singh at point-DW4/G and signature of his father Sarabjit Singh at point-DW4/H. He identified photograph and signatures of his father at points DW4/I and DW5/J. He also identified the photograph and signature of his father at points-DW4/K and DW4/L. He also identified the photograph and signature of his father at points-DW4/M and DW4/N. He also identified the photograph and signatures of Puran Singh at points-DW4/O and DW4/P. He also identified the photograph and signature of Puran Singh on affidavit Ex.D1 at points -DW4/Q, DW4/R and DW4/S. He has brought the original partition deed dated 2.9.1998 Ex.DX which bears signature of Puran Singh son of Ujjagar Singh, executed between his father Sarabjit Singh and his uncle(Taya) Narinder Singh, upon which Puran Singh uncle of his mother put his signature as a witness. He identified the signature of Puran Singh as he put his signature on transfer deed. He also identified the signature of his father Sarabjit Singh and his uncle Narinder Singh as he has seen them signing. His father Sarabjit Singh and donor Puran Singh appeared before Authorization

Committee on 6.5.1998 and he accompanied them. Authorization Committee asked to bring fresh affidavit of his father as well as the affidavit of Puran Singh, which was correct. The members of the committee were one lady doctor as well as one male doctor and some other staff members were present in the committee. He identified Dr.Jagdish Gargi who was present at that time alongwith one lady doctor. Again fresh affidavit of his father was got prepared on 12.5.1998 from Tehsil Complex. Said affidavit is point DW4/1, which was duly attested by Executive Magistrate and he identified photograph of his father on the same. He alongwith his father and uncle(donor) again appeared alongwith fresh affidavit before committee on 12.5.1998. On 15.5.1998, he received the certificate from the Authorization Committee. After that, they submitted the certificate in Kakkar hospital, where his father was admitted and transplantation of kidney was done. His father was not accompanied him at the time when he received the certificate from Authorization Committee. Affidavits were got prepared from one Advocate Puri from the court complex, who attested the same. Puran Singh had donated his kidney to his father out of his free will and consent being uncle of his mother. Moreover, Puran Singh donor admitted his signatures on the form and affidavit on the basis of which the Authorization Committee approved the case for transplantation of kidney. As such, it cannot be said that the signatures of Puran Singh were obtained on the blank papers.

108. It has also come on record from the statements

prosecution witnesses that the documents regarding the transplantation of kidney were prepared by Kulwinder Singh Computer Clerk who was employee of doctors of Kakkar Hospital, Amritsar involved in this case, who used to sit in a house, situated Race Course Road, Amritsar Clinic of Dr.P.K.Sareen and both recipients and donors signed over the same. Although, the recipients Mast Ram and Om Wati in their respective statements stated that they had signed on blank papers and similarly, relatives of recipients namely Vijay Seth, Jaskaran Singh, Parduman Singh, Usha Gupta, Davinder Kumar, Pal Singh, Sandeep Kumar, Roshan Lal in their respective statements stated that the concerned doctors or Kulwinder Singh obtained signatures of the recipients on the blank papers. But the documents which have been attached with the Authorization files of the donors as well as recipients clearly shows that in these files, affidavit of a donor as well as recipient has been duly attested by Executive Magistrate. No doubt, PW37 Rajesh Kumar Sharma, District Revenue Officer who was posted as Tehsildar-cum-Executive Magistrate, Amritsar while appearing into the witness box stated that he had not attested the affidavits of donors as well as recipients and his signatures were forged one. But the prosecution has neither took the specimen signatures of PW37 Rajesh Kumar Sharma to compare the same with the signatures, shown on the affidavits from any Handwriting and Finger Print Expert nor produce and proved on the file any report of Handwriting and Finger Print Expert, which shows that the

signatures of Sh.Rajesh Kumar Sharma on the affidavits of donors as well as recipients were forged.

109. Now, it is alleged by the prosecution that the information given in the affidavits qua the residential addresses of donors and their relations with recipients were fake or forged one. But these affidavits have been duly signed by the donors and recipients respectively which have also been duly attested by the Executive Magistrate. As such, it cannot be said that the above said affidavits were forged and fabricated documents.

110. It has come on record that Dr.P.K.Sareen was surgeon of recipients and Dr.P.K.Jain was the surgeon of donors and both these doctors recommended the file for transplantation of kidney to the Authorization Committee under their seal and signatures.

111. PW1 SI Vishwamitter Investigating Officer of this case, during cross examination stated that he came to know during investigation that what procedure of kidney transplant. He admitted that both the donor and recipient get themselves conducted various tests including blood test, HRA test and tissue test to know whether kidney of donor is compatible in the body of recipient. He also admitted that after receiving positive report regarding above said tests, both donor and recipient submit their documents alongwith above said test reports to Authorization Committee for approval of transplant. He also admitted that after the Authorization Committee approved the case after due verification of documents, then only a certificate is granted to the recipient/donor that transplant be

conducted on them. After issuance of this certificate by the Authorization Committee in favour of recipient and donor. Both recipient and donor submit this certificate in the hospital, only then transplant is conducted by the donor and recipient surgeons. He also stated that instructions are with regard to this effect that donor and recipient surgeon are responsible to verify the names and addresses of both donor and recipient. In the present case, donor and recipient surgeon were Dr, P.K.Jain and Dr. P.K.Sareen who have died during the pendency of this case.

112. None of the prosecution witness on the side of recipient as well as donor stated anything against Dr.Jagdish Gargi regarding his any involvement with the other doctor of Kakkar Hospital, Amritsar qua the alleged offence. PW45 Inspector Arun Sharma, who partly investigated the present case and arrested accused Dr.Jagdish Gargi in this case in his statement stated that on 23.1.2003, Dr.Jagdish Gargi was called through notice under section 160 of Criminal Procedure Code and he joined him in the investigation of this case and interrogated. After interrogation, he was arrested in this case vide arrest memo Ex.PW45/5. He further stated that during investigation of this case, this fact reveals that Dr.O.P.Mahajan and Dr.Jagdish Gargi were nexus with doctors of Kakkar Hospital namely Dr.P.K.Sareen, Dr.P.K.Jain, Dr.Bhupinder Singh, Hardial Mehta, mediators of kidney Yogesh Tinku, Vicky Bhatia, Advocate George, Advocate Pardeep Saini, Kulwinder Singh Clerk working in Renal Clinic of Dr.P.K.Sareen and they

have nexus with each other but during cross examination, he stated that he particularly did not collect any mobile phone call details of accused as mentioned in his examination-in-chief to find out their nexus with each other and voluntarily stated that this aspect was investigated by some other Investigating Officer. PW55 Kunwar Vijay Partap Singh during cross examination stated that he personally did not take into custody any incriminating record against Dr.O.P.Mahajan and Dr.Jagdish Gargi and voluntarily stated that other Investigating Officer did take into custody. PW1 SI Vishwamitter during cross examination admitted that during investigation, he has not got call details of Dr.Jagdish Gargi of his personal phone land-line as well as mobile phone regarding any connection or any phone call with any person involved in this case. He also stated that instructions are with regard to this effect that donor and recipient surgeon are responsible to verify the names and addresses of both donor and recipient. Meaning thereby, the prosecution has failed to prove the nexus of Dr.Jagdish Gargi with other doctor of Kakkar Hospital qua the transplantation of kidney.

113. PW28 Dr.Prem Arora, Professor and Head Medicine Department, Government Medical College, Amritsar who remained member of Authorization Committee being Professor and Head of the department which approves kidney transplant cases in his statement stated that this committee consists of three more members and Head Medicine, Professor and Head Forensic Medicines and Civil Surgeon, Amritsar. This committee used to clear the cases for

kidney transplant. The case file was put up before the committee alongwith all the investigation related to patients and donors who required kidneys and recommendation of the hospital which was to do renal transplant. The aforesaid committee after inquiry and verifying the total record, submit before Authorization Committee used to issue approval certificate for transplantation. During cross examination, this witness stated that he himself had never obtained signatures of recipient and donor on the approval letter of transplant because it was not a part of his duty. The file was prepared by the Principal office and all documents whether true or untrue were verified by the Principal office. Meaning thereby the member of Authorization committee was not resposible to verified the documents of donor and recipient.

114. PW39 Sunil Kumar, Junior Assistant who was posted as Clerk and PA, Government Medical College, Amritsar from 1998 to 2007 during cross examination admitted that these files were received by him after making diary number, he himself sent the same to the Authorization Committee for approval. Those cases which were approved by the members of the Authorization Committee and after marking the dispatch number on that files, the approval letters were given to the patients, recipients and donors. Meaning thereby, when the file was put up before the Authorization Committee, the same was prepared by the Principal Office and all the documents whether true or untrue were verified by the Principal Office.

115. DW3 Dr.B.R.Goel who remained Chairman of the Authorization Committee under Human Organs Transplantation of Human Organs Act from December, 1999 to June, 2000 in his statement stated that patients/recipients and donors used to be called one by one before the Committee, who were interview by the members to ascertain the genuineness of the case and their documents were scrutinized. After all the members were satisfied, about the genuineness of the case, the Authorization Certificate was issued to the patients/recipients. Without the appearance of donor and recipient before the Authorization Committee, the case would not be considered and no certificate was to be issued. This witness further stated that it was responsibility of dealing official to check the deficiency in any manner in any application or file. Meaning thereby the members of the Authorization Committee has not approved any case for the transplantation of kidney without verified the case.

116. Moreover, it is admitted fact on the file that 1479 files of the approval of the kidney transplant were taken into police possession vide recovery memo Ex.PW39/A by the Investigating Officer but only 70 files out of these 1479 files were produced and exhibited in this case. Out of which 59 files were produced and exhibited in the statement of PW39 Sunil Kumar alone and remaining 11 files from the statement of other witnesses also. The prosecution has failed to disclose about the other files which were taken into police possession vide recovery memo Ex.PW39/A.

Approximately 41 files out of these 70 files were signed by Dr.Prem Arora who was also one of the member of Authorization Committee, 7 files were signed by Dr.Amrik Singh Multani, 2 files were signed by Dr.K.S.Batra, 1 file was signed by Dr.Tejpai Singh, 1 file was signed by Dr.R.K.Kumra and 1 file was signed by Dr.Sudesh Khanna. Only 2 files were signed by accused Dr.Jagdish Gargi, out of which 1 file Ex.PW6/C alongwith Dr.Sudesh Khanna and other file Ex.PW39/40 with other doctors. Meaning thereby, the prosecution has failed to produce and prove on the file the remaining files which have been approved by the Authorization Committee. As such, it cannot be said that the Authorization Committee approved all the cases for the transplantation of the kidneys without verifying the same.

117. So far as accused Pankaj Gupta is concerned, he was arrested in this case on 18.11.2002 but none of the prosecution witnesses either on the side of recipients or on the side of donors levelled any allegation against him while stepping into the witness box. The prosecution has failed to produce and prove on the file any other FIR of similar case which has been registered against him in any other Police Station. Even, the FIR in which he was lodged in Central Jail, Ludhiana has not produced and proved on the file. As such, the prosecution has failed to connect the accused Pankaj Gupta in this case.

118. So far as accused Pardeep Saini is concerned, PW1 SI Vishwamitter during cross examination admitted that all 1800 files

which have been produced alongwith the challan, there is no document which bears the signatures of Pardeep Saini Advocate. The other witnesses examined by the prosecution PW3 Vijay Seth in his statement stated that computer clerk told him to attest the file from the court and meet Advocate Pardeep Saini. Advocate Pardeep Saini demanded Rs.2500/-from him for attestation and he took back his file and he personally appeared before the Magistrate and got it attested from him by himself. Meaning thereby, there is no evidence on the file against above said accused that he had hatched any criminal conspiracy with any doctors, kidney agent, donor and recipient

119. So far as accused Hardial Mehta, Gorakh Ram and Raj Kumar are concerned, none of the donor, recipient and relative of donor as well as recipient deposed anything against them while stepping into the witness box. As such, there is no evidence on the file against above said accused that they had hatched any criminal conspiracy with any kidney agent, donor and recipient.

120. So in view of above said discussion, this Court is of the considered view that the prosecution has failed to prove its case on file the offences under Sections 419, 420, 467, 468 and 471,295-A, 109 and 371 of Indian Penal Code and Sections 18 and 20 of the Transplantation of Human Organs Act against all the accused beyond the shadow of reasonable doubt. So all the accused are acquitted from the above said charges by giving them benefit of doubt. However, the prosecution has been able to prove its case

against accused Dr.Bhupinder Singh, Dr.Bhushan Aggarwal alongwith their co-accused Dr.P.K.Sareen and Dr.P.K.Jain under Section 120-B of the Indian Penal Code and under Section 19 of Transplantation of Human Organs Act read with Section 120-B of Indian Penal Code beyond the shadow of reasonable doubt. However, accused Dr.P.K.Sareen and Dr.P.K.Jain have died during the pendency of the case. As such, both accused Dr.Bhupinder Singh and Dr.Bhushan Aggarwal are held guilty under Section 120-B of Indian Penal Code and Section 19 of the Transplantation of Human Organs Act read with section 120-B of Indian Penal Code and convicted thereunder. Accused Dr.Bhushan Aggarwal and Dr.Bhupinder Singh are on bail. Let they be taken into custody and heard on the quantum of sentence.

Pronounced in the open Court

Dated: 21.12.2021.

(Rakesh Kumar) Stenographer Gr.I

(Darbari Lal)

Addl. Sessions Judge, Amritsar

(UID No.PB0087)

QUANTUM OF SENTENCE

Present: Sh.R.K.Salwan, Special Public Prosecutor for the State.

Convict Dr.Bhushan Aggarwal on bail with counsel Sh.P.M.Zakhmi Advocate.

Convict Dr.Bhupinder Singh on bail with counsel Sh.A.K.Vermani Advocate.

121. I have heard the convicts in the presence of their counsels on the quantum of sentence. Convict Dr.Bhushan Aggarwal has pleaded that he is not a habitual offender and he is not involved in any criminal activity ever before. He is not even a

surgeon and he is MBBS doctor and he himself had never performed surgery upon any person. He was only giving postoperative treatment to the patient being Medical Officer deputed in the Hospital. He has treated many patient in any honest manner and his family comprising of his wife and his son are dependent upon him. Recently in March, 2017, he has undergone bye-pass surgery from Madanta Hospital, New Delhi, for his Heart disease. Considering these facts, he prayed that lenient view may be taken while passing quantum of sentence upon him.

Convict Dr.Bhupinder Singh has pleaded that he is not a habitual offender and he is not involved in any criminal activity ever before. He is not even a surgeon and he is MBBS doctor and he himself had never performed surgery upon any person. He was only giving postoperative treatment to the patient being Medical Officer deputed in the Hospital. He has been treated many patient in any honest manner and his family comprising of his wife, his son and daughter are dependent upon him. Recently on 13.10.2021, he has undergone bye-pass surgery from Madanta Hospital, New Delhi, for my Heard disease. Considering these facts, he prayed that lenient view may be taken while passing quantum of sentence upon him. In this way, the convicts prayed that lenient view may kindly be taken while awarding the sentence.

122. On the other hand, learned Special Public Prosecutor for the State contended that the convicts have committed heinous

crime, as such, they do not deserve for any leniency.

123. After considering the rival submissions, I am of the opinion that both the convicts do not deserve for any leniency and it will give wrong signal to the society if the lenient views taken while awarding the sentence in such like case. Taking into consideration the facts and circumstances of the case and the gravity of the offence, I deem it appropriate to award the sentence to the convicts as under:-

Convict Dr.Bhushan Aggarwal

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
120-B of Indian Penal Code	R.I. for one year and six months	Rs.10,000/-	R.I. for three months.
19 of the Transplantation of Human Organs Act read with section 120-B of Indian Penal Code	R.I. for five years	Rs.15,000/-	R.I. for four months.

Convict Dr.Bhupinder Singh

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine</i>
120-B of Indian Penal Code	R.I. for one year and six months	Rs.10,000/-	R.I. for three months.
19 of the Transplantation of Human Organs Act read with section 120-B of Indian Penal Code	R.I. for five years	Rs.15,000/-	R.I. for four months.

124. Both the sentences shall run concurrently. The period of detention already undergone by the convicts during inquiry, investigation and trial of this case, shall be set off against the term of imprisonment awarded to them. Case property be disposed of as per rules, after the expiry of period of appeal/revision, if the same is filed then after the decision of the same. The bail and surety bonds of accused stands discharged in this case. File be consigned to the record room and same be revived as and when the order of the Hon'ble High Court received qua accused Dr.O.P.Mahajan and proceedings against him shall be started. The record related to the other departments be returned forthwith.

Pronounced in the open Court

Dated: 21.12.2021.

(Rakesh Kumar) Stenographer Gr.I

(Darbari Lal)

Addl. Sessions Judge, Amritsar

(UID No.PB0087)

Note :-Certified that all one hundred and forty three (143) pages of this judgment are signed by me, which have been dictated and typed directly on computer.

(Darbari Lal)

Addl. Sessions Judge, Amritsar

UID No.PB0087)