

**(IN THE COURT OF GAURAV RAO, SPECIAL JUDGE (CBI-01)
(PC ACT), ROUSE AVENUE COURT COMPLEX,
NEW DELHI.**

Criminal Appeal No. 03/2025

RC No. RC06A2002/CBI/SCU.V/SC.II/New Delhi dated 18.04.2002

CNR No. DLCT11-000861-2025

Central Bureau of Investigation

.....Prosecution/appellant

Versus

1. Kundan Singh

S/o Sh. Dharam Singh

R/o H1-1002, Tower-I, Classic Residency,
Raj Nagar Extension, Ghaziabad, UP.

2. Hemwant Kumar

s/o Late Sh. Brij Mohan Bhatt

R/o 545, Kamla Nehru Nagar,
Ghaziabad, UP.

3. Anita Umrao @ Annu Agarwal @ Annu

w/o Late Sh. Narender

R/o B-21, Suyog Building,
Varsova Link Road, Plot no. 32-33,
Andheri West, Mumbai.

.....accused persons/respondents

Date of institution :	10.06.2025
Date of arguments :	24.03.2026
Date of judgment :	28.03.2026
Decision :	Appeal partly allowed

JUDGMENT

1. The present appeal has been preferred by CBI (hereinafter referred to as the appellant) against judgment dated 11.03.2025 passed by the court of Ld. ACJM-2-cum-ACJ, Rouse Avenue District Court, New Delhi in CC No. CBI/309/2019 (hereinafter referred to as impugned judgment) vide which all three accused persons/respondents were acquitted.

Brief Facts of the case as per charge sheet filed before the Ld. Trial Court

2. It was the appellant's case, before the Ld. Trial Court, that one RC bearing no. 1/99-SIU.V/SIC.II/CBI New Delhi was registered by it and during the course its investigation certain passports were recovered from locker No. 42 of Anita Umrao @ Annu Agarwal @ Annu (respondent/accused no. 3 & in short A-3) maintained at HDFC Bank, Old Rajender Nagar Branch, New Delhi on 09.11.2001.

2.1 It was further its case that after preliminary enquiry FIR No. 6(A)/2002 dated 18.04.2002 was registered against A-3, Kundan Singh (accused/respondent no. 1 & in short A-1) and Hemwant Kumar (accused/respondent no. 2 & in short A-2) under Section 120B, 420, 467, 468, 474 & 201 IPC, section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 (hereinafter referred to as PC Act) and Section 12(1)(b) of Passport Act 1967 on the basis of complaint filed by Shri Karnail Singh, the then Inspector, CBI SIC.II, New Delhi.

2.2 It was its case that A-3 and A-1 & A-2 (both employed as UDC & LDC respectively at Passport Office, Ghaziabad) during the year 1998, dishonestly & fraudulently with ulterior motive entered into criminal conspiracy with each other and with some unknown persons to forge and deliver two Indian Passports, a valuable security, with a view to defraud the Passport office, Ghaziabad. In pursuance of said criminal conspiracy, A-1 and A-2 forged passports No. A-5885047 dated 07.08.1998 & A-5885406 dated 14.08.1998 showing them to have been issued in the fictitious names of Naram Bhai Verma & Narang Joshi respectively by interpolating the entries and pasting photograph of some unknown person in the passports in different poses, whereas the said passports were to be issued to Shri Prem Chand Singh S/o Dhani Ram r/o Muzaffra Bagarapur, Ghaziabad and Shri Bhupinder Singh s/o Rajinder Singh r/o Tiwada Road, Modi Nagar, Ghaziabad who were the actual applicants and the said passport booklets were marked for issuing passport in their names.

2.3 It was its case that A-3, suspected to be involved in case RC. 1/99-CBI SIC.II, owned locker No. 42 in HDFC Bank, old Rajinder Nagar Branch, New Delhi and was brought to CBI office on 04.11.2001, when she visited the said bank for operating the said locker and was arrested. She remained in police custody till 08.11.2001 and was subsequently released on bail. During interrogation, she pleaded that the key of said locker was lost and therefore, on the strength of a search warrant issued by the Ld. Metropolitan Magistrate, the search of the said locker was conducted on 09.11.2001 by Shri S.N. Saxena,

Addl.SP,CBI SIC.II New Delhi, during which search apart from other articles, the above two passports, both issued from passport office Ghaziabad were recovered and seized. The photograph affixed on both passports was of same person in different poses, indicating their doubtful authenticity on the face of it.

2.4 It was the appellant's case that A-3 jumped bail after being released on 08.11.2001 and she remained untraceable.

2.5 It was further its case that Sh. Prem Chand Singh applied for passport in Passport Office, Ghaziabad on 30.03.1998, file No. 402/3682/98 was opened in his name and the Passport Office, Ghaziabad sent the personal particulars form of Shri Prem Chand Singh to the concerned Police authorities for verification. After receipt of clearance from the Police Authorities a decision was taken for granting the passport to him and A-1, who was the passport writer, was entrusted with the task of writing the passport of Shri Prem Chand Singh on 07.08.1998.

2.6 It was its case that Sh. Hans Raj, Superintendent entrusted 40 blank passport booklets from Sl. No. A-5885031 to A-5885070 to A-1 on 07.08.1998 for writing the passport on the basis of files received by him from the Grant Section which included the file of Shri Prem Chand Singh. A-1 wrote the passport booklet No. A-5885047 in the name of Shri Prem Chand Singh and he also made corresponding entries in the Passport Writing Register which included name, home address, date & place of birth, name of relatives etc. As per prevalent practice, he also

affixed all the required rubber stamps including the stamp of Shri Daya Ram, Superintendent who was supposed to sign the passport. As per office record, all the said 40 passports with concerned files including the passport of Shri Prem Chand Singh were handed over to A-2, Incharge Lamination and Pasting Section after obtaining acknowledgment.

2.7 It was its case that A-2 was deputed by the then Passport Officer vide office order No. 4(2) Admn./P.O./GZB/97 dated 18.06.1998 to work as Incharge Lamination and Pasting Section. His duty was to paste the photograph of the applicants and signature slip after taking out the same from the concerned file which also contained photograph of the applicants affixed on the application form and police verification report. In pursuance of the criminal conspiracy between A-1 and A-2, A-2 instead of pasting photograph of Shri Prem Chand Singh (which was in black and white) pasted another photograph of a different person and he also pasted signature slip of Shri N.K. Verma, instead of signature slip of Shri Prem Chand Singh. A-1 and A-2 also managed and maneuvered to erase the name and particulars of Shri Prem Chand Singh and got written the name of Shri Narambhai Verma, date of birth as 07.08.1956, place of birth Faridabad, father's name as Kashibhai, mother's name as Gangaben, spouse name as Mayaben and he also got changed the file No. 402/3682/98 of Shri Prem Chand Singh to be read as 402/4127/98. Before laminating the said passport, a bogus cross signature purported to have been done by Shri Daya Ram, Superintendent was made on the top corner of photograph though system of cross signatures was not prevalent on 07.08.1998 as it was

discontinued vide circular No. VI/401/1/96 dated 05.09.1997. It was its case that passport No. A-5885047 was never dispatched as per dispatch register of passport office, Ghaziabad and it was never received by Shri Prem Chand Singh.

2.8 It was further its case that Shri Bhupender Singh also applied for passport in Passport Office, Ghaziabad on 23.04.1998, accordingly file No. 402/4522/98 was opened in his name and the Passport Office, Ghaziabad sent the personal particulars form of Shri Bhupender Singh to the concerned Police authorities for verification. After receipt of clearance from the Police Authorities, a decision was taken for granting the passport to Shri Bhupender Singh and A-1 was entrusted with the task of writing the passport of Shri Bhupender Singh on 14.08.1998.

2.9 It was its case that Shri Hans Raj, Superintendent entrusted 40 blank passport booklets from Sl. No. A-5885393 to A-5885432 to A-1 on 14.08.1998 for writing the passports on the basis of files received by him from the Grant Section which included the file of Shri Bhupender Singh. A-1 wrote the passport booklet No. A-5885406 in the name of Shri Bhupender Singh and he also made corresponding entries in the Passport Writing Register which included name, home address, date & place of birth, name of relatives etc. As per prevalent practice, A-1 also affixed all the required rubber stamps including the Stamp of Shri Hans Raj, Superintendent who was supposed to sign the passport. As per office record, all the said 40 passports with concerned files

including the passport of Shri Bhupender Singh were handed over to A-2 after obtaining acknowledgment.

2.10 It was its case that A-2 instead of pasting the photograph of Shri Bhupender Singh (which was in black and white) pasted another photograph of a different person and he also pasted signature slip of Shri N. Joshi, instead of signature slip of Shri Bhupender Singh. Both A-1 and A-2 in pursuance of the criminal conspiracy managed and maneuvered to erase the name and particulars of Shri Bhupender Singh and got written the name of Shri Narang Joshi, date of birth as 01.06.1957, place of birth as Modinagar, father's name as Kashi Ram, mother's name as Ganga Devi, spouse name as Maya Devi. He also got changed the file No. 402/4522/98 of Shri Bhupender Singh to be read as 402/2615/98. Before laminating the said passport, a bogus cross signature purported to have been done by Shri Hans Raj, Superintendent was made on the top corner of photograph though system of cross signatures was not prevalent on 14.08.1998 as it was discontinued vide circular No. VI/401/1/96 dated 05.09.1997. It was its case that passport No. A-5885406 was never dispatched as per dispatch register of passport office, Ghaziabad and it was never received by Shri Bhupender Singh, applicant.

2.11 It was further its case it has been confirmed by the hand writing expert that A-1 wrote page -1 of passport No. A-5885406 and all 7 lines including forged portion containing the name of Shri Narang Joshi and other particulars were forged by him. The witnesses of the

passport office also confirmed writings of A-1 on the said two passports.

2.12 It was its case that both the said passports (No. A-5885047 and A-5885406) contain genuine security marks engraved on the laminated area as a result of application of metallic security strip used by the Passport Office at the time of lamination indicating that the laminated part of this passport was never opened and the same is intact.

2.13 It was its case that as a result of the criminal conspiracy among said three accused persons, above two passports reached the hands of A-3 who used the same knowingly well that both the passports were forged and they were found in her possession.

2.14 It was its case that passport No. A-5885406 was submitted by Shri Narang Joshi in the U.S. Embassy for obtaining visa of U.S.A. on 06.10.1998 and 15.10.1998 which was declined by the U.S. Embassy and thus, an attempt was made to use the above bogus passport.

2.15 It was further its case that as per office order No. 4(2)/97/PO/Admn./GZB dated 18.11.1998 A-3 was posted as Incharge, Record Room w.e.f. 18.11.1998 and in furtherance of the said criminal conspiracy, the Passport file No. 402/3682/98 of Shri Prem Chand Singh and Passport File No. 402/4522/98 of Shri Bhupinder Singh were also removed from the Passport Office, Ghaziabad with a view to cause disappearance of evidence with an intention to screen the offender from

legal punishment and said files could not be traced out. Only the Index Card of the concerned files could be located, being kept in separate section which contains the original particulars of the applicants and their genuine photographs.

2.16 It was its case that it has been confirmed by expert of Central Forensic Science Laboratory, New Delhi that the laminated portion of the above two passports was never opened and it is intact, which confirms that all the erasures/forgery done in the passports was done within the Passport Office, Ghaziabad before lamination. Handwriting expert also confirmed that the signatures of Shri Daya Ram and Shri Hans Raj, Passport Issuing Authorities on the said two passports are forged.

2.17 It was its case that the aforesaid facts and circumstances constitute offences punishable under section 120B, read with sections 420, 467, 468, 474, 201 of Indian Penal Code (45 of 1860) and section 12 (1) (b) of the Passport Act, 1967 (15 of 1967) as well as substantive offences punishable under sections 420, 467, 468, 474 and 201 of the Indian Penal Code (45 of 1860) and section 12 (1) (b) of the Passport Act, 1967 (15 of 1967) against the accused persons. The sanction granted by the Central Govt. as envisaged u/s 15 of Indian Passport Act 1967 was enclosed with the charge sheet.

Trial

3. Cognizance of the offence was taken by Ld. Trial Court vide orders dated 06.01.2005 and though the charge sheet was filed against all three accused persons, however, A-3 remained absconding and she was declared Proclaimed Offender by the Ld. Trial Court vide order dated 17.05.2007.

3.1 Vide orders dated 16.10.2007 charge for commission of offences u/s 12 (1) (b) of the Passport Act 1967 and 420/467/468/474 and 201 IPC r/w section 120B IPC and for offence u/s 120B IPC was held to be made out against A-1 & A-2. However in the formal charge of even date, no charge for offence u/s 120B IPC was framed against A-1 & A-2. Also though the FIR was initially registered u/s 13 (2) r/w section 13 (1) (d) of the PC Act, however, the charge sheet was not filed for the said offence and it is silent as to why the said offence/sections were omitted.

3.2 During the course of trial A-3 was arrested and supplementary charge sheet was filed against her. On 02.06.2016 the Ld. Trial Court framed charges for commission of offence u/s 120B IPC r/w section 420/467/468/201 IPC and Section 474 IPC as well as section 12 (2) r/w section 12(1) (b) of the Passport Act against her, however, she was discharged for offence u/s 174A IPC.

3.3 Prosecution examined 31 witnesses in support of its case and vide order dated 05.12.2024 the prosecution evidence was closed.

Thereafter the accused persons were examined u/s 313 Cr.P.C. wherein they claimed innocence and denied the allegations, evidence appearing against them. Out of the three accused, only A-1 led defence evidence wherein he examined two witnesses in his defence i.e. DW1 Majid Ali and DW2 Devak Ram.

3.4 The sum and substance of the deposition of the prosecution and the defence witnesses has been detailed in para 15 and 20 of the judgment of Ld. Trial Court which is being reproduced hereunder:-

“15. To prove its case, the prosecution has examined the following witnesses:-

i. PW1 Jeevan Lal- An official posted at Passport Office, Ghaziabad. He described the procedure for issuance of a passport. He proved his letters Ex. PW1/1 (D-13) and PW1/12 (D-25) vide which he provided various documents to CBI. He was also a witness to the specimen stamp impressions of the Passport Office and specimen handwriting of Dayaram.

ii. PW2 Prem Chand Singh- the original applicant with respect to whom file no. 402/3682/98 was opened. He deposed that he had applied for a passport; someone had come to his house for the purpose of verification but he did not get his passport.

iii. PW3 Bhupinder Singh- the original applicant with respect to whom file no. 402/4522/98 was opened. He deposed that he and his family members had applied for passports; while all other family members received their passports, he did not receive his passport; some police official had visited his house for the purpose of verification.

iv. PW4 Subedar Singh- the official posted at the counter of Passport Office, Ghaziabad to receive the application forms and make its entry in the register. He proved diary no. 402/2615/98 on the application of Alok Punj Ex. PW1/2 and its corresponding entry in the diary register (D9) Ex. PW1/5. He informed that after receiving the application, the application is forwarded to Index Section, Administration Section and for police verification. He proved the relevant entry on the rubber stamp register Ex. PW4/1

through which a stamp was issued to him. He informed that at the time of shifting of the Passport Office, one of the stamps had got lost; since he was posted at the Counter where stamp was not required, he did not get another stamp issued.

v. PW5 Salauddin Faruqi- posted as Passport Officer at RPO, Ghaziabad at the relevant time. He proved the office orders Ex. PW5/A and Ex. PW5/B issued by him as per which accused Hemwant Kumar (A-2) was deputed to attend enquiries at the counter and pasting of passports. In his initial examination, he could not identify the signatures of Dayaram and Hansraj, Superintendents on the passports no. A5885047 Ex. PW6/A and no. A5885406 Ex. PW3/A. In his subsequent examination, he stated that the signatures of Dayaram and Hansraj appearing on these passports were forged.

vi. PW6 Krishan Kumar- LDC in RPO, Ghaziabad during the relevant time deposed that the signatures of Hansraj and Dayaram appearing on passports no. A5885047 Ex. PW6/A and no. 5885406 Ex. PW3/A were forged. He further deposed that round stamps were issued in the name of Subedar Singh and Hemwant Kumar (A-2). The witness, however, did not identify the handwriting in seven lines of passports no. A-5885047 Ex. PW6/A. The witness was declared hostile by the Ld. APP but in his cross-examination, he denied that the writings appearing at point 'X' to 'X1' (Q8 & Q14) on passport Ex. PW3/A and at point 'Y' to 'Y1' (Q1 & Q7) on passport Ex. PW6/A to be that of accused Kundan Singh (A-1).

vii. PW7 V.K. Verma- an official posted at RPO, Ghaziabad. He deposed that he had worked in various sections of the Passport Office; he described the procedure for obtaining a passport; he proved the entry no. 4127 in the name of Harjinder Singh in the register Ex. PW1/5 (D-9), index card in the name of Harjinder Singh Ex. PW7/A (D-12) and other documents. He did not identify the handwriting of accused Kundan Singh (A-1) on points 'X' to 'X1' (Q8 & Q14) on passport Ex. PW3/A and at point 'Y' to 'Y1' (Q1 & Q7) on passport Ex. PW6/A. He was declared hostile by the Ld. APP but he denied that he ever gave such a statement to the CBI.

viii. PW8 Smt. Rajinder Kaur- She is the wife of Harjinder Singh, the original passport applicant with respect to whom file no. 402/4127/98 was opened. She deposed that her husband had applied for a passport but did not receive it; she along with her husband had come to the Passport Office, Ghaziabad where they were informed that the original application form was not traceable and they were advised to give a fresh application which they did.

ix. PW9 Hansraj- The Superintendent, Passport Office, Ghaziabad at the relevant time. He deposed that his duty was to grant passport, signing of passport, dealing with the applicants, administration of the office and Drawing and Disbursing Officer of the office. He described the procedure for obtaining a passport. He denied his signatures on the passport no. A-5885406 Ex. PW3/A. He also stated that the passport no. A-5885047 Ex. PW6/A do not bear signatures of the other Superintendent Dayaram. He did not identify the initials/signatures appearing at point 'C' under the dates 07.08.1998 and 14.08.1998 in the Passport Distribution Section to Pasting Register Ex. PW1/7 (D-11). He was declared hostile and was crossexamined by the Ld. APP. However, he denied having identified the signatures at point 'C' to be that of Hemwant Kumar (A-2).

x. PW10 Majid Ali- an official from RPO, Ghaziabad. He proved the report Ex. PW10/A as per which it was stated that the original stock register of the year 1998 was not traceable.

xi. PW11 Prem Singh- an official posted at RPO, Ghaziabad at the relevant time. He deposed that the purported signature of Superintendents Hansraj and Dayaram appearing on the passports Ex. PW3/A and Ex. PW6/A were not their genuine signatures. He proved various office orders. He did not identify the handwriting on the passports no. A5885047 Ex. PW6/A and no. A5885406 Ex. PW3/A to be that of Kundan Singh (A-1). He was declared hostile by the Ld. APP and was cross-examined. He reiterated that he could not identify the handwriting of Kundan Singh (A-1) on passports Ex. PW6/A and Ex. PW3/A.

xii. PW12 Krishan Kumar- an official of the RPO, Ghaziabad at the relevant time. He deposed that he had joined as a Casual Labour on 02.03.1998; accused Hemwant Kumar (A-2) was working as a Peon in the said office; he never worked with accused Hemwant Kumar (A-2).

xiii. PW13 Anil Kansal- a resident of Village Muzaffra Bagarpur, District Hapur, UP. He proved the report Ex. PW13/A of the then Pradhan, Gram Panchayat to the effect that no person in the name of Naram Bhai Verma was residing in the said village.

xiv. PW14 Parsoon Malviya- an official in the RPO, Ghaziabad. He proved seizure memo Ex. PW14/A vide which he had provided some documents to the CBI.

xv. PW15 Sangeeta Saxena- the Branch Manager, HDFC Bank, Old Rajender Nagar, New Delhi where accused Anita Umrao (A-3) was

maintaining her locker. She facilitated search of the locker and proved the inventory memo Ex. PW15/A (D-2).

xvi. PW16 Ashok Kumar Amrohi- Chief Passport Officer and Sanctioning Authority with respect to the offences committed under the Passports Act, 1967. He proved the sanction order Ex. PW16/A.

xvii. PW17 G.M. Ansari- He proved his verification report Ex. PW17/B (D-32) as per which he tried to ascertain the whereabouts of Narang Joshi but no such person was found to be living in the locality.

xviii. PW18 Sunit Kumar Sharma- Witness to specimen handwritings Ex. PW18/B of accused Kundan Singh (A-1). Proved seizure memo Ex. PW14/A through which documents were handed over to the CBI.

xix. PW19 Anand Vats- Independent witness to the specimen handwriting of accused Hemwant Kumar (A-2) Ex. PW19/A.

xx. PW20 Sant Pal- Independent witness to the specimen handwritings of accused Kundan Singh (A-1) and Hemwant Kumar (A-2).

xxi. PW21 ASI Joginder Singh- Constable in CBI deputed to execute the processes in the name of Naram Bhai Verma and Narang Joshi.

xxii. PW22 Rajender Singh Gosain- proved inventory memo/search memo of locker no. 42 Ex. PW15/A and identified his signatures on it.

xxiii. PW23 S.L. Mukhi- Principal Scientific Officer, CFSL, New Delhi. He proved his reports Ex. PW23/E, Ex. PW23/G, Ex. PW23/I and Ex. PW23/K alongwith various other documents.

xxiv. PW24 Dr. Bibha Rani Ray- Director, CFSL, New Delhi conducted polygraph test of accused Hemwant Kumar (A-2) and gave her opinion Ex. PW24/B.

xxv. PW25 Rajesh Monga- Surety for accused Anita Umrao (A-3).

xxvi. PW26 Karnail Singh- The complainant and first Investigating Officer.

xxvii. PW27 Anant Shankar Bawkar- Manager, Suyog Konkan Sahakari Vasahat Cooperative Housing Society where accused

Anita Umrao was residing. He proved his letter Ex. PW27/A through which certain documents were handed over to the CBI.

xxviii. PW28 Javed Siraj- Investigating Officer.

xxix. PW29 Ram Niwas Maharia- proved execution report Ex. PW29/1, proclamation notice Ex. PW29/2, execution report of notice under Section 82 CrPC Ex. PW29/3, report of the owner of the address of accused Anita Umrao (A-3) Ex. PW29/4, execution report of notice under Section 82 CrPC Ex. PW29/5, report of the Chairman, Konkan Sahakari Vasahat Cooperative Housing Society Ex. PW29/6 and his letter Ex. PW29/7 seeking assistance of Mumbai Police.

xxx. PW30 Bachu Singh- proved letter Ex. PW30/1 of the SP, CBI for attachment of the property of accused Anita Umrao (A-3). He also proved his report Ex. PW30/2 in this regard.

xxxi. PW31 Balbir Singh- filed supplementary charge-sheet against accused Anita Umrao (A-3) for offence under Section 174-A.

.....

.....20. In defence, accused Kundan Singh (A-1) examined DW1 Majid Ali, a Casual Labour (Peon) in the Passport Office, Ghaziabad during the year 1997. He detailed the procedure for issuance of a passport. Besides this, accused Kundan Singh (A-1) also examined an expert witness DW2 Devak Ram, who gave his opinion Ex. DW2/1 on the handwriting marked 'Q8/1' appearing on the passport Ex. PW3/A."

3.5 The detailed deposition, testimony of these witnesses has not been reproduced herein to avoid repetition and the same has been discussed at length in the later part of this judgment while discussing the rival contentions raised at bar.

Appeal/grounds of appeal

4. It is the appellant's case that the Ld. Trial Court has erroneously not appreciated the evidence/depositions of various

witnesses and exhibited documents. The appellant has reproduced the testimony of the prosecution witnesses, which according to it, supported its case but was not appreciated by the Ld. Trial Court. The relevant portions of the testimony, as reproduced in the appeal, are not being reproduced in this judgment so as to avoid unnecessary repetition but they have been considered, appreciated and discussed at length in this judgment.

Findings

5. I have heard the rival contentions raised at bar by the Ld. Defence Counsels and Ld. PP from CBI (Branch). I have also considered the appeal as well as the Trial Court Record carefully. I would also like to make a note of appreciation for the efforts put in and assistance provided by the regular Ld. PPs of this court i.e. Ms. Jyoti Solanki and Ms. Bindu who devoted extra time for this matter.

5.1 I have also considered the reply-cum-written submissions filed on behalf of A-1 and the relied upon laws i.e. *Chandrappa Vs. State of Karnataka (2007) 4 SCC 415, Ramesh Harijan Vs. State of UP 2012 AIR SCW 2990, Murugesan Vs. State through Inspector of Police 2012 AIR SCW 5627, State of Rajasthan Vs. Kistoora Ram, Supreme Court Criminal Appeal no. 2119/2010 dated 28.07.2022, Ramesh and anr Vs. State of Karnataka 2024 INSC 701, CBI Vs. Ashok Kumar Aggarwal 2014 CriLJ 930, Mansukhal Vithaldas Chauhan Vs. State of Gujarat 1997 (7) SCC 622, P.L. Tatwal Vs. State of MP 2014 AIR SC 2369, State of Tamil Nadu Vs. MM Rajendra (1998) 9 SCC 268, State*

of UP Vs. Charles Gurmukh Sobhraj AIR 1996 SC 3473, Magan Bihar Lal Vs. State of Punjab AIR 1977 SC 1091, State of Rajasthan Vs. Chandrabhan SB Criminal Leave to Appeal No. 270/2024 Rajasthan High Court, Vinod Kumar Vs. State (Govt. of NCT of Delhi) 2025 INSC 209, Munshi Prashad and ors Vs. State of Bihar AIR 2001 SC 3031, Tomaso Bruno and anr Vs. State of UP 2015 AIR SCW 890 and Mohan Shamji Soni Vs. Union of India AIR 1991 SC 1346.

5.2 Ld. Counsel for A-2 relied upon Dr. Vimla Vs. Delhi Administration 1963 AIR 1572 and Kailash Gaur Vs. State of Assam 2012 (2) SCC 34 in support of his arguments.

5.3 Before discussing the merits of the case it would be trite to refer to the general principles culled out by the Hon'ble Apex Court, regarding the powers of Appellate court, in Chandrappa (supra) which reads as:-

“(1) An appellate Court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded;

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law;

(3) Various expressions, such as, 'substantial and compelling reasons', 'good and sufficient grounds', 'very strong circumstances', 'distorted conclusions', 'glaring mistakes', etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of 'flourishes of language' to emphasize the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused.

Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

5.4 It is well settled that the Appellate Court has the power, right to review, re-appreciate and re-consider the entire evidence and arrive at its own conclusion, of course keeping in view the well established rule that the presumption of innocence of the accused is not weakened but strengthened by the judgment of acquittal passed by the trial court which had the advantage of observing the demeanor of witnesses whose evidence have been recorded in its presence.

5.5 Interference, with the trial court’s order of acquittal, in a routine manner where the view taken by the trial court is a possible, probable view should be avoided unless there are good reasons for interference. It has further been held in *Alarakha K. Mansuri Vs. State of Gujarat (2002) 3 SCC 57* as “*The paramount consideration of the court should be to avoid miscarriage of justice. A miscarriage of justice which may arise from the acquittal of guilty is no less than from the conviction of an innocent. In a case where the trial court has taken a view based upon conjectures and hypothesis and not on the legal evidence, a duty is cast upon the High Court to re- appreciate the evidence in acquittal appeal for the purposes of ascertaining as to whether the accused has committed any offence or not. Probable view taken by the trial court which may not be disturbed in the appeal is such a view which is based upon legal and admissible evidence. Only because the accused has been acquitted by the*

trial court, cannot be made a basis to urge that the High Court under all circumstances should not disturb such a finding”.

5.6 Having discussed the law relating to the powers of the Appellate court, let us now examine the matter on merits.

Recovery of passports nos. A-5885406 Ex. PW3/A & A-5885047 Ex. PW6/A and role of A-3 (Anita Umrao)

6. The present case RC-6(A)/2002-SIU.V/SIC.II came to be registered on 18.04.2002 subsequent to recovery of certain passports, in addition to other articles, on 09.11.2001 from the locker no. 42 of A-3 as was maintained at HDFC Bank, Old Rajender Nagar, New Delhi. This search, as deposed by PW28 Sh. Javed Siraj, was conducted by Sh. S.N. Saxena during the investigation of RC no. 1/99-SIU-V/SIC/CBI, wherein several passports were recovered out of which two passports i.e. passport no. A-5885047 & A-5885406 were having photographs of the same person in different posses. A preliminary enquiry was registered and investigated by the then Insp. Karnail Singh (PW26) who on completion of enquiry recommended registration of present case FIR i.e. Ex. PW26/B.

6.1 As far as recovery of passports in question is concerned, the Ld. Trial Court on evaluating the evidence led by the prosecution especially the testimony of PW15, PW22 and PW26 came to the conclusion that the recovery of passports from the locker of A-3 stands duly proved on record. The detailed observations of the Ld. Trial Court

and the material brought by the prosecution during the trial sufficiently establishes the factum of recovery of passports from the locker of A-3 and I find no infirmity whatsoever in the said findings of the Ld. Trial Court.

6.2 PW15 Smt. Sangeeta Saxena, Branch Manager, HDFC Bank, Old Rajender Nagar categorically deposed that Insp. R.S. Gosain (PW22) and Sh. S.N. Saxena, the then Additional SP CBI had visited her branch requesting seizure of the contents/articles from the locker in the name of A-3 and accordingly the said locker was operated by A-3, who was already present in the bank before the above CBI officials reached there, in her presence as well as in the presence of Ms. Chitra Diwakar, Assistant Manager apart from above two CBI officials. She categorically deposed that Ms. Chitra Diwakar brought the locker operation register & locker operation sheet, which contains the date & time of operation of locker & customer signatures and it was got signed from A-3. Thereafter the locker was simultaneously operated by A-3 and Ms. Chitra Diwakar, during which 23 articles were seized from it, including two passports bearing no. A-5885047 & A-5885406, of which an inventory was prepared vide Ex. PW15/A dated 09.11.2001. She further deposed that another passport bearing no. Z-1118452 i.e. Ex. PW15/B in the name of A-3 was also seized vide Ex. PW15/A. The passports in question i.e. Ex. PW3/A & Ex. PW6/A are mentioned at Sl. No. 22 and 23 of Ex. PW15/A and that of A-3 at Sl. No. 14. Despite grilling cross-examination, the testimony of PW15 remained unimpeached on material particulars, nothing could be elicited to create doubt upon the prosecution case and her testimony alone sufficiently

establishes the prosecution case of recovery of the above two passports from the locker of A-3.

6.3 Merely because no photograph or videography of the search/raid proceedings was done does not create any doubt upon the prosecution case. As rightly held by the Ld. Trial Court, PW15 had no enmity or grudge against A-3 so as to depose falsely against her. Being an independent witness, holding a responsible post I find no reason why PW15 would make a false statement against A-3 who was absolutely unknown to her. She had no motive or animosity against A-3 so as to depose falsely against her. Also the Ld. Trial Court highlighted the contrary stand taken by A-3 as regards operation of the locker in question as on one hand it was suggested to PW15 that A-3 was already operating the locker when CBI officials arrived at the bank, while on the other hand during her statement u/s 313 Cr.P.C she took a stand that the locker was operated in her absence. The suggestion given to PW15 in this regard read as *“It is also wrong to suggest that before the CBI officials could start with their search under the raid, the locker in question was already started operating by the accused”*. This suggestion itself establishes the presence of A-3 at the bank at the time of search of locker.

6.4 No doubt Ms. Chitra Diwakar, the Assistant Manager was not examined by the CBI, however, it is well settled law that it is the quality and not the quantity of the evidence/witnesses which matters. Same applies for non examination of Sh. S.N. Saxena, the then Additional SP, CBI and advocate/notary Madam Kashi Kashyp. It is to

be noted that signatures of Ms. Chitra Diwakar were duly identified by PW15 and that of Sh. S.N. Saxena by PW22 on Ex. PW15/A. It also makes no difference that the public persons present in the bank or the local police that accompanied the CBI team were not joined in the said proceedings. Testimony of a sole independent witness if it inspires confidence, is trustworthy then the same is sufficient and there is no requirement of any further corroboration. Section 134 of the Indian Evidence Act does not require any minimum number of witnesses to be examined for proving a particular fact (*Sunil Kumar V. State Govt. of NCT of Delhi SC 2004 (1) Criminal CC 524, Krishna Mochi and others Vs. State of Bihar (2002) 6SCC 81*). In *Ram Karan Vs. State of Rajasthan 1997 (2) FAC 131*, it was held as under:

"In our system of administration of justice no particular number of witnesses is necessary to prove or disprove a fact. If the testimony of a single witness is found worth reliance, conviction of an accused may safely be based on such testimony. In our system we follow the maxim that evidence is to be weighed and not counted. It is the "quality" and not the "quantity" of the evidence which matters in our system. This cardinal principle of appreciation of evidence in a case has been given a statutory recognition in Section 134 of the Evidence Act of 1872."

6.5 Further reliance may be placed upon the law laid down in *Ambika Prasad and others Vs. State, (2002) 2 CRIMES 63 SC*, *Jawahar v. State, (Delhi) 2007(4) R.C.R.(Criminal) 336* and *Appabhai v. State of Gujarat AIR 1988 SC 696*.

6.6 Nonetheless testimony of PW15 was duly corroborated by PW22 Insp. Rajender Singh Gosain, who as deposed by PW15, had visited the bank on 09.11.2001, along with Sh. S.N. Saxena, the then Additional SP, CBI and was present at the time of operation of the

locker in question. Just like PW15, PW22 proved inventory/search memo Ex. PW15/A and also proved the search warrants in respect of the locker as Ex. PW22/B. On similar lines as deposed by PW15, PW22 deposed that when they reached the bank in question A-3 was already present there and thereafter her bank locker was operated in his presence as well as in the presence of PW15, Ms. Chitra Diwakar, Assistant Manager, A-3 and Sh. S.N. Saxena, the then Additional SP. Apart from bald suggestions that A-3 was not present in the bank or that locker no. 42 did not belong to her or that nothing was recovered from the locker no substantive material could be brought on record to create doubt upon the recovery proceedings.

6.7 During the course of arguments Ld. Counsel for A-3, while relying upon statement made by PW22 during his cross-examination, vehemently argued that the articles from locker no. 42 were unauthorizedly shifted to locker no. 91, however, I completely fail to understand the significance or relevance of the said arguments. Subsequent shifting of articles from locker no. 42 to locker no. 91 has absolutely no bearing on the present matter. Moreover, the suggestions given to the witness/PW22 are/were itself self contradictory, as on one hand it was suggested to him that bank officials have shifted articles from locker no. 42 to locker no. 91, which read as “*Today, I do not know if the bank officials have shifted from locker No. 42 to locker No. 91. Today, I also do not know about any details of locker No. 91 or any other number except No. 42. I do not want to see my record in this regard today.*”, however, at the same time it was suggested to him “*It is wrong to suggest that you are deliberately avoiding to give explicit*

*answer with regard to the details of locker numbers as locker No. 42 was not existing at all”. If locker no. 42 is/was not existing at all then where was the occasion for shifting the articles from locker no. 42 to locker no. 91. It will be worthwhile to highlight that before the Ld. Trial Court A-3 had moved an application on 06.04.2017 which was disposed of vide orders dated 01.06.2017 and wherein she had herself mentioned in para 3 “*That on 08.11.2001, the CBI erroneously seized/freezeed the operation of safety locker bearing no. 42 located at safety deposit vault of HDFC Bank Ltd., Old Rajinder Nagar Branch, Delhi after seizing articles as mentioned at serial number 14 to 23 of the list.*” which itself proves that it was locker no. 42 only from where the passports were seized by the CBI.*

6.8 Though the locker operation register and operation sheet were not seized by the CBI from the bank nor signatures of A-3 appear on Ex. PW15/A, however, as rightly held by Ld. Trial Court, these shortcomings do not create remotest of doubt upon the prosecution case or the testimony of PW15 and PW22 as regards operation of locker in the presence of A-3 and recovery of the passports in question from the said locker. The Ld. Trial Court also rightly held that if A-3 wanted to create doubt upon the search and recovery proceedings as carried out vide Ex. PW15/A nothing stopped her from seeking production of these documents during defence evidence and belie the prosecution case, more so when PW15 categorically stated that at the time of operation of locker signatures of A-3 were obtained on the locker operation register and sheet. Though the prosecution did not examine Ms. Chitra Diwakar but A-3 could have examined her in her defence, in case she wanted to

render the prosecution story doubtful. Having not done so I find no merits in the defence arguments.

6.9 For the similar reason I find no merits in the defence arguments that prosecution failed to bring on record any material as to when A-3 had operated the said locker prior to 09.11.2001 or that CBI failed to explain as to when the passports allegedly prepared in 1998 and recovered on 09.11.2001 were kept in the locker by A-3. Once the recovery stands duly proved, prosecution was not required to prove anything further. If A-3 wanted to prove that she had not operated the locker all this while, she could have summoned the relevant record from the bank and having miserably failed to do so the arguments loose all its steam.

6.10 Most importantly, the defence could not even remotely establish, before the Ld. Trial Court that PW15 was not present in the bank on 09.11.2001 or that A-3 was also present somewhere else and not at the bank. During her examination u/s 313 Cr.P.C., A-3 repeatedly took the stand that she was not present in the bank; that the locker was opened in her absence and that the questioned passports were planted, however, no question of planting the passports arises. The CBI officials/search team had no axe to grind against A-3. Defence could not assign or prove any motive to the CBI team for false implication or for planting the passports upon A-3. It is also to be noted that admittedly on 08.11.2001 in RC 1/99, as is A-3's own case, she was granted bail and therefore there was no impediment whatsoever in her visit to the bank on 09.11.2001 when the search of the locker was carried out. As

already discussed above, she could not prove that she was present somewhere else and not at the bank on 09.11.2001 and I find no reason whatsoever to disbelieve PW15 who deposed in detail as to how the locker was operated and whose testimony squarely establishes A-3's presence at the bank as well as operation of the locker on 09.11.2001. PW15's testimony also takes care of the defence arguments that admittedly no search of the CBI team members was offered to A-3 at the time of the search and recovery proceedings. Her presence at the time of search proceedings and testimony completely rules out any planting. In fact this very suggestion "*It is correct that we offer our search before conducting the search of residence of the accused. However, today I do not remember whether our team had offered our search or not to the accused*", itself proves that A-3 was present at the time of search and seizure proceedings.

6.11 Though PW28 during his examination in chief had stated "*During interrogation of accused Anita Umrao @ Annu Aggarwal @ Annu had informed to previous IO of the case that locker's key has been lost. Therefore, on the strength of a search warrant was issued by Hon'ble Metropolitan Magistrate, the said locker was searched by Sh. S.N. Saxena, Addl. SP.*", however, the said isolated statement does not create any doubt upon the prosecution case as regards the operation of locker. In fact what PW28 deposed was about the claim made by A-3 at the time of her apprehension in RC No. 1/99 on 04.11.2001 as regards the locker key which ofcourse was a false claim so as to avoid operation of the locker. She deliberately made a false claim as regards the locker's key but visited the bank on 09.11.2001 to operate the same, as stands

duly proved on record and which further proves her malafide. Fact remains and as duly stands established on record the locker was duly operated on 09.11.2001 with her key and that of the Bank/Ms. Chitra Diwakar. The relevant deposition of PW15 and PW22 in this regard reads as “*Thereafter, the locker was operated simultaneously by Anita Umrao and Chitra Diwakar*” and “*One key was already with Anita Umrao and another key was with Bank Manager*” respectively. Not once it was suggested to these witnesses, during their cross-examination, that A-3 did not carry her locker key on 09.11.2001.

6.12 Hence the Ld. Trial Court rightly concluded that the prosecution successfully proved on record the factum of recovery of the passports bearing no. A-5885047 (Ex. PW6/A) & A-5885406 (Ex. PW3/A) from the locker belonging to A-3.

Offences A-3 charged for vide order on charge dated 24.08.2016 i.e. Section 120B r/w section 420/467/468/201 IPC, Section 474 IPC and Section 12 (2) r/w section 12 (1) (b) of the Passport Act 1967.

6.13 As far as offence u/s 120B r/w section 420/467/468/201 IPC is concerned, the Ld. Trial Court observed that prosecution could not prove anything on record to the effect that she knew A-1 and A-2; she ever visited the passport office Ghaziabad; or made any payment whatsoever to A-1 and A-2; no CDR or any other document connecting A-3 to A-1 and A-2 was ever collected or brought on record and investigation did not reveal any monetary benefit being derived by A-3 from the forged passports. Considering these aspects the Ld. Trial Court

held that the allegations of conspiracy between A-3 and A-1 & A-2 remained unsubstantiated, unproved. As far as the said observations of Ld. Trial Court are concerned, I am in complete agreement with the same.

6.14 Except for the fact that the forged passports were recovered from the locker of A-3 there is nothing on record to connect her with A-1 & A-2. The IO failed to bring on record any CDR or any other material connecting, linking the three accused persons. Though the passports in question, which are/were indeed forged as has been discussed in the later part of this judgment, reached A-3 but there is nothing on record to prove that they reached her through A-1 or A-2. Similarly there is nothing on record to suggest that the said forgery was done at her behest or that she abetted the said forgery, though no doubt her being found in possession of forged passports suggests her involvement somehow, however, for conspiracy to be proved if not direct then atleast substantial circumstantial evidence, more than mere recovery should have been brought on record. A conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inference drawn from acts or illegal omission committed by the conspirators in pursuance of a common design, however, there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. (*State Through Superintendent Of Police, CBI/Sit vs. Nalini And Others 1999 ACR SC 2 1012*). In the case at hand, such cogent, convincing evidence is squarely missing. Also it cannot be completely ruled out that there was some intermediary

between A-3 and A-1 & A-2 and that there were others involved. A-3 might have been the last link in the chain but the prosecution miserably failed to prove her link with A-1 and A-2. Therefore the offence of conspiracy fails against A-3, as was rightly held by Ld. Trial Court.

6.15 As far as offence u/s 12 (2) r/w section 12 (1) (b) of the Passport Act 1967 is concerned, the relevant provision is reproduced hereunder:-

“Section 12 Offences and penalties.

(1) Whoever-

.....

(b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or

.....

shall be punishable with imprisonment for a term which may extend to [two years or with fine which may extend to five thousand rupees] or with both.

.....

(2) Whoever abets any offence punishable under [sub-section (1) or sub-section (1A)] shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided in that sub-section for that offence.”

6.16 In view of the above discussion when the charge for conspiracy could not be made out against A-3, no question arises of her being held guilty for offence u/s 12 (1) (b) of the Passport Act. There is no evidence on record to suggest that A-3 was instrumental in knowingly furnishing any false information or suppression of material information qua the passports in question. Similarly there is no material or evidence which proves that the forgery, forged entries were made in

the passports by her or she caused making of these forgeries in the passports through A-1 & A-2. There is no material whatsoever which even remotely proves that she abetted the forging of the passports. Accordingly, she was rightly acquitted by the Ld. Trial Court for the said offence.

6.17 As far as offence u/s 474 IPC is concerned, the Ld. Trial Court acquitted A-3 for the said offence as it concluded that the prosecution failed to prove that the passport Ex. PW3/A was indeed submitted in the US Embassy for obtaining US visa.

6.18 Vide letter dated 14.11.2003 i.e. Mark E, Ministry of External Affairs, Government of India had responded to CBI's request letter dated 26.08.2003. Mark E is accompanied with a diplomatic note from the US Embassy according to which passport Ex. PW3/A was presented twice for obtaining US visa, however, on both the occasions the same was rejected. The diplomatic note is also accompanied with a printout of the application seeking US visa which application is in the name of Narang Joshi and contains the passport no. A-5885406. This letter Mark E or the documents accompanying the same could not be proved on record as per the rules of evidence nor any witness was examined from the US Embassy to prove the said documents as was rightly held by the Ld. Trial Court.

6.19 However, in my considered opinion the Ld. Trial Court erred in acquitting A-3 for offence u/s 474 IPC merely because the prosecution failed to prove that the passport Ex. PW3/A was indeed

used for obtaining US visa. Though Mark E was not proved as per the rules of evidence, however, the law is well settled that the purpose of getting a document exhibited or marked is for the purpose of its identification and its admissibility has to be seen as per the rules of evidence. The prosecution case based upon the said documents remained unchallenged, uncontroverted as the authenticity, genuineness of Mark E was never challenged during the trial. The only cross-examination of PW28 qua this document was “*It is correct that no person had traveled on these passports*”. Most importantly, even if Mark E is totally ignored there is sufficient evidence against A-3 for having committed offence u/s 474 IPC.

6.20 The primary consideration which weighed with the Ld. Trial Court for acquitting A-3 for offence u/s 474 IPC was that the prosecution failed to prove that the passports in question were used by A-3 for any purpose at any point of time, however, actual use is/was never required. What is/was required is the intending use. Section 474 IPC reads as under:-

“474. Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine.—

Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with imprisonment for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.”

6.21 The essential ingredients of the said section thus are:

- (i) Conscious possession of a forged document;
- (ii) knowledge of the accused that it was a forged document;
- (iii) Intention of the accused to use it fraudulently and dishonestly as genuine;
- (iv) the document should answer any of the classes of document as contemplated in section 466 or 467 IPC.

6.22 As far as conscious possession is concerned, recovery from the locker of A-3 stands duly proved on record. The locker was in her exclusive control and it could be operated only with the help of her locker key and could be operated only by her or at best her authorization, instruction. The passports in question being recovered from her locker sufficiently establish her conscious possession of the same and it has been discussed in the later part of this judgment that the passports in question are/were indeed forged.

6.23 As far as her knowledge that the passports are/were forged is concerned, the passports in question did not belong to her and she had no occasion or reason to possess those passports, keep the same in her locker. Ex. PW15/A and the testimony of prosecution witnesses further proves that in addition to the passports in question 7 other passports in the name of different individuals were recovered from her locker, as are duly mentioned at Sl. No. 15 to 21 of Ex. PW15/A. A-3 failed to and in fact cannot explain why so many passports including forged passports were found in her locker/in her possession. She had no

business whatsoever to keep/possess these passports and mere possession in the circumstances sufficiently establishes her knowledge that she was aware that the passports are/were forged & fabricated or else these passports would have been with the passport holders and not with her.

6.24 The offence u/s 474 IPC is made out by the mere fact of possession of a forged document(s) knowing it to be forged and intending the same to be fraudulently and dishonestly used. A bare reading of section 474 IPC makes it crystal clear that to attract u/s 474 IPC, there is no requirement that the forged document(s) should have been used. The word "shall" in the sentence "intending that the same shall fraudulently or dishonestly be used as genuine" indicates that there shall be mere intention of using the said forged document in future and there is no requirement that it has to be used immediately or should have been used. Moreover, the Legislators specifically enacted Section 471 IPC as a distinct offence providing punishment for 'using' the forged document. If the said forged passport had been used then it would be an offence under Section 471 IPC and not under Section 474 IPC. But for the intended use, there was no occasion or necessity to prepare the forged passports or their possession by A-3. Furthermore, there is no requirement that the passport should have been used by A-3 herself and the intended use can be by any other person to whom A-3 would have handed the passports. What is required is use of the forged passport, it could have been used by either A-3 or for anyone for whose intended use she kept the same in her locker. Needless to add that there

are number of ways, purposes in which the passports could have been used i.e. for travelling, preparation of other identity documents etc.

6.25 There is no doubt that the passport is a valuable security as defined u/s 30 of the Indian Penal Code as the passport creates a legal right, entitles the passport holder to travel beyond the boundaries of the nation. It serves as crucial, globally recognized proof of identity and nationality enabling international travel and legal rights (*Deneth Piumakshi Wedarachhige vs State (NCT of Delhi) CRL.M.C. 3358/2023 & CRL.M.A. 12603/2023 dated 12.08.2025, Daniel Hailey Walcott And Anr. vs State AIR 1968 MAD 349*).

6.26 Therefore in my considered opinion, the Ld. Trial Court erred in acquitting A-3 u/s 474 IPC and in view of above discussion the said offence is squarely made out against A-3. The judgment qua A-3 is accordingly set aside and A-3 is held guilty and hereby convicted for offence u/s 474 IPC.

6.27 At the same time I am of the considered opinion that the investigation indeed lacked professionalism and was absolutely sloppy & shoddy on certain crucial aspects one of them being non joining, citing of the relevant witnesses from the Ministry of External Affairs and the US Embassy in respect of document Mark E. This is the least IO could have done. Also no investigation whatsoever was conducted regarding the remaining recovered passports for reasons best known to him though the said passports were not in the name of A-3.

Passports bearing no. A-5885047 and A-5885406 are forged & fabricated

Role of A-1 (Kundan Singh)

7. It is/was the prosecution case that as both the above passports contained photograph of the same person in different poses & appeared to be forged, preliminary enquiry was registered on conclusion of which the FIR was registered and the investigation which ensued established the role of A-1 and A-2 in forging the said passports. According to the prosecution two persons namely Prem Kumar Singh (PW2) and Bhupender Kumar (PW3) had applied for the passport at RPO, Ghaziabad on different dates. Their files were opened and the passport was sanctioned to them by the granting officer. When these files were sent to A-1 for writing the particulars from above files on the passport, he instead of writing the name of the applicants Prem Singh and Bhupender Kumar wrote the name of Naram Bhai Verma and Narang Joshi. These passports were thereafter sent to A-2 who was Incharge of Pasting Section for pasting the photograph of applicants Prem Kumar Singh and Bhupender Kumar but he did not paste their photographs and instead pasted same photograph of some unknown/non-existing person on both the passports. The stamps of the passport officer which was affixed on the passport was found to be genuine stamp as per opinion of expert but the round stamp of the government was found to be bogus. The signatures of the passport issuing authority on both the passports were also found to be bogus. These passports were never dispatched from Ghaziabad office but somehow they reached A-3 and were subsequently recovered from her

locker. It is/was the prosecution case that the inquiry made at US Embassy revealed that one of the passport i.e. Ex. PW3/A was used for obtaining VISA of USA which was refused by the embassy.

7.1 Before the Ld. Trial Court, the prosecution examined Sh. Prem Chand Singh as PW2 who according to it was the original applicant of passport bearing no. A-5885047. PW2 categorically deposed that in the year 1998 he had applied for passport at Meerut, UP through an agent namely R.S. Bhatnagar and had also visited the passport office in this regard. He further deposed that he had to go to Bombay in connection with his job and while he was there, his father informed him that some person had come for verification purpose while also informing his father that the passport would be delivered after sometime. PW2 further deposed that he never received any passport and when passport no. A-5885047 i.e. Ex. PW6/A, in the name of Naram Bhai Verma, was shown to him he stated that he does not know the said person and had never seen him.

7.2 Similarly, PW3 Sh. Bhupender Singh had deposed that though he along with his family members had applied for issuance of passports in the year 1998 as well as deposited the requisite fees, everyone except him received the passports. He further deposed that police officials had visited his house for the purpose of verification and obtained his signatures as well as that of his family members. When passport bearing no. A-5885406 i.e. Ex. PW3/A was shown to him he deposed that he does not know the person whose photograph appear on the said passport. He duly identified index card no. 740456 in his name,

which was filled by him, having diary no. 402/4522/98 with his photograph bearing cross signatures i.e. Ex. PW1/4.

7.3 It is/was the prosecution case that the original applicants i.e. PW2 and PW3 were allotted files numbers 402/3682/98 and 402/4522/98 respectively and after receipt of police verification decision was taken to grant passports to them. Thereafter their files were sent to A-1 for writing on 07.08.1998 and 14.08.1998 respectively, on which dates Superintendent Hans Raj had issued 40 passport booklets each to A-1 including passport no. A-5885047 Ex. PW6/A & passport no. A-5885406 i.e. Ex. PW3/A and A-1 filled in the details in both the passports in the name of Prem Chand Singh and Bhupender Singh respectively and made corresponding entries in the passport writing register. Further he also affixed the stamp of Superintendent Daya Ram and thereafter handed over all the files and passports to A-2.

7.4 As far as original files bearing no. 402/3682/98 and 402/4522/98 are concerned, they could not be brought on record. It was the prosecution case before the Ld. Trial Court that these files could not be traced as they were removed from the passport office, Ghaziabad with a view to cause disappearance of evidence, screen the offenders. Though the Ld. Trial Court emphasized that in the absence of these original files of applicant Prem Chand Singh (PW2) and Bhupender Singh (PW3), the prosecution failed to explain as to how it concluded that passport nos. A-5885047 Ex. PW6/A and A-5885406 Ex. PW3/A were originally written for Prem Chand and Bhupender Singh, however, at the same time the Ld. Trial Court agreed with the said

conclusion/inference of the prosecution as the addresses of Prem Chand Singh and Bhupender Singh as mentioned on their index cards Mark A and Ex. PW1/4 respectively were/are mentioned in the passports. Nonetheless there is sufficient material on record which proves that the above passports were indeed meant to be originally written for Prem Chand and Bhupender Singh.

7.5 The prosecution case that the original files were removed from passport office has credence on account of the fact that index cards in respect of PW2 and PW3 were duly proved on record and once there were index cards there would have been corresponding files in the names of these applicants at the passport office. In the absence of these files the application for issuance of passports would not have moved forward.

7.6 The address on the index card of Bhupender Singh (PW3) Ex. PW1/4 is mentioned as “Tiwada Road, Modi Nagar, Ghaziabad, UP” which address also appears in passport bearing no. A-5885406 i.e. Ex. PW3/A. Similarly, the address as mentioned in the index card of Prem Chand Singh (PW2) i.e. Mark A is mentioned as “VPO Muzaffra Bagar Pur, Ghaziabad, UP” which address also appears in passport bearing no. A-5885047 i.e. Ex. PW6/A. It has already been discussed above that both PW2 and PW3 categorically deposed that they had applied for issuance of passports, however, the same were never received by them. Once the Ld. Trial Court agreed with the conclusion that passport nos. A-5885406 i.e. Ex. PW3/A & A-5885047 i.e. Ex. PW6/A were originally written for Bhupender Singh and Prem Chand

Singh then I fail to understand what created doubts in the mind of Ld. Trial Court subsequently that there was no evidence that the said passports were written for PW3 and PW2.

7.7 PW4 Subedar Singh's testimony leaves no doubt that passport Ex. PW3/A issued in the name of Sh. Narang Joshi is a forged passport as the file no. 402/2615/98 contains the application of Sh. Alok Punj and not Narang Joshi. He categorically proved that it was he who had dealt with the passport application of Sh. Alok Punj and he proved the diary register Ex. PW1/5 containing the relevant entries in his writing. The file number appearing on passport no. A-5885406 Ex. PW3/A is 402/2615/98 and PW4 deposed that the said passport has been issued under the said file number i.e. Ex. PW1/2 (D-6) which file contains the application of Sh. Alok Punj s/o Late Sh. Akshay Kumar Punj and that the application contains the diary number under his initial. He further proved that the diary register of RPO Ghaziabad i.e. Ex. PW1/5 contains an entry no. 2615 in the name of Alok Singh which entry was made by him on 05.03.1998. Hence though the passport Ex. PW3/A was issued in the name of Narang Joshi, however, the application number on the passport i.e. 402/2615/98 belonged to one Alok Punj. This further proves that passport in question was prepared in a fraudulent manner. PW6's testimony further proves that Ex. PW3/A & Ex. PW6/A are forged passports as he categorically deposed that these passports do not bear the signatures of the then Superintendents Sh. Hansraj (PW9) & Sh. Dayaram, who were the final authority for grant of passport.

7.8 Similarly, as far as passport bearing no. A-5885047 i.e. Ex. PW6/A is concerned, Sh. V.K. Sharma (PW7) who at the relevant time had worked in different sections of Ghaziabad RPO proved that the file no. 402/4127/1998 appearing on the said passport is in the name of Harjender Singh s/o Tara Singh. He proved the entry in the diary register in his handwriting as Ex. PW1/5. Furthermore, according to PW7 and Index card Ex. PW7/A the said file number is in the name of Harjender Singh and not Naram Bhai Varma. Hence this passport too was issued in a fraudulent manner.

7.9 PW7 categorically deposed that it is not possible to allot the same unique number to other applicant once the said unique number has been allotted to an applicant on the Index card. He proved that the application for issuance of passport pertaining to Index card number 402/4127/98 was received in the name of Harjender Singh and therefore the said number could not appear on the passport Ex. PW6/A in the name of Naram Bhai Varma. Similarly he proved that the unique number 4522 was diaried in the name of Bhupender Singh, however, passport in the name of Narang Joshi i.e. Ex. PW3/A bears the said number which could not be possible.

7.10 The Ld. Trial Court in its judgment had observed that no document/register is on record to show that passports Ex. PW3/A and Ex. PW6/A were originally allotted to be written for files numbers 402/3682/98 and 402/4522/98, however, it seems that Ld. Trial Court lost sight of the categoric deposition of PW7 in this regard who proved that according to passport writing register (D-10) i.e. Ex. PW1/6 (colly)

the said passports were originally allotted in the name of Prem Chand (PW2) and Bhupender Singh (PW3) respectively. This register as proved by PW1 was handed over by him to Sh. Karnail Singh, DSP, CBI vide Ex. PW1/1. This register along with other documents including files no. 402/4127/98, 402/2615/98, their index cards, passport writing register etc. were seized vide Ex. PW14/A as proved by PW18 Sh. Sunit Kumar Sharma as well as PW14 Sh. Prasoon Malviya and PW1 Sh. Jeewan Lal. The relevant portion of testimony of PW7 in this regard is reproduced hereunder:-

“PW7

“I have seen passport bearing No. A-5885047 issued in the name of Narambhai Verma s/o Sh. Kashibhai already Ex.PW6/A (D-3), dated 19.08.1998.

Today, I have seen application diary register bearing no. 402/1998 already Ex.PW1/5, collectively (D-9), entry number 4127 is in the name of Harjinder Singh s/o Sh. Tara Singh, District Meerut, UP, appearing at Mark A to A. The aforementioned entry is in my handwriting. The file was sent by me to the initial section. The entry no. 4127 appears on the said passport. After completion of passport it was sent to the pasting section. Today, I have been shown D-12 Index Card which is in the name of Sh. Harjinder Singh bearing file no. 402/4127/98. The same is now being exhibited as Ex.PW7/A.

The procedure of making a passport of a person is, a passport making application is sent by the applicant in our passport office. Thereafter, application form diaried with a unique file number. Thereafter, after proper checking of the application, requisite fee is deposited in the concerned section. Thereafter, the said application form was sent to the initial section for verification. Thereafter, this file is duly sent to Index Section where Index card is prepared for this applicant. Thereafter, file is sent to processing section for the preparation of the passport after getting the proper police verification. After approval of grant of passport, file is sent to writing section for making a new passport for the applicant. Thereafter, for completion of the passport in favour of applicant, it is sent to lamination section where it is required to get the signature of Superintendent of the passport office.

It is not possible that one a unique number is allotted to any applicant on Index card to again allot the same unique number to other applicant but here at D-12 (Index card No.402/4127/98) which is already Ex.PW7/A, is found

the same index number i.e. 402/4127/98 at the last page in the passport issued to Sh. Naram Bhai Varma, already exhibited as Ex.PW6/A and marked as point B. The application pertaining to index card no.402/4127/98 was received in the name of Sh. Harjender Singh.

The unique number is mentioned either on front page or back page or on both sides, on the Index card. On seeing D-8 (i) marked as Ex.PW1/4, I state that 402/4528/98 is mentioned on front page and 402/4522/98 is mentioned on its back page. After seeing D-9 (passport application diary register), the number 4522 was diaried in the name of Sh. Bhupender Singh s/o Sh. Rajender Singh, which is marked as A. After seeing D-10 (ii) (passport writing register), I state that passport no. A5885406 has been issued in the name of Sh. Bhupender Singh s/o Sh. Rajender Singh vide file no. 402/4522/98, which is marked as A and already exhibited as Ex.PW1/6 (colly.) But the passport bearing the same number, which is seen today in the court already exhibited as Ex.PW3/A, has been prepared in the name of Sh. Narang Joshi which as per rules of passport office, could not have been followed.

After seeing D-8 (ii) Index Card marked as A, the number 402/3682/98 was diaried in the name of Sh. Prem Chand Singh, which is marked as A. After seeing D-10 (ii) (passport writing register), I state that passport no. A-5885041 has been issued in the name of Sh. Pram Chand Singh s/o Sh. Dhani Ram Singh vide file no. 402/3682/98, which is marked as B and already exhibited as Ex.PW1/6 (colly.) But the passport bearing the same number, which is seen today in the court already exhibited as Ex.PW6/A, has been prepared in the name of Sh. Naram Bhai Varma which as per rules of passport office, could not have been followed.”

7.11 In view of the above deposition of PW7 and Ex. PW1/6 (colly) as well as Ex. PW1/4 and Mark A, the prosecution’s failure to prove the original files, which otherwise is its case that they were removed with a view to cause disappearance of evidence, does not dent its case that the passports were fraudulently prepared and are forged documents. Ex. PW1/6 (colly) sufficiently establishes that passports Ex. PW3/A and Ex. PW6/A were issued to be written in the name of PW3 and PW2 respectively. The relevant entry in Ex. PW1/6 (colly) are admittedly in the handwriting of A-1 which further proves that he had received the passports in question for writing in the name of PW2 and PW3. During cross-examination of PW28 a suggestion was given to

him regarding the said register which read as “It is correct that the entries in the passport register are in the handwriting of accused Kundan Singh”.

7.12 The fact that no passport was ever received by Harjender Singh and that file no. 402/4127/98 was issued in his name and not in the name of Naram Bhai Varma, on whose passport Ex. PW6/A the said file number appears, was further proved by PW8 Smt. Rajender Kaur w/o Sh. Harjender Singh. PW8 categorically proved that when her husband did not receive the passport they contacted passport agent who advised them to contact Ghaziabad RPO where on the advise they gave a fresh application for issuance of passport. Her testimony coupled with the documents Ex. PW8/A and Ex. PW8/B specifically proves that file no. 402/4127/98 was issued in the name of her husband not Naram Bhai Varma. The said fact stands further proved from Ex. PW7/A & Ex. PW1/8 i.e. index cards of Harjender Singh as also proved by PW1 and PW7 apart from PW8.

7.13 Similarly Ex. PW1/2 (colly) (D-7) leaves no doubt that file no. 402/2615/98 as appearing in passport Ex. PW3/A was allotted to Alok Punj and not any Narang Joshi who in fact just like Naram Bhai Varma is a non-existent person which fact stands further proved from the testimony of PW13, PW17 & PW21. Even otherwise the addresses on the passports Ex. PW3/A and Ex. PW6/A belonged to Bhupender Singh (PW3) and Prem Chand (PW2) respectively as stands duly proved on record. So no question arises of any Narang Joshi or Naram Bhai Varma being found at the said addresses.

7.14 The fact that passports Ex. PW3/A and Ex. PW6/A are forged stands further proved from the testimony of PW11 Sh. Prem Singh who was working as a Stenographer at RPO, Ghaziabad at the relevant time and who categorically proved that signatures on Ex. PW3/A & Ex. PW6/A are not of Superintendent (Passport) Sh. Hansraj & Inspector Daya Ram and that the same are forged signatures. Similarly was deposed before the Id. Trial Court by PW5. His testimony further proves that the passport Ex. PW3/A is a forged documents as he categorically deposed that the signatures on the same does not appear to be of Sh. Hansraj and this part of his testimony remained unchallenged. In fact when he was recalled for further examination in chief, after the arrest of A3, he categorically stated that Ex. PW3/A & Ex. PW6/A bear the forged signatures of Sh. Hansraj & Sh. Dayaram respectively.

7.15 PW9 Sh. Hansraj who was posted as Superintendent, RPO, Ghaziabad and thus the signing authority for grant of passport while explaining the process of issuance of passport in detail categorically deposed that passport Ex. PW3/A, bearing file no. 402/2615/98 does not bear his signatures thereby settling the issue that Ex. PW3/A is a forged passport. He categorically stated that the said passport was issued on his forged signatures.

7.16 PW9 also categorically proved that as per passport entry register Ex. PW1/6 at serial no. 4406, passport Ex. PW3/A bearing no. A-5885406 & file no. 402/4522/98 were entered in the name of Sh. Bhupender Singh (PW3) whose index card is Ex. PW1/4 bearing the

same file number. He further proved file no. 402/2615/98 appearing on Ex. PW3/A is of Sh. Alok Punj whose passport application is Ex. PW1/2 and the index card is Ex. PW7/A as has already been discussed above in detail. Similarly, PW9 proved that passport Ex. PW6/A having file no. 402/4127/98 is a forged one as it does not bear the signatures of Sh. Daya Ram, the then Superintendent which fact was also duly proved by the other prosecution witnesses.

7.17 Passport Ex. PW3/A & Ex. PW6/A bears cross signature on the photograph of the passport holder, however, as was proved by PW9 vide Ex. PW9/A & Ex. PW9/B that at the time of alleged issuance of these two passports i.e. on 07.08.1998 & 14.08.1998, the practice of putting cross signatures, of the signing/granting authority, on the photograph of the passport holder was not prevalent, was already discontinued. This itself proves that the passports in question are forged one.

7.18 The fact that Sh. Harjinder Singh was not initially issued the passport, that his original passport file no. 402/4127/98 was missing was further proved by PW9 vide documents Ex. PW1/2, Ex. PW8/B & Ex. PW8/D (colly) in addition to the testimony of PW1 & PW8. PW9 also categorically proved that as per passport writing entry register already Ex. PW1/6 (colly), Sh. Prem Chand Singh (PW2) was issued passport no. A-5885047 i.e. Ex. PW6/A and file no. 402/3682/98 which number also appears on his index Mark A. He also proved that on the said passport, the file no. which appears i.e. 402/4127/98 is of Sh.

Harjinder Singh and not Sh. Naram Bhai Varma in whose name the passport was fraudulently issued.

7.19 It is/was the prosecution case that it was A-1, who was working as passport writer who had written passports in question. According to it the incorrect, forged details were written/entered in the passports Ex. PW3/A and Ex. PW6/A by A-1. To prove the same prosecution examined PW5 Sh. Salauddin Faruqi who was working as Acting Passport Officer at RPO, Ghaziabad and who proved office orders Ex. PW5/A dated 18.11.1998 & Ex. PW5/B dated 18.06.1998. Though at the time of tendering of these documents, objection was taken that these documents are photocopies, however, it is to be seen that PW5 who was the author, signatory of these office orders and he had duly identified his signatures on the same. Furthermore, these office orders were proved by other prosecution witnesses including PW11.

7.20 According to Ex. PW5/A, the duty of A-1 as mentioned at serial no. 3 of the said order is/was as under:-

“Office Order

The following will be the distribution of work among the staff members in this office with immediate effect.

Cash Counter:- Sh. Kundan Singh, L.D.C, will be attached with Cashier and will perform duty of Cash at the counter, entry into cash register and will complete the diary work of passport applications received at counter. He will also assist Cashier for preparation of bills etc. and will work according to the instructions of Cashier”.

7.21 Though no doubt PW5 categorically stated that A-1 was not concerned with the preparation of passports, after receipt of application for passport and further, passports Ex. PW3/A & Ex. PW6/A were issued prior to office order Ex. PW5/A as passport Ex. PW3/A is dated 14.08.1998 & Ex. PW6/A dated 19.08.1998 and also there is no office order of the relevant period or prior to 18.11.1998 i.e. in between 18.06.1998 to 18.11.1998 whereby, A1 was deputed to write the passport, however, the fact that A-1 was working as Passport writer and the passports in question were handed over to him is not a disputed fact and in fact it is the admitted position that he was working as such and had received the said passports for writing. During his examination u/s 313 Cr.PC. when the entire incriminating material appearing against him was put to him, the answers given by him/A-1 duly establishes his role as a Passport writer and that the passports in question were received by him for writing. Some of these answers are reproduced hereunder:-

“5

Ans. It is denied as stated. It is humbly submitted that no file of applicant known by the name of Alok Punj (File No. 402/2615/98) for getting passport had been handed over to me for writing, being the writer in the writing section. The two files which had come before me for writing was of Sh. Bhupender Singh (File No. 402/4522/98) and Sh. Prem Chand Singh (File No. 402/3682/98). Therefore the afore stated station of PW-04 stating that the passport has been issued under the file No. 402/2615 (Ex. PW1/2) which contains the application of Sh. Alok Punj S/o late Sh. Akshay Kumar Punj (File No. 402/2615/98) is wrong, admittedly even as per the case of the prosecution, as the said file number has subsequently been given, while the passport was made in the name of Narang Joshi by altering the name and file number of the original applicant being Bhupender Singh.

16.

Ans. It is admitted to the extent, it is matter of record. However with regard to Index Card No. 402/4127/98, it is stated that no file of applicant know by the name of Harjinder Singh (File No.

402/4127/98) for getting passport had been handed over to me for writing, being the writer in the writing section. The two files which had come before me for writing was of Sh. Bhupender Singh (File No. 402/4522/98) and Sh. Prem Chand Singh (File No. 402-3682/98).

17.

Ans. From the writing section the passport No. A5885406 had been sent to pasting and lamination section, in the name of Sh. Bhupinder Singh and all his particulars had been filled in as per the file No. 402/4522/98 of the original applicant accompanying the passport and if any changes, have been made then it could have been done only after the passport and the accompanying file reached the lamination and pasting section and at any state subsequent thereto.

18.

Ans. From the writing section the passport No. A5885047 had been sent to pasting and lamination section, in the name of Sh. Prem Chand Singh and all his particulars had been filled in as per the file No. 402/3682/98 of the original applicant accompanying the passport and if any changes have been made then it could have been done only after the passport and the accompanying file reached the lamination and pasting section and at any stage subsequent thereto.

30.

Ans. It is incorrect to state that Kundan Singh was in the pasting section. Kundan Singh was working in the writing section and from the writing section, after filling in the necessary information, the filled in passports used to be sent to the Lamination and pasting section. As per routine, 40 passports used to be handed over by the superintendent on any particular day in the writing section, to be completed on the same date and further send the said completed 40 passports in the lamination and pasting section.

46.

Ans. It is admitted that the report regarding Q-5 and Q-12 is correct, in as much as, even during investigation, Kundan Singh had himself admitted the said writings and therefore the report which has been sought from CFSL by CBI vide Letter Dt. 03.08.2002, which has been duly confirmed even by the CFSL in its first report Dt. 25.10.200n wherein it has been stated as under:-

“Handwriting evidence points to the writer of the standard writings marked S-16 to S-41, A-1 and A-2 being the person responsible for writing the questioned writings marked Q-5 and Q-12....”

However the CFSL reports Dt. 31.01.2003 and 14.11.2003 with regard to Q8 are totally incorrect as they are not in writing of Kundan Singh and the said reports have been given mechanically and without any application of mind and without conducting the necessary test for giving such reports. Falsity of the said reports can

be judged from the facts that, it has been stated in report Dt. 25.10.2002 in para No. VII as under:

“Scientific examination reveal the same shade of black ball pen ink is used in writing the questioned writings marked Q-8, Q-12 & Q-14”.

The said reports cannot be correct and legally sustainable, in as much as shade of millions of pen can be same but difference is of its ink. Ink is mixture of dye and vehicle, dye colour and vehicle made of oil, acetone, water, ethanol, linseed oil etc. and for giving report on same shade of ink, the same can only be examined with scientific instrument RAMAN SPECTRUM and FTIR (Forier Trais for laupai Ratio) and it is matter of record that at the time of giving the reports 31.01.2003 and 14.11.2003 by the CFSL, the said two instruments were not available with CFSL, which only goes to show, how mechanically the reports have been given, even without having the requisite and necessary machines/facilities as aforementioned.

54.

Ans. It is admitted that the report regarding Q-5 and Q-12 is correct, in as much as, even during investigation, Kundan Singh had himself admitted the said writings and therefore the report which has been sought from CFSL by CBI vide Letter Dt. 03.8.2002, which has been duly confirmed even by the CFSL in its first report Dt. 25.10.2002 wherein it has been stated as under:-

“Handwriting evidence points to the writer of the standard writings marked S-16 to S-41, A-1 and A-2 being the person responsible for writing the questioned writings marked Q-5 and Q-12....”

However the CFSL reports Dt. 31.01.2003 and 14.11.2003 with regard to Q8 are totally incorrect as they are not in hand writing of Kundan Singh and the said reports have been given mechanically and without any application of mind and without conducting the necessary test for giving such reports. Falsity of the said reports can be judged from the facts that, it has been stated in report Dt. 25.10.2002 in para No. VII as under:

58.

Ans. The role of Kundan Singh with regard to preparation of passport was prior to sending it to the lamination section after filling in manually the requisite information so available and sent to him written passport alongwith concerned passport application form. It is humbly submitted that it is a matter of record that Kundan Singh after completely filling the said two passports had duly got it delivered in the lamination and pasting section. For the works to be undertaken by the lamination and pasting section, Kundan Singh had absolutely no control or any means to assess as to what has been done with regard to lamination and other formalities in the

lamination and pasting section and hence to the information so given in question, the same is denied for want of knowledge.

64.

Ans. It is humbly submitted that Kundan Singh had categorically stated to the CBI as to which lines/information so reflected in the passport are in his writing and which all lines/information are not in his handwriting. Kundan Singh had further pointed out to the CBI as to which all lines/information have been written after obliterating the the original writing, which are not in the handwriting of Kundan Singh.

69.

Ans. It has wrongly been stated and it is totally incorrect that the files which were sent to Kundan Singh for writing the particulars of above files on the passports he, instead of writing the name of the applicants Prem Kumar Singh and Bhupender Kumar, wrote the name of Naram Bhai Verma. It is humbly submitted that the files which had been sent along with the passport in the writing section Kundan Singh had filled in true and correct information and after completing it in all respect, the said passports along with their respective files had been sent to the lamination and pasting section and if any forgery have been committed in the said two passports, then only possibility is that the said forgery has been committed from the lamination and pasting section or at subsequent stages thereafter. Rest is denied for want of knowledge.

77.

Ans. In routine, the two blank passports alleged to have been forged had come to me for filling up the necessary information on the basis of the applicant's file accompanying the said passports. I had correctly filled in all the details as per the applicant's particulars and the passports along with the file had been sent and duly received in the lamination and pasting section. It is humbly submitted that finding of the CFSL Report that handwriting evidence points to the writer of the standard writings marked S-16 to S-41, A-1, A-2, A23 to A-32 being the person responsible for writing all the seven lines in red enclosed portion marked Q-8 is partially incorrect, in as much as to the extent that the lines which I had admitted to be in my handwriting, the report to that extent is correct but with regard to the other lines i.e., 2nd Line "JOSHI", 3rd Line "NARANG" 4th Line "Male" & "01.06.1957" and 5th Line "Modinagar", as they are not in my handwriting therefore report to that extent is incorrect and has been given in the most mechanical and callous way, it seems at the behest and pressure of CBI, to falsely implicate me. None of the allegations levelled against me in the chargesheet is true and correct. The necessary documents which must have been in possession of the Passport Officer were not taken in possession during the investigation, which could have clearly shown my innocence."

7.22 In fact during the cross-examination of PW28 certain suggestions were given to him which itself proves that the passports in question were received by A-1 for writing. The relevant portion is reproduced hereunder:-

“Q:- Will it be correct to say that on 07.08.1999, 40 blank passports were handed over to Kundan Singh which included passport no. A5885047 and further another set of 40 passports were handed over to him on 14.08.1998 which include passport bearing no. A5885406.

At this stage, charge-sheet has been shown to witness.

A:- It is correct.

.....

Vol. However, there is a passport pasting register mentioned at D-11 in the list of documents which shows that on 07.08.1998, blank passport no. A5885031 to A5885070 (40) were given to Kundan Singh. Similarly, on 14.08.1998, blank passport no. A5885393 to A5885432 (40) were handed over to Kundan Singh.

At this stage, witness is shown points ‘A’ on document Ex. PW1/7 (colly). It is correct that points ‘A’ on document Ex. PW1/7 (colly) shows the entries maintained by accused Kundan Singh in respect of filled in passports given to the pasting section.”

7.23 Hence, it is the admitted position that at the relevant time A1 was the Passport Writer working in the Passport Writing Section. Moreover, during the cross-examination of PW9 as recorded on 07.10.2023, a suggestion was put to him by Ld. Counsel for A-1 which read as *“It is correct that on 14.08.98, I was the concerned officer i.e. Superintendent and I had handed over the 40 passports in the writing section to Kundan Singh”*. This suggestion itself is an admission of the fact that A-1 was working as Passport Writer and therefore failure on the part of prosecution to produce the stock register, vide which passport booklets were sent to the Passport writer, does not affect the prosecution case in any manner. In view of the categoric testimony of prosecution witnesses and the statement made by accused A-1 during

his examination u/s 313 Cr.P.C., which sufficiently proves that he had received the passports in question for writing, the Ld. Trial Court should not have laid undue emphasis on the stock register. Similarly, failure on the part of the prosecution to produce the original files of PW2 & PW3 or the clearance from the police authority or provide the name of the Superintendent who had taken decision to grant passports to PW2 & PW3 is of no consequence whatsoever once A-1 categorically admits that he had received the passports in question for writing them in the name of PW2 & PW3. Even otherwise as has already been discussed above at length it stands duly proved from the testimony of PW2 & PW3 that they had applied for issuance of passport; police verification was conducted; but they never received their passports.

7.24 A-1 specifically admitted while answering question no. 5 that the files of PW2 (file no. 402/3682/98) & PW3 (file no. 402/4522/98) had come to him for writing the passports. It has already been discussed above that it stands proved that passport Ex. PW3/A was issued to be written for PW3 and passport Ex. PW6/A for PW2. A-1 further claimed that no file no. 402/2615/98 in the name of Sh. Alok Punj was ever handed over to him for writing. Similarly, he stated that no file no. 402/4127/98 of applicant Sh. Harjinder was handed over to him for writing.

7.25 The Ld. Trial Court also opined that no preliminary enquiry report, as was conducted by PW26, was ever brought on record and that PW26 or the other prosecution witnesses failed to explain the

term “Indexed” or the procedure followed during the indexing of files, however, I am of the considered opinion that Ld. Trial Court unnecessarily delved into the said arena. There was no requirement for the prosecution to produce the preliminary enquiry report. Preliminary enquiry had merely formed the basis of registration of FIR and whatever investigation was carried out, same was subsequent to the FIR and has been detailed in the charge sheet. The index cards of PW2 & PW3 are on record as Mark A and Ex. PW1/4 and there is no manipulation in the index cards. It was nowhere the prosecution case that the index cards had been forged in any manner. Whatever forgery happened, same happened in the passports as stands duly proved on record. Therefore, the meaning & purport of the term “Indexed” or the procedure followed during indexing of the files is absolutely irrelevant. Hence the Ld. Trial Court erred in drawing adverse inference against the prosecution.

7.26 A-1 also admitted, during his examination u/s 313 Cr.P.C, while specifically answering question nos. 46, 54 & 77, that his handwriting does appear on certain portions of the passports Ex. PW3/A & Ex. PW6/A but he denied that the other portions are in his writing.

7.27 In its judgment, the Ld. Trial Court observed that as per the prosecution case, initially A-1 had correctly filled the particulars of Prem Chand and Bhupender Singh in the passports Ex. PW6/A and Ex. PW3/A respectively without any changes and therefore clearly the alleged criminal conspiracy between the accused persons did not exist

at that stage. Ld. Trial Court also observed that had there been any intention of forging the passports, on the part of A-1, he would not have filled the correct particulars and straightway filled in the particulars of Narambhai Varma and Narang Joshi in order to obliterate the necessity of deleting the existing texts from the passports and thereafter to fill the fresh names & details. Furthermore it was observed that A-1 could have easily left the relevant columns blank instead of filling the correct particulars.

7.28 As far as the above observations of the Ld. Trial Court are concerned, I am of the considered opinion that it was the incorrect narration of facts, wrong averments in the charge sheet that misled the Ld. Trial Court to observe as above. Call it the failure on the part of IO to sum up the facts correctly or flaw in his use of words, language or his own confusion or misunderstanding but whatever he wrote in the charge sheet did weigh with the Ld. Trial Court in arriving at the said conclusion. The relevant portion of the charge-sheet read as under:-

“4.....

(i) That Shri Hans Raj, Superintendent, entrusted 40 blank passport booklets from Sl. No. A-5885031 to A-5885070 to Shri Kundan Singh (A-1) on 7.8.98 for writing the passport on the basis of files received by him from the Grant Section which included the file of Shri Prem Chand Singh. Shri Kundan Singh wrote the passport booklet No. A-5885047 in the name of Shri Prem Chand Singh and he also made corresponding entries in the Passport Writing Register which included Name-Home Address, Date and place of birth, Name of relatives etc.....

ii).....The accused Kundan Singh and Hemwant Kumar also managed and maneuvered to erase the name and particulars of Shri Prem Chand Singh and got written the name of Shri Narambhai Varma, date of birth 7.8.1956, place of birth-Faridabad, Father's name – Kashi Bhai Mother's name – Ganga Ben, Spouse name – Maya Ben. He also got changed the file No.

402/3682/98 of Shri Prem Chand Singh to read as 402/4127/98.

.....

5.....

(i) That Shri Hans Raj, Superintendent entrusted 40 blank passport booklets from Sl. No. A-5885393 to A-5885432 to Shri Kundan Singh (A-1) on 14.8.98 for writing the passports on the basis of files received by him from the Grant Section which included the file of Shri Bhupender Singh. Shri Kundan Singh wrote the passport booklet No. A-5885406 in the name of Shri Bhupender Singh and he also made corresponding entries in the Passport Writing Register which included Name-Home Address, Date and place of birth, Name of relatives etc.....

ii)..... Both the accused Kundan Singh and Hemwant Kumar in pursuance of the criminal conspiracy managed and maneuvered to erase the name and particulars of Shri Bhupender Singh and got written the name of Shri Narang Joshi, date of birth 1.6.1957, place of birth- Modinagar. Father's name – Kashi Ram, Mother's name – Ganga Devi, Spouse name – Maya Devi. He also got changed the file No. 402/4522/98 of Shri Bhupender Singh to read as 402/2615/98.”

7.29 However, the material on record leaves absolutely no doubt that A-1 did not fill in the passports Ex. PW3/A and Ex. PW6/A in the name of PW3 and PW2 respectively but they were originally itself filled in the name of Narang Joshi and Narambhai Varma by him. As per the admitted position, on passport Ex. PW6/A the portion enclosed as Q5 is in the handwriting of A-1, however, A-1 denied that portions Q1 & Q7 are in his writing. As far as this passport is concerned, I have carefully considered the passport, particularly portions Q1 & Q7 and I find absolutely no erasure in any of the lines of the enclosed portions except at line no. 3 of portion Q1 and in the numerical “8” in the date “19.08.1998” in the last line of the said passport. A bare glance reveals that there have been some alterations, cutting, erasure where the word “NARAMBHAI” appears and except for in this line, this word, there is absolutely no question of any of the lines being erased and then re-

written. It requires no science, no expertise, no expert opinion, no scientific tool whatsoever to come to the said conclusion which is clearly visible to a naked eye.

7.30 There is no erasure or cutting whatsoever in the words “VARMA”, “FARIDABAD”, “GHAZIABAD” or the passport no. “A5885047” or the other particulars at point Q1 or the words “Kashibhai”, “Gangaben”, “Mayaben” or file no. 402/4127/98 within enclosed portion Q7. There is just no hint of any erasure whatsoever. Once the erasure/alteration/cutting at the place where the word “NARAMBHAI” appears in passport Ex. PW6/A is clearly visible to the naked eye, then the other erasures/alterations/cutting if there had been any, the same too would have been clearly, easily visible. Same applies for passport Ex. PW3/A. That being the case and when admittedly A-1 was the passport writer; the said passport Ex. PW6/A was admittedly received by him for writing, I have no hesitation in concluding that all the particulars were written by him or else he cannot explain how those details particularly the name “VARMA” and the other details in enclosed portion Q1 & Q7 appear on the said passport. If he had correctly written the passport, the particulars of PW2 Sh. Prem Chand Singh would have appeared on the passport alongwith his file number i.e. 402/3682/98 and not 402/4127/98. As discussed above, I find no alteration or erasure in the word “VARMA” or any remotest of hint that the word “SINGH” was written there and then erased to write “VARMA” instead. Same applies for the file no. and other particulars at Q1 & Q7 except for the word “NARAMBHAI”. Infact, the CFSL result also makes it crystal clear that the only erasure was at this line/word and

in the numerical “8” and nowhere else. The relevant portion of the CFSL result Ex. PW23/E dated 25.10.2002 is reproduced here under:

“Microscopic examination of the red enclosed portion marked Q-1 reveal that the existing word NRAMBHAI and the figure 8 of the month column are written after physically erasing the original writings at these places. However, it has not been possible to decipher the original writings/figures at these places respectively.”

7.31 Why there was erasure in the third line of the enclosed portion Q1 in passport Ex. PW6/A where the word “NARAMBHAI” appears has been discussed herein below.

7.32 As far as passport Ex. PW3/A is concerned, A-1 during his examination under section 313 Cr.P.C stated that the lines appearing in the enclosed portion Q8 i.e. second, third, fourth and fifth are not in his handwriting. Thus the first, sixth and seventh lines are admittedly in his handwriting. Similarly the portion enclosed as Q12 is also admittedly in his handwriting. It has already been discussed above that passport no. A-5885406 was issued to be written in the name of PW3 Bhupender Singh as stands duly proved vide Ex. PW1/6 and the testimony of PW9. It has also been discussed that the address appearing at portion Q12 is the correct address of PW3 which is also appearing in his index card Ex. PW1/4. Hence the address as mentioned in the passport indeed belonged to and was entered correctly in terms of Ex. PW1/4 and Ex. PW1/6. It has also been discussed above that file no. 402/2615/98 belonged to one Alok Punj and not any Narang Joshi. A bare glance at this passport would reveal that except for the word “NARANG” and infact just the alphabet “N” appearing before “G”

there is no erasure whatsoever in any of the enclosed portion Q8 and for that matter Q14. A simple look through the naked eye clearly reveals that as far as the words “JOSHI”, “Male”, “Modinagar”, “Ghaziabad” in the enclosed portion Q8 and the words “Kashi Ram”, “Ganga Devi”, “Maya Devi”, file no. “402/2615/98”, there is no erasure, cutting or alteration whatsoever at the place where these words appear. Had there been any erasure on this passport or for that matter passport Ex. PW6/A, the same would have been easily visible. A-1 admittedly did not receive file no. 402/2615/98 of Sh. Alok Punj for writing the passport. Hence, it was for him to explain how the said file number appears on the said passport. More so when admittedly he had received the said passport Ex. PW3/A for writing details of PW3.

7.33 A bare glance at the second line of the passport Ex. PW3/A reveals no erasure at the place where the word “JOSHI” is written and there is no hint whatsoever that any word was erased and “JOSHI” written in its place. If the passport was rightly written for PW3 the word “SINGH” would have appeared. Not only the said word does not appear there but I find no evidence whatsoever remotely of the word “SINGH” being written or deleted or erased and I have absolutely no hesitation that the word “JOSHI” as it appears in the second line was originally written as such. Same applies for the word “VARMA” as written in the second line of passport Ex. PW6/A.

7.34 There is another interesting fact. A-1 disowned the word in the fifth line “Modinagar” in the enclosed portion Q8 of Ex. PW3/A. However, the word “Modinagar” would have been written here

as same is the correct address of PW3. I completely fail to understand and it absolutely sans logic that someone would erase “Modinagar” as would have been rightly written there by PW3, as he admittedly received the said passport for PW3 bearing the address of “Modinagar” and then again write “Modinagar”. I completely fail to understand why would somebody waste time and energy in erasing the word and rewriting the same word when it serves no purpose at all.

7.35 There indeed appears erasure at the place where the alphabet “N” appears just before “G” in the word “NARANG” in the enclosed portion Q8 of Ex. PW3/A. The CFSL result dated 25.10.2002 Ex. PW23/E further corroborates the said fact. The relevant portion is reproduced here under:-

“Microscopic examination of the red enclosed portion marked Q-8 reveal that the existing letter N before the letter G of the word NARANG is written after physically erasing the original letter at this place. However, it has not been possible to decipher the original writings”

7.36 Why there is erasure only in the third line of both the passports i.e. Ex. PW3/A & Ex. PW6/A is for the fact that while committing forgery and on account of similarity in the initial alphabets of the name “NARAMBHAI” and “NARANG” i.e. “NARA...”, A-1 instead of writing “NARANG” wrote “NARAM”. Same happened while writing the other passport. This is the only reason why erasure, cutting, alteration appears in the third line of both the passports and there is no other reason whatsoever. As the saying goes “It takes a wit to mimic well” i.e. whether in art, speech or behavior it requires more than

just mechanical copying; it requires intelligence which clearly lacked in the case at hand. Even to copy, commit forgery you need brain. Again for the sake of repetition, the CFSL results on record do not talk about any erasure at any place in the passports in question except the words “NARANG” & “NARAMBHAI” and numerical “8” on one of the passport.

7.37 At this stage it will be pertinent to highlight the statement made by A-1 while answering question no. 48 & 49 which read as under:-

Q. 48. It has come in the evidence of PW-23 that, microscopic examination of the red enclosed portion marked Q-8 reveal that the existing letter N before the letter G of the word NARANG is written after physically erasing the original letter at this place. However, it has not been possible to decipher the original writings. What you have to say?

Ans. It is correct that existing letter N before the letter G of the word NARANG is written after physically erasing the original letter at this place, as Kundan Singh had duly filled in the correct name of Sh. Bhupindra Singh and had sent the same to the lamination and pasting section and it seems that erasing has taken place after the passport was sent to lamination and pasting section or any time thereafter. It was in view of the same, the CFSL in its report Dt. 25.10.2002 as aforementioned that it has not been possible to decipher the original writings.

Q. 49. It has come in the evidence of PW-23 that, the Microscopic examination of the red enclosed portion marked Q-1 reveal that the existing word NARAMBHAI (spelt correctly during cross-examination) and the figure 8 of the month column are written after physically erasing the original writings at these places. However, it has not been possible to decipher the original writings/figures at these places respectively. What you have to say?

Ans. This question needs no reply being not connected to me.

7.38 A-1's claim that he had written the correct name i.e. Bhupindra Singh is absolutely false. As discussed above there is no

erasure except at alphabet N where the word NARANG appears in the passport and letter alphabet M where the word NARAMBHAI appears. The name which appears in the first line of the passport i.e. JOSHI and VARMA respectively were originally written there and there was no erasure at all. There is absolutely no question of the word/sir name SINGH being written and subsequently erased in the passport in question. Also though he gave a detailed answer to question no. 48, A-1 for reasons best known to him claimed as regards question no. 49 “*This question needs no reply being not connected to me*”. He did not claim that he had written the word “PREMCHAND” and that the subsequently it was erased and the word NARAMBHAI was written at this place.

7.39 Though the Ld. Trial Court laid much emphasis on para 4 (i) & (ii) and 5 (i) & (ii) to arrive at it’s conclusion and doubt the prosecution case, however, it failed to consider the statement of PW28 who categorically deposed “*When these files were sent to Sh. Kundan Singh for writing the particulars from above files on the passport, he instead of writing the name of the applicants Prem Singh and Bhupender Kumar wrote the name of Naram Bhai Verma and some other person*”. The said statement made by IO/PW28 was not only on the basis of the investigation which he carried out but also on the basis of CFSL result Ex. PW23/I, which was duly received by him before filing of the charge-sheet and which leaves no doubt that there was no erasure, alterations, cuttings etc. on the passports except at the portions detailed therein. Had the Ld. Trial Court considered the said statements

of the IO and perused the passports carefully, things would have been crystal clear.

7.40 At this stage it will be pertinent to highlight that it stands proved from the report Ex. PW23/I that the laminated sheet of the passports was never removed and therefore, whatever was written or erased was done before the lamination which further proves that the forgery was done within the passport office itself. The relevant portion of Ex. PW23/I dated 20.05.2003 in this regard is reproduced here under:-

“I) U.V examination of the laminated documents marked Q-1P, Q-7P, Q-8P and Q-14P do not reveal any disturbance in the flouroscent printing matter on the photograph or the remaining portion of the document indicating that no efforts have been made to open and refix the laminated sheet.

ii) Oblique light examination do not reveal any fibre disturbance in the original documents marked Q-1P, Q-7P, Q-8P and Q-14P indicating that no efforts have been made to open and re-laminate the documents.”

7.41 In addition to the above, it is to be seen that PW23 in his reports Ex. PW23/G & Ex. PW23/K categorically attributed the writing at portion ‘Q8’ of passport Ex. PW3/A to A1. It is a detailed report and I find no reason to doubt the same moreso in view of my above discussion. When the passports were admittedly received by A-1 for writing; he was admittedly the passport writer and he admits certain portions in his writing and as regards the non-admitted portions, I find no erasure, deletion or alteration there is absolutely no doubt in my mind that the writings on passport Ex. PW3/A and for that matter Ex. PW6/A are in A-1’s handwriting. It is also to be kept in mind that PW23

could not give opinion on portion enclosed as 'Q14' of Ex. PW3/A and portions enclosed as 'Q1' & 'Q7' of Ex. PW6/A which itself proves the genuineness, authenticity of PW23's examination and report.

7.42 Most importantly, it was only during his examination u/s 313 Cr.P.C. that A-1 for the first time admitted the writings at portion Q5 of Ex. PW6/A and Q12 of Ex. PW3/A, however, the CFSL/Ex. PW23/E had already connected the said writings with A-1. The said opinion was given by CFSL on the basis of comparison of the writings at the questioned portion Q5 and Q12 with the specimen handwriting and admitted writings of A-1 i.e. A1 and A2, part of Ex. PW1/6 (colly) send vide Ex. PW23/A. This itself sufficiently proves that the expert had indeed carried out a detailed and thorough examination of the exhibits and lends due credence to his expertise and reports.

7.43 During the course of investigation specimen handwriting of A-1 & A-2 were obtained, as were voluntarily given by them in the presence of independent witnesses as stands duly proved from the testimony of PW18, PW19, PW20 and PW26. The specimen handwriting of A-1 are S-16 to S-41 i.e. Ex. PW18/B (colly) and that of A-2 are S-1 to S-15 i.e. Ex. PW19/A (colly). Furthermore the specimen writing/signatures of Daya Ram (S-42 to S-58) Ex. PW26/A (colly) and Hans Raj (S-59 to S-77) Ex. PW9/C (colly) were also taken and sent to the CFSL along with the questioned writings/passports for forensic analysis/expert opinion.

7.44 The foremost CFSL result, as was received by the investigating agency pursuant to its letter Ex. PW23/A dated 03.08.2002 is/was Ex. PW23/E dated 25.10.2002. The said result leaves no doubt that passports Ex. PW3/A and Ex. PW6/A do not bear the signatures of Superintendent Hansraj and Daya Ram respectively. In fact there is no challenge to this position. Furthermore, as per this report the handwriting appearing at portion 'Q5' on Ex. PW6/A and 'Q12' on passport Ex. PW3/A is of A-1, which is otherwise the admitted position.

7.45 The report Ex. PW23/E also proves the erasure in the 3rd line of passport Ex. PW3/A where the word NARANG appears in enclosed portion Q8 and in Ex. PW6/A where the word NARAMBHAI appears within enclosed portion Q1. As already discussed above this report and for that matter the subsequent reports do not talk about any other erasure, cutting, alteration in the name or other particulars appearing on the passports, the only exception being numerical '8' in the date 19.8.98 in enclosed portion Q1 of Ex. PW6/A.

Further as per this report same shade of black ball pen was used in writing 'Q1', 'Q5' & 'Q7' and 'Q8', 'Q12' & 'Q14'. However, this report did not attribute the writing at portion 'Q1' & 'Q7' on passport Ex. PW6/A and 'Q8' & 'Q14' on passport Ex. PW3/A to A-1. Moreover even the forged signatures of Superintendent were not attributed to A-1.

7.46 After the receipt of the said report another letter was written to CFSL i.e. Ex. PW23/B dated 30.10.2002 enclosing certain admitting writings of A-1 and A-2 i.e. A23 to A32 and A33 to A37 respectively part of Ex. PW1/13 (colly) apart from specimen, admitted

handwriting of other individuals. PW23 submitted his second detailed report dated 31.01.2003 i.e. Ex. PW23/G, reiterating his earlier findings and additionally attributing the questioned writing 'Q8' of Ex. PW3/A to A-1. Nonetheless this report remained silent qua portion 'Q14' of Ex. PW3/A and 'Q1' & 'Q7' of Ex. PW6/A. The relevant image of the report is reproduced hereunder:-

III.

Handwriting evidence points to the writer of the standard writings marked S-16 to S-41, A-1 and A-2 being the person responsible for writing the questioned writings marked Q-5 and Q-12 due to the following reasons:-

The questioned writings are written freely showing smooth line quality, natural variations. Qualities of imitation are not present in them. The standard writings are also written freely showing smooth line quality, natural variations and are suitable & sufficient for the purpose of comparison with the questioned writings.

Both the questioned and the standard writings agree with each other in the general writing characteristics such as movement, spacing, slant, alignment, relative size, proportion of letters. The skill and line quality of the questioned writing are also found consistent with these qualities of the standard writings.

Both the questioned and the standard writings also agree with each other in individual writing characteristics without any material divergence. Some of the points of similarity are detailed below:-

- i) Manner of execution of the capital letter **T** with the nature of its horizontal start, formation of retrace at the right hand side of the vertical staff, formation of its vertical staff in the same operation, their relative sizes as observed in the word **Tiwada** in Q-12 is similarly observed in the words **Three** in S-26 (11th line), **Ten** (last line), S-27(last line), **Tiwara** in S-30 (6th line, 9th line), S-31 (2nd line) in the word **Tiwada** in A-2 etc.
- ii) Manner of execution of the capital letter **R** with the nature of formation of its vertical staff, retrace in its staff, formation of its body and connection to the letter following small **o** as observed in the word **Road** in Q-12 is similarly observed in the same word at number of places in the standard writings.
- iii) Manner of execution of the capital letter **M** with the nature of retrace in its left hand staff, formation of its body curves, their relative sizes, relative position, formation of sharp angle in its right hand body as observed in the word **Modi Nagar** in Q-12 and **Muzaffara** in Q-5 is similarly observed in the same words at number of places in the specimen writings.
- iv) Manner of execution of the capital letter **B** with the nature of formation of its body curves, their relative sizes and positions is similarly observed in both the sets of writings.

(155)

- v) Similar manner of execution of the capital letters **V**, **P** and **U** etc. in detailed executions and natural variations therein.
- vi) Manner of execution of the small letter **o** with the nature of its start in continuation of the preceding letter capital letter **M**, formation of loop at the start as well as at the finish, its axis as well as connection to the letter following **d** as observed in the word **Modi Nagar** in Q-12 is similarly observed in the same word in the standard writings.
- vii) Similar manner of execution of the small letter **w** with the nature of formation of its body curves, their relative sizes and direction of finish.
- viii) Similar manner of execution of the small letter **a** with the nature of formation of its body oval and terminating stroke.
- ix) Manner of execution of the small letter **g** with the nature of formation of its body oval, formation of its staff and loop alongwith lower portion of the staff as observed in the word **Modi Nagar** in Q-12 alongwith natural variations within the moderate range is similarly observed in the standard writings at number of places.
- x) The writer has at his command to write more than one variety of small letter **b**, the first variety of this letter with the nature of formation of its body in continuation of the foot of the staff in a clock wise direction and its open body oval at the base as observed in the word **Ghaziabad** in Q-5 is similarly observed in the same word in A-1, S-36 (3rd line, 12th line), S-37 (3rd line) etc. The other variety of this letter with the nature of formation of loop alongwith the staff, formation of right body as observed in Q-12 is similarly observed at number of places in the specimen writings.
- xi) Manner of execution of the small letter **z** with the nature and position of start, formation of its body curves, their relative sizes, formation of lower loop and connection to the letter following small **i** as observed in the word **Ghaziabad** in Q-5, Q-12 is similarly observed at one place or the other in the standard writings.
- xii) Manner of execution of the small letter **f** with the nature of formation of loop at the top, formation of its body as observed in the word **Muzaffara** in Q-5 is similarly observed in the same word in A-1.
- xiii) Manner of execution of the small letters **d**, **i**, **n**, **h** etc. in detailed manner of execution of strokes comprising them alongwith natural variations.
- xiv) Habit of writing the combination **ra** of the word **Muzaffara** as observed in Q-5 is similarly observed in the same word in A-1.

I have not observed any fundamental difference between the questioned and standard writings. Cumulative consideration of the aforesaid points of similarity observed between the questioned and the standard writings in both general and individual writings characteristic, constitute the basis of my opinion.

7.47

As discussed above, during his examination u/s 313

Cr.P.C. A-1 had stated as under:-

“It is humbly submitted that finding of the CFSL Report that handwriting evidence points to the writer of the standard writings marked S-16 to S-41, A-1, A-2, A23 to A-32 being the person responsible for writing all the seven lines in red enclosed portion marked Q-8 is partially incorrect, in as much as to the extent that the lines which I had admitted to be in my handwriting, the report to that extent is correct but with regard to the other lines i.e., 2nd Line “JOSHI”, 3rd Line “NARANG” 4th Line “Male” & “01.06.1957” and 5th Line “Modinagar”, as they are not in my handwriting therefore report to that extent is incorrect and has been given in the most mechanical and callous way, it seems at the behest and pressure of CBI, to falsely implicate me”

7.48

Hence the first line i.e. where the passport no. A5885406 appears, sixth line where the word Ghaziabad appears and the seventh line where the dates 14.08.1998 and 13.08.2008 appear, they are admittedly in the handwriting of A-1. Though A-1 denied the other portions to be in his handwriting, however, in view of above discussion and the corroboration by CFSL result no doubt remains that other portions are also in his handwriting. While doubting the CFSL result the Ld. Trial Court took into consideration the prosecution case, as per the charge sheet, that the passports were initially filled by A-1 with correct particulars of the original applicants and therefore there was no occasion to commit forgery or delete the existing text appearing in the first & sixth lines and the dates in the seventh, however, it has already been discussed above that there is/was no erasure in the passport except in the third line where the words ‘NARANG’ and ‘NARAMBHAI’ appear respectively in Ex. PW3/A and Ex. PW6/A.

7.49 The Ld. Trial Court while discussing the report Ex. PW23/G held that the capital letter ‘G’ appearing in the word ‘Ghaziabad’ is stated to be similar to the admitting writings but no reference is made to capital letter ‘G’ in the word ‘NARANG’, however, it will be interesting to note as to when A-1 admitted that the word “Ghaziabad” is in his writing. He admitted the same at the time of recording of his statement and not anytime before. Neither during the investigation nor during the examination of prosecution witnesses did he admit the said word to be in his writing. The same was deliberately admitted by A-1 considering the CFSL result Ex. PW23/G which linked him with the said writing. However, as the report did not convincingly, directly link him with the other writing on the said passport, he denied the other writings. It has already been discussed above that above the word “Ghaziabad” the word “Modinagar” appears in the 5th line of the passport Ex. PW3/A and as per the correct particulars of PW3 the word Modinagar would have only been written there. Hence it sans logic as to why somebody would delete Modinagar and again write Modinagar. This itself proves that word Modinagar as well as the other particulars on Ex. PW3/A were written by A-1 only. This is more so when there is no hint of any erasure whatsoever in the said passport as has been discussed above in detail.

7.50 Though it was observed by Ld. Trial Court “*Ld. Counsel for accused Kundan Singh (A-1) during arguments admitted the handwriting of accused Kundan Singh (A-1) in the first, sixth and seventh line of portion marked “Q8”. He even stated that though the words “Modinagar” in fifth line of the portion marked ‘Q8’ were in the*

handwriting of accused Kundan Singh (A-1), but the words “Khanjarpur” were erased therefrom”, however, it has already been discussed above that no question of erasure arises at this place or any other place except for where the word ‘NARANG’ appears on Ex. PW3/A. Moreover, even in the admitted portion Q12, Khanjarpur has not been mentioned and only Modinagar has been mentioned. So A-1 conveniently admitted certain portions after considering the CFSL result and took a false plea that remaining portions Q8 and Q14 are not in his writing.

7.51 The Ld. Trial Court also ignored the similarity in the capital letter/alphabet ‘M’ as observed by PW23 and as detailed in para III (iii) of his report, which finding was given by PW23 after comparison of the word ‘Modinagar’ appearing in Q8 of Ex. PW3/A to the word ‘Muzaffara’ in admitted writing Q5 of Ex. PW6/A. As discussed above the authenticity, genuineness of the detailed report of the expert is writ large from the fact that subsequent to his reports A-1 had admitted the writing at portions Q5 and Q12 as well as few lines of Q8 to be in his handwriting.

7.52 No doubt in his report Ex. PW23/G the expert did not specifically specify as to from where he had compared the capital letters V, U, P, N, O, A, however, his report, para III in particular, as has been reproduced above, makes it amply clear that he had compared these words, alphabets appearing at portion Q8 with the specimen and the admitted writings of A-1. In my considered opinion there was no necessity or occasion for the Ld. Trial court to threadbare the expert’s

report because as discussed above there is no erasure or cutting on the passports, except at the places as detailed above and whatsoever writing appears on them, it was only A-1 who could have written the same and the evidence on record sufficiently establishes him to be the author of the passports in question.

7.53 Regarding the testimony of PW23, even though his testimony remained shaky on certain aspects, the Ld. Trial Court should have ignored the same considering the time lapse between the preparation of the report and the recording of testimony of this witness which was more than 14 and ½ years. Human memories are apt to blur with such huge passage of time. Error due to lapse of time/lapse of memory have to be given due weight-age/ due allowance. By and large a witness cannot be expected to possess a photographic memory and to recall the happenings or events of decade ago with precision. From where the expert/PW3 had compared the alphabets and letters was duly mentioned by him in para III of Ex. PW23/G. There was no need for him to mention it repeatedly in all the sub-paras of his report.

7.54 Also as discussed above, report Ex. PW23/E particularly paragraph (VI) & (VII) makes it amply clear that same shade of black ball pen was used in writing the questioned writings Q1, Q5 & Q7 and Q8, Q12 & Q14. No doubt the black ball pen and the ink of similar make, constituent is/would have been readily/commonly available in the market, however, the fact that same ink appears at the questioned portions further points that it was the same writer i.e. A-1 who wrote those portions.

7.55 Though vide letter dated 26.09.2003 i.e. Ex. PW23/D IO had sought an opinion qua Q8 of Ex. PW3/A suspecting that different portions were written by different persons and asked the expert to opine/tally the same with the specimen writing, however, I fail to understand on what basis the IO wrote the said letter. I am completely unable to understand what material came before the IO which made him form the said opinion and seek the report from CFSL. Nonetheless vide report Ex. PW23/K dated 14.11.2003 the expert opined that it was A-1 who had written all the 7 lines of Q8. No doubt in the said report the expert did not elaborate the reasons for said opinion, however, he did state that detailed reasons have already been expressed vide report Ex. PW23/G. I find no reasons to differ with the said report as the detailed discussion as above leaves no doubt that it was A-1 only who had written the questioned portions not only on Ex. PW3/A but also Ex. PW6/A.

7.56 The CFSL result as the law is well settled is merely corroborative in nature and cannot be formed sole basis of conviction. It is not safe to act upon an expert's opinion unless it stands corroborated by some reliable evidence. However, in the case at hand even if the CFSL result qua the opinion on writings is completely ignored, still considering the other material available on record, as has been discussed above in detail, no doubt remains that it was A-1 who had written the questioned portions on Ex. PW3/A and Ex. PW6/A. To summarize in brief (i) admittedly the passports were received by him for writing; (ii) this court on a bare glance find no erasure whatsoever

on these passports except for where the word 'NARANG' and 'NARAMBHAI' appears; (iii) why erasure appears at this place has been discussed above in detail; (iv) admittedly certain portions are in the handwriting of A-1 and the portions just like the portions not admitted by A-1 do not bear any erasure and (v) most importantly Ex. PW23/I proves that no efforts were made to open or refix the laminated sheet and therefore whatever forgery was done/took place same was done by A-1. Once the CFSL result is added to these facts there is more than sufficient evidence linking A-1 to the forgery on the passports in question.

7.57 As far as the Ld. Trial Court's observation regarding letter dated 21.10.2003 i.e. Ex. PW24/A (colly) vide which A-2 was referred to CFSL for polygraph test is concerned, again in my considered opinion the Ld. Trial Court got too much swayed by the SP's opinion for which opinion formed by the SP, I find no material whatsoever on record. It would have been better had the SP left the matter in the hands of the expert without expressing his own opinion more so when he is not an expert. This is more so when the IO had already received reports Ex. PW23/E dated 29.10.2002 and Ex. PW23/G dated 31.01.2003 i.e. almost an year, 10 months before letter Ex. PW24/A was written by the SP. His opinion, which is absolutely baseless not only confused the expert but also put the prosecution in a fix. Nonetheless the law is well-settled that benefit of defective or sloppy investigation should not be given to the accused or else it would tantamount to playing in the hands of the investigating agencies and result in travesty of justice.(*Dhanaj Singh v. State of Punjab (2004)* 3

SCC 654, *Paras Yadav v. State of Bihar* (1999) 2 SCC 126 & *Hema Vs. State* (2013) 10 SCC 192)

7.58 No doubt PW6 Sh. Krishan Kumar, PW7 Sh. V.K. Verma and PW11 Sh. Prem Singh disowned their statements Mark Y and Ex. PW11/A & Ex. PW11/B respectively and also failed to identify the handwriting on the passports in question as that of A1, however, in view of the above discussion, no doubt remains that handwriting on the passports is of A-1. No further corroboration is/was required.

7.59 It is well settled law that though proof beyond reasonable doubt should be adduced in all criminal cases, however, it is not necessary that the same should be perfect. In fact there cannot ever be a perfect proof in any criminal trial. Perfect proof can only exist in ideal situations which hardly exists. Investigation and collection of evidence is a cumbersome process and there are bound to be minor loopholes and lacunas even in the best of the investigation. But if the minor loopholes, contradictions, lacunas do not shake the basic foundation and there is sufficient material/substantive evidence, those loopholes and contradictions can be and rather should be easily ignored or else it will defeat the ends of justice. At this stage, it will be worthwhile to highlight the following observations made in *Inder Singh & Anr vs The State (Delhi Admn.) 1978 AIR 1091:-*

“Credibility of testimony, oral and circumstantial, depends considerably on a judicial evaluation of the totality, not isolated scrutiny. While it is necessary that proof beyond reasonable doubt should be adduced in all criminal cases, it is not necessary that it should be perfect. If a case is proved too perfectly, it is argued that it

is artificial; if a case has some flaws, inevitable because human beings are prone to err, it is argued that it is, too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many, guilty men must be callously allowed to escape. Proof beyond reasonable doubt is a guideline, not a fetish and guilty man cannot away with it because truth suffers some infirmity when projected through human processes. Judicial quest for perfect proof often accounts for police presentation of fool-proof concoction. Why fake up ? Because the court asks for manufacture to make truth look true ? No, we must be realistic.

“We are satisfied that the broad features of the case, the general trend of the testimony and the convincing array of facts which are indisputable, converge to the only conclusion that may be reasonably drawn, namely, that the accused are guilty. Theoretical possibilities may not shake up, fancied weaknesses may not defeat, when verdicts are rested on sure foundations. Stray chances of innocence haunting the corridors of the court cannot topple concurrent findings of guilt.

We feel unhappy that, while infirmity in some aspect or other of this prosecution case should not invalidate the culpability which is otherwise, veraciously made out, tragic occurrences like this one.....’

7.60 It has been held in **Shivaji Sahebrao Bobade & Anr vs State Of Maharashtra 1973 AIR 2622** as under:-

“Even at this stage we may remind ourselves of a necessary social perspective in criminal cases which suffers from insufficient forensic appreciation. The dangers of exaggerated devotion to the rule of benefit of doubt at the expense of social defence and to the soothing sentiment that all acquittals are, always good regardless of justice to the victim and ‘the community,’ demand especial emphasis in the contemporary context of escalating crime and escape. The judicial instrument has a public accountability. The cherished principles or golden thread of proof beyond reasonable doubt which runs thro' the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose

credibility with the community. The evil of acquitting a guilty person lightheartedly as a learned author(1) has sapiently observed, goes much beyond the simple fact that just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicated 'persons' and more severe punishment of those who are found guilty. Thus too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless. For all these reasons it is true to say', with Viscount Simon, that "a miscarriage of justice may arise from the acquittal of the ,guilty no less than from the conviction of the innocent. .."-In short, our jurisprudential enthusiasm for presumed innocence must be moderated by the pragmatic need to make criminal justice potent and realistic. A balance has to be struck between chasing enhance possibilities as good enough to set the delinquent free arid chopping the logic of preponderant probability to, punish marginal innocents."

7.61 It has been held in **Gurubachan Singh v. Satpal Singh** **1990 SCC (Cri) 151** as under:-

"There is a higher standard of proof in criminal cases than in civil cases, but there is no absolute standard in either of the cases. See the observations of Lord Denning in Bater v. Bater, [1950] 2 AER 458 at 459 but the doubt must be of a reasonable man. The standard adopted must be the standard adopted by a prudent man which, of course, may vary from case to case, circumstances to circumstances. Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicions and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let hundred guilty escape than punish an innocent. Letting guilty escape is not doing justice, according to law.

7.62 It has been held in **Iqbal Musa Patel v. State of Gujarat** **2011 SCC (Cri.) 654** as under:-

"It is true that the prosecution is required to establish its case beyond a reasonable doubt, but that does not mean that the degree of proof must be beyond a shadow of doubt. The principle as to what degree

of proof is required is stated by Lord Denning in his inimitable style in *Miller v. Minister of Pensions* (1947) 2 ALL ER 272:

"That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond a shadow of a doubt. The law would fail to protect the community if it permitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence 'of course, it is possible but not in the least probable,' the case is proved beyond reasonable doubt...."

"It is true that under our existing jurisprudence in a criminal matter, we have to proceed with presumption of innocence, but at the same time, that presumption is to be judged on the basis of conceptions of a reasonable prudent man. Smelling doubts for the sake of giving benefit of doubt is not the law of the land."

14. Reference may also be made to the decision of this Court in *Sucha Singh & Anr. v. State of Punjab* (2003) 7 SCC 643 where this Court has reiterated the principle in the following words:

".....Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts or lingering suspicion and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let a hundred guilty escape than punish an innocent. Letting the guilty escape is not doing justice according to law. (See *Gurbachan Singh v. Satpal Singh* AIR 1990 SC 209). Prosecution is not required to meet any and every hypothesis put forward by the accused. A reasonable doubt is not an imaginary, trivial or merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case. If a case is proved perfectly, it is argued that it is artificial; if a case has some flaws inevitable because human beings are prone to err, it is argued that it is too imperfect. One wonders whether in the meticulous hypersensitivity to eliminate a rare innocent from being punished, many guilty persons must be allowed to escape. Proof beyond reasonable doubt is a guideline, not a fetish."

7.63 It has been held in *State of Punjab v. Karnail Singh* AIR 2003 SC 3609 as under:-

"A judge does not preside over a criminal trial, merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape. Both are public duties." (Per Viscount Simon in *Stirland v. Director of Public Prosecution* (1944 AC (PC) 315) quoted in *State of U.P. v. Anil Singh* (AIR 1988 SC 1998)."

7.64 As far as reliance upon *Munshi Prashad (supra)* is concerned, there is no denying the well settled legal position that the defence witnesses are entitled to equal respect and treatment as that given to prosecution witnesses, however, what DW2 had examined was not the original passports but mere photocopies. Infact he had examined only one passport. Having not examined the original documents/passports and only the photocopies that by itself lessens the credibility of DW2's testimony and his opinion Ex. DW2/1. As stated by DW2 himself, he would prefer the original documents for the purpose of comparison and though he stated that he can give opinion on photocopies as well, however, he admitted that watermark on original documents cannot be seen on the photocopies. Similarly, he admitted that the additions, erasures, alterations etc. are not properly observable on a photocopy as compared to original documents. Most importantly he admitted that pen stroke/pen position cannot be ascertained on the photocopy of a document. Hence, the deposition of DW2 or his report Ex. DW2/1 does not come to the rescue of A-1.

7.65 The trial court record reveals that during the cross-examination of PW9 efforts were made on the part of defence to put the blame of forgery of passports on the Dispatch Section, however, PW9's statement that he used to sign the passports, which were received by him from the lamination and photo pasting section, after being fully satisfied with the contents of the passport and verifying them with the accompanying files of the applicant is a generalized statement and not a specific statement regarding the passports in question. No specific

question regarding the passports in question was put to PW9 during his detailed cross-examination. The passports being forged & fabricated, it being duly proved on record that they do not bear the signatures of PW9 and for that matter of the other Superintendent Sh. Daya Ram, no question arises of the passport being put up before either of them because had the same been done i.e. had the passport been put up before them, the forgery would have come to fore there & then. Nonetheless as has been discussed in this judgment as far as the role of the Superintendent is concerned there is more to it than what meets the eye.

7.66 Also no question arises of any forgery being done at the Dispatch Section as the report of the CFSL i.e. Ex. PW23/I and the above discussion leaves no doubt that the laminated sheet was never removed and therefore, whatever was written or erased was done before the lamination which further proves that the forgery was done within the passport office itself in the writing section and the Lamination and Pasting section. Passports never reached the Superintendent and therefore no question arises of them reaching the dispatch section. Instead they reached A-3 from whose locker they were recovered. The passports having forged they would have definitely not been put before the Superintendent, whose signatures were already forged as discussed above. In fact during the cross-examination of PW28 a suggestion was given to him to which he answered “*It is correct that the two passports in question were not placed before the Superintendent concerned on the respective dates*”.

7.67 Though the Ld. Trial Court did not touch the sanction aspect and even in the appeal, the CBI did not express any grievances as regards the sanction, however, the Ld. Defence Counsel during the arguments vehemently argued that the sanction order Ex. PW16/A is not legally tenable in as much as the same was granted by PW16 in a mechanical manner without application of mind. Ld. Defence Counsel relied upon Ashok Kumar Aggarwal, Mansukhlal Vithaldas Chauhan, P.L. Tatwal, M.M. Rajendran (supra) in support of his arguments. However, I find no merits in his arguments.

7.68 Though the FIR was registered under section 13(2) r/w 13(1)(d) of the PC Act as well, however, the chargesheet was not filed against either A-1 or A-2 for commission of the said offence. Therefore, there was no requirement of sanction under section 19 of the PC Act. Similarly, forgery of passports cannot be said to be an act in discharge of official duty by A-1 and for that matter A-2. Hence, there was no requirement for sanction under section 197 of the Code of Criminal Procedure, 1973.

7.69 All the case laws relied upon by the Ld. Defence Counsel in support of his arguments that the sanction is/was an invalid one deal with Prevention of Corruption Act and none of them deals with section 15 of the Passport Act. The sanction order Ex. PW16/A as placed on record is a sanction for prosecution as contemplated under section 15 of the Passport Act. It provides that no prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such

officer or authority as may be authorised by that Government by order in writing in this behalf. The purpose of Section 15 is to protect individuals from arbitrary legal actions relating to passport violations. It makes no difference between a public servant and a private individual as against section 19 of the PC Act and section 197 of the Cr.P.C whose purpose is to protect honest public servants from frivolous or vexatious prosecutions so that they can discharge their duties without any fear, while still remaining accountable. Hence, the threshold, scrutiny which is required under section 15 is much lesser as compared to that under section 19 of the PC Act and section 197 of the Cr.P.C. The primary purpose of section 15 appears to be to ensure the control of the Central Government over the enforcement of the Act which is essential for maintaining external relations and national security as well as that all actions under the Act are scrutinized and authorized by the Central Government.

7.70 Nonetheless, the testimony of PW16 and Ex. PW16/A leaves no doubt that PW16 had duly applied his mind while according sanction for prosecution i.e. Ex. PW16/A. PW16 categorically stated that “*I have accorded sanction after going through the material placed before me by the CBI. It was only after I was convinced that prosecution is made out prima-facie, that I had accorded sanction for prosecution*”. Furthermore, during his cross-examination, he had categorically stated “*Before I accorded sanction, the request of CBI passed through Under Secretary and the Director before the same was put up before me*”. Thereafter, as stated by the witness, he had accorded the sanction.

7.71 As far as the details of documents and the statements, considered by PW16 prior to grant of sanction is concerned, no doubt the witness stated that he is not in a position to state the details, however, the same was on account of lapse of time as was explained by the witness/PW16. With a huge passage of almost 13 years, since the grant of sanction, the witness naturally could not be expected to give the details of the documents considered by him. Nonetheless, he did state that he had considered the investigation report which also consisted of statements. There was no necessity for the sanctioning authority to mention the details of all the documents considered by him and once he stated that he had perused, considered “*Material placed before me*” same sufficed the purpose. Also the witness did categorically state that as far as he remembers the role of A-1 was that he made fictitious entries in the passports in someone else's name. After 13 years, since grant of sanction, PW16 was not expected to remember the name of the IO or whether the CFSL Result was also put up before him or not. Nonetheless, it is duly recorded in Ex. PW16/A that PW16 had discussed the matter with the Investigating Officer and carefully examined the material including statement of witnesses recorded by the IO. As far as authority of PW16 to grant sanction, the defence could not produce any record before the Ld. Trial Court which could challenge his authority for grant of sanction or prove that he was not authorized to do so which was granted by him under the Business Rules.

7.72 It is well settled law that grant of sanction is only an administrative function and the sanctioning authority is required to

prima-facie reach the satisfaction that relevant facts constitute the offence. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order. An order of sanction should not be construed in a pedantic manner and there should not be a hypertechnical approach to test its validity. (P.L. Tatwal (supra)) Keeping in mind the said well settled principle of law and considering the testimony of PW16 and Ex. PW16/A, I find no infirmity in the sanction order.

7.73 Hence from the material on record only one view is emerging and that is that it was A-1 who committed forgery of the passports in far as he wrote false, incorrect details of fictitious/unknown persons in the passports which were received by him for writing in the names of PW2 and PW3. Failure to consider statement u/s 313 Cr.P.C., A-1's own admissions and Ex. PW1/6 goes to the root of the case, so does the opinion formed by the court that there were erasures on the passports when none exists except for the places as discussed in this judgment. It appears that Ld. Trial Court did not carefully examine the passports and gave undue weightage to the incorrect factual narration of facts in the charge sheet by the IO while ignoring his testimony. Had the passports been carefully examined it would have revealed that the so called erasures do not exist except at the third line of both the passports and in the last line of one of the passport which has been discussed above in detail.

7.74 Therefore in view of above discussion, I am of the considered opinion that it was A-1 who had committed forgery in the

passports Ex. PW3/A and Ex. PW6/A and the Ld. Trial Court erred in acquitting A-1 for offence u/s 467 and 468 IPC. The passport being a valuable security, as discussed above, the false entries made in passports Ex. PW3/A & Ex. PW6/A in the name of non-existent, fictitious persons instead in the name of original applicants i.e. PW2 & PW3 makes A-1 liable for offence u/s 467 IPC. The ultimate purpose of the forgery in the passports was their use for the purpose of cheating. The forged passports, if the forgery was not or could not be detected at the relevant time, could be used for traveling abroad/out of India as well as for creation of other identity document. It was only on the strength of these forged passports that travel tickets and visa as well as other travel documents could be issued by the concerned authorities, thereby allowing the person/passport holder to travel. Delivery/handing over of air tickets, issuance of visa/travel documents etc. to the holders of these passports would have been on account of fraud being played upon the concerned authorities. This makes A-1 accountable for offence u/s 468 IPC as well. He is also liable u/s 12 (1) (b) of the Passport Act as he made false entries in the passports in the names of Narambhai Varma (Ex. PW6/A) and Narang Joshi (Ex. PW3/A), though the said passports were issued to him to be written for PW2 and PW3 respectively. Instead of writing their names, the entries were falsely entered, altered in the names of Narambhai Varma and Narang Joshi.

7.75 The passports remained with A-1 only for the purpose of forgery and thereafter they were somehow delivered to/reached A-3 from whose possession they were recovered. Having been convicted for offence u/s 467 and 468 IPC, A-1 cannot be

convicted for offence u/s 474 IPC merely because he remained in possession of the passports at the time of forgery. Things would have been entirely different had the passports been recovered from him. Therefore, offence u/s 474 IPC is not made out against A-1.

7.76 As far as offence u/s 201 IPC is concerned there is no evidence whatsoever connecting A-1 with the removal of passport files of PW2 and PW3 and therefore he was rightly acquitted by the Ld. Trial Court.

7.77 As far as offence u/s 420 IPC is concerned, no doubt the passport authority was deceived, however, there is no evidence that the forged passports were delivered by it to any person. Had the passports been bearing the genuine signatures of Superintendent things would have been entirely different. In that case the passports would have been purportedly shown to be issued by the competent authority/passport authority. However, the passports were forged and in a fraudulent manner delivered to A-3. The passport authority had no knowledge about any of these activities and accordingly it did not deliver or do or omit to do anything in respect of the passports. Therefore offence u/s 420 IPC is not made out against A-1.

7.78 As far as offence u/s 120B IPC is concerned, as already discussed above, there is no mention of said section in the charge framed against A-1 on 16.10.2007 by Ld. Trial Court. Nonetheless even otherwise there is no evidence connecting him with either A-2 or A-3 or the conspiracy alleged by the prosecution.

However just because the charge of conspiracy fails that by itself does not mean that accused is automatically entitled for acquittal for other substantive offences as there is sufficient evidence connecting him to other offences as discussed above.

7.79 Hence, in view of the above discussion, A-1 stands convicted for offences u/s 467 and 468 of Indian Penal Code as well as section 12 (1) (b) of the Passport Act 1967 and he stands acquitted for offence u/s 420 IPC, 474 IPC and 201 IPC.

Role of A-2 (Hemwant Kumar)

8. As far as A-2 is concerned, it is/was the prosecution case before the Ld. Trial Court that he was working at the Pasting & Lamination section of the passport office, Ghaziabad and he in conspiracy with the co-accused persons pasted photograph of the same person, in different poses as well as signature slips of non-existing persons on the passports in question.

8.1 From the material available on record, it stands duly established that A-2 was indeed deputed with the work of pasting and lamination of passports. According to office order, passport office, Ghaziabad Ex. PW5/B as proved by PW5, which is dated 18.06.1998, the duty of A-2 was as under:-

“ Office Order

The following will be the deployment of group “D”

1. Shri Hemwant Kumar, Peon. Attending inquiries at counter attached with pro

upto 12:30 pm and pasting of passport.”

8.2 No cross-examination of PW5 was conducted in respect of Ex. PW5/B and this document itself sufficiently proves that A-2 was working in the Pasting & Lamination section of the passport office at the relevant time. The date of the office order is 18.06.1998 and the passports in question i.e. Ex. PW3/A & Ex. PW6/A were issued on 14.08.1998 & 19.08.1998 respectively.

8.3 During his cross examination, certain suggestions were given to PW28 which suggestions themselves prove that A-2 was working in the Pasting and Lamination section. The same read as under:-

“I cannot say if Hemwant Kumar was assigned any other duties besides his duty in Lamination and Pasting section.....It is correct that as per office order dated 18.06.1998, Ex. PW5/B, accused Hemwant Kumar was deputed for pasting of passports”

8.4 Furthermore during his testimony PW28 had stated “*Vol. That accused Hemwant Kumar, who was a peon, was deputed and was Incharge of Lamination and Pasting section.....During investigation, as observed by me, Lamination and Pasting departments were not separate and both the departments were being run together*” which statements remained unchallenged, uncontroverted and A-2 could not prove that the two departments were separate or that he was not so posted.

8.5 Merely because PW28 stated “*I cannot say if Hemwant*

Kumar was assigned any other duties besides his duty in Lamination and Pasting section. It is correct that office orders in the Passport Office with respect to duties of officials kept on changing periodically.....I had not seized all the office orders from the year 1995-99” that by itself does not dent the prosecution story that A-2 was posted as Incharge of Lamination and Pasting section. If not him then it was for A-2 to explain that who else was so posted. It makes no difference that PW12 Sh. Krishan Kumar, who was working as RPO, Ghaziabad stated that apart from A-2, there were other peons/casual peons working at the relevant time i.e. in the year 1998 or PW11 stated that around 10 to 12 peons were working in the passport office at that time as the above discussion leaves no doubt that at the relevant time, A-1 was working as the Passport Writer and A-2 was working in the pasting & lamination section. Nothing stopped A-2 from summoning the office orders of the relevant period, which according to him were deliberately not brought on record by the prosecution to create doubts upon the prosecution story and prove that instead of him some other official was posted in the Lamination and Pasting section at the relevant time.

8.6 Infact, DW1 Sh. Majid Ali who was posted as Casual Labour (Peon) at RPO, Ghaziabad in the later part of 1997 categorically stated, during his cross-examination by Ld. PP for the CBI, that A-2 was working in the Pasting & Lamination section. The relevant portion read as *“In the year 1998, accused Kundan Singh used to work in Writing Section whereas accused Hemwant Kumar used to work in Pasting and Lamination Section.”* During his cross-examination by Id. Counsel for A2, he stated as *“I cannot say whether accused Hemwant*

Kumar remained posted in other departments also, besides the Pasting and Lamination Section in the year 1998. Vol. That I have seen him being posted in Pasting and Lamination Section only. I was not aware if accused Hemwant Kumar had remained posted in the Dispatch Section also in the year 1998. It is wrong to suggest that since the matter is quite old, I cannot say Hemwant Kumar was only posted in Lamination and Pasting Section in the year 1998". Hence, in addition to Ex. PW5/B, PW28's & DW1's deposition leaves no doubt that A-2 was working in the Pasting & Lamination section at the relevant time.

8.7 Though during his examination under section 313 Cr.P.C it was A2's stand that the passports in question i.e. Ex. PW3/A & Ex. PW6/A were never placed before him for lamination & pasting; he never laminated or pasted the photographs on these passports as he was merely a peon and was assigned with various works of the office, inside & outside, nonetheless while answering question no. 25, he stated as *"During the said time I am not aware if I was posted into the lamination & pasting section as the matter is 23 years old so I cannot comment of two different photographs in same passport. Even otherwise it was not duty of the pasting section to thoroughly check the contents of the passport with the contents of the passport file."* Similarly when deposition of PW5 and office order Ex. PW5/B were specifically put to A2, in question no. 7 of his examination under section 313 Cr.P.C, he answered as *"It is correct that PW-5 was appointed as RPO, Ghaziabad and Sh. Hansraj and Sh. Dayaram was Superintendent at Passport Office, Ghaziabad and I was a peon in the said office. Rest I do not remember as the matter is quite old. I was peon in the passport office*

and there were 3-4 peons in the office and peons were used to do all the miscellaneous work of the office and I had to comply all the order of my superiors regarding internal and external work of the passport office. It is incorrect that the peons are deputed as Incharge of any Section. The peons are concerned only with the miscellaneous work of the department and simply comply with the directions given by their superiors.” which answer just like answer to question no. 25 is absolutely evasive which itself points towards his culpability. If he was not posted in the pasting & lamination section, he would have specifically stated so and as discussed above, Ex. PW5/B is enough proof of the fact that A-2 was posted in this pasting & lamination section. Furthermore, if not he than who or who else was posted in the said section could not be proved by A-2. He made no efforts at all to prove that not him but someone else or additionally there were other peons/officials posted in the pasting & lamination section at the relevant time. Similarly, he could not prove that the process of lamination could be also done at any other section.

8.8 From the consistent testimony of the prosecution witnesses and DW1, it stands proved that from the Writing section, the passport came to the Pasting & Lamination section where the photograph of the applicant used to be pasted on the passport; the signatures of the applicant used to be also cut from the application form & pasted on the passport and thereafter, the passport used to be laminated. There was no other section where the passport went from the Writing section before it reached the Pasting & Lamination section. From the Lamination and Pasting section, the passports with the files

used to be sent to the concerned officer/signing authority i.e. Superintendent for signing the passports. Hence in the natural course of business, the passports in question would have come to A-2 for pasting and lamination, as he was posted in the said section, however, there is no cogent material which convincingly proves/establishes that A-2 had indeed received passports Ex. PW3/A & Ex. PW6/A for pasting and lamination. Though in all likelihood/probability it was he only who had received the passports in question but same cannot be substituted for clinching evidence essential for bringing home the guilt against A-2.

8.9 PW28 during his cross-examination by Ld. Counsel for A-1 had made certain categoric statements which were never challenged by A-2 during the cross-examination of PW28. The same read as under:-

“At this stage, witness is shown points ‘A’ on document Ex. PW1/7 (colly). It is correct that points ‘A’ on document Ex. PW1/7 (colly) shows the entries maintained by accused Kundan Singh in respect of filled in passports given to the pasting section.

..... Vol. That on 07.08.1998, Superintendent Hans Raj had issued 40 passports to Kundan Singh and these passports were to be signed by Superintendent Daya Ram. On 14.08.1998, Hans Raj had issued 40 passports to Kundan Singh and these passports were to be signed by him only. Record reveals that the 80 passports were handed over by Kundan Singh to the lamination section on these two dates”.

8.10 The above statements of PW28, based upon Ex. PW1/7, further points to the likelihood that the passports were received in the Lamination and Pasting section which section at the relevant time was headed by A-2, however, as discussed above, it is merely a likelihood and not a sterling piece of evidence.

8.11 Similarly, during his cross-examination dated 04.10.2024 Ex. PW1/7 was shown to PW28 and certain questions were put to him. The relevant portion read as *“At this stage, the witness is shown document D-11 Ex. PW1/7 i.e. passport distribution to pasting section register. This register was not sent to CFSL.....At this stage, the witness is shown document D-11. It is correct that on this document, nothing is mentioned as to the branch/section of the passport office, Ghaziabad to which it pertained.”* Not only to PW28 but even to PW1 it was not once suggested that PW1/7 is a forged & fabricated document. It was not suggested that the said document or register is a manipulated one. It has already been discussed above that statement made by PW28 during cross-examination by Ld. Counsel for A-1 remained unchallenged by A-2. The register thus appears to have been rightly, duly maintained in the official course of business and appears to be genuine, however, the prosecution was expected to take one more step and prove that the initials at point C are of A-2. Having failed to do so it has to suffer the consequences.

8.12 Ex. PW1/7 is the passport distribution to pasting section register and vide it 40 passports bearing no. A-5885031 to A-5885070 and another 40 passports bearing no. A-5885393 to A-5885432 were received by the pasting In-charge on 07.08.1998 and 14.08.1998 respectively who according to it was none other than A-2 and it is/was his initials which appear at point C on Ex. PW1/7. It was the prosecution case that A-2's signatures/initials were obtained at the time of handing over of passports to him, however, the prosecution witness

in support of the said claim turned hostile sounding death knell for the prosecution.

8.13 According to prosecution, it was PW9, who during the investigation had identified the initials on Ex. PW1/7 at point C as that of A-2, however, during the trial PW9 failed to identify the said initials as that of A-2 and also disowned his statement Ex. PW9/E wherein, he had alleged told the CBI that the said signatures/initials at point C is of A-2. Furthermore, for reasons best known to the IO, the said register was never sent to CFSL for forensic examination. This is despite the fact that specimen as well as admitted signatures & handwriting of A-2 were duly obtained during the investigation. However, that by itself i.e. the negligent conduct of the IO in not sending the register does not call for any adverse inference being drawn against the prosecution as was argued by Ld. Defence Counsel relying upon *Tomaso Bruno & Mohanlal Shamji Soni (supra)*. The law is well-settled that the prosecution should not be made to suffer for defect in the investigation or else it would tantamount to playing in the hands of investigating agencies. Giving benefit of a deliberately, designedly defective investigation to the accused, unless some prejudice is shown to have been caused to him, would lead to failure of justice. It is/was IO's negligent investigation which undoubtedly has seriously prejudiced the prosecution case on certain crucial aspects but that by itself does not render the entire prosecution story doubtful or untrustworthy.

8.14 Also the Ld. Trial Court as regards this register rightly concluded that the prosecution failed to prove as to who used to

maintain this register; in whose custody it remained; the entries on page bearing date 07.08.1998 appear in the handwriting of two different persons and the prosecution could not prove that the entry at Sl. No. 2 under the date 07.08.1998 & entry at Sl. No. 1 under the date 14.08.1998 are indeed admitted handwriting of A-1.

8.15 It is one aspect that A-2 was working in the Pasting & Lamination section but prosecution was bound to prove more i.e. he had indeed received the passports in question for pasting and lamination. However, the prosecution miserably failed to prove the said crucial aspect. This is more so when CFSL result Ex. PW25/I proves that “*no efforts have been made to open and refix the laminated sheet.*”, which leaves no doubt that the forgery of the passports in question particularly pasting of photograph and signature slip took place in the passport office itself.

8.16 Furthermore, the role of A-2/Incharge Pasting and Lamination section was simply to paste the photograph & signature slip from the file accompanying the passports and laminate the passport without going into the contents of the file and therefore it cannot be completely ruled out when the files along with passports in question came to A-2, for pasting and lamination, the files already contained the photographs & signatures of the non-existing persons. A-2 deserves this benefit of doubt.

8.17 Though there are certain office orders which also somewhere connects A-2 with the missing files and explains how the

passports reached A-3, however, it is a very weak of piece of evidence and not sufficient to hold A-2 guilty. As per office order Ex. PW5/A dated 18.11.1998, serial no. 15, A-2 was also posted in the Record Section. The relevant portion of the office order is reproduced hereunder:-

“Office Order

The following will be the distribution of work among the staff members in this office with immediate effect.

Shri Hemwant Kumar, Peon:- Record Section. He will arrange and restore files in record and will issue file against requisition slip after entering in register under signature of the concerned dealing hand.”

8.18 Being posted in the Record Section and when it is the prosecution case that the original files could not be traced in the record, A-2's involvement in the removal of those files/record cannot be completely ruled out. Again A-2 could not prove that during the relevant period someone else was posted in the Record Section. There is another office order dated 10.09.1999 as proved by PW11 i.e. Ex. PW11/C according to which the description of the duties of A-2 are mentioned as under:-

“Office Order

The following will be the distribution of work among the officers and staff in this office with immediate effect.

.....

20. *Shri Hemwant Kumar, Peon:- He will be in Dispatch Section and assist the Dispatcher.”*

8.19 Hence A-2 was also posted in the Dispatch Section. It has already been discussed above that the passports in question never

reached the Superintendent and accordingly they did not reach the Dispatch section, however, they were found in the locker of A-3. A-2's posting in Lamination and Pasting Section, Record Section and the Dispatch Section did give him an opportunity to not only paste photographs of non existing persons and signatures on the passports in question but it also gave him the opportunity to remove the original files and being posted in Dispatch section somehow provided him the means to deliver the passports in question to A-3. Ofcourse there is no conclusive evidence that he did remove the original files of PW2 and PW3 or that he delivered the passports to A-3 and the material on record merely points towards that probability. Probability cannot substitute clinching evidence which is squarely missing in the present case.

8.20 It was the prosecution case before the Ld. Trial Court that the stamp of the passport officer which was affixed on the passports in question was found to be genuine stamp as per the opinion of expert, however, the round stamp of the government was found to be bogus one. This was categorically deposed by PW28, during his examination in chief, however, these assertions are categorically missing from the charge sheet. During the trial, efforts were made to prove that a round stamp was issued to A-2, however, I fail to understand the logic behind the same as once the CFSL expert categorically opined that the round stamp appearing on the passports was a bogus one, it would not have made any difference that A-2 was issued a round stamp. Things would have been entirely different had the CFSL expert opined that it was the same round stamp as was issued to A-2 which appeared on the passports in question.

8.21 Nonetheless despite minor inconsistencies, contradictions in the testimony of PW4, his testimony coupled with that of PW11 leaves no doubt that a round stamp was indeed issued to A-2. PW4 proved the rubber stamp register Ex. PW4/A and categorically deposed that on 10.10.1997 a rubber stamp was issued to A-2. PW4's deposition in this regard remained un rebutted, unimpeached as he was not cross-examined on this aspect and I find no reason to disbelieve the same. Similarly, the fact that a rubber stamp was issued to A-2 was also proved by PW11 who categorically deposed that he had dealt with Ex. PW4/A which is rubber stamp issue register and vide which, one rubber stamp was issued to PW4 and another to A-2. PW11's testimony too remained unchallenged on this aspect. Furthermore, according to PW6 Sh. Krishan Kumar, during the relevant time, while he was posted in Establishment Section of the Passport Office, Ghaziabad, 4 rubber stamps (round seal) were made for office use out of which, 2 were issued in the name of PW4 & A-2 vide Ex. PW4/A i.e. Rubber Stamp register. Not even once during cross-examination of PW4 or PW6, it was suggested to them that no stamp/seal was ever issued to A2 or that they were deposing falsely in this regard.

8.22 In addition to nil cross-examination of prosecution witnesses viz-a-viz their categoric deposition that the rubber stamp seal was issued to A2, A2 gave evasive answers, during his examination under section 313 Cr.P.C, as regards issuance of rubber stamp to him. While answering question no. 6 wherein, deposition of PW4 to the effect that "*A rubber stamp seal was issued to Hemwant Kumar on*

10.10.1997”, A2 answered “*I do not remember as the matter is quite old. If any rubber stamp has been issued then the register shall bears signature of the recipient. There were 4-5 peons in my office and the rubber stamp used to be kept in the drawer without any lock*”. Similarly was stated by him while answering question no. 13. If the rubber stamp was not issued to him, he should have specifically stated so. However, as already discussed above, once the said stamp does not appear on the passports in question, the testimony of the prosecution witnesses regarding the issuance of rubber stamp to A2 serves no purpose whatsoever. Also as per charge sheet {para 4(i) and 5 (ii)} all the required rubber stamps were affixed by A-1 which is again inconsistent with the evidence led by the prosecution regarding affixation of stamps

.

8.23 Also it emerges from the deposition of PW4 and PW6 that one rubber stamp, as was issued in the name of PW4, was lost during shifting to CGO Building Passport Office and it cannot be completely ruled that it was this stamp or its duplicate which was used on the passports in question.

8.24 There is another loophole in the prosecution case benefit of which ought to be given to A-2. The CFSL reports which are on record nowhere connects A-2 with the cross signatures as appearing on the photographs pasted on Ex. PW3/A and Ex. PW6/A. Though the signatures would have been appended only after the photographs were pasted at the lamination section and as the lamination sheet was never opened the signatures appearing on the photographs would have been

put only before lamination, however, in the absence of concrete material that the passports reached A-2 it cannot be said with absolute certainty that it was he who had pasted the photographs or cross signed them. Similarly the CFSL reports do not connect the forged signatures of the Superintendent with A-2 or for that matter A-1. Also as rightly held by Ld. Trial Court and discussed above it cannot be ruled out that when the passports along with the files came to A-2, they already contained the photographs and signatures of the fictitious/non existing persons. Also as discussed above the practice of appending cross signatures of the Superintendent had been discontinued w.e.f. 05.09.1997 i.e. almost one year prior to issuance of the passports in question. A-2 having been working in the passport office would have been well aware about the same and therefore it sans logic that he would affix the signatures of the Superintendent on the passport, thereby making them forged on the face of it.

8.25 As far as the polygraphic test/examination Ex. PW24/B is concerned, I agree with the Ld. Trial Court's opinion that the said report cannot be relied upon to nail A-2. In the absence of permission from the court and in the absence of recovery/discovery of fact or incriminating material, Ex. PW24/B cannot be made the sole basis of conviction.

8.26 Therefore, due to lack of sufficient evidence, the Ld. Trial Court rightly acquitted A-2. There is no evidence to connect him with the forgery on the passports or the missing of the passport files or

of cheating passport authority in any manner. The prosecution appeal against his acquittal accordingly fails.

8.27 Before parting with the judgment I agree with the Ld. Trial Court's observations that the investigation was conducted in a very perfunctory manner. It lacked professionalism and was sloppy, shoddy to the core. Though number of passports were recovered from the locker of A-3 vide Ex. PW15/A and none of these passports except for one are/were in the name of A-3, however, for reasons best known to the investigating agency no investigation was conducted qua these passports. Ld. Trial Court also took note of the fact that as per the entry at Sr. No. 3483 of the Dispatch Register Ex. PW9/D, the passport bearing no. A5885406 was dispatched in the name of Km. Minu Singh on 14.08.1998 against file no. 402/4520/98. Thus, the passport booklet bearing no. A-5886506 was issued in the name of atleast two applicants. Furthermore, this passport was issued on 14.08.1998 and hence according to Ex. PW9/D it was dispatched on the same day but it has already been discussed above that this passport never reached the Superintendent much least the dispatch section and hence the entry in the register is a fraudulent one more so when the file no. of this passport is "402/2615/1998" whereas the file no. mentioned in the register Ex. PW9/D is "402/4520/1998". No investigation whatsoever was conducted on this aspect.

8.28 The Ld. Trial Court also discussed the role of the Superintendents including PW9 and I am of the considered opinion that there is more to the matter than what meets the eyes. Considering the

nature of their duty, supervisory role, the conduct of the superintendents somewhere appears to be fishy. The Ld. Trial Court observed as “*It has come on record that the Superintendent used to issue a lot of 40 passport booklets to the Passport Writer which used to come back to him either on the same day or the next day in the morning for the purpose of signing. Being a valuable document, it was the duty of the Superintendent to ensure that all 40 passports came back to him and they contained correct particulars of the applicants*”. It has already been discussed above that the passports in question never reached the Superintendent. Let that be the case the Ld. Trial Court rightly observed “*In the instant case, the investigation is completely silent as to how it was possible that the Superintendents concerned did not become aware of at least one missing passport on at least two occasions i.e. on 07.08.1998 and 14.08.1998. It has further come in the testimony of PW9 Hans Raj that registers were maintained at every step regarding movement of the passport and its file from one section to another which contained details of the person handing over and receiving the passports. PW9 Hans Raj in the cross-examination also deposed that record used to be maintained in triplicate regarding movements of the passports and he used to retain one of its copies. The other copies were retained by other sections. No such record has been seized by the IO in the instant case*”. The missing of the passports would have definitely come to the knowledge of the Superintendents i.e. PW9 and Sh. Daya Parkash but no action whatsoever was taken at their end. The Ld. Trial Court further observed that “*PW9 Hans Raj in the cross-examination also deposed that record used to be maintained in triplicate regarding movements of the passports and he used to retain one of its copies. The*

other copies were retained by other sections. No such record has been seized by the IO in the instant case” which further points not only to the lackadaisical nature of investigation but that the working of the passport office, Ghaziabad was not upto mark.

Conclusion

9. The appeal thus stands partly allowed. The judgment of the Ld. Trial Court is set aside and A-1 stands convicted for offence under section 467, 468 IPC & section 12(2) r/w 12(1)(b) of the Passport Act, 1967. A-3 stands convicted for offence under section 474 IPC. I order accordingly.

9.1 Copy of the present judgment be supplied free of cost to A-1 & A-3 and be heard separately on the point of sentence.

**Announced in the open court
on 28th March 2026**

**(GAURAV RAO)
Special Judge CBI-01 (PC Act)
Rouse Avenue Court Complex, New Delhi**