

FORM-A
IN THE COURT OF THE SPECIAL JUDGE,
(VIGILANCE), BALANGIR.

Present:

Sri Benudhar Patra, OSJS,
Special Judge (Vigilance), Balangir
(J.O. Code- OD00611)

Dated, this the 22nd day of July, 2026

C.T.R.No. 09 of 2021
(Regn. No.CRLT 56 of 2019)
(Arising out of Sambalpur Vigilance P.S.Case No. 68 of 2017)

COMPLAINANT	The State of Odisha (Vigilance Department)
REPRESENTED BY	Sri J.K.Sahu, Special P.P, (Vigilance), Balangir & Sri S.R.Rath, Spl. P.P, (Vigilance), Balangir
ACCUSED PERSONS	1. Kheduram Tajan , aged about 57 years, S/o- Bairagi Tajan R/o- village Nuadihi, P.S- Lephripada, Dist:- Sundargarh, At present residing at- Sriram Bihar, Balangir, P.S- Town, Dist- Balangir. Ex-VLW-cum-PEO, Chhatamakhna G.P under Puintala Block, now working as PEO, Lukapada Panchayat under Puintala Block, District Balangir. 2. Tankadhar Kalo , aged about 58 years, S/o- Surathi Kalo, R/o of village- Belpada, P.S- Govindpur, Dist:- Sambalpur At/pr residing at Satyanarayan Pada, Balangr, P.S. Town, district Balangir, Ex- Asst Engineer, Puintala Block , District Balangir, now working as Asst. Engineer, Gudvella Block, District Balangir

	3. Santosh Kumar Sarangi , aged about 54 years, S/o- late Balaram Sarangi, R/o of village- Sankandhpali, P.S- Puintala, Dist:- Balangir.
REPRESENTED BY For accused No.1 & 3 For accused No. 2	Sri A.K.Mishra, Advocate & associates Sri B.K.Nanda, Advocate & associates

Status of the accused persons: The accused persons are on Court bail.

FORM-B

Date of offence				During the year 2014-15 and 2015-16			
Date of F.I.R.				23.09.2017			
Date of charge sheet				20.09.2021			
Date of framing of Charges				04.08.2023			
Date of commencement of evidence				12.09.2023			
Date on which judgment is reserved				14.07.2026			
Date of the Judgment				22.07.2026			
Date of the Sentencing Order, if any							
Accused Details							
Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during trial for purpose of section 428 Cr.P.C.
1	Kheduram Tajan	Not arrested	Appeared before the court and released on bail on 12.12.2017	U/s 13 (2) read with 13 (1)(d)P.C Act,1988 & Section 420/ 468/ 471/ 120-B of IPC.	Acquitted	-	-
2	Tankadhar Kalo	Not arrested	Appeared before the court and released on bail on 13.12.2021	U/s 13 (2) read with 13 (1) (d)P.C Act,1988 & Section 420/ 468/471/ 120-B of IPC .	Acquitted	-	-

3	Santosh Kumar Sarangi	Not arrested	Appeared before the court and released on bail on 16.12.2017	U/s 120-B IPC read with 13 (2) read with 13 (1) (d) P.C Act & Section 420/468/471 of IPC.	Acquitted	-	-
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JUDGMENT

Accused persons Kheduram Tajan and Tankadhara Kalo stand charged for alleged commission of offence punishable U/s 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988 (for short, the PC Act, 1988) and Section 420/468/471/120-B of the Indian Penal Code (for short, IPC) and accused Santosh Kumar Sarangi stands charged for alleged commission of offence punishable U/s 120-B IPC r/w section 13(2)/13(1)(d) PC Act, 1988 & section 420/468/471 IPC.

The case against accused Dasarathi Mishra was abated vide order dated 22.12.2022, as he was reported dead.

2. Briefly stated, case of the prosecution is that the Government provides funds through various schemes like IAY (PMAY), BPGY and Mo Kudia to provide pucca houses to the homeless individuals identified by the community to build their own houses with financial and technical assistance from the government. The main criteria to avail a house under the schemes was

that the beneficiary must be a BPL card holder and in no circumstance second house is to be provided to any other member of the household if a house has already been provided to one of them. In 2011 SECC (Socio Economic Caste Census) list was prepared through a survey which was supplied to all the BDOs of the State for selection of the beneficiaries which made it mandatory that one must be enlisted in the SECC list and must be having a kutchra house to be selected as a beneficiary. According to the guidelines, it is the primary responsibility of the PEO and the GRS in the ground level to cause enquiry in order to find out if the beneficiary is fulfilling all the feasibility criteria to get one house under the above scheme. They have to enquire and submit their enquiry/feasibility report and required documents to the BDO concerned and basing on their reports, the BDO has to issue the Work Order and to place funds in the bank accounts of the beneficiaries from time to time for construction of house by them as per recommendation of PEO and GRS.

Accused Kheduram Tajan, VLW was working as Panchayat Executive Officer at Chhatamakhna G.P under Puintala Block for the period from 16.12.2012 to 03.08.2017, accused Tankadhar Kalo was working as Asst. Engineer, Puintala Block from 09.03.2015 and was entrusted by the BDO, Puintala Block to work as Nodal Officer, Puintala Block and the other two

accused persons are the beneficiaries under IAY house scheme. One of the beneficiaries accused Dasarathi Mishra having died, the case against him has been abated vide order dt. 22.12.2022,

During the year 2014-15, Santosh Kumar Sarangi was allotted with one IAY house after verification of criteria by accused Kheduram Tajan, being the PEO of Chhatamakhna G.P, under Puintala Block and Tankadhar Kalo, Asst. Engineer and accordingly, he received Rs.75,000/- in three installments. It also reveals that accused Sarangi was ineligible for allotment of IAY house under the scheme as he was having one RCC building house prior to sanction of IAY house in his favour and had also Ac. 8.14 dec. of landed property and also owned a motorcycle. Similarly, during the year 2015-16, deceased accused Dasarathi Mishra was also allotted with IAY house and accused Kheduram Tajan verified the eligibility criteria of the accused Sri Mishra and as per his recommendation, he received 1st instalment of Rs.20,000/-, 2nd instalment of Rs. 40,000/- and Rs.30,000/- in 3rd instalment, in total Rs. 75,000/-. It also reveals that the deceased accused was ineligible for allotment of IAY house under the scheme as he has got 12.61 decs of landed property recorded in his name and in the name of his family members.

Basing on the allegation of showing undue official favour to the above named beneficiaries for

allotment of house under the scheme, informant Sri S.N.Pani, Inspector of Police, Vigilance, Balangir Unit conducted an inquiry and during inquiry he made field verification along with Abhiram Kar, DSP Vigilance, Balangir Narendra Naik, AE cum G.P Nodal officer, Bhojaraj Das, constable of vigilance and other Govt. officials and ascertained that the beneficiaries had not constructed any house under the schemes. It is also ascertained that Rs. 75,000/- was released in favour of the accused-beneficiaries in three installments each through their respective bank accounts. Accordingly, the informant prepared two separate memoranda and thereafter, submitted a report before the S.P Vigilance, Sambalpur, basing on which Sambalpur Vigilance P.S case No. 68 dated 23.09.2017, U/s 13(2) r/w 13(1) (c) (d) of the PC Act, 1988 & Section 409/120-B of IPC was registered against the accused persons and Sri Parameswar Kisan, DSP, Vigilance, Balangir Unit was directed to take up investigation.

During investigation, the I.O seized concerned case records, Govt. guidelines regarding allotment of houses under the schemes, memoranda prepared by the informant, visited the spot, issued requisition to the Tahasildar for verification of land details, obtained sanction order in respect of accused Kheduram Tajan PEO, Chhatamakhana G.P and handed over charge of investigation to Kabita Sahu, who obtained sanction order in respect of accused Tankadhar Kalo and after

completion of investigation, she submitted charge sheet U/s 13(2) r/w 13(1)(c)(d) of the Prevention of Corruption Act, 1988 and Section 420/468/ 471/ 409/ 120-B of IPC against the accused persons. Accused Dasarathi Mishra being dead, the present accused persons faced trial.

3. The case of the defence is complete denial of the prosecution allegations and false implication. Further, accused Kheduram Tajan took the plea that the beneficiaries were eligible to get the IAY houses and that beneficiary accused Santosh Kumar Sarangi did not get along with his brothers. Further, accused Tankadhar Kalo took the plea that he has not done counter verification of the report and that no surprise check was done in his presence. He was the Nodal officer of the Block and it is the duty of the PEO and G.P Nodal officer to submit the report and on the basis of the report, BDO releases the fund. The duty of the Block Nodal Officer is to verify 10% of progress of the work. By then Narendra Kumar Mishra was the Nodal Officer of Chhatamakhna G.P. Accused Santosh Kumar Sarangi took the plea that he was eligible to get the IAY house.

4. The points for determination in this case, thus are as follows:

- (i) Whether accused Kheduram Tajan and accused Tankadhar Kalo were public servants and if they abused their official position and recommended, in

violation of the guidelines, names of accused beneficiary Santosh Kumar Sarangi and Dasarathi Mishra for allotment of house under Indira Awas Yojana (IAY) and submitted feasibility reports at different phases, facilitating release of fund for construction of said houses, when they knew that no house at all was constructed by said beneficiaries and thereby obtained for themselves or for the ineligible beneficiaries pecuniary advantage and committed criminal misconduct ?

(ii) Whether accused Kheduram Tajan and Tankadhar Kalo deceived the BDO, Puintala by submitting false feasibility reports in respect of the houses of the beneficiaries accused Santosh Kumar Sarangi and Dasarathi Mishra and thereby induced him to release funds amounting to Rs.75,000/- each in favour of them and thereby committed an offence of cheating ?

(iii) Whether accused Kheduram Tajan and Tankadhar Kalo prepared false feasibility report in the name of accused Santosh Kumar Sarangi and Dasarathi Mishra intending that said reports shall be used as genuine for the purpose of cheating?

(iv) Whether accused Kheduram Tajan and Tankadhar Kalo fraudulently and dishonestly used the feasibility reports as genuine which they knew or has reason to believe to be forged document ?

(v) Whether accused Kheduram Tajan and Tankadhar Kalo formed an unlawful combination with accused Santosh Kumar Sarangi and Dasarathi Mishra intending thereby to frustrate the Government Scheme and/or misutilise Government fund and illegally submitted forged feasibility reports in favour of accused Santosh Kumar Sarangi and Dasarathi Mishra with intend to get the amount released in their favour in the name of construction of IAY houses?

5. In order to prove its case, prosecution has examined as many as ten witnesses among which, PW1 is a Bank Official who furnished statements of accounts of the beneficiaries, PW2 is a constable of vigilance and attended the physical verification of the houses of the accused-beneficiaries. PW3 was the ABDO of Puintala Block, PW4 was the VLW cum dealing assistant Rural Housing Puintala Block, PWs 5 and 6 are the co-villager of accused Santosh Kumar Sarangi, PW7 was the then Tahasildar, who on the requisition of the vigilance, directed the R.I for spot verification, PW8 is the informant of this case, and PW9 and 10 are the I.Os of this case. Besides the oral evidence of aforesaid witnesses, the prosecution also tendered some documents which are marked as Ext.P-1/PW2 to Ext.P-33. The accused persons did not choose to adduce any oral evidence nor tender any documentary evidence.

6. Learned Special P.P, Vigilance, during course of his argument, contended that the oral evidence of the prosecution witnesses coupled with documentary evidence is sufficient to arrive at a conclusion that accused persons Kheduram Tajan and Tankadhar Kalo are liable for the offence of criminal misconduct and they along with beneficiaries-accused persons hatched conspiracy to submit feasibility report by manufacturing documents and photographs regarding construction of the house of the beneficiaries and released the entire sanctioned amount though they had not at all constructed the houses and the prosecution having successfully proved the case against the accused persons beyond reasonable doubt, the accused persons are liable for conviction U/s 13(2) r/w 13 (1) (d) of P.C Act, 1988 so also section 420/468/471/120-B of IPC. In support of his contention, the learned Spl. PP, Vigilance relied on the decisions of the Hon'ble Supreme Court in the case of *State of Bihar Vs Rajmangal Ram* reported in **AIR 2014 SC 1674**, *Paul Verghese Vs State of Kerala* reported in **AIR 2007 SC 2618**, *State by Police Inspector Vs T.Venkatesh Murthy* reported in **AIR 2004 SC 5117**, *Jubaji Srinivasa Rao Vs State by District Inspector* reported in 2004(3) Crimes 32 (AP), *Md. Iqbal Ahmed Vs Sate of Andra Pradesh* reported **AIR 1954 Pepsa 84**, *State Vs Jahangiri Singh* reported in **1954 Crl.J 745**, *The State of Maharashtra Vs Mahesh G. Jain* reported in (**2013**)

55 OCR (SC) 1051, *Vinayak Narayan Deostali Vs CBI* reported in 2015(4) SCC 353. *Mir Nagvi Askari Vs CBI* reported in **AIR 2010 SC 528**, *State of NCT Delhi Vs Shiv Charan Bansal* reported in **AIR ONLINE 2019 SC 1674**, *Shiv Shankar Prasad Singh Vs State of Bihar* reported in **AIR 2019 SC 1190** and in the case of *Antony Cardoza Vs State of Kerala* reported in **AIR ONLINE 2014 SC 105**.

7. Per Contra, Learned defence counsel for accused Kheduram Tajan and Santosh Kumar Sadangi contended that accused Kheduram Tajan being the PEO has no role in selection of the beneficiary under the IAY scheme and the beneficiaries are selected through Pallisabha and Gramasabha. He further submitted that though prosecution alleges that the accused beneficiaries were allotted with IAY houses under the schemes and amount released in their favour, but they have not constructed any house, but the prosecution has failed to prove the same beyond reasonable doubt. Rather, through the evidence of the independent witnesses, it is well proved that the beneficiaries have indeed constructed their houses allotted under the schemes and rightly received the sanctioned amount and thus, the PEO-accused cannot be held guilty for criminal misconduct in the absence of any criminal intent and hence, no liability can be fasten on the accused-PEO or any other accused persons and they are entitled to an order of acquittal. In

support of his contention, he relied on the decisions of the Hon'ble Apex Court in the case of *C.K.Jaffer Sharief Vs State (through CBI)* in **Criminal Appeal no. 1804 of 2012 dt. 9th November, 2012**, *Namdev Pandurang Panchal Vs Mumbai Municipal Corporation* on 16th September 2005 reported in Indiankanoon.org/doc and of the High Court of Chhatisgarh, Bilaspur in the case of *Vijay Kumar Toppo Vs Amar Bilas*, 20 Wpc/1773/2020 Vardhman dt. 24.8.2020 in Second Appeal No 428 of 2008 reported in Indiankanoon.org/doc.

The learned counsel for the accused Tankadhar Kalo contended that the accused was the Block Nodal Officer and prosecution has failed to prove that he was the Nodal Officer of Chhatamakhana Grampanchayat and further prosecution has also failed to prove that he verified the construction of work of the beneficiaries and recommended for release of fund in favour of the beneficiaries. It is further submitted that the role of the Block Nodal Officer is to verify 10% of the work under the scheme and since it is well established through the mouth of the prosecution witnesses that the beneficiaries have constructed their houses under the scheme, no criminal misconduct of the accused Tankadhar Kalo can be attributed and hence, he is entitled to an order of acquittal. In support of his contention, he relied on the decisions of the Hon'ble High Court of Orissa in the case of *Prakash Mishra Vs*

State of Odisha & others reported in **2015(II)OLR 93** and *Mahendra Maharana Vs Republic of India (CBI)* reported in **(2023) 90 OCR 387**.

POINT No.I

8. It is not in dispute that accused Kheduram Tajan was working as VLW-cum-Panchayat Executive Officer, Chhatamakhana G.P and Tankadhar Kalo was working as Asst. Engineer, Puintala Block at the relevant time. In this context, the BDO, Puintala has furnished the bio data of accused Tankadhar Kalo vide letter No. 2736 dt, 23.9.2017 proved under Ext.P-9/PW9 which discloses that he was working as Asst. Engineer of Puintala Block and he joined on 9.3.2015. Ext. P-16/PW9 is the letter No. 3478 dt. 21.10.2017 of the BDO, Puintala enclosed with the Notification no. 1563 dt.27.1.2015 of the Panchayatiraj Department, Govt. of Odisha shows that Sri Tankadhrar Kalo was transferred and posted as Asst. Engineer, Puintala Block. Further, letter No. 2732 dt. 23.9.2017 of the BDO, Puintala, proved under Ext.P-10/PW9, enclosed with order No.739 dt. 26.5.2015 discloses that Sri Tankdhara Kalo A.E will function as Nodal Officer of Rural Housing scheme in absence of Sri Ananda Chanda Mishra. Ext.P-16/PW9 also enclosed with copy of order No. 918/GP dt. 9.5.2012 of the office of Collector, Balangir and the joining report of accused Kheduram Tajan. It reveals that Kheduram Tajan, VLW, Titilagarh Block was transferred and posted as

such in Puintala Block and assigned as Executive Officer of Chhatamakhana G.P and he joined in his duty on 16.5.2012. Accused Kheduram Tajan has also admitted in his statement under section 313 Cr.P.C that he was working as Panchayat Executive Officer, Chhatamakhana G.P under Puintala Block from 16.12.2012 to 03.08.2017. Accused Tankadhar Kalo has also admitted that he has been working as Asst. Engineer-cum-Nodal Officer, Puintala block since 9.3.2015. Thus, one of the prime requirements for attracting the provisions of section 13(1)(d) of the P.C Act, 1988 that accused persons Kheduram Tajan and Tankadhar Kalo were public servants within the meaning of Section 2 (c) of the PC Act,1988, stands established.

9. Prosecution case is that the accused public servants in connivance with other accused persons-beneficiaries committed the offence of criminal misconduct within the meaning of section 13(1) (d) of the PC Act, 1988. For better understanding of the aforesaid provision, the same is extracted hereunder:

13. Criminal misconduct by a public servant:-

(1) A public servant is said to commit the offence of criminal misconduct:-

(a) xxx xxx xxx

(b) xxx xxx xxx

(c) xxx xxx xxx

(d) if he --

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

- (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
- (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

To bring home the charge of criminal misconduct as against the accused public servants prosecution has placed heavy reliance upon the oral evidence brought on record through the informant PW8, Investigating Officer PW9, official witnesses PW2, PW3, PW4 and PW7 in addition to the documentary evidence such as FIR, IAY Case Record No. 186/2014-15, IAY Case Record No.212/2015-16, Demarcation Report with Sketch Map, Memorandum prepared during surprise check and Guidelines for Indira Awaas Yojana, 2013. That being so, through scrutiny of the testimony of the above witnesses so also contents of the documents essentially required for arriving at a conclusion whether prosecution has successfully discharged its burden of establishing the charge of criminal misconduct as against the accused public servants.

10. Foundation of the FIR in the present case rests upon the surprise check conducted in Chhatamakhana G.P under Puntala Block, district Balangir by Sri S.N.Pani, Inspector of Vigilance, Balangir who is the informant in the present case and examined as PW8. He has testified that on 11.7.2017, as per the direction of the S.P, Vigilance, Sambalpur he alongwith Sri

Abhiram Kar, DSP, Vigilance, Balangir unit and other vigilance staff of Balangir unit conducted surprise check in Chhatamakhana G.P under Puintala Block, district Balangir in presence of officials of Puintala Block namely Sri Tankadhar Kalo, Asst.Engineer, Puintla Block, Kheduram Tazan, PEO of Chhatamakhana G.P under Puintala Block, district Balangir. During surprise check, they found that Sri Dasarathi Mishra, 96 years son of late Durgacharan Mishra of village Sankarbhuji under Chhatamakhana G.P, Puintala Block has been allotted one IAY house in the year 2015-16 vide Case record No 1404/2015. The eligibility criteria of the beneficiary Dasarathi Mishra was enquired by Kheduram Tazan, PEO of Chhatamakhana G.P, basing on which work order was issued by the BDO Sri Purandar Pujhari of Puintala Block. After issuance of work order, the beneficiary Sri Mishra was paid the first instalment of Rs.20,000/- and 2nd instalment of Rs. 40,000/- and 3rd instalment of Rs. 15,000/-, total Rs. 75,000/-. During spot verification in Sankarbhuji village, they found that the beneficiary Sri Mishra had not constructed any IAY house which was allotted to him and misappropriated all the government money of Rs. 75,000/- which was deposited in the account meant for construction of IAY house. He further ascertained that Sri Bharat Chandra Mishra, the second son of the beneficiary was residing in the village and keeping his father with him. His

elder brother Sri Bhakta Prasad Mishra was serving as Branch Manager in BDCC Bank, Balangir and at that time he was staying at Talpalipada, Balangir town. The youngest brother Sri Suratha Mishra was working in Ordnance Factory, Badmal, who had also constructed one RCC building adjacent to the old house of his father. Sri Bharat Chandra Mishra had also constructed one RCC building in the village and also he had three acres of agricultural lands recorded in the name of Sri Dasarathi Mishra.

It is in his evidence that during field verification, they found that Sri Santosh Kumar Sarangi of village Sankandhpali under Chhatamakhana G.P of Puintala block district Balangir had been allotted with one IAY house during the year 2014-15 vide Case record No. 2461 dt. 15.11.2014 in which the eligibility criteria of the beneficiary was also enquired by Sri Kheduram Tazan and accordingly, work order was issued by the BDO, Puintala Block and the beneficiary Sri Sarangi was issued Rs. 15,000/- in 1st instalment, Rs. 50,000/- in 2nd instalment and Rs 10,000/- in third and final installment, total of Rs. 75,000/-. During spot visit at village Sankandhapali, they found that the beneficiary Sri Sarangi had constructed one RCC double storied building since 15 years back and he was running a KIRANA store and cultivating about eight acres of agricultural land recorded in the name of his father. He was having a Hero Honda motorcycle bearing No.OR-

17-D-6855. He also ascertained that the beneficiary Sri Sarangi has five brothers namely Bharatram Sarangi, who is a retired Govt. employee working in Kenduleaf department and residing at Titilagarh. The second brother Sri Laxman Sarangi was working at Collectorate, Balangir and residing in his own house at Balangir town. His third brother Sri Markanda Sarangi was doing transport business having three numbers of four-wheelers, who was residing in the village by constructing a double storied building adjacent to the house of the beneficiary. The youngest brother Sri Ashok Sarangi was a priest of Jagannath Temple of village Sountpur and residing in the village. In both the cases, Sri Kheduram Tazan, the PEO of Chhatamakhana G.P had enquired the eligibility criteria of the beneficiaries and submitted his report that the beneficiaries are homeless and landless which report also counter-verified by Sri Tankadhar Kalo, Asst. Engineer, the Nodal Officer of Chhatamakhana G.P.

He deposed further that Sri Kheduram Tazan, the PEO and Sri Tankadhar Kalo, Asst. Engineer knowing about the financial status of the beneficiaries and his family members submitted false enquiry report in favour of the beneficiaries and allowed them illegal pecuniary gain in violation of government guidelines in the IAY Scheme. Accordingly on 23.9.2017, he submitted a written report before S.P Vigilance

Sambalpur, basing upon which Sambalpur Vigilance P.S Case No.68 dt.23.9.2017 was registered. He proved his report as Ext.P-8/PW8 and the formal FIR as Ext.P-8²/PW8.

11. A bird eye view of the FIR version reveals essentially two basic allegations. First, accused Dasarathi Mishra was allotted with IAY house during the financial year 2015-16 with an estimated cost of Rs.75,000/- based on the feasibility report submitted by accused Kheduram Tajan, VLW-cum-PEO, Chhatamakhana G.P, though he was not eligible to get the house under the Rural Housing Scheme as per the parameters fixed by the government in P.R Department 6727/PR dt. 29.4.2016, having three acres of cultivable land and his elder son being a government employee working as Branch Manager, District Central Cooperative Bank, Balangir and his younger son, a government employee working in Ordinance Factory, Badmal. Secondly, accused Santosh Kumar Sarangi was allotted with IAY house for the financial year 2014-15 basing on the recommendation of accused Kheduram Tajan, VLW-cum-PEO, Chhatamakhana G.P and Tankadhara Kalo, Nodal Officer. But prior to it, he has constructed one double storied building and has been cultivating eight acres of ancestral landed properties and moreover he is doing Kirana business in his house and had one Motorcycle bearing Regn. No. OR-17-D-6855. Beneficiary Sri Sarangi has five

brothers namely Bharatram Sarangi, a retired Govt. employee working in Kenduleaf department, residing at Titilagarh. The second brother Sri Laxman Sarangi working at Collectorate, Balangir, residing in his own house at Balangir town. Third brother Sri Markanda Sarangi was doing transport business having three numbers of four-wheelers, who was residing in the village by constructing a double storied building adjacent to the house of the beneficiary. The youngest brother Sri Ashok Sarangi was a priest of Jagannath Temple of village Sountpur and residing in the village. So, the beneficiary was also ineligible to get the IAY house as per the parameters fixed by the government in P.R Department 6727/PR dt. 29.4.2016. Relevantly, aforesaid circular of the government has not been produced or proved by the prosecution to assess its veracity.

12. Undisputedly, accused Dasarathi Mishra was allotted with a IAY house during the year 2015-16 and he received Rs.20, 000/- in first instalment, Rs.40,000/- in second instalment and Rs. 15,000/- in third instalment,, in total RS. 75,000/-. Similarly, accused Santosh Kumar Sarangi was allotted with the house under IAY scheme for the year 2014-15 and he was paid 1st instalment of Rs. 15,000/- along with the work order, Rs. 50,000/- in the 2nd instalment and Rs.10,000/- in the 3rd instalment, in total Rs. 75,000/-. But it is the case of the prosecution that the above

beneficiaries although received the amount through their accounts, but not constructed the house and the accused-PEO, Kheduram Tajan and Tankadhar Kalo in connivance with them submitted phase wise feasibility report respecting to the house of the beneficiaries and recommended for release of fund in favour of them. That being the prosecution case, it is expedient to examine the case records initiated in respect of the accused beneficiaries under IAY scheme.

13. PW9, the I.O has seized the IAY case record No.212/2015-16 of Panchyat Samiti Office, Puintala along with the enclosed documents containing 20 sheets like Xerox copy of ROR, copy of Aadhaar Card, copy of voter I.D, copy of ration card, copy of first page of bank passbook of Anchalika Gramya Bank, Chhatamakhana bearing account no. 12156023396, original copy of physical verification report of Chhatamakhana, original copy of orders of payment, original copy of acknowledgment receipt, original copy of declaration form signed by the PEO and beneficiaries, original copy of work order no. 1404 dated 04.06.2015, copy of SECC list, copy of passbook, original copy of orders for payment of Rs. 40,000/-, original copy of recommendation for release of fund for first installment, photos of the house at different stages of construction, original copy of recommendation for release of fund for third instalment. He also seized IAY case record No. 186 of

2014-15 of Panchyat Samiti Office, Puintala containing 18 sheets of documents like original copy of work order no. 2461 dated 15.11.2014, original copy of declaration signed by beneficiaries, original copy of progress of house/application for received of funds and construction material on the recommendation of the BDO, original copy of payment order dated 24.10.2014 of Rs. 15,000/- , copy of ROR vide khata no. 190, certified copy of ROR, copy of first page of bank passbook of Utkal Gramya Bank, Chhatamakhana bearing account no. 1215603209, copy of voter I.D, original field verification report of PEO, Chhatamakhana G.P, copy of special gram sabha dated 30.12.2013 of Chhatamakhana G.P, original copy of report dated 12.02.2015 for release of funds, original copy of the release order for payment of Rs. 50,000/-, original copy of recommendation for release of funds of Rs. 10,000/-, original copy of recommendation for release of funds and photographs of construction of the house and four pages of order sheets.

He deposed that on his requisition, the B.M, Utkala Gramya Bank, Chhatamakhana through letter dt. 20.10.2017 supplied the statements of account no. 12156023396 of beneficiary Sri Dasarathi Mishra and account no. 1215603209 of beneficiary Sri Santosh Kumar Sarangi. He proved the letter with its enclosures as Ext.P-13/PW9. PW1, the Branch Manager Utkal Gramya Bank, Chhatamakhana branch under Balangir

district also supported the version of PW9 and stated that he had furnished the account statements of two account holders i.e Dasarathi Mishra of Shankarbhuji village and one Prasanna Kumar Sarangi of Shankarbhuji village vide forwarding letter dt. 20.10.2017.

14. PWs 3 and 4 are the officials of Puintala Block who have verified the above case records. PW3 is then ABDO, Puintala Block. He deposed that during the relevant time, accused Kheduram Tajan was working as Panchayat Executive Officer, Chhatamakhana G.P and accused Tankadhar Kalo was working as Block Nodal Officer of Puintala Block. His evidence further reveals that being produced by the vigilance police, he verified two records i.e IAY case record Nos. 186/2014-15 and IAY case record No. 212/2015-16 relating to distribution of IAY houses to the beneficiaries. So far as case record vide record No. 186/2014-15 is concerned, the same was initiated in favour of Sri Santosh Kumar Sarangi of village Sankhandpali under Chattamakhna G.P under Puintala Block. The application of the beneficiaries so also the recommendation of the PEO-accused Kheduram Tajan was available. The record also contained the copy of voter I-card of the beneficiary, copy of land records, copy of the Bank accounts and copy of the BPL card. Work order was issued to beneficiary Santosh Kumar Sarangi basing on the enquiry of accused Kheduram

Tajan and verification of enquiry report by accused Tankadhar Kalo, the then Asst. Engineer cum Block Nodal Officer of Puintala Block. At the time when the work order was issued, the first instalment of Rs. 15,000/- was released in favour of the said beneficiary. The accused-PEO after field enquiry further recommended for release of the 2nd instalment of Rs. 50,000/- and accordingly, the amount towards the second instalment was released by the order of the BDO. The accused-PEO again recommended for 3rd and final instalment of Rs.10,000/- which was also released basing on the report of the construction of the house. He proved the said record vide IAY Case record No. 186/2014-15 as Ext.P-2/PW3. He further deposed that he verified the case record vide record No.212/2015-16 which was initiated in favour of Sri Dasarathi Mishra of village Sankarbhuji under Chhatamakhana G.P of Puintala Block. The application of the beneficiary so also the recommendation of the PEO-accused Kheduram Tajan was available. The record contained the copy of voter I-card of the beneficiary, copy of land records, copy of the Bank accounts and copy of the BPL card. Work order was issued to the beneficiary Dasarathi Mishra basing on the enquiry of accused Kheduram Tajan. At the time when the work order was issued, the first instalment of Rs. 20,000/- was released in favour of the said beneficiary and verification of enquiry report by

accused Tankadhar Kalo, the then Asst. Engineer cum Block Nodal Officer of Puintala Block. The accused-PEO after field enquiry further recommended for release of the 2nd instalment of Rs. 40,000/- and accordingly, the amount towards the second instalment was released by the order of the BDO. The accused-PEO again recommended for 3rd and final instalment of Rs.15, 000/- which was also released basing on the report of the construction of the house. He proved the said record vide IAY Case record No. 212/2015-16 as Ext.P-3/PW3. He also stated that as per the norms, the G.P Nodal Officer and the PEO is to conduct verification and to submit verification report before the BDO for allotment of the IAY house, but in the present case, instead of G.P Nodal Officer, Block Nodal Officer submitted verification report with the PEO illegally.

In his cross examination, he admitted that he could not say if there was any G.P Nodal Officer at the time of submission of field verification report by the PEO. BDO is to nominate the G.P Nodal Officer for the purpose of verification for submission of verification report. There is a guideline prescribed for selection of beneficiaries and allotment of houses under IAY scheme. The Block Nodal Officer is appointed under the scheme at Block Level. The G.P nodal Officer is appointed under the scheme at G.P level. He further admitted that during the relevant time

of selection of beneficiaries and release of installments, he was not the ABDO of Puintala Block and at that time, one Ananda Chandra Mishra was the ABDO of Puintala Block. It is the duty of the Block Nodal Officer to verify the documents submitted by the PEO and G.P Nodal Officer and to countersign the same and as per the guideline; he is to verify randomly 10% of the total cases submitted by PEO and G.P Nodal officer for allotment of IAY houses.

PW4 is the VLW-cum- Dealing Assistant, Rural Housing, Puintala Block. He corroborates the statement of PW3 regarding verification of IAY case records. He deposed that during the relevant time, accused Kheduram Tajan was working as Panchayat Executive Officer, Chhatamakhana G.P and accused Tankadhar Kalo was working as Block Nodal Officer of Puintala Block. On 21.10.2017, he was directed by the BDO to proceed to the office of DSP, Vigilance, Balangir and being produced by the vigilance police, he verified two records i.e IAY case record Nos. 186/2014-15 and IAY case record No. 212/2015-16 relating to distribution of IAY houses to the beneficiaries namely Santosh Kumar Sarangi of village Sankhandpali under Chhatamakhana G.P and Sri Dasarathi Mishra. He stated that work order was issued to the beneficiary Santosh Kumar Sarangi basing on the enquiry of accused Kheduram Tajan and verification of enquiry report by accused Tankadhar

Kalo, the then Asst.Engineer-cum-Block Nodal Officer of Puintala Block and at the time when the work order was issued, the first instalment of Rs. 15,000/- was released in favour of the said beneficiary. Further on the recommendation of the accused-PEO after field enquiry, the 2nd instalment of Rs. 50,000/- and 3rd instalment of Rs 10,000/- were released by the order of the BDO. He proved the IAY Case record No.186/2014-15 as Ext.P-2/P.W.3. His testimony further reveals that he verified the IAY case record No. 212/2015-16 initiated in favour of Sri Dasarathi Mishra of village Sankarbhuji under Chhatamakhna G.P of Puintala Block and the application of the beneficiary was recommended by the PEO-accused Kheduram Tajan. He stated about the payment of Rs. 75,000/- in three instalments to the beneficiary on the recommendation of the accused PEO and verification of enquiry report by accused Tankadhar Kalo, the then Asst. Engineer cum Block Nodal Officer of Puintala Block. He proved the IAY Case record No. 212/2015-16 as Ext.P-3/PW3. In cross examination, he also admitted that there is a guideline prescribed for selection of beneficiaries and allotment of houses under IAY scheme and the Block Nodal Officer is appointed under the scheme at Block Level and the G.P nodal Officer is appointed under the scheme at G.P level. It is the duty of the Block Nodal Officer to verify the documents submitted by the PEO and G.P Nodal

Officer and to countersign the same. As per the guideline, he is to verify randomly 10% of the total cases submitted by the PEO and G.P Nodal officer for allotment of IAY houses.

15. The IAY case record No.186/2014-15 under Ext.P-2/PW3 reveals that it was initiated in favour of Santosh Kumar Sarangi and Kheduram Tajan has conducted the enquiry and reported that the above noted beneficiary has not been allotted IAY house earlier and he is not engaged in any government service or private sector and that he has also no pucca house and he has BPL No.19 and accordingly, the beneficiary was allowed to avail Rs. 75,000/- in three instalments, The statement of account of Santosh Kumar Sarangi proved under Ext. P-13/P.W.9 shows that he received Rs. 75,000/- in three instalments i.e Rs. 15,000/- on 29.10.,2014, Rs. 50,000/- on 9.3.2015 and Rs. 10,000/- on 4.7.2015. Similarly, Ext.P-3/PW3, the IAY case record No.212/2015 -16 reveals that it was initiated in favour of Dasarathi Mishra and Kheduram Tajan has conducted the enquiry and reported that the above noted beneficiary has not been allotted IAY house earlier and he is not engaged in any government service or private sector and that he has also no pucca house and accordingly, the beneficiary was allowed to avail Rs. 75,000/- in three instalments, The statement of account of Dasarathi Mishra proved under Ext.P-13/PW9 shows that he

received Rs. 75,000/- in three instalments i.e Rs. 20,000/- on 2.10.2015, Rs. 40,000/- on 17.5.2016 and Rs. 15,000/- on 22.7.2016. It is not disputed by the defence regarding allotment of the IAY houses to Santosh Kumar Sarangi and Dasrathi Mjshra. From this evidence and the admission of the defence, it is borne out that accused persons Santosh Kumar Sarangi and Dasrathi Mishra were allotted with houses under IAY scheme and after being allotted houses under IAY scheme, funds were released in their favour in different installments phase wise for completion of their houses.

16. At this juncture, learned counsel for accused Kheduram Tajan, PEO submitted that in the process of allotment of houses under the IAY scheme, the PEO has no role to play and as per guidelines of Indira Awas Yojana, the beneficiaries are selected through Palli Sava and Grama Sava. In this regard he drew the attention of the court to the Guidelines of IAY, 2013 proved by the prosecution under Ext.P-32. Chapter 4 of the Guidelines for IAY, 2013 deals with Implementation of IAY and reads as thus:

4.3 Baseline survey and preparation of five year priority list:

In the first year (2013-14), the existing priority list for IAY may continue to be used.

Within the first six months of the availability of the SECC data, the list has to be revised. Baseline data should be taken from Socio-Economic Caste Census 2011. A five year priority list of people who need to be given assistance should be prepared using the SECC baseline data through a

participatory process. Identification and ranking of beneficiaries may be done using locally acceptable norms of priority for different categories following the methodology for participatory identification of the poor (PIP). Ministry of Rural Development would issue detailed guidelines for PIP.

SECC data should also be used to identify the landless households. All families having less than two cents of land would be considered landless for the purpose of the scheme. A list thus extracted should be verified on the ground through a survey in which the Village Panchayats and local community are fully involved. Once the landless poor are identified they may be prioritized, as per the PIP process indicated for the IAY houses component with separate lists prepared for SCs/STs, minorities, persons with disabilities and others.

The five year priority list of IAY beneficiaries and the list of landless households generated from the above process and the list of beneficiaries from the identified habitations should be presented in the Gram Sabha and its approval taken. The meeting should be attended by a representative of the District Collector and it should be videographed. In order to correct errors of inclusion and exclusion, the process of appeal indicated for SECC may be adopted. The five year priority list once approved by the Gram Sabha should be uploaded on AwaasSoft for habitations and for scattered households.

4.4 Finalisation of annual select list of beneficiaries

In order to finalize the annual select list of IAY beneficiaries, it would be expedient to complete the process mentioned in para 4.3 and place the five year priority list before the Gram Sabha and draw the annual select list based on the target assigned for habitations and for scattered households.

The Gram Sabha meeting to approve the annual select list shall also be attended by a nominee of the District Collector and it shall be videographed. While doing so, list of new inclusions and list of exclusions if any shall be marked as such with reasons. The Gram Sabha meetings should be completed by 30th November and the finalized list sent to the Zilla Parishad before 31st December, so that, based on the tentative targets, the annual beneficiary list of the district can be finalized.

Details of beneficiaries selected should be entered on AwaasSoft.

The mandate on the guidelines is also elicited by the defence from the mouth of PW8, the informant, who in his cross examination admitted that according to the guideline, the beneficiaries are identified from Socio Economic Caste Census List, 2011 and after their names are approved by the Palli Sabha and Gram Sabha, they are selected for the purpose of granting benefit under the IAY scheme. Then the list of the selected beneficiaries is placed before the BDO by the PEO and the Nodal Officer of the G.P for approval. On the same day of issuance of work order, first installment is released in favour of the beneficiaries. As per the guideline, there are two Nodal Officers, one at the G.P level and another at Block level. He further admitted that as per the guidelines the G.P Nodal Officer and the PEO are responsible to verify the progress of construction of the IAY house and it is the duty of Block level Nodal Officer to verify 10% of the houses randomly on each stage. It is also in his evidence that taking into account the eligibility criteria, the beneficiaries are selected through Palli Sabha and Grama Sabha and list of beneficiaries is published at G.P level inviting objection from the villagers and that he could not say if any objection was received against these two beneficiaries and that if the list is entered into the portal of the Block for screening.

This fact was also brought from the mouth of the I.O who in his cross examination at para 36 admitted that Panchyat Executive Officer has got no role to play in the selection process except as required during Palli Sabha and Grama Sabha and as directed by the Panchyat Office. He further admitted that deceased accused Dasarathi Mishra and accused Santosh Kumar Sarangi come under BPL category and that both of them were selected as beneficiaries in the Palli Sabha as well as in Grama Sabha and that after selection, the beneficiaries list was to be notified in the Panchyat Office notice board inviting objection from general public. As there was no objection from any corner, the list of beneficiaries including Sri Sarangi and deceased Mishra was approved by the BDO. It is further in his evidence that as per the guideline for Indira Awas Yojna, two Nodal Officers functioning one at G.P level and another at Block level and as per point no. 12.2 of the said guideline, Nodal officer at Block level should inspect 10% of the houses at each stage of construction on random basis and further that he has not seized any document to show that Sri Tankadhara Kalo was appointed as Nodal Officer of Chhatamakhana G.P during the relevant time.

PW3, the ABDO of Puintala Block has also admitted that the BDO is to issue work order after being fully satisfied with the verification report and the recommendations of the PEO and G.P Nodal officer.

He further admitted that it is the duty of the Block Nodal Officer to verify the documents submitted by the PEO and G.P Nodal Officer and to countersign the same and as per the guideline, he is to verify randomly 10% of the total cases submitted by PEO and G.P Nodal officer for allotment of IAY houses and that Block Nodal Officer cannot possibly verify the truthfulness of each and every verification report. As per the guideline, the G.P Nodal Officer is to inspect and report about the truthfulness of the construction of houses under IAY scheme. The Board on the wall is to be verified by the PEO and G.P Nodal Officer. The Block Nodal Officer cannot verify all the Board on the walls of the beneficiaries as he is to verify only 10% of the reports. It is admitted by PW9, the I.O that he has not seized any document that Tankadhar Kalo was directed to work as the G.P Nodal Officer. It is in the evidence of PW8, the informant, that as per his enquiry, at the relevant time, accused Tankadhar Kalo was the Nodal Officer of Chhatamakhana G.P which he ascertained from the BDO orally. The IAY case record No.186 of 2014-15 under Ext.P-2/PW3 also contains a copy of the Grama Sabha dt. 30.12.2013 wherein the name of Santosh Sarangi son of Balaram Sarangi finds place at serial No. 5 of other category to be the beneficiary under the IAY scheme. The signature of the Panchayat Executive Officer and the Sarpanch are available therein.

From the above discussed oral and documentary evidence on record, it is evident that beneficiaries under the IAY schemes are selected through Grama Sabha and the list are displayed at the panchayat and the selection is final and no approval by a higher body is required. Thereafter, the list will be displayed at the Gram panchayat for beneficiaries to view and appeal in case their name does not figure or figure in a lower priority. In the instant case, prosecution has failed to prove that the selection of the beneficiaries Dasarathi Mishra and Santosh Kumar Sarangi was irregular and the PEO and the Block Nodal Officer showing undue official favour have recommended their names for selection as beneficiaries.

17. It is the prosecution allegation that even though accused persons Dasarathi Mishra and Santosh Kumar Sarangi were ineligible to get IAY houses under the scheme, but accused Kheduram Tajan in connivance with them and by corrupt or illegal means recommended their names and accordingly, they got houses under IAY. In this regard the I.O obtained the eligibility criteria under IAY scheme from the BDO, Puintala Block and proved the same under Ext.P-21/PW9 and stated that as per the guidelines/eligibility criteria all houseless and households living in 0/1/2 rooms with kachha roof and kachha wall as per SECC, 2011 except the automatically excluded households will form the eligible beneficiaries. He also placed

requisition to the RTO, Bargarh to supply the ownership and status of vehicle bearing regd. number OR-17-D-6855 (Hero Honda CD SS) along with registration certificate of the vehicle vide his letter no. 1073 dated 20.08.2018 and marked as exhibit Ext.P-22/PW9 and received the letter of the RTO, Bargarh vide letter no. 3506 dated 28.08.2018 and proved the same as Ext.P-23/PW9. It reveals that the registration certificate of vehicle no. OR-17-D-6855 stands in the name of accused Santosh Kumar Sarangi son of Balaram Sadangi of village-Sankandhapali. It is further in his evidence that he also obtained detail land particulars in the name of beneficiaries Dasarathi Mishra and Santosh Kumar Sarangi from the Tahasildar, Puintala and it was marked as Ext. P-25/PW9 and Ext. P-29/PW9 on behalf of the prosecution. The Tahasildar was examined as PW7 on behalf of the prosecution, but he did not disclose anything about such fact. The RTO Bargarh or any of the officials of the office of RTO has also not been examined to vouchsafe the information supplied under Ext.P-23/PW9. PWs. 3 and 4, who are the officials of the office of BDO, Puintala are the best persons to say about the ineligibility of the accused-beneficiaries, but they have not whispered anything about the same. The evidence in this regard is scanty to hold that beneficiaries Dasarathi Mishra and Santosh Kumar Sarangi were ineligible under the IAY scheme. Further, it is already

held that the accused persons had no role to play in the selection process of the beneficiaries and their selection is made through Gramasabha as per SECC list, 2011.

18. Now coming to the allegation that accused-beneficiaries Dasarathi Mishra and Santosh Kumar Sarangi even though received Rs.75,000/- each on different phases on the basis of false recommendation and feasibility report submitted by accused Kheduram Tajan and Tankadhar Kalo, they had not constructed the said houses till the FIR was lodged and misappropriated the amount. Accordingly, the prosecution cast allegations against accused Kheduram Tajan and Tankadhar Kalo for committing criminal misconduct by abusing their official position as public servants by obtaining for the beneficiaries valuable things or pecuniary advantages.

19. As regards the allegation of hatching a conspiracy by the accused persons in swallowing the public money without construction of the house, it is the evidence of the informant PW8 that on receipt of reliable information that Sri Kheduram Tajan, Executive Officer of Uparbahal Grampanchayat under Loisingha Block has recommended for released funds in favour of the beneficiaries Dasarathi Mishra of village Sankarbhuji and Santosh Kumar Sarangi of village Sankandhpali for construction of Indira Awas houses in the year 2015-16 and 2014-15, but the IAY

houses have not been constructed by the beneficiaries, he conducted physical verification alongwith Sri Abhiram Kar, DSP, Vigilance, Balangir and other vigilance staff of Balangir and in presence of accused Kheduram Tajan and Tankadhar Kalo and found that the beneficiaries had not constructed their houses after receipt of the IAY funds in their Bank accounts. He prepared two separate memoranda. He proved the memoranda in respect of the beneficiary Dasarathi Mishra as Ext.P-6/PW8, in respect of Santosh Kumar Sarangi as Ext.P-7/PW8. During enquiry, he ascertained that Sri Kheduram Tajan Panchayat Executive Officer of Chhatamakhana G.P enquired about the eligibility criteria which was verified by accused Tankadhar Kalo, Asst. Engineer and Nodal Officer of Chhatamakhana G.P and recommended the BDO, Puintala Block for release of IAY funds in favour of the above named beneficiaries for construction of IAY houses and accordingly, IAY funds of Rs. 75,000/- each in favour of the beneficiaries were released by the BDO, Puintala Block, but the IAY houses were not at all constructed by the beneficiaries. After completion of the enquiry, he submitted a written report against Sri Kheduram Tajan and Tankadhar Kalo and the beneficiaries before the S.P, Vigilance, Sambalpur on 23.09.2017 and basing on his report, Sambalpur Vigilance P.S. case No. 68 dt 23.09.2017 U/s 13(2) r/w 13(1)(c)(d) P.C.

Act, 1988 and section 409/120-B of IPC was registered.

20. PW2, a constable of vigilance, is a signatory to the memoranda who stated to have accompanied the informant, Inspector of Vigilance, Balangir for field verification. It is his testimony that on 11.7.2017, he alongwith the DSP, Vigilance Sambalpur division Abhiram Kar, Inspector of vigilance Sadananda Pani, constable Bishnu Prasad Jal and the officials of Puintala Block proceeded for a surprise visit to Sankandpali, Puintala Block in connection with irregularities in allotment of IAY/PMRY house. They visited the house of Santosh Sarangi son of Balaram Sarangi of Sandkandpali and a memorandum was prepared by him at 12.40 P.M as dictated by Sri Abhiram Kar, DSP, vigilance where he alongwith other members put our signatures. He proved the memorandum as Ext. P-7/PW8. He also stated that before that they had visited the house of Dasarathi Mishra of village Sankarbhuji and a memorandum was prepared by him at 11.20 A.M being dictated by Abhiram Kar, DSP, Vigilance and the officials present there put their signatures. He proved the memorandum as Ext. P-6/PW8. In cross examination he admitted that he does not remember the contents of the memoranda prepared by him and also could not say the name of the adjacent tenants so also the family back ground of Santosh Sarangi. He also could not say the khata

No, plot no and extent of land which they inspected, who identified the houses they inspected and if any villager was present during their inspection. Ext.P-6/PW8 is the memorandum in respect of the house of Dasarathi Mishra and Ext.P-7/PW8 is the memorandum in respect of house of Santosh Sarangi. In both the memorandum, besides PW2, informant and accused persons, Abhiram Kar, DSP, vigilance, Narendra Naik, AE-cum-G.P Nodal Officer Chhatamakhana G.P and Bishnu Prasad Jal were stated to be present during the surprise visit, but none of them were examined by the prosecution to vouchsafe the surprise visit. The informant (PW8) admitted that he cannot say the land particulars submitted by accused Santosh Kumar Sarangi as well as Dasarathi Mishra in their applications and where exactly they were residing. He stated that from the accused persons he ascertained the age of the building where the above accused persons were staying and from the Engineers who were with him during spot visit and that Asst. Engineer of the Block Narendra Naik accompanied him during spot visit and that only by seeing the building, he opined regarding its age. The learned counsel for the accused Kheduram Tajan drew attention of this court to this piece of evidence and submitted that the accused-beneficiaries constructed their IAY houses after receipt of financial assistance from the government and staying in their houses. The

I.O has also admitted that he has not taken assistance of the technical team of vigilance department during investigation and that the accused beneficiaries had shown the houses claiming to have constructed the same under the scheme. It was also brought from his evidence that the ancestral houses of the brothers of accused Sri Sarangi were available adjacent to his claimed house and that he has not directed his investigation to ascertain the age of the house of accused beneficiaries claimed to have been built under the Indira Awas Yojana.

21. Prosecution also examined two independent witnesses of village Sankandhapali to bolster the case of the prosecution that the beneficiaries had not constructed their houses under the IAY after receipt of financial assistance. PW5 deposed that accused Santosh Sarangi standing in the accused dock is his co-villager and he swindled the money of the government which was released in favour of his father towards construction of Indira Awas House. But in cross examination, he admitted that there are no landed properties in the name of accused Santosh Sarangi. He resides in separate mess. He has constructed an Indira Awas House after demolishing a Katcha House and accused Santosh is a BPL card holder. It is in the evidence of PW6 that accused Santosh Sadangi is his co-villager. He was having a mud house of his own and after he was allotted with house under Indira Awas

scheme, he constructed a pucca house. This witness was declared hostile by the prosecution and cross examined, but nothing could be elicited from his mouth to discredit his testimony. Further the identities of the lands/houses of the beneficiaries are doubtful as the local revenue Inspector, Sarpanch, ward member or the neighbours were not called during the field enquiry and the signatures of the beneficiaries appearing in the memorandum have not been proved or the signatures have been obtained by misrepresentation.

Prosecution also relies the evidence of Gunamani Sunani, the then Tahasildar, Puintala. He stated that on 7.3.2018, he received a requisition from the vigilance department for demarcation of plot at village Sankarbhuji and Sankandhpali and to depute one R.I and Amin for the purpose and accordingly, as per his instruction, the Amin demarcated the land and submitted a report before him which he sent to the vigilance through letter No.696 dt.4.4.2018. He proved the letter and the demarcation report with sketch map as Ext.P-5/PW7 with objection from the side of the defence. During cross examination, he admitted that the demarcation was done on 23.3.2018 and he has not visited the plots demarcated. The Amin being accompanied by the vigilance officials conducted demarcation over the plots. The learned counsel for accused Tankadhar Kalo challenged the authenticity of the report of the Revenue Inspector and contended that

the report cannot be admitted into evidence as maker of the document has not been examined by the prosecution to vouch for its truthfulness. According to the learned Spl.PP, Vigilance since those documents have been prepared in due discharge of official duties by the R.I concerned, the same requires no further proof. Such submission of the learned Spl. PP, Vigilance cannot be accepted in view of the settled principle of law that mere production and marking of a document as exhibit by court cannot be held to be due proof of its contents. Its execution has to be proved by admissible evidence i.e., by the evidence of those persons who can vouchsafe the truth of the facts in issue. This proposition of law has been reiterated by a three-judge bench of the Hon'ble Apex court in a recent decision in the case of *Harendra Rai Vrs the State of Bihar* and others reported in **2023 SCC OnLine SC 1023**, wherein it is *inter alia* held that:

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“99. At the stage of evidence, when any document/paper is formally produced for being treated as a piece of evidence, the Court looks at two basis aspects. Firstly, the existence of the document on the Court's record and, secondly, the proof of its execution or its contents being sufficiently deposed to by a witness having requisite knowledge thereof, where after, the document in question is marked as exhibit. At the stage of exhibiting any document as a piece of evidence, the truth of what is stated in the document is not considered. It is left open to final evaluation at the trial after cross examination, and the entire testimony of the witness about the existence and contents of the document is weighed in conjunction with various other facts emerging during a trial. At the final evaluation stage, the Trial Court concludes whether the document

speaks the truth and decides what weight to give it for final decision. In other words, its evidentiary value is analysed by the Courts at the time of final judgment.

100. This Court in the case of *Narbada Devi Gupta V. Birendra Kumar Jaiswal* (2003) 8 SCC 745, in paragraph 16 has held as follows :

“ 16.....The legal position is not in dispute that mere production and marking of a document as exhibit by the Court cannot be held to be a due proof of its contents. Its execution has to be proved by admissible evidence that is by the ‘evidence of those persons who can vouchsafe for the truth of the facts in issue’.....”

101. In this view of the matter, the marking of a piece of evidence as “exhibit” at the stage of evidence in a Trial proceeding is only for the purpose of identification of evidence adduced in the trial and for the convenience of the Court and other stakeholders in order to get a clear picture of what is being produced as evidence in a trial proceeding.

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Admittedly, the Revenue Inspector who furnished the report is not examined in this case on behalf of the prosecution, even he is not cited as a witness in the charge sheet. Even if the report of the R.I, Sountpur enclosed with the letter of the Tahasildar, Puintala marked as Ext.P-5/PW7, is considered, it discloses that he visited village Sankarbhuji and Sankandhapali in presence of Sri Parameswar Kisan, DSP, Vigilance, Balangir and demarcated the land where the proposed Indira Awas Houses were to be constructed and furnished sketch map. His report does not disclose that there was no house in the land demarcated by him. So, the report of the R.I is also of no avail to the prosecution.

Further, the informant (PW8) stated that he conducted surprise check of villages of beneficiaries on

11.7.2017 and prepared separate memorandum, but the FIR lodged by him is silent regarding preparation of memorandum in presence of witnesses. Non examination of the witnesses cited in the memorandum, except the informant and a constable of vigilance, casts doubt regarding preparation of the memorandum when the villagers of accused Santosh Kumar Sadangi stated that he has constructed house under IAY. So, it cannot be conclusively held that beneficiaries Dasarathi Mishra and Santosh Kumar Sarangi had not constructed their houses under IAY after receipt of financial assistance of Rs. 75,000/- each from the government under the scheme.

22. The learned counsel for the accused Tankadhar Kalo challenged the validity of sanction order issued against the accused and marked as Ext.P-31/PW10. It is his submission that the bio data obtained by the prosecution in respect of accused Tankadhar Kalo proved under Ext.P-9/PW.9 discloses that the appointing authority of the accused is Engineer-in-Chief, WR Department, Government of Odisha whereas sanction has been obtained from the Special Secretary to Government, GA & PG department Govt. of Odisha. He further contended that the evidence of the I.O discloses that she made pre-sanction discussion with Abanikanta Pattnaik, Spl Secretary to Government G.A & PG Department, Govt of Odisha, but sanction has been issued by

Himanshu Bhusan Panda, IOFS, so, prosecution has not come up with clean hand regarding sanction of prosecution against the accused. In support of his contention, he relies on the decisions of the Hon'ble Court in the case of *Mahendra Maharana (Supra)*. On the other hand, the learned Spl PP relying on the decisions of *State by Police Inspector Vs T. Venkatesh Murthy (Supra)* contended that merely because there was any omission, error or irregularity in the matter of according sanction, that did not affect the validity of the proceedings unless the court records the satisfaction that such error, omission or irregularity has resulted in failure of justice. The Hon'ble Court in the case of Mahendra Mahaana (supra) held that:

“15. Consideration of the material implies application of mind, therefore, the order of sanction must ex facie disclose that the sanctioning authority had considered the evidence and other materials placed before it. In every individual case, the prosecution has to establish and satisfy the Court by leading evidence that those facts were placed before the sanctioning authority and the authority had applied his mind on the same. If the sanction order on its face indicates that all relevant material i.e. FIR, disclosure statements, recovery memos, draft charge sheet and other materials on record were placed before the sanctioning authority and it is further discernable from the recital of the sanction order that the sanctioning authority perused all the materials, an inference may be drawn that the sanction had been granted in accordance with law. This becomes necessary in

case the Court is to examine the validity of the order of sanction inter alia on the ground that the order suffers from the vice of total non application of mind”.

In the instant case, PW10, the I.O deposed that on 27.04.2021, she took charge of investigation of this case and on 28.04.2021, she attended pre-sanction discussion with Sri Abanikanta Pattnaik, Spl. Secretary to Govt. GA & PG Department Govt. of Odisha, Bhubaneswar against Sri Tankadhar Kalo, Ex-AE-cum-Nodal Officer, Puntala Block, through video conferencing due to COVID-19 pandemic and before that, she had sent the entire relevant documents along with FIR to Sri Pattnaik, who went through such documents discussed with her about the evidence, asked some questions to her and clarified his doubt. She further deposed that on 15.09.2021, she received sanction order against Sri Tankadhar Kalo from GA & PG Department Govt. of Odisha, Bhubaneswar vide No. GAD-VP-VIG-0016-2020-2217/Gen, BBSR dated 31.08.2021 through S.P Vigilance, Sambalpur vide letter No.2291/CRVSBP dated 15.09.2021. The sanction order is marked as Ext.P-31/P.W.10 with objection from the side of defence. In her cross examination, she admitted that she discussed with the sanctioning authority for around one hour through V.C. While the matter stood thus, it was brought on record by filing a petition dt 3.9.2025 by the prosecution that Sri Himanshu Bhusan Panda, IOFS has accorded

sanction against accused Tankadhar Kalo and he be summoned to depose evidence, but the petition was rejected. The sanctioning authority, which the I.O is stated to have made pre-sanction discussion, Sri Abanikanta Pattnaik has not been examined by the prosecution to throw light on the matter. It is also on record that the appointing authority of the accused is Engineer in-chief, WR department, Government of Odisha. So, sanction of prosecution against accused Tankadhar Kalo appears messy. Therefore, it cannot be said that valid sanction has been obtained for prosecution of accused Tankadhar Kalo.

23. A cursory look of section 13(1)(d) of the PC Act, 1988 makes it ample clear that mere deviation from a rule or procedure by a public servant or any negligence in duty itself would not attract the offence of criminal misconduct, but to bring home charge U/s 13(1)(d) of the PC Act, 1988, the prosecution has to establish beyond reasonable doubt that such public servant has derived pecuniary advantage for himself or any other person by employing corrupt or illegal means or by abusing his position as a public servant and without any public interest. It is settled law that the phraseology “corrupt or illegal means” and “abusing his position as a public servant” employed in section 13(1)(d) PC Act, 1988 indicate that the prosecution needs to prove the *mens rea* or dishonest intention coupled with deriving pecuniary advantage to himself

or others, to bring home the charge of criminal misconduct. In the instant case, even no evidence is adduced to show that any norm or regulation or guideline have been violated by accused Kheduram Tajan while holding the office of VLW-cum-PEO of Chhatamakhana G.P and Tankadhar Kalo, Nodal Officer, Puintala Block as public servants and if the accused persons derived any pecuniary gain in the matter of allotment of IAY houses to the beneficiaries.

Point No. II

24. To constitute the offence U/s 420 of IPC, it requires that a person must commit the offence of cheating as defined u/s 415 of IPC and the person cheated must be dishonestly induced to (i) deliver property to any person or (ii) to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In this case, the prosecution though proved 2 nos. of records relating to allotment of IAY houses in favour of the beneficiaries under Ext. P-2/PW3 and Ext.P-3/PW3, but PW3 who proved the said files has not stated that accused Kheduram Tajan has manipulated any of the documents in the said record or submitted false feasibility reports. In fact, not a single document including the work order, the feasibility reports or the photographs available in the records has been proved by the prosecution through the person who was having direct knowledge with regard to those documents.

Even the signature of accused Kheduram Tajan or Tankadhar Kalo or any of the beneficiaries, if any, available in the said records are not proved so as to utilize against the accused persons. Prosecution has not taken pain to prove the reports of the accused in the case records concerned or the purported photographs showing that those were manufactured for the purpose of cheating in order to bring home charge under section 420 IPC. There is absolutely no material against accused Kheduram Tajan and Tankadhar Kalo or other accused persons that such cheating was made in connivance with each other and therefore, the offence U/s 420 IPC is not attracted against them.

Point No. III & IV

25. Both the points are taken together for the sake of brevity and convenience. In order to prove the offence U/s 468/471 of IPC, basic requirements are forgery as defined U/s 463 of IPC and making a false document as defined U/s 464 of IPC. To prove the allegation, the prosecution is required to prove that accused Kheduram Tajan and Tankadhar Kalo, being the PEO and Nodal Officer respectively forged certain documents intending that they shall be used for the purpose of cheating. The case records of the beneficiaries have been proved by the prosecution through PW3 as Exts.P-2/PW3 and Ext.P-3/PW3. PW4 was the dealing assistant of the records. He only stated that accused Kheduram Tajan was the PEO and

Tankadhar Kalo was the Block Nodal Officer of Puintals Block. He has not whispered a single word regarding any forgery committed by the accused persons. The then BDO has not been examined by the prosecution nor his signature in the case record has been proved. Accused persons KheduramTajan Tankadhar Kalo have been charged for commission of offence U/s 471 IPC on the allegation that they used the land particulars, photographs and his feasibility reports as genuine for the purpose of cheating. Neither the feasibility report was proved nor the photographs. It is not proved that those were manufactured for the purpose of this case. Since the prosecution has failed to prove that the photographs and the feasibility report as forged ones, the alleged offence is not made out against them.

Point No.V

26. Acused beneficiary Santosh Kumar Sarangi has been charged U/s 13(2) r/w 13(1)(d) of the PC Act,1988 and section 420/468/471 IPC taking aid of section 120-B of the IPC. In the case of *Parveen @ Sonu Vrs The State of Haryana* reported in **2022(I) OLR (SC) 169**, the Hon'ble Apex Court elaborately discussed the scope of Section 120-B of IPC and pleased to observe that "it is fairly well settled, to prove that charge of conspiracy, within the ambit of section 120-B, it is necessary to establish that there was an agreement between the parties for doing an

unlawful act. At the same time, it is to be noted that it is difficult to establish conspiracy by direct evidence at all, but at the same time, in the absence of any evidence to show meeting of minds between the conspirators for the intended object of committing an illegal act, it is not safe to hold a person guilty for an offence U/s 120-B of IPC. A few bits hear and a few bits there, on which prosecution relies, cannot be held to be adequate for connecting the accused with the commission of crime of criminal conspiracy.”

In the case in hand, prosecution has failed to lay cogent and reliable evidence either oral or documentary, to show that the so called beneficiaries were ineligible to get IAY houses or that after being allotted with IAY houses, they had not constructed their houses though they received fund through bank. Further, there is dearth of admissible evidence that there was meeting of mind of the accused persons or a conspiracy was hatched by the beneficiaries with accused Kheduram Tajan and Tankadhar Kalo to get the benefit of IAY houses where the accused persons were to submit phase wise completion of the houses. In view of the aforesaid discussion, when the prosecution failed to prove the fundamental fact to establish the offence u/s 13(2) and 13(1) (d) of the PC Act, 1988 against accused persons Kheduram Tajan and Tankadhar Kalo and other offences under the IPC, no

underlying offence existed to sustain a conspiracy taking aid of section 120-B of IPC.

27. In view of the foregoing discussion, this court has got no other alternative but to arrive at a conclusion that the prosecution has miserably failed to prove a case U/s 13(2) r/w 13(1)(d) PC Act, 1988 and sections 420/468/471/120-B IPC against the accused persons beyond reasonable doubt and as such, they are held not guilty under U/s 13(2) r/w 13(1)(d) PC Act, 1988 and sections 420/468/471/120-B IPC and acquitted therefrom by extending them benefit of doubt u/s 248(1) Cr.P.C. They be discharged from the bail bonds along with the sureties, if any.

28. The seized case records vide Ext.P-2/PW3 and Ext.P-3/PW3 be returned to the concerned Offices after substitution of the certified copies thereof as per rule. The disposal of property if any, be made four months after expiry of the appeal period and in case of appeal, as per the orders of the Hon'ble Appellate court.

29. In compliance to the provisions of section 437-A Cr.P.C, the accused persons are directed to furnish bail bond of Rs.20, 000/- with one solvent surety on or before 24th July, 2026 to appear before the Hon'ble Appellate Court, as and when such court issues notice in respect of any appeal or petition filed against this judgment.

This Judgment is pronounced in the open Court on this the 22nd day of July, 2026 under my hand and

seal of the Court, after it was dictated on the Computer to the Stenographer and corrected by me.

**Special Judge (Vigilance),
Balangir**

FORM –C

<u>LIST OF PROSECUTION/DEFENCE/COURT WITNESSES</u>		
A. Prosecution witnesses		
RANK	NAME	NATURE OF EVIDENCE
P.W.1	Asutosh Mishra	Official witness
P.W.2	Bhojaraj Dash	Official/seizure witness
P.W.3	Upendra Majhi	Official witness
P.W.4	Pramod Kumar Singh	Official witness
P.W.5	Jita Mahakud	Independent witness
P.W.6	Akula Sahu	Independent witness
P.W.7	Gunamani Sunani	Official witness
P.W.8	Sadananda Pani	Official witness
P.W.9	Parameswar Kishan	Investigating Officer.
P.W.10	Kabita Sahu	Investigating Officer
B. Defence witness if any:		
RANK	NAME	NATURE OF EVIDENCE
NIL		
<u>LIST OF PROSECUTION/DEFENCE /COURT EXHIBITS</u>		
A. Prosecution Exhibits		
SL.NO.	EXHIBIT NUMBER	DESCRIPTION
1	Ext.P-1/P.W.2	Seizurelist.
2	Ext.P-1 ¹ /P.W.2	Signature of P.W.2
3	Ext.P-2/P.W.3	Record vide IAY case No 186/2014-15
4	Ext.P-3/P.W.3	Record IAY case no.212 of 2015-16.
5	Ext.P-4/P.W.7	Requisition made by the vigilance police
6	Ext.P-4 ¹ /P.W.7	Signature of P.W.7

7	Ext.P-5/P.W.7	Demarcation report with sketch map.
8	Ext.P-5 ¹ /P.W.7	Signature of P.W.7
9	Ext.P-6/P.W.8	Memorandum prepared in respect of Dasarathi Mishra.
10	Ext.P-6 ¹ /P.W.8	Signature of P.W.8
11	Ext.P-7/P.W.8	Memorandum prepared in respect of Santosh Kumar Sadangi
12	Ext.P-7 ¹ /P.W.8	Signature of P.W.8
13	Ext.P-8/P.W.8	FIR
14	Ext.P-8 ¹ /P.W.8	Signature of P.W.8.
15	Ext.P-8 ² /P.W.8	Formal FIR
16	Ext.P-7 ² /P.W.2	Signature of P.W.2
17	Ext.P-9/P.W.9	Letter No. 22736 dt. 23.9.2017 of the Panchayat office, Puintala.
18	Ext.P-10/P.W.9	Letter No. 2737 dated 27.9.2017 alongwith office order no. 739 dt. 26.3.2015 of Panchayat office, Puintala.
19	Ext.P-11/P.W.9	Letter No. 72 dt. 9.8.2017 of R.I Sauntpur
20	Ext.P-1 ² /P.W.9	Signature of P.W.9
21	Ext.P-12/P.W.9	Requisition Letter No 1238 dated 19.10.2017 to the UGB, Chhatamakhna.
22	Ext.P-12 ¹ /P.W.6	Signature of P.W.9
23	Ext.P-13/P.W.9	Reply letter dt 20.10.2017 of B.M, UGB Chhatamakhna.
24	Ext.P-14/P.W.9	Requisition Letter No. 1248 dt 21.10.2017 of the DSP, Vigilance, Balangir to the BDO, Puintala.
25	Ext.P-14 ¹ /P.W.9	Signature of P.W.9
26	Ext.P-15/P.W.9	Reply letter No. 3359 dt.23.10.2017 of the BDO, Puintala.
27	Ext.P-16/P.W.9	Letter No. 3478 dt. 21.10.2017 of the BDO, Puintala
28	Ext.P-17/P.W.9	Requisition Letter No. 1255 dt 22.10.2017 of the DSP, Vigilance, Balangir to the BDO, Puintala
29	Ext.P-17 ¹ /P.W.9	Signature of P.W.9

30	Ext.P-18/P.W.9	Requisition Letter No.207 dt 15.2.2018 of the DSP, Vigilance, Balangir to the BM UGB, Chhatamakhna
31	Ext.P-18 ¹ /P.W.9	Signature of P.W.9
32	Ext.P-19/P.W.9	Letter No.139 dt. 12.2.2018 BM, UGB Chhatmakhna alongwith the vouchers.
33	Ext.P-4 ² /P.W.9	Signature of P.W.9
34	Ext.P-20/P.W.9	Requisition Letter No. 630 dt 29.6.2018 of the DSP, Vigilance, Balangir to the BDO, Puintala
35	Ext.P-20 ¹ /P.W.9	Signature of P.W.9
36	Ext.P-21/P.W.9	Letter No. 2940 dt.29.6.2018 of the BDO, Puintala alongwith the information.
37	Ext.P-22/P.W.9	Requisition Letter No. 1073 dt 20.08.2018 of the DSP, Vigilance, Balangir to the RTO, Bargarh.
38	Ext.P-22 ¹ /P.W.9	Signature of P.W.9
39	Ext.P-23/P.W.9	Letter No. 3506 dt. 28.8.2018 of RTO, Bargarh
40	Ext.P-24/P.W.9	Requisition Letter No. 1074 dt 20.8.2018 of the DSP, Vigilance, Balangir to the Tahasildar, Puintala
41	Ext.P-24 ¹ /P.W.9	Signature of P.W.9.
42	Ext.P-25/P.W.9	Reply letter of Tahasildar, Puintala vide letter no. 1568 dt 27.8.2018
43	Ext.P-26/P.W.9	Requisition Letter No. 1147 dt 1.9.2018 of the DSP, Vigilance, Balangir to the Deputy Commissioner Commercial Tax, Balangir.
44	Ext.P-26 ¹ /P.W.9	Signature of P.W.9.
45	Ext.P-27/P.W.9	Reply letter No. 1567/CT & GST, Balangir.
46	Ext.P-28/P.W.9	Requisition vide No. 1146 dated 1.9.2018 of DSP, Vigilance, Balangir to the Tahasildar, Puintala.

47	Ext.P-28 ¹ /P.W.9	Signature of P.W.9
48	Ext.P-29/P.W.9	Reply letter No. 1607 dt. 3.9.2018 of Tahasildar, Puintala
49	Ext.P-30/P.W.9	Sanction order against accused Kheduram Tajan
50	Ext.P-30 ¹ /P.W.9	Letter No. 968 dated 14.12.2020 of the S.P, Vigilance, Sambalpur.
51	Ext.P-31/P.W.10	Sanction order dt. 31.8.2021 of accused Tankadhar Kalo
52	Ext.P-31 ¹ /P.W.10	Letter No. 2291 dated 15.09.2021 of the S.P, Vigilance, Sambalpur.
53	Ext.P-31 ² /P.W.10	Letter No 15014 dt. 8.9.2021 of Director of Vigilance, Cuttack.
54	Ext.P-32	Guidelines of Indira Awas Yojana, 2013.
55	Ext.P-33	Briefing book of Indira Awas Yojana.
B. Defence Exhibits		
SL.NO	EXHIBIT NUMBER	DESCRIPTION
NIL		
C. Court Exhibits, if any		
SL.NO	EXHIBIT NUMBER	DESCRIPTION
Nil		
D. Material Objects:		
SL.NO	MATERIAL OBJECT NUMBER	DESCRIPTION
Nil		

Special Judge (Vigilance)
Balangir