

Resumed on S.A.

Further cross examination of PW-01- Prakashchand Hastimal Jain by advocate Mr. Deepak Tambe for the accused :

18. It is not true to say that in delivery challan there was no need printed as Jirawala Impex.

Ld. Advocate for accused asked the question in respect of document Exh.19 Delivery Challan but the same is absent in proceeding. Neither interpreter nor peon are able to give justification for missing documents from the record of the court. Hence, cross examination deferred till next date on consent of parties.

R.O.A.C.

Date : 06.12.2023

(M. P. Saraf)
Metropolitan Magistrate,
58th Court, Bandra, Mumbai.
J.O.Code :MH01362

Date : 28.04.2025

Resumed on S.A.

Further cross examination of PW-01- Prakashchand Hastimal Jain by advocate Mr. Deepak Tambe for the accused :

19. It is true to say that I have produced the photo copy of invoice and delivery challan as the documents produced at Exh.19 and 20 in the proceeding were missing. It is not true to say that the original documents which I have earlier produced at Exh.19 and 20 in the proceeding were false and fabricated. It is not true to say that therefore, after deferring the cross examination I myself caused to miss said documents from the record. It is not true to say that I am not keeping any record of invoices and delivery challans. I can not answer without verifying my record that which

was the earlier delivery challan prior to the missing delivery challan, its numbers and name of the parties. So also I can not answer without verifying my record that which was the subsequent delivery challan after disputed delivery challan, name of the party and its number. I can not answer without verifying record which was the earlier invoice to the disputed invoice, name of the party and its number. So also I can not answer without verifying record which was the later invoice to this disputed invoice, name of the party and its number. It is true to say that I was asked to produce relevant documents vide application under section 91 of Cr. P.C. I have replied said application. It is not true to say that despite calling said documents I have not produced it deliberately. It is not true to say that I have falsely stated in para 5 of my evidence affidavit that I had supplied bulk quantity of cashew nuts @ Rs.798/- per kg. It is not true to say that I have made false statement that I delivered cashew nuts on cash and carry basis that is on immediate cash payment basis. It is not true to say that I supplied inferior quality cashew nuts on three months credit basis. It is true to say that I gave the accused a delivery challan in the name and style Jirawala Impax by striking the name Premier creations. Witness volunteers that said delivery challan was cancelled because of quality of cashew nuts and new delivery challan was issued. I do not remember that earlier delivery challan was given on 15.07.2017 and the delivery number was 108. It is true to say that I have not stated in my complaint and evidence affidavit about cancellation of earlier delivery challan and issuance of new delivery challan. It is not true to say that on 15.07.2017 I gave cashew nuts only one time and that too of inferior quality. It is not true to say that the rate of cashew nuts supplied to the accused was only Rs.760/- per kg. It is true to say that at that time I obtained original Aadhar Card of the accused. It is not true to say that at that time I also obtained blank security cheques from the accused. It is

true to say that in para 7 of my complaint I have stated that I obtained cheque as the gesture of security and his original Aadhar Card. Accused has not made any cash payment to me after two days of delivery of cashew nuts. Accused gave me subject two cheques approximately after 10 days. I do not remember exactly when the accused gave said cheques. I have not returned any cheque to the accused. The contents of para No.10 of my complaint regarding handing over back the cheque are true and correct. It is true to say that I have not stated in my evidence affidavit that I returned back the cheque to the accused. It is not true to say that I am deposing false that subject cheque was issued by the accused after 10 days of receiving cashew nuts by the accused. It is not true to say that I had obtained both disputed cheques on the same day of delivering inferior quality cashew nuts to the accused as a security. It is not true to say that both cheques were not only blank but even not signed by the accused. It is not true to say that I forged the signatures on both cheques. Both cheques on the basis of which complaints are filed are valued of Rs.11,31,165/-. It is not true to say that there was no legal liability against the accused to pay Rs.11,31,165/-. It is not true to say that the value of inferior quality cashew nuts supplied to the accused was only Rs.10,26,000/- by the rate of Rs.760/- per kg. It is not true to say that the liability towards accused was only Rs.10,77,000/- including 5% GST on the value of the cashew nuts. Mr. Kansingh is not my partner. It is not true to say that myself and Mr. Kansingh taken back some tins of cashew nuts from the accused for selling it to other customers. It is not true to say that accused asked me to take back the inferior quality cashew nuts but I never taken back the same. Accused never told me that the cashew nuts supplied to him are returned by the customers. It is not true to say that as I supplied inferior quality cashew nuts and refrain from taking back said tins, accused has no legal liability to pay me any amount. It is not true to say that I myself

filled in the contents of cheque, amount of the cheque without such liability and got it dishonored. It is not true to say that entire contents of cheque, signature of the accused are forged by me. It is not true to say that I have misused the cheque obtained from the accused towards security.

20. It is not true to say that after depositing the cheques and prior to issuing notice to the accused, accused has filed complaint against me on 28.08.2017 in Naya Nagar Police station for the offence of cheating and criminal breach of trust. It is not true to say that the notice issued to the accused is wrong and with false contentions. It is not true to say that I have supplied inferior quality goods to so many traders. It is not true to say that after supplying inferior quality goods I pressurized them with the aid of police. It is not true to say that I am doing illegal business without licence. It is not true to say that I do not possess any document as to my business. It is not true to say that I deposited the cheque without informing the accused. It is not true to say that I have filed false complaint against the accused.

Cross examination is over.

No Re-examination.

R.O.A.C.

Date : 28.04.2025

(M. P Saraf)
Judicial Magistrate (First Class),
58th Court, Bandra, Mumbai.
J.O.Code :MH01362

Date : 25.11.2025

Resumed on S.A.

Further cross examination of PW-01- Prakashchand Hastimal Jain by advocate Mr. Deepak Tambe for the accused after recalling PW-01:

21. The carbon copy of packing slip dated 15.07.2017 now shown to me is the same bill which I have cancelled. The office copy of said document is marked **Exh.65** as produced in the cross examination. It is not true to say that said bill is not cancelled and the same is the only bill given to the accused.

Cross examination is over.

No Re-examination.

R.O.A.C.

Date : 25.11.2025

(M. P. Saraf)
Judicial Magistrate (First Class),
58th Court, Bandra, Mumbai.
J.O.Code :MH01362