

CBI vs. Sh. Dilbhajan Singh Sandhu & Ors.
CC No. 63/19
CNR No. DLCT110003132019

06.08.2020

Present: Sh. B.K. Singh, Ld. Sr. PP for CBI.

Accused No. 1 Sh. Dilbhajan Singh Sandhu is absent.

Sh. Yudhisther Kahol, Ld. Counsel for Accused No. 1 Sh. Dilbhajan Singh Sandhu.

Accused No. 5 Smt. Sudershan Kapoor with Ld. Counsel Sh. Yudhisther Kahol.

Accused No. 6 Sh. Ashwani Dhingra, Accused No. 8 Sh. Rishi Raj Behl and Accused No. 11 Sh. D.B. Singh with Ld. Counsel Sh. M.K. Verma.

Accused No. 7 Sh. Amit Kapoor in person.

Accused No. 12 Sh. Vikas Srivastava with Ld. Counsel Sh. I.D. Vaid (through VC).

Today, the case is listed for final judgment.

An application is filed on behalf of Accused No. 1 Sh. Dilbhajan Singh Sandhu stating that he had fainted and fell down and suffered head and neck injuries. It is further stated that the said accused is admitted in hospital and undergoing treatment. On the email ID of the Reader of this court, OP Slip of Sh. Dilbhajan Singh Sandhu of Cheema Medical Complex, Mohali, Punjab is sent by Sh. Yudhisther Kahol, Ld. Counsel. The OP Slip mentions fall with Neck and Head Injury. It is stated that the accused is 80 years of age. Considering the reasons mentioned and considering the medical condition of the Accused Sh. Dilbhajan Singh Sandhu, the application is allowed for today.

An application is also received by the Reader of this court online sent by Sh. Dhruv Sehrawat, Ld. Counsel for the Accused No. 12 Sh. Vikas

CBI vs. Sh. Dilbhajan Singh Sandhu & Ors.



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Srivastava mentioning that the accused could not get the train reservation and prayer is to exempt his personal appearance. Considering the inability due to unavailability of train, the application is allowed for today.

Vide separate judgment:-

- (i) Charge under Section 420 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**
- (ii) Charge under Section 471 IPC read with Section 467 and 468 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**
- (iii) Charge under Section 411 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**
- (iv) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**
- (v) Charge under Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 5 Smt. Sudershan Kapoor is proved. **She is convicted accordingly.**
- (vi) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 5 Smt. Sudershan Kapoor is proved. **She is convicted accordingly.**
- (vii) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of

Corruption Act, 1988 framed against Accused No. 6 Sh. Ashwani Dhingra is not proved. **He is therefore acquitted.**

(viii) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 7 Sh. Amit Kapoor is proved. **He is convicted accordingly.**

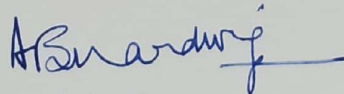
(ix) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 8 Sh. Rishi Raj Behl is proved. **He is convicted accordingly.**

(x) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 11 Sh. Dal Bahadur Singh is not proved. **He is therefore acquitted.**

(xi) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 12 Sh. Vikas Srivastava is not proved. **He is therefore acquitted.**

Ld. Counsel Sh. Yudhisther Kahol submitted that due to few holidays in the next week and due to possible restrictions for visiting Rouse Avenue District Court due to Independence Day Celebrations, the date for arguments on sentence may be kept for 17.08.2020. Ld. Sr. PP for CBI has no objection in this regard. Therefore, the request is allowed.

Now, the case shall be taken up again on **17.08.2020** at **11:00 AM** through **VC using CISCO Webex App** for arguments on sentence by Ld. Counsels for the convicts namely Sh. Dilbhajan Singh Sandhu, Smt.



06-08-2020

Sudershan Kapoor, Sh. Amit Kapoor and Sh. Rishi Raj Behl.

Copy of judgment (in physical form and soft form) be given Dasti immediately to the Ld. Counsel for the Convict No. 1 Sh. Dilbhajan Singh Sandhu and to Smt. Sudershan Kapoor, Sh. Amit Kapoor and Sh. Rishi Raj Behl, who are present in person. Copy of judgment be also given Dasti to Ld. Sr. PP for CBI, as requested.

Same be also uploaded on the website of the court.

Vakalatnama of Sh. M.K. Verma, Ld. Counsel filed on behalf of Accused No. 8 Sh. Rishi Raj Behl. Bonds in physical form under Section 437A Cr. P.C. also filed by Sh. Dal Bahadur Singh and Sh. Ashwani Dhingra. It was submitted that the surety shall appear in person when the order on sentence shall be passed in court premises by physical appearance of the parties. Soft copies of the same have already been filed and accepted.

The surety of Sh. Vikas Srivastava as per bond under Section 437A Cr. P.C. shall also appear before the Court on the date of order on sentence.



(ARUN BHARDWAJ)
Special Judge (PC Act) (CBI-5),
Rouse Avenue District Court,
New Delhi:06.08.2020

**IN THE COURT OF SHRI ARUN BHARDWAJ, SPECIAL JUDGE
(P.C. ACT) (CBI-05), ROUSE AVENUE DISTRICT COURT,
NEW DELHI.**

**RC. 2(E)/98/EOW-I/DLI dated 24.08.1998
CC No. 63/19
CNR No. DLCT110003132019**

Central Bureau of Investigation

Versus

- 1 Sh. Dilbhajan Singh Sandhu
S/o Late Sh. Arjan Singh
R/o 98, Hazi Rattan Road, Gali No. 1
H.No. 100 to 29261, Bhatinda
Punjab-151005Accused No. 1**
- 2 Sh. Hari Narain Sharma (Since Deceased)
S/o Late Amba Prasad Sharma
R/o B-III/7, Ganga Triveni Appts.,
Sector-9, Rohini, Delhi-110085Accused No. 2**
- 3 Sh. Baljinder Singh (Since Deceased)
S/o Sh. Harbhajan Singh,
R/o 33/2, Sarat Bose Road,
Flat No. 3, Calcutta-700020Accused No. 3**
- 4 Sh. Amarnath Rastogi (Since Deceased)
Asstt. Manager, Central Bank of India,
Patel Nagar Branch, New Delhi
S/o Late Sh. J.N. Rastogi,
R/o SD-191, SFS Flats,
Tower Apartments, Pitampura,
Delhi-110034Accused No. 4**

- 5 Smt. Sudershan Kapoor,
Branch Manager, Central Bank of India,
Patel Nagar Branch, New Delhi
W/o Sh. M.L. Kapoor,
R/o E-24, 2nd Floor, OMAXE Sun City,
Sector-54, Gurgaon, Haryana-122003Accused No. 5
- 6 Sh. Ashwani Dhingra (C.A.)
S/o Late Sh. Shiv Narain Dhingra,
R/o 506, Dhingra Street, Purani Abadi
Sri Ganganagar, Rajasthan-335001.Accused No. 6
- 7 Sh. Amit Kapoor, Prop.,
M/s S.K. Air Travels,
S/o Sh. J.L. Kapoor,
R/o Block-I, H.No. 726,
Palam Vihar, Gurgaon, Haryana-122017Accused No. 7
- 8 Sh. Rishi Raj Bahl, Prop.,
M/s Paramount Marketing,
S/o Sh. O.P. Bahl, R/o A-2/77,
Rajouri Garden, New Delhi-110027.Accused No. 8
- 9 Sh. Rakesh Sharma, MD (Since P.O.)
M/s SOI Ltd., S/o Sh. S.D. Sharma
R/o Khasra No. 78/16,
Smalka Gaon, Gurgaon (Haryana)Accused No. 9
- 10 Sh. Amol Singh, Director (Since Discharged)
M/s Oriental High Ways Pvt. Ltd.
S/o Sh. Dilbhajan Singh Sandhu,
R/o 4, Industrial Area, Chandigarh-160002.Accused No. 10
- 11 Sh. Dal Bahadur Singh S/o Late Baboo Singh
R/o C-88, Indira Nagar Colony,
Rai Bareilly, U.P.Accused No. 11

- 12 **Sh. Vikas Srivastava**
S/o Sh. Mahesh Prasad Srivastava
R/o 541R/1177, Campwell Road,
Reefa Colony, Rajaji Puram,
Thakarganj, Lucknow, U.P.-226003Accused No. 12
- 13 **Mohd. Anwar (Convicted vide order dtd. 04.02.2003)**
S/o Late Ali Hussain,
R/o Danapur, Baci Khagol,
Near Chakradaha Mode,
P.O. & P.S. Baci Khagol,
Patna, BiharAccused No. 13

Filed on: 23.01.2001
Reserved on: 27.07.2020
Decided on: 06.08.2020

JUDGEMENT

1. **Allegations in the Chargesheet:-** On 31.07.1998, Shri Vijay Prakash, the Regional Manager of Central Bank of India, New Delhi had given a written complaint to CBI alleging that Shri Dilbhajan Singh Sandhu, Shri Hari Narain Sharma and Shri Baljinder Singh, in connivance with Shri Amarnath Rastogi (Assistant Manager of Patel Nagar Branch of Central Bank of India) have cheated the Bank by forgery to the tune of Rs.1,46,00,000/- by procuring OD limits against fake KVPs amounting to Rs.1,99,85,000/- purportedly issued by Armapur Post Office, Kanpur.

2. This complaint led to registration of RC2(E)/98/POW-I/DLI dated 24.08.1998.

3. After investigation, chargesheet was filed on 23.01.2001 against 13 accused persons. Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh are private persons, Accused No. 4 Shri Amarnath Rastogi and Accused No. 5 Smt. Sudershan Kapoor are the two public servants who at the relevant time were the Assistant Manager and the (officiating) Branch Manager of the Patel Nagar Branch respectively, Accused No. 6 Shri Ashwani Dhingra is alleged to be the Chartered Accountant of Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 7 Shri Amit Kapoor, Accused No. 8 Shri Rishi Raj Behl, Accused No. 9 Rakesh Sharma (Proclaimed Offender), Accused No. 10 Shri Amol Singh, Accused No. 11 Shri D.B. Singh, Accused No.12 Shri Vikas Srivastava and Accused No. 13 Mohd. Anwar (convicted vide order dated 04.02.2003 as he pleaded guilty) are the other private persons.

4. As per chargesheet, during March 1998, Accused No. 1 Shri Dilbhajan Singh Sandhu was in the business of sale and purchase of Mahindra and Mahindra jeeps in the name of his company M/s. Oriental Automobiles Ltd., Bhatinda and was in financial crisis. He made a

request to Accused No. 6 Shri Ashwani Dhingra, Chartered Accountant to arrange finance for making payment to Mahindra and Mahindra Ltd. The said Accused No. 6 Shri Ashwani Dhingra made arrangements for procuring stolen KVPs through Accused No. 11 Shri D.B. Singh who procured the same from Accused No. 13 Mohd. Anwar so that the same can be pledged for obtaining OD limit from Central Bank of India, Patel Nagar Branch, New Delhi.

5. During the month of March 1998, Accused No. 8 Shri Rishi Behl and Accused No. 7 Shri Amit Kapoor introduced Accused No. 1 Shri Dilbhajan Singh Sandhu to Accused No. 5 Smt. Sudershan Kapoor, the (officiating) Branch Manager, Central Bank of India, New Delhi and discussed the matter regarding loan against KVPs and Accused No. 5 Smt. Sudershan Kapoor agreed in principle to sanction the loan.

6. The chargesheet further mentions that on the advice of Accused No. 5 Smt. Sudershan Kapoor, Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh met Shri D.L. Khanijo, the then Regional Manager of the Bank and explained their proposal for obtaining OD limit against KVPs.

7. Thereafter, all the three accused referred above submitted an application for granting OD limit against pledging of 3498 number of KVPs of different series, the details of which are as under:-

Sl. No	KVPs purportedly issued in the name of.	KVPs purportedly issued by Armapur Kanpur	No. by PO,	Total No. of pieces	Face Value of each.	Date of Issue
1	D.S. Sandhu	45BB-443501 45BB-444000	to	500	5,000	26.07.95
2	-do-	45BB-463301 45BB-463800	to	500	5,000	09.08.95
3	-do-	45BB-463901 45BB-464000	to	100	5,000	14.08.95
4	-do-	45BB-475501 45BB-476000	to	500	5,000	28.08.95
5	-do-	45BB-463001 45BB-463200 (except 45BB-463002)	to	199	5,000	09.08.95
6	-do-	45BB-463201 45BB-463300	to	100	5,000	09.08.95
Total				1999	99,95,000	
7	-do-	45BB-463801 45BB-463900	to	100	5,000	14.08.95
8	H.N. Sharma	46CC-876401 46CC-876900 (except 46CC-876697)	to	499	10,000	16 & 17.08.95
Total					49,90,000	
9	Baljinder Singh	45BB-475001 45BB-475500	to	500	5,000	24.8.95
10	-do-	45BB-477101 45BB-547500	to	400	5,000	29.7.95
11	-do-	45BB-457001	to	100	5,000	29.7.95

		45BB-457100			
Total				50,00,000	

8. On the application of these accused persons for OD limit, Accused No. 5 Smt. Sudershan Kapoor submitted a Proposal Note to the Regional Office of the Central Bank of India for consideration of sanctioning OD limit of Rs.1,50,00,000/- on 09.03.1998.

9. On the same day i.e. 09.03.1998 Shri V.K. Jain, Manager in the Regional Office processed the application and recommended for sanction of OD limit of Rs.1,40,00,000/-.

10. Thereafter, the file was seen by Shri D.L. Khanijo, Regional Manager, who raised few queries like ascertaining the genuineness of KVPs, utilisation of loan amount only for business purposes and limit of the Regional Manager for sanction of OD limit.

11. These queries were satisfied by Shri Ram Mehar Singh, another Manager in the Regional Office.

12. Being satisfied, Shri D.L. Khanijo sanctioned Rs.1,40,00,000/- under OD limit subject to fulfilment of conditions mentioned in the Sanction Order such as 30% margin to be obtained by the bank, obtaining deposit of Rs.30,00,000/- from borrowers and verification of genuineness of the KVPs pledged for OD limit.

13. All the three accused persons named above opened a Joint Current Account bearing No. 101703 on 10.03.1998 in Central Bank of India, Patel, New Delhi which was introduced by Shri Kuljeet Singh of M/s. Pinki Engineering Works to be operated only by Shri Dilbhajan Singh Sandhu.

14. On 11.03.1998, Accused No. 5 Smt. Sudershan Kapoor directed Accused No. 4 Shri Amarnath Rastogi, through official letter, to visit Armapor P.O., Kanpur for getting the KVPs endorsed in favour of Central Bank of India, Patel Nagar Branch, New Delhi.

15. On 12.03.1998, Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 4 Shri Amar Nath Rastogi and Accused No. 8 Rishi Behl left New Delhi by Indian Airlines Flight for Lucknow. At Lucknow, they were joined by Accused No. 6 Shri Ashwani Dhingra and Accused No. 11 Shri D.B. Singh and all of them contacted Shri S.N. Pandey, Sub-Postmaster, Armapore, P.O., Kanpur who made endorsements on 9 KVPs in the presence of Accused No. 4 Shri Amarnath Rastogi and the rest of the KVPs were left with Accused No. 1 Shri Dilbhajan Singh Sandhu for getting further endorsements made by the said Sub Postmaster. Later on, Accused No. 1 Shri Dilbhajan Singh Sandhu came

back to Delhi after getting the further KVPs endorsed in favour of Central Bank of India, Patel Nagar Branch, New Delhi.

16. On 14.03.1998, Accused No. 5 Smt. Sudershan Kapoor accepted those KVPs for release of the sanctioned amount of Rs.1,40,00,000/-.

17. The Joint Current Account No. 101703 was transferred to OD Account No. 301707 on 18.03.1998.

18. This sum of Rs.1,40,00,000/- was withdrawn from the account within 6 days i.e. from 18.03.1998 to 24.03.1998 as under:-

Handwritten No. & date.	Printed No.	Favouring.	Drawn on.	Amount (Rs. in lacs)
5 DDs No. 10/3686 to 40/3691, all dt. 18.3.98.	32778 to 32782	Mahidra & Mahindra Ltd.	Jaipur NBO	40
40/3691 to 40/3693, all dt. 18.3.98 (3 DDs)	32783 to 32785	-do-	17-B, Chandigarh (cancelled on 20.03.98)	20
DD No. 40/3694 dt. 18.3.98	32786	MGF(India) Ltd., Chandigarh.	17-B, Chandigarh	2
DD No. 40/3695 dt. 18.3.98	32788	JPC Credit Lines (P) Ltd.	Chandigarh	2.25
DD No. 40/3696 dt. 18.3.98	32789	M/s Sky Lines, Calcutta of Baljinder Singh	Calcutta NBO	7
DD No. 3697 dt. 18.3.98	32790 to 32791	Baljinder Singh	-do-	3

DD No. 40/3698 to 40/3699 dt. 18.3.98	32792 to 32793	D.B. Singh	Lucknow, NBO	15
DD No. 40/3700 to 40/3701 dt. 18.3.98	32794	Oriental Auto Ind. Ltd. of D.S. Sandhu [Actual beneficiary Ashwani Dhingra through Self Cheques issued by D.S. Sandhu and the cash collected by Ashwani Dhingra from Bank of Baroda, Hauz Khas Branch, New Delhi].	Delhi, NBO	15
DD No. 40/3702 dt. 18.3.98	32795	M/s Kavika Mktg., Consultants (P) [of Amit Kapoor, Director].	-do-	2
DD No. 40/3703 dt. 18.3.98	32796 to 32797	M/s Paramount Mktg. [of Rishi R.Bahl].	-do-	2
DD No. 40/3704 to 40/3705 dt. 18.3.98	32798 to 32799	Chick Feed (P) Ltd. [an Associate company of Rakesh Sharma].	-do-	10
DD No. 40/3705 to 40/3707 dt. 18.3.98	-	M/s Oriental Highways, Bhatinda [of Amol Singh, Director & S/o D.S. Sandhu]	Cash drawn.	10
Cheque No. 30002 dt. 20.3.98	-	Self [D.S. Sandhu]	Chandigarh	11
Cheque No. 30004 dt. 20.3.98	-	DD fvg. Asstt. Excise & Taxation Commissioner,	Central Bank of India, Patel Nagar Branch, N. Delhi	19.44

		Chandigarh	
Cheque No. 30003 dt. 24.3.98 for Rs.60,000 but withdrawal of cash allowed only of Rs.20,000/-.		Sh. M.K.Sood, Delhi [Son-in-law of H.N.Sharma].	0.2

Note: It would be evident while discussing the evidence that there are clerical mistakes in mentioning DD Nos. in this table.

19. The exhaustion of this OD limit has been explained in the chargesheet as under:-

“It is seen from the above details of withdrawals that out of the defrauded loan amount, Rs.3 lacs by a DD No. 40/3696 dt. 18.3.98 has been paid to Baljinder Singh, Rs.15 lacs by 2 DDs No. 40/3698 & 3699 dt. 18.3.98 to D.B. Singh out of which Rs.2.50 lacs were paid to V.K. Srivastava of Lucknow who being relative of P.C. Srivastava, Branch Manager, Central Bank of India, Alambagh Branch, Lucknow managed to get an SB A/c No. 22202 opened on 19.3.98 in the said branch for encashing the two DDs of Rs.15 lacs. An amount of Rs.18 lakhs through cheques has been received by Ashwani Dhingra, Rs.2 lacs each have been received by Amit Kapoor and Rishi Bahl in the name of their concerns namely M/s Kavika Marketing Consultants Ltd., and M/s Paramount Marketing, New Delhi, Rakesh Sharma has received Rs.10 lacs through a DD in the name of his company M/s Chick Feed (P) Ltd., New Delhi, Amol Singh and son of D.S. Sandhu has received Rs.10 lacs through a DD. However, H.N. Sharma could receive Rs.20,000/- through his son-in-law Sh. M.K. Sood who withdrew this amount from the loan account against a cheque No. 30003 dt. 24.3.908 for Rs.60,000/- but

permitted to withdraw Rs.20,000/- only. The remaining amount has been utilised by D.S. Sandhu.”

20. It is further alleged in the chargesheet that most of the loan amount was not utilised for the purpose for which it was granted. Accused No. 5 Smt. Sudershan Kapoor also failed to obtain Fixed Deposit of Rs.30,00,000/- which was one of the conditions of Sanction of OD limit.

21. It is also the allegation in the chargesheet that the KVPs in question were printed in Indian Security Press, Nasik and were dispatched on indent on 02.08.1996 to Circle Stamps Depot, Gauhati and on 10.03.1997 to Circle Stamps Depot, Calcutta and were stolen during transit at Patna Railway Station. In this regard, an FIR was registered on 30.04.1998 with GRP, Howrah and another FIR was registered with GRP, Patna. However, both the FIRs were merged and were investigated by GRP, Patna. Accused No. 13 Mohd. Anwar procured and sold the stolen KVPs to Accused No. 11 Shri D.B. Singh at Lucknow who in turn sold to various persons including Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh.

22. With these allegations, chargesheet was filed on 23.01.2001 alleging commission of offence under section 120-B read with section

411, 420, 468 and 471 of IPC and section 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 against all the accused and under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 against Accused No. 4 Shri Amarnath Rastogi and Accused No. 5 Smt. Sudershan Kapoor. So far as Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma, Accused No. 3 Shri Baljinder Singh, Accused No. 7 Shri Amit Kapoor, Accused No. 8 Shri Rishi Behl, Accused No. 6 Shri Ashwani Dhingra, Accused No. 11 Shri D.B. Singh and Accused No. 13 Mohd. Anwar are concerned, they were sought to be prosecuted for the substantive offence under section 411, 420, 468 and 471 of IPC.

23. Order on Charge:- Charge was conceded by the Ld. Counsels for Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma, Accused No. 3 Shri Baljinder Singh, Accused No. 6 Shri Ashwini Verma, Accused No. 11 Shri D.B. Singh and Accused No. 13 Mohd. Anwar.

24. Although Accused No. 4 Sh. Amarnath Rastogi has expired during pendency of trial but it is important to note the arguments addressed on his behalf for seeking discharge which have been noted in order dated 04.02.2003 as under:-

*“13. It has been argued on behalf of A.4 that the only cause of suspicion respecting his conduct is the fact that he had not completed the work of getting the endorsements on all the KVPs from the post office and had left the same remaining KVPs with A.1, while leaving Kanpur for Delhi. His argument is that his return ticket was booked from Lucknow to Delhi on 11.3.98, which was a decision that left just half an hour with him for getting endorsement on a large number of KVPs, a task not physically possible. His submission is that the time for return to Delhi was part of the directions given to him by A.5, since arrangement for return ticket was not left within his discretion **(emphasis supplied)**.*

*14. I am afraid the argument does not appeal to me in the present facts and circumstances. It has been argued on behalf of A.4 himself that it was known to everybody that it was not possible to get endorsements made on such a large number of KVPs within half an hour only. If so, A.4 himself also would have been conscious of this and would have pointed it out to A.5 before taking up the task. It cannot be ignored that he availed of air passage at the cost and arrangement of the party in question, which itself is a circumstance raising grave suspicion about his involvement in the design. He could have got his return delayed and the travel deferred if he had become alive at Lucknow to the fact that it was not physically possible to get the task completed within the short time available. Obtaining endorsement on KVPs that had been offered as security was a task of responsibility. It was inherent in this task that A.4 would also be confirming the genuineness of the said instruments. Leaving such important documents in the hands of the very person who was tendering them as security is prima facie indicative of close nexus and community of design and purpose **(emphasis supplied)**.*

25. The arguments on behalf of Ld. Counsel for Accused No. 5 Smt. Sudershan Kapoor were dealt with as under:-

“17. The counsel for A.5 argued that there was nothing on record to attribute knowledge to A.5 that the securities offered were forged and fabricated documents. This argument cannot jell in the face of positive evidence that her superior had made it part of her official obligation to get the genuineness of the KVPs verified, and besides others to secure advance of Rs.30 lakhs. Since A.4 returned after obtaining endorsement only on 9 KVPs, it was prima facie a matter of her knowledge that the endorsements on the remainder had been got done by A.1 himself. This apparently was highly improper manner of getting the genuineness confirmed. It cannot be ignored that witness Vijay Parkash, the Regional Manager, in his statement U/s. 161 Cr.P.C. would say that such work has normally done secretly without informing the borrowers instead of following such settled practices and rules of prudence, A.5 allowed A.4 not only to accompany the party itself, but also to return with job partially done. She also failed to secure the advance of Rs.30 lakhs in terms of the stipulations in the sanction order and thus failed to secure the financial interest of the bank. Prima facie was an abuse of office as public servant (emphasis supplied).”

20. It may be that there is no evidence collected to show any direct financial gain or pecuniary advantage in favor of A.5, but that by itself cannot mean that A.5 is entitled to discharge. The acts of commission and omission on her part prima facie show her involvement in the conspiracy and substantive offences. Her prayer for discharge is thus bound to be rejected.”

26. The arguments on behalf of Ld. Counsel for Accused No. 7 Shri Amit Kapoor and Accused No. 8 Shri Rishi Raj Behl were dealt with as under:-

21. The counsel for A.7 and A.8 was at pains to argue that mere allegations that A.1 had been introduced to A.5 by them, or that they traveled with A.4 to Lucknow and Kanpur or further that each of them received Rs.2 lakh each from A.1 were not sufficient to infer that they were party to criminal conspiracy. His submissions were that mere proof of a certain act was not sufficient and it must be shown that the act committed was an illegal act, so as to bring it within the ambit of the accusation that the person concerned was party to the criminal conspiracy. He also submitted that there was no proof of A.7 or A.8 having been involved in opening of the accounts of operations thereof or in the matter of grant of loan or its disbursements and says there is no linkage between them on one hand and A.4 on the other, the acts attributed to them cannot be taken as index of their being party to the guilty intention of others.

22. The arguments in the nature mentioned above do not appeal to me. It is well settled that there can be no direct proof of criminal conspiracy. Role of a particular accused has to be gathered from the facts and circumstances. The evidence indicates A.7 and A.8 were at the scene at the side of A.1 since beginning. In fact, it is they who are shown to have brought A.1 in contact with A.5, who prima facie abused not only her own office, but also roped in A.4 in abusing his office. A.8 traveled with A.4 in all-important task of obtaining endorsement from the post office. Mere argument that the amounts of Rs.2 lakhs each were received by A.7 and A.8 for services rendered cannot be the end of the story. It would be an obligation of A.7 and A.8 to show during the trial as to what lawful services they had rendered, so as to be recipients of such large amounts sourced from the illegal gains of the crime that appear to have been committed" (Emphasis supplied).

27. So far as Accused No. 9 Shri Rakesh Sharma and Accused No. 10 Shri Amol Singh are concerned, the discussion in the Order on Charge is not noted here as Accused No. 9 Shri Rakesh Sharma was declared Proclaimed Offender during the trial and Accused No. 10 Shri Amol Singh though charged under section 120-B of IPC by this court but was discharged by the Hon'ble High Court.

28. After this discussion of the arguments addressed on behalf of Ld. Counsels of the accused persons, all the accused persons were charged u/s 120B read with 411, 420, 467, 468 and 471 of IPC read with Section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 and the charge against them is as under:-

“That you all with Surendra Narain Pandey (since expired) and Vikas Srivastava (PO) during 1998 at New Delhi and Kanpur, U.P. were party to a criminal conspiracy by having agreed to do an illegal act i.e. to cheat the Central Bank of India, Patel Nagar Branch, New Delhi, by fraudulently inducing it to sanction demand loans in the name of you D.S. Sandhu, H.N. Sharma and Baljinder Singh to the extent of Rs.1.40 Crores by presenting and later pledging valuable securities in the form of stolen and forged 3496 pieces of Kisan Vikas Patras (KVPs) of the total purported value of Rs.1,99,55,000/- purported to have been issued by Sub Post Office, Armapur, Kanpur, U.P. which KVPs were to your knowledge, not issued by the said post office but had been stolen during the transit from Nasik to Howrah from a Railway Wagon, subsequently forged and then pledged for obtaining aforesaid loans so as to defraud and cheat the aforesaid bank in the furtherance of which the criminal conspiracy you Dilbhajan Singh Sandhu, Sh.

Hari Narayan Sharma and Baljinder Singh presented the said forged KVPs on which you Amar Nath Rastogi and your co-conspirators Surender Narayan Pandey (since deceased) in your respective capacities of Assistant Manager in Central Bank of India and Post Master of Sub Post Office, Armapur, Kanpur, U.P. abused your official position as such public servants by corrupt or illegal means in order to secure unlawful pecuniary advantage for yourself and the co-accused persons by facilitating false verification and lien marking on the said forged and fabricated KVPs and with assistance of you accused Rishi Behl, Ashwani Dhingra, D.B. Singh, Dilbhajan Singh Sandhu, Amit Kapoor and you Smt. Sudershan Kapoor having abused your official position and facilitated the accused persons in obtaining the defrauded amount and you Rakesh Sharma, assisted the accused persons in getting Over Draft Limit and received Rs.10,00,000/- from accused D.S. Sandhu for the assistance and you Amol Singh received Rs.10,00,000/- out of the defrauded amount and you Vikas Srivastava helped accused D.B. Singh in opening the SB Account and received Rs.2.5 lacs from the said account and you Mohd. Anwar made available the stolen KVPs to the accused persons in blank forms and thereby all of you committed offences punishable under Section 120(B) r/w 411, 420, 467,468 and 471 IPC and Section 13(2) r/w Section 13(1)(d) of PC Act, 1988 within my cognizance”.

29. Additional charge was framed against Accused No. 4 Sh. Amarnath Rastogi under Section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 and the charge reads as under:-

“That, during the period 1998, you being a public servant in the capacity of Assistant Manager, Central Bank of India, Patel Nagar Branch, New Delhi by use of illegal means and abusing your official position accompanied co-accused D.S. Sandhu, Rishi Behl by air to Lucknow on 12.03.1998 and further accompanied Accused Ashwani Dhingra and Dal

Bahadur Singh to Sub Post Officer, Armapur, Kanpur, U.P. for the purpose of verification of genuineness of 3498 pieces of KVPs presented by co-accused Dil Bhajan Singh, Hari Narayan Sharma and Baljinder Singh as per letter dated 11.03.1998 of Branch Manager, obtained false endst. of lien marking on 9 KVPs from co-conspirator S.N. Pandey (since deceased) and returned to Delhi without verifying the remaining KVPs and leaving them with co-accused D.S. Sandhu for getting the lien marked and falsely reported due verification to the Branch Manager and thereby enabled said accused persons to obtain pecuniary advantage to the tune of Rs.1.4 crores and corresponding loss to the Central Bank of India, Patel Nagar Branch, New Delhi and thus committed offence punishable u/s 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 within my cognizance”.

30. Additional charge was framed against Accused No. 5 Smt Sudershan Kapoor under Section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 and the charge reads as under:-

“That you, during the period 1998, being a public servant in the capacity of Branch Manager, Central Bank of India, Patel Nagar Branch, New Delhi by use of illegal means and abusing your official position you induced and persuaded to forward and recommend the proposal for the grant of OD limit of Rs.1.50 crores against the false/forged KVPs (no. 3498) purportedly issued by Armapur Post Office, Kanpur, U.P. to the then Regional Manager and you also facilitated accused D.S. Sandhu, H.N. Sharma and Baljinder Singh to open Bank Account on 10.03.1998 and 18.03.1998 to avail OD limit and also disbursed the amount to accused D.S. Sandhu in violation of terms of sanction order and thereby enabled said accused persons to obtain pecuniary advantage to the tune of Rs.1.40 crores and corresponding loss to Central Bank of India, Patel Nagar Branch, New Delhi and thus committed offence punishable under Section

13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 within my cognizance”.

31. Additional charge was also framed against Dilbhajan Singh Sandhu, Hari Narayan Sharma and Baljinder Singh under Section 420 IPC, 471 read with 467 and 468 IPC and u/s 411 IPC as under:-

“That you all, during the year 1998 at New Delhi, cheated Central Bank of India, Patel Nagar Branch, New Delhi by dishonestly inducing it to sanction loan of Rs.1.40 crores against KVPs purportedly issued by Armapur, Kanpur Post Office, U.P. which KVPs were stolen and forged to your knowledge and thereby committed an offence punishable u/s 420 IPC within my cognizance.

Secondly, you all during the aforesaid period at New Delhi fraudulently used as genuine, for purpose of cheating, KVPs mentioned above purported to have been issued by Armapur Post Office, Kanpur, U.P. but which to your knowledge were stolen and forged documents and thereby committed an offence punishable u/s 471 read with 467 and 468 IPC within my cognizance.

Thirdly, you all during the aforesaid period at New Delhi dishonestly received stolen KVPs mentioned above which you pledged with the aforesaid bank for fraudulently obtaining aforesaid loans knowing the said to be stolen property and thereby committed an offence punishable u/s 411 IPC, within my cognizance”.

32. So far as Accused No. 12 Shri Vikas Srivastava is concerned, initially he was declared a proclaimed offender and charge was framed against him on 19.03.2014 under section 120-B IPC read with section 411, 420, 467, 468 and 471 of IPC and under section 13 (2) read with

section 13(1)(d) of the Prevention of Corruption Act, 1988. The order on charge is as under:-

“That you Vikas Srivastava along with all your aforesaid conspirators were party to a criminal conspiracy with Surendra Narayan Pandey (since expired) during the year 1998-1999 at New Delhi and Kanpur, U.P. by having agreed to do an illegal act i.e. to cheat the Central Bank of India, Patel Nagar Branch, New Delhi by fraudulently inducing it to sanction demand loans in the name of D.S. Sandhu, H.N. Sharma (since expired) and Baljinder Singh (since expired), to the extent of Rs.1.40 crores by presenting and later pledging valuable securities in the form of stolen and forged 3496 pieces of Kisan Vikas Patras (KVPs) of the total purported value of Rs.1,99,55,000/- purported to have been issued by Sub Post Office, Armapur, Kanpur, U.P. which KVPs were to your knowledge not issued by the said post office but had been stolen during transit from Nasik to Howrah from a Railway Wagon, subsequently forged and then pledged for obtaining aforesaid loans so as to defraud and cheat the aforesaid bank in furtherance of which criminal conspiracy Dilbhajan Singh Sandhu, Hari Narayan Sharma and Baljinder Singh presented the said forged KVPs on which Amarnath Rastogi and his conspirator Surender Narian Pandey (since deceased) in their respective capacities of Assistant Manager in Central Bank of India and post master of Sub Post Office, Armapur, Kanpur, U.P. abused their official position as such public servants by corrupt or illegal means in order to secure unlawful pecuniary advantage for themselves and the co-accused persons by facilitating false verification and lien marking on the said forged and fabricated KVPs and with assistance of accused Rishi Behl, Ashwani Dhingra, D.B. Singh, Dilbhajan Singh Sandhu, Amit Kapoor and Smt. Sudershan Kapoor having abused their official position and facilitated the accused persons in obtaining the defrauded amount and Rakesh Sharma assisted the accused persons in getting

over draft limit and received Rs.10,00,000/- from accused D.S. Sandhu for assistance and you Amol Singh received Rs.10,00,000/- from D.S. Sandhu out of the defrauded amount and Mohd. Anwar made available the stolen KVPs to the accused persons in blank forms and Vikas Srivastava helped accused Dalbahadur Singh in opening the SB A/c No. 22202 opened on 19.03.1998 in the Alam Bagh branch of Central Bank of India, Lucknow, U.P. and received Rs.2.5 lacs from the said account thereby you accused Vikas Srivastava committed offences punishable under section 120 B IPC read with section 411, 420, 467, 468 and 471 of IPC and under section 13 (2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988 within my cognizance”.

33. Prosecution Evidence:- On behalf of CBI, 49 prosecution witnesses were examined to prove its case. Two witnesses were examined as court witnesses.

34. PW-1 Shri S.C. Chopra:- In the year 1998, this witness was the Assistant Manager of the Central Bank of India, Non-Banking Office Branch and proved the issuance of six Demand Drafts from the Patel Nagar Branch of Central Bank of India, New Delhi. (These Demand Drafts are also mentioned in Para 7, Page 8 of the chargesheet). DD No. 032797 for a sum of Rs.1,00,000/- dated 18.03.1998 in favour of M/s Chick Feed (P) Ltd., was exhibited as **Exhibit PW-1/A1** (D-105, Page 1115). DD No. 032796 for a sum of Rs.9,00,000/- dated 18.03.1998 also in favour of M/s Chick Feed (P) Ltd., was exhibited as **Exhibit PW-1/A6** (D-105, Page 1125). DD No. 032792 for a sum of Rs.9,00,000/- dated

18.03.1998 in favour of M/s Oriental Automobiles Private Ltd. was exhibited as **Exhibit PW-1/A2** (D-105, Page 1117). DD No. 032793 for a sum of Rs.6,00,000/- dated 18.03.1998 also in favour of M/s Oriental Automobiles Private Ltd. was exhibited as **Exhibit PW-1/A3** (D-105, Page 1119). DD No. 032794 for a sum of Rs.2,00,000/- dated 18.03.1998 in favour of M/s Kavika Marketing (P) Ltd. was exhibited as **Exhibit PW-1/A4** (D-105, Page 1121). DD No. 032795 for a sum of Rs.2,00,000/- dated 18.03.1998 in favour of M/s Paramount Marketing. was exhibited as **Exhibit PW-1/A5** (D-105, Page 1123). The witness also proved signatures of Accused No. 5 Smt. Sudershan Kapoor on all the six Demand Drafts. All these demand drafts were handed over to CBI by this witness vide seizure memo dated 18.01.1999, **Exhibit PW-1/1** (D-55, Page 837).

35. PW-2 Shri Kuljit Singh:- This witness had introduced the OD limit account and Current Account of Accused No. 1 Shri Dilbhajan Singh Sandhu at Central Bank of India, Patel Nagar Branch, New Delhi. Both these Account Opening Forms were proved as **Exhibit PW-2/A** (D-43, Page-779) and **Exhibit PW-2/B** (D-44, Page-783) respectively. The witness deposed that he had introduced these accounts on the asking of Accused No. 5 Smt. Sudershan Kapoor otherwise he was not known to

the account holder and had met him for the first time in the Bank at the time of opening of the account. In cross examination, he admitted that he knew Shri D.L. Khanijo who was the Regional Manager. He also deposed that when he signed on these forms, only the name of Shri Dilbhajan Singh Sandhu was written on them. The rest of the form was not filled. The photograph was also not there. He also deposed that his account is in the bank since 1994. He also admitted that there was problem of re-payments in his account. However, he denied a suggestion that since Accused No. 5 Smt. Sudershan Kapoor was pressing him to repay the dues, he has falsely named her.

36. PW-3 Shri D.L. Khanijo:- This witness was the Regional Manager of the Central Bank of India in the year 1998. He deposed that in March 1998, in connection with case, one Sardarji an aged person, whose name was Shri Dilbhajan Singh along with two other persons had come to meet him in the morning hours. They were sitting in the office guest enclosure. When he enquired the purpose of their visit, they told him that they have come for a loan against KVPs. The witness deposed that he advised them to approach the branch and the visitors told him that their proposal had already come in the Regional Office. The witness advised them that the proposal will be looked into and for further details

they should contact the branch only. The witness deposed that he can identify accused Sh. Rishi Behl and Shri Amit Kapoor and identified Accused No. 7 Sh. Amit Kapoor and Accused No. 8 Shri Rishi Raj Behl who were present in the court at that time. The witness could not identify Shri Dilbhajan Singh Sandhu as his recollection of Shri Dilbhajan Singh Sandhu was of an old man. The witness proved as Exhibit PW-3/A (D-20, Page-703), the proposal received from Patel Nagar Branch under signatures of the Manager Smt. Sudershan Kapoor. Since it is an important letter, the same is quoted as under:-

*“Regional Office ‘B’
Chandni Chowk*

*Reg:- Overdraft facility against Kishan
Vikas Patra to the extent of Rs.1.50
crore (one crore fifty lacs only)*

*Mr. Dilbajan Singh, Mr. Baljinder Singh and
Mr. Hari Narayan Sharma have approached us for
overdraft facility against Kisan Vikas Patra to the extent of
Rs.one crore and Fifty Lacs. All the three applicants have
offered us following Kishan Vikas Patra standing in their
personal name and have requested us to allow O/D limit
in the account of Mr. Dilbajan Singh, Mr. Baljinder Singh
and Mr. Hari Narayan Singh (only one A/c will be opened)*

- 1. Mr. Dil Bhajan Singh Sandhu - (Rs.1,00,00,000.00)
Detail list attached*
- 2. Mr. Baljinder Singh - (Rs.50,00,000.00)
(Detail list attached)*
- 3. Mr. Har Narayan Sharma - (Rs.50,00,000.00)*

(Detail list attached)

Mr. Dil Bhajan Singh Sandhu has promised us give us Deposit of Rs.30,00,000/- in his individual name. We recommend for only sanction of O/D facility of Rs.1.50 Crore in favour of the applicants.

For Central Bank of India

*Branch Manager
Patel Nagar, New Delhi”*

37. The witness deposed that his department had analysed the proposal and he had raised certain queries in his own handwriting. The queries were answered by the department and he sanctioned the loan. He deposed that the proposal was recommended by Shri V.K. Jain, Manager (Credit) and Shri Ram Mehar Singh, Assistant Manager posted in Regional Office. During his cross-examination, he deposed that he had signed the statement which was recorded by CBI. He deposed that the genuineness of the party is to be determined by the Branch. He deposed that when limits are to be sanctioned against government securities, the same can be done in a day or two. He deposed that the queries were raised on 09.03.1998 and the loan was sanctioned on 10.03.1998. He deposed that the queries were raised to his own department and he had enquired from the Branch over the phone about the party and was informed that the party was well known to the bank.

The party was having their house in Rajendra Nagar, just opposite to the Bank and were all well known to the bank. The party was economically sound and there was nothing to worry. He admitted that he has not written all these things in the Sanction Order. He deposed that in December 1997, he had advised all the Branches to exercise due care while sanctioning any loan against KVPs as certain forged KVPs were in circulation. He deposed that the numbers of alleged KVPs were not mentioned in the circular. He could not remember whether there was any Gazette Notification from Central Government, Post and Telegraph Department detailing the numbers of KVPs which had been stolen and were in circulation after forgeries. The witness also deposed that the conditions imposed at the time of sanction of loan were mentioned by him in his Order at portion Mark-C in Exhibit PW3/A. The conditions are:-

- (1) KVPs are approved securities as most of KVPs as per list have already run for about 2½ years and such Vikas Patras are also payable before the due date, which can be encashed in case the facilities granted are required to be adjusted immediately.
- (2) OD of Rs.1,40,00,000/- is sanctioned with 30% margin.
- (3) Branch to get transferred KVPs in bank's name before disbursement of loan and to verify the genuineness of the Patras.
- (4) End use of funds as applied should be ensured.

(5) Branch also to obtain Rs.30,00,000/- deposits as assured.

(6) Interest as proposed.

38. PW-4 Shri Ajit Singh Malhotra:-This witness from State Bank of Patiala proved the Account Opening Form of M/s. Paramount Marketing of Accused No. 8 Shri Rishi Behl as **Exhibit PW-4/B** (D-92, Page 985). This account was introduced by Accused No. 7 Shri Amit Kapoor. The Specimen Signature Card was proved as **Exhibit PW-4/C** (D-93, Page 989). The Account holder Sh. Rishi Behl had given an affidavit at the time of opening the account which was proved as **Exhibit PW-4/D** (D-93, Page 987). The Statement of Account was proved as **Exhibit PW-4/E** (D-91, Page 979). The current account Pay in Slip dated 19.03.1998 through which a sum of Rs.2,00,000/- demand draft was deposited in this account was proved as **Exhibit PW-4/F** (D-76, Page 907). The demand draft was already proved by PW-1 as Exhibit PW-1/A5 (D-105, Page 1123). All these documents were handed over to CBI vide seizure memo **Exhibit PW-4/A** (D-98, Page 1059).

39. PW-5 Shri R.K. Taneja:-This witness from Oriental Bank of Commerce, Paharganj Branch, Delhi had handed over documents pertaining to Current Account No. 3888 in the name of M/s. Kavika Marketing and Consultants Private Ltd. and proved the Seizure Memo as

Exhibit PW-5/A (D-62, Page 879). A perusal of the seizure memo shows that this witness had given original Account Opening Form dated 24.06.1997 in respect of current account No. 3888 opened in the name of M/s. Kavika Marketing and Consultants Private Ltd. by Shri Amit Kapoor and Shri Rishi Behl, Directors. He had also given extract of the said firm's Board Resolution dated 23.06.1997 typed on the letterhead of M/s. Kavika Marketing and Consultants Private Ltd. signed by Shri Amit Kapoor, Director. He deposed that demand draft No. 032794 for a sum of Rs.2,00,000/- was deposited in this account on 20.03.1998. This demand draft is already exhibited as Exhibit PW-1/A-4 (D-105, Page 1123). The certified copy of Statement of Account of M/s. Kavika Marketing and Consultants Private Ltd. was proved as **Exhibit PW-5/B** (D-96, Page-1011). He deposed about withdrawal of money from this account on different occasions including once by Accused No. 8 Shri Rishi Behl i.e. Rs.40,000/- vide cheque no. 342966 dated 22.03.1998. In cross-examination, he deposed that he has made the statement in the court only on the basis of records.

40. PW-6 Shri Ashok Kumar Gupta:- This witness was a travel agent carrying on business in the name of M/s. Careway Tours and Travels (P) Ltd. He deposed that the ticket in the name of Shri Amarnath

Rastogi was booked by M/s. SK Air Travels which is owned by Shri Amit Kapoor and was exhibited as **Exhibit PW-6/B** (D-17, Page 981). Another ticket for passenger Shri Rishi Raj Behl was also issued on the request of M/s. SK Air Travels and was proved as **Exhibit PW-6/C** (D-18, Page 695). The daily sales report which is sent to the airlines every fortnightly issued by the office of this witness was proved as **Exhibit PW-6/D** (D-70, Page-893). These documents were handed over to CBI by this witness vide seizure memo dated 27.10.1998, **Exhibit PW-6/A** (D-69, Page 891).

41. PW-7 Shri Vijay Prakash:- This witness had given the complaint to CBI on 31.07.1998, **Exhibit VW-7/A** (D-1, Page-437). He deposed that the Legal Officer of the Bank Shri J.S. Bhatti had gone to Post Office Armapore, Kanpur to verify the genuineness of KVPs against which loan to the extent of Rs.1,40,00,000/- was sanctioned by East Patel Nagar Branch. He deposed that the Law Officer had reported that the KVP numbers shown were not issued by the said Post Office. The letter written by Shri J.S. Bhatti to Postmaster, Armapore was proved as **Exhibit PW-7/B** (D-11, Page 637). This letter has endorsement of the postmaster mentioning that these KVPs were not issued from Post Office Armapur. This letter was accompanied with a list of KVPs running

into 3 pages, **Exhibit PW-7/C** (D-12, Page 647) and it also has endorsement of the postmaster mentioning that these KVPs are not from Post Office Armapur. Another letter dated 25.07.1998 addressed to the postmaster Armapur Post Office Kanpur was proved as **Exhibit PW-7/D** (D-11, Page 645). This is office copy of Ex. PW-7/C. The report of vigilance enquiry conducted by Shri K.C. Sharma was proved as **Exhibit PW-7/E** (D-10, Page 627). The witness also proved seizure memo dated 07.09.1998 vide which he had provided to CBI the list of KVPs as **Exhibit PW-7/F** (D-56, Page 839). The witness had provided 3498 KVPs to the investigating officer which were approved as **Exhibit P-1 to Exhibit P-3498**. The witness deposed that the KVPs in question are fake as they were not issued by Armapore Post Office Kanpur. The witness also proved letter dated 10.03.1998 issued by Shri S.C. Jain, the then Asstt. Regional Manager as **Exhibit PW-7/G** (D-22, Page 737). Vide this letter, the Branch Office, Patel Nagar was conveyed sanction of OD facility against KVPs to the extent of Rs.1,40,00,000/- in the account of Shri Dilbhajan Singh Sandhu, Shri Baljinder Singh and Shri Hari Narain Sharma. The terms and conditions of the sanction have already been noted while discussing the evidence of PW-3, Shri D.L. Khanijo. During cross examination by learned counsel for Accused No. 1 Shri

Dilbhajan Singh Sandhu, the witness deposed that he had called the said accused and asked him to pay the amount to the bank as the KVPs were fake. He deposed that he has not mentioned in his statement recorded by CBI that he had called Accused No. 1 Dilbhajan Singh Sandhu to bank and production of securities of immovable properties as well as LIC policy in his complaint given to CBI, Exhibit PW 7/A. A suggestion was given that the accused Shri Dilbhajan Singh Sandhu had offered full amount of the loan but still complaint was lodged against him with CBI. During cross-examination by learned counsel for Accused No. 4 Shri Amarnath Rastogi, the witness deposed that a circular was received from Head Office on 24.07.1998 mentioning that certain KVPs were prevalent in the market and directions are to check the records at Regional Office to find out whether any major amount has been sanctioned against KVPs. He deposed that they came to know that the Patel Nagar Branch had sanctioned loan on the basis of KVPs and the Zonal Manager directed to get the genuineness of KVPs verified from Armapur Post Office, Kanpur wherefrom the KVPs were purported to be issued. He deposed that endorsement on 9 KVPs got endorsed by Accused No. 4 Shri Amarnath Rastogi was also forged. Letter dated 11.03.1998 written by Accused No. 5 Smt. Sudershan Kapoor, Branch

Manager, Central Bank of India, Patel Nagar Branch, New Delhi to post master Armapur with alleged signature and stamp of Sub-Post Master Armapur, Kanpur was proved as **Exhibit PW-7/DX** (D-34, Page 759). During cross-examination by Ld. Counsel for Accused No. 5 Smt. Sudershan Kapoor, the witness was shown **Exhibit PW-7/DY** (D-12, Page 431) which is a circular dated 19.06.1998 from the office of the Chief Post Master, New Delhi, GPO New Delhi-110001 mentioning therein that KVPs 46CC341301 to 400, 46CC861101 to 300, 56CC878403 to 500, 56CC878403 to 500, 56CC875201 to 300, 56CC875601 to 700, 56CC375801 to 900, 56CC875301 to 900 and 46CC861501 to 900 have been purported to be issued between 27.05.1995 to 31.08.1995 from Armapore Post Officer under Kanpur City Division with fake stamps. It was requested that fraudulent payment of said KVPs may be guarded against. But the witness deposed he was not aware of the same. Circular dated 04.12.1997 by Sh. D.L. Khanijo cautioning branches about fake KVPs was proved as **Exhibit PW-7/DZ** (Page 429). He deposed some amount is charged for pledging KVPs in favour of bank but could not say whether any such amount was deposited or not. He deposed he had not made any query regarding Exhibit PW-7/DZ1, Exhibit PW-7/DZ2 and Exhibit PW-7/DZ3. He

deposed that on 24.07.1998, a circular was received from Head Office, Audit Department that fake KVPs are in circulation.

42. PW8 Shri J.S. Bhatti:- This witness was the Deputy Chief Officer (Law) in Regional and Zonal Office at Delhi. He had gone to Armapore Post Office, Kanpur for verifying the genuineness of KVPs related to this case. He had met Shri Natha Parsad Hans, the Supervisor of the Post Office Armapur who told that the KVPs as per the list shown to him were not issued from his Post Office. He deposed letter Exhibit PW-7/B and list of KVPs shown to Shri Natha Prasad Hans, Exhibit PW-7/C have endorsements of Shri Natha Prasad Hans denying issuance of these KVPs from said post office. The photocopies of few KVPs which this witness had taken with him to Kanpur were exhibited as **Exhibit PW8/A-1 Exhibit PW 8/A-5** (Pages 743, 745, 747, 749 and 751). These are those nine KVPs which were allegedly got verified/pledged in favour of bank by Accused No. 4 Shri Amar Nath Rastogi. During cross-examination by Ld. Counsel for Accused No. 4, this witness deposed that he was in the Post Office for nearly one hour and Sh. Natha Prasad Hans had told him on seeing KVPs without cross-checking with the records that they were not issued from that post office. In cross-examination by Ld. Counsel for Accused No. 1, he deposed that after

verification of KVPs, he had called Accused No. 1 Sh. Dilbhajan Singh Sandhu, who gave him title deeds of immovable properties and some LIC policies and the property was mortgaged with the bank. In cross-examination by Ld. Counsel for Accused No. 5 Smt. Sudershan Kapoor, he deposed he was not shown **Exhibit PW-8/DX2, Exhibit PW-8/DX3** and **Exhibit PW-8/DX4** (Pages 455, 499 and 511). These documents appear to be receipts for deposit of money Rs.1/- for getting the endorsement of lien marked on KVPs. He deposed he had not gone to GPO Kanpur for verification of KVPs.

43. PW 9 Shri Vinod Kumar Jain:- This witness was posted as Manager in Regional Office when the loan was sanctioned in this case. He deposed the process of sanction of loan by the Regional Manager Shri D.L. Khanijo. He deposed that Smt. Sudershan Kapoor, Branch Manager of Patel Nagar Branch had sent proposal Exhibit PW 3/A. Along with this proposal, she had also sent three applications given by borrowers which were proved as **Exhibit PW-9/A, Exhibit PW-9/B and Exhibit PW-9/C and list of KVPs as Exhibit PW-9/D** (D-19, Page 711, D-22, Page 712, D-22, Page 713 and D-19, Page 705 respectively). He deposed that he had processed the proposal and put up the same before the Regional Manager. He proved the notings of the Regional

Manager as **Exhibit PW-9/E** (D-20, Back of Page 703) whereby loan was sanctioned. He also proved letter dated 31.12.1997 issued by General Manager (Credit) whereby the branches were directed to get the lien registered in favour of banks when granting loan against KVPs as **Exhibit PW-9/F** (Page 753). Letter dated 26.10.1989 issued by Central Bank of India regarding advance against KVPs was proved as **Exhibit PW-9/G** (D-31, Page 755). It mentions minimum margin of 30% is to be maintained on face value. Letter dated 18.03.1998 written by Smt. Sudershan Kapoor to the borrowers was proved by this witness as **Exhibit PW-9/H** (D-30, Page 757). In this letter, the borrowers were informed that the KVPs are shorter by Rs.15,000/- and OD limit was proportionately reduced. Letters dated 11.03.1998 written by Accused No. 5 Smt. Sudershan Kapoor to the Postmaster Armapur, Kanpur requesting pledge of KVPs of Shri Baljinder Singh and Shri Hari Narain Sharma in favour of the Bank were approved as **Exhibit PW-9/I and Exhibit PW-9/J** respectively (D-35 and D-36, Pages 761 and 763). Similar letter for KVPs of Accused No. 1 Sh. Dilbhajan Singh Sandhu was exhibited as Exhibit PW-7/H (D-34, Page 759). Letter dated 16.03.1998 as per which the Allowance Bill of Shri Amarnath Rastogi for a sum of Rs.580/- was sent to the Regional Office by Accused No. 5

Smt. Sudershan Kapoor was exhibited as **Exhibit PW-9/K** (D-65, Page 885). On the back of this letter is endorsement by Shri S.C. Jain who allowed this claim and directed that the same be debited to the parties account. It is also noted that conveyance was arranged by the party.

Exhibit PW-9/L (D-64, Page 883) is seizure memo as per which the TA bill of Shri Amarnath Rastogi and other related documents were seized by the Investigating Officer of this case from PW-9 Shri Vijay Prakash. It shows that Shri Amarnath Rastogi had disclosed in the bill that his airfare from Delhi to Lucknow and Lucknow to Delhi was paid by the party. Witness also proved as **Exhibit PW-9/M** (D-21, Page 883) a letter written by accused No. 5 Smt. Sudershan Kapoor to Shri Amarnath Rastogi directing him to visit Post Office Armapur for getting the KVPs transferred in the name of Central Bank of India, Patel Nagar Branch, New Delhi. The letter also mentions that the party shall accompany him for going there. Letters of lien dated 16.03.1998 written by Accused No.1 Shri Dilbhajan Singh Sandhu and Accused No. 2 Shri Hari Narayan Sharma and Accused No. 3 Shri Baljinder Singh were proved as **Exhibit PW-9/N and Exhibit PW-9/O respectively** (D-20, Pages 723, 727 and 731 respectively). In cross-examination, the witness deposed that he had no knowledge if any circular was received from the Head Office/RBI

that some fake/forged KVPs are in circulation. He also deposed that in August 1998, the Regional Office came to know that forged/fake KVPs are in circulation.

44. PW-10 Shri KC Sharma:- This witness was Vigilance Officer in Zonal Office, Delhi and had conducted preliminary enquiry and he proved his report, **Exhibit PW-7/E** (D-10, Page 627). He has deposed in his report as well as in his evidence that Shri Amarnath Rastogi was deputed for pledging of KVPs in favour of the bank but he got the assignment only of 9 KVPs and told that the rest will be given to the Branch Manager by Shri Dilbhajan Singh Sandhu after the needful is done. In cross-examination, he deposed that he had not investigated into the genuineness or otherwise of the receipts regarding deposit of Rs.1/- each for endorsement of the KVPs in favour of the bank.

45. PW-11 Shri Yehya Rafiqi:- This witness was the Manager of Jammu and Kashmir Bank, Branch Officer, Chawri Bazar, Delhi and proved the statement of account of M/s. Chick Feed Private Ltd. as **Exhibit PW-11/B** (D-94, Page 991). He proved that a Demand Draft dated 18.03.1998 for a sum of Rs.9,00,000/- was issued by Central Bank of India in favour of M/s. Chick Feed Private Ltd. Memorandum of

Association of this company given with seizure memo **Exhibit PW-11/A** (D-60, Page 875) shows objects of the said company.

46. PW-12 Shri U B Upadhyay:- This witness was Vigilance Officer in Zonal Office of the Bank. He proved his investigation report dated 05.08.1998 as **Exhibit PW-12/A** (Page 1265). He also proved supplementary report dated 11.08.1998 as **Exhibit PW-12/B** (Page 1255). This witness had got recorded the statement of Shri Dal Bahadur Singh in his own handwriting and proved the same as **Exhibit PW-12/C** (Page 1251). It is noted from the report that Accused No. 5 Smt. Sudershan Kapoor was a Scale-II Officer but was officiating as Branch Manager, Branch Office, Patel Nagar, New Delhi w.e.f. 18.01.1995. Accused No. 7 Shri Amit Kapoor and Accused No. 8 Shri Rishi Raj Behl belonged to the friend circle of Smt. Sudershan Kapoor. Accused No. 1 Shri Dilbhajan Singh Sandhu had given undated application requesting for overdraft facility against KVPs without mentioning the amount required. He had stated that he has agency of M/s. Mahindra and Mahindra Ltd. (Jeep Company) and wanted to use the facility for lifting the stock. Similar and identical applications were given by Shri Hari Narain Sharma and Shri Baljinder Singh. Undated statement of net wealth as on 31.03.1997 submitted by Shri Dilbhajan Singh Sandhu,

Shri Hari Narain Sharma and Shri Baljinder Singh were on record but the same were neither verified by the Branch office, Patel Nagar nor it was sent to the Regional Office. The list of KVPs showed their duration has been shown as 5 years 8 months in place of 5 years and 6 months. Accused No. 5 Smt. Sudershan Kapoor had also mentioned that Sh. Dilbhajan Singh Sandhu had promised to give a deposit of Rs.30,00,000/- in his individual capacity. However, from records it is evident that there is nothing in writing to show that Sh. Dilbhajan Singh Sandhu had promised to give a deposit of Rs.30,00,000/-. The Enquiry Report notes that while forwarding the proposal of the borrowers for such a huge amount, Smt. Sudershan Kapoor failed to enquire the antecedents of the borrowers who gave in writing individually that they are having agency of Mahindra and Mahindra Limited. The proposal was forwarded without getting suspicious that individuals are holding KVPs of such huge amounts. Smt. Sudershan Kapoor failed to enquire whether the applicants are having individual agencies as proprietor or they are partners, who were their bankers, wherefrom they were availing credit facilities etc. She also failed to enquire the name of Post Office wherefrom the KVPs were issued as the same was not given in the list submitted by the borrowers. Shri V.K. Jain, Manager (Credit) processed

the proposal on 09.03.1998 itself and recommended the overdraft facility ignoring the need to enquire about the business antecedents of borrowers. The queries raised by Regional Manager Shri D.L. Khanijo were responded by Shri V.K. Jain and Shri Ram Mehar Singh without inquiring from Branch Office, Patel Nagar, New Delhi. The report also mentions that Shri D.L. Khanijo also ignored to enquire about the business antecedents of the borrowers and sanctioned the overdraft limit of Rs.1,40,00,000/- on 10.03.1998. Shri D.L. Khanijo ignored how individuals are holding KVPs of such huge amounts? How three individuals are authorised dealers of Mahindra and Mahindra Limited? Constitution under which they are having dealership? How the applicants were managing their business i.e. their existing banker, their financial standing etc.? Why they had not approached their present bankers? Therefore, the report opines that Shri D.L. Khanijo, Regional Manager without obtaining any satisfactory information, sanctioned the limit of Rs.1,40,00,000/-. It is also a finding in the report that it was pre-planned that Accused No. 1 Shri Dilbhajan Singh Sandhu will stay at Kanpur and Shri Amarnath Rastogi and Shri Rishi Raj Behl will return back to Delhi on the same day of their visit to Kanpur for verification of KVPs as their tickets were already booked from Delhi. The report also noted that Shri

Amarnath Rastogi reported the Branch on 14.03.1998 and gave a letter to the Branch Manager mentioning that during his visit, 9 KVPs No. 876401 to 876409 were pledged in favour of bank and the remaining KVPs will be given by accused No. 1 Shri Dilbhajan Singh Sandhu after the needful is done. The report notes that records show that perhaps the remaining KVPs were handed over by Shri Dilbhajan Singh Sandhu to the Branch on 18.03.1998 as the borrowers had signed the documents and Overdraft Account was opened and money was disbursed on the said date. The fact that the KVPs were handed over to Branch on 18.03.1998 is also evident from letter of the Branch dated 18.03.1998 addressed to Shri Dilbhajan Singh Sandhu, Shri Hari Narain Sharma and Shri Baljinder Singh whereby Smt. Sudershan Kapoor, Branch Manager informed that while taking the delivery of KVPs, 1 KVP for Rs.5,000/- in the name of Shri Dilbhajan Singh Sandhu and 1 KVP for Rs.10,000/- in favour of Shri Hari Narain Sharma have been found missing. She mentioned that total securities received by the bank is Rs.1,99,85,000/- and accordingly drawing power in the account was reduced. The report also notices that all the cheques pertaining to the overdraft account have been passed by Shri Amarnath Rastogi, Assistant Manager and counter signed by Smt. Sudershan Kapoor. The report mentions that in her

written statement Smt. Sudershan Kapoor has admitted that Shri Amit Kapoor and Shri. Rishi Raj Bahl are her friends and the proposal of Shri Dilbhajan Singh Sandhu and others was taken up on their recommendations. The conclusion of the report of this witness is as under:-

“CONCLUSION:

- 1. S/Shri Dilbhajan Singh Sandhu, Hari Narain Sharma & Baljinder Singh in connivance with Ashwani Ddhingra, Rishi Behal, Amit Kapoor & D.B. Singh have defrauded the bank to the tune of Rs.1,46,81,521/- by taking O/D against fake KVPs. The connivance of Postal Authorities in this fraud is also not ruled out.*
- 2. Smt. Sudershan Kapoor, Branch Manager, Branch Officer, Patelnagar, Sh. V.K. Jain, Manager (Credit), Regional Office ‘B’, Delhi and Sh. D.L. Khanijo, the then Regional Manager, Regional Office ‘B’, Delhi have favoured the above referred persons by recommending & sanctioning the O/D limit of Rs.1.40 crores against KVPs without enquiring about the business antecedents of the borrowers.*
- 3. Sh. A.N. Rastogi, Asstt. Manager, B/o., Patelnagar, who failed to perform the duties assigned to him diligently as the endorsements appearing on 9 KVPs, which he purportedly got pledged in Bank’s favour in his presence and the KVPs, have turned out to be forged/fake. He also failed to get the lien marked on all the KVPs in his presence.*
- 4. Shri P.C. Srivastava, Senior Manager, B/o., Alambagh, Lucknow was grossly negligent in allowing opening of HSS A/c, without proper introduction, knowing fully well that the account is being opened in order to encash the demand drafts. He also failed to keep a watch*

on the account as the money was withdrawn by bearer cheques of huge amounts. He also failed to enquire the purpose for which a cheque for Rs.2,50,000.00 was given to Shri Vikas Kumar Srivastava, the introducer of A/c, who is also his relative.”

47. In cross-examination by the learned counsel of accused No. 1, the witness deposed that the money receipts issued by GPO Kanpur were genuine but the stamp of Armapur Post Office which were put thereon were forged as it was informed by the postal authorities that there is no system to put stamp on the computer generated receipts. In cross-examination by learned counsel for Shri D.B. Singh, the witness deposed that Shri Dilbhajan Singh Sandhu got issued two demand drafts amounting to Rs.15,00,000/- intentionally in favour of D.B. Singh with the intention to show as if the DDs are being issued in his favour only. In cross-examination by learned counsel for Shri Amarnath Rastogi the witness deposed that the writing and signatures comprising the endorsement appearing on 9 KVPs, Exhibit PW-8/A-1 to Exhibit PW-8/A-5 were never got examined from any expert or from the concerned Post Office in writing. The witness clarified that Shri J.S. Bhatti, the Law Officer of Zonal Office had already taken confirmation in writing about for KVPs from the post office.

48. PW-13 Shri Parvinder Kumar Arora:- This witness was posted as Assistant Manager in Central Bank of India, Lucknow and proved

demand draft dated 18.03.1998 of Rs.6,00,000/- in the name of Accused No. 11 Shri D.B. Singh, **Exhibit PW-13/C** (D-81, Page 1135). Similarly, the other demand draft for a sum of Rs.9,00,000/- dated 18.03.1998 in the name of D.B. Singh was proved as **Exhibit PW-13/D** (D-81, Page 1137).

49. PW-14 Shri Devendra Kumar Sabharwal:- This witness was Senior Manager in Central Bank of India, Chandigarh, Punjab and proved DD No. 032786 of Rs.2,00,000/- in the name of MGF India Ltd. as **Exhibit PW-14/B** (D-109, Page 1149). Second Demand Draft No. 032787 of Rs.2,25,000/- in the name of JPC Credit Lines Private Ltd. was proved as **Exhibit PW-14/C** (D-109, Page 1151).

50. PW-15 Shri Amarnath Sharma:- This witness was Assistant Manager in Central Bank of India, Lucknow and had partly deposed when his evidence was deferred as certain documents pertaining to the witness were to be summoned. His testimony could not be completed as he passed away before that.

51. PW-16 Shri VK Manchanda:- This witness was Manager in Central Bank of India, Chandigarh. He proved the seizure memo, **Exhibit PW-16/A** (D-51, Page 825) as per which he had handed over three demand drafts to the investigating officer of this case. These drafts

are bearing No. 032828, 032829 and 032830 in favour of Assistant Excise and Taxation Commissioner, Chandigarh dated 20.03.1998 issued by Central Bank of India, Patel Nagar, New Delhi Branch. The witness proved letter dated 11.01.1999 written by the Chief Manager of Central Bank of India, Chandigarh Branch Shri T.S. Ahluwalia as **Exhibit PW-16/B** (D-52, Page 827). With this letter, the three drafts mentioned above were handed over to CBI. The three drafts were proved as **Exhibit PW-16/C, Exhibit PW-16/D** and **Exhibit PW-16/E** (D-54, Pages 831, 833 and 835 respectively).

52. PW-17 Shri Devender Ohri:- This witness proved the seizure memo dated 12.02.1999 as **Exhibit PW-17/A** (D-107, Page 1113). As per this seizure memo, three demand drafts (two demand drafts for a sum of Rs.9,00,000/- and one demand draft for a sum of Rs.2,00,000/- in favour of Mahindra and Mahindra) of Central Bank of India, Patel Nagar Branch, New Delhi were handed over to CBI. These drafts were exhibited as **Exhibit PW-17/B, Exhibit PW-17/C** and **Exhibit PW-17/D** (D-106, Pages 1127, 1129 and 1131 respectively).

53. PW-18 Shri Tarun Dhingra:- This witness had introduced current account No. 16950 at Bank of Baroda, Hauz Khas, New Delhi and proved the Account Opening Forms as **Exhibit PW-18/A** and

Exhibit PW-17/B (Pages 367 and 371). This Account Opening Form shows that the Chairman of the company is stated to be Shri Dilbhajan Singh Sandhu.

54. PW-19 Shri Ved Bhagwan Katoria:- This witness was Senior Manager of Bank of Baroda, Hauz Khas Branch, New Delhi. He deposed that Current Account No. 16950, Exhibit PW-18/A of M/s. Oriental Automobiles Ltd. was filled up by him in his own handwriting and account was opened under his signatures. He also identified the signatures of Shri Dilbhajan Singh Sandhu on the account opening form. He also identified his signature as well as signatures of Shri Dilbhajan Singh Sandhu on Exhibit PW-18/A. He proved Cheque No. 163511 dated 25.03.1998 signed by Shri Dilbhajan Singh Sandhu as **Exhibit PW-19/A** (Page 361). He proved Cheque No. 163512 dated 25.03.1998 signed by Shri Dilbhajan Singh Sandhu as **Exhibit PW-19/B** (Page 361). However, he could not tell the name of the person who had received the money mentioned in the above mentioned cheques. He also deposed that Bank Draft bearing No. 032792 dated 18.03.1998, Exhibit PW-1/A2, issued from Central Bank of India, Patel Nagar Branch, New Delhi was deposited in the account of M/s. Oriental automobiles Ltd with Bank of other. Same was his response with regard to Bank Draft No. 032793. He

also proved as **Exhibit PW-19/C** (Page 359) Cheque No. 163502 dated 03.01.1998 in favour of Shri Rakesh Sharma issued by the account holder. He also proved as **Exhibit PW-19/D** (Page 361) Cheque No. 163504 dated 03.01.1998 in favour of Shri Rakesh Sharma issued by the account holder. The witness was cross-examined by the leave of the court and deposed that his statement was recorded by the investigating officer and proved his statement as **Exhibit PW-19/E** (Page 139). The witness was confronted with his statement recorded under section 161 of Cr.P.C. where he had deposed that a sum of Rs.15,00,000/- was actually collected in cash by Shri Ashwani Dhingra on 25.03.1998 on cheques No. 163511 and 163512 which are self cheques of the own order Shri Dilbhajan Singh Sandhu. However the witness deposed that he cannot recollect the same.

55. PW-20 Shri Ram Mehar Singh:- This witness was Assistant Manager In the Regional Office of Central Bank of India when the proposal for overdraft limit of Accused No. 1, 2 and 3 was sent by Smt. Sudershan Kapoor for recommendation. He has deposed about the process of sanction of loan in this case.

56. PW-21 Shri Sahay Jojo:- This witness was the Chief Parcel and Luggage Inspector, Hawrah and deposed that on 27.04.1998

Wagon No. CRC64037 had arrived at Hawrah from Nasik. However, the parcel office received 44 packages including 3 wooden cases out of 4 as reflected in RR No. 049221 dated 10.03.1997. However, the witness was thereafter declared hostile and did not support the prosecution.

57. PW-22 Shri Raj Chopra:- This witness was Assistant Manager Commercial at IGI Airport, New Delhi. He deposed that as per Agent Coupon of M/s. S.K Air Travels in the name of A.N. Rastogi, the ticket for Delhi to Lucknow for Flight No. IC435 dated 12.03.1998 was submitted by M/s. S.K Air Travels to Indian Airlines after booking of the same. Same was the position for a ticket in the name of Shri Dilbhajan Singh Sandhu and Shri Rishi Raj Behl.

58. PW-23 Shri Prakash Chandra Srivastava:- This witness was the Branch Manager, Central Bank of India, Alam Bagh, Lucknow, U.P. He deposed that the accused Shri Vikas Srivastava was his relative. He deposed that Shri D.B. Singh was introduced to him by Shri Vikas Srivastava in March 1998 for opening saving bank account. The said account was opened after completion of all the formalities on the introduction of Shri Vikas Srivastava. He deposed that the said Shri Vikas Srivastava was not having any account in the bank at the relevant time. The account opening form dated 19.03.1998 was proved as

Exhibit PW-23/A (Page 385). He identified the handwriting and signatures of Shri Vikas Srivastava on the backside of Exhibit PW-23/A. The specimen card was proved as **Exhibit PW-23/B** (Page 397 and 399). A sum of Rs.500/- was deposited by a pay in slip dated 19.03.1988 for opening the account which was proved as **Exhibit PW-23/D** (Page 401). In this account, Shri D.B. Singh had deposited two drafts bearing No. 032790 and 032791 for a sum of Rs.9,00,000/- and Rs.6,00,000/- respectively issued by Central Bank of India, Patel Nagar Branch, New Delhi vide certified copy of pay in slip **Exhibit PW-23/E** (Page-401). The witness deposed that on 31.03.1998, Shri D.B. Singh had issued a cheque bearing No. 063581 in the name of Shri Nagendra Singh for Rs.4,00,000/- and the cheque was proved as **Exhibit PW-23/F** (Page 403). The backside of the cheque was proved as **Exhibit PW-23/F-1** (Page 405). He deposed that in this account a sum of Rs. 2,00,000/- was deposited on 06.04.1998 and proved the pay-in-slip as **Exhibit PW-23/G** (Page 401). The witness deposed that the account holder Shri D.B. Singh issued a bearer cheque No. 063585 for a sum of Rs.2,50,000/- in the name of Vikash, **Exhibit PW-23/H** (Page 403). The backside of this cheque was proved as **Exhibit PW-23/H-1** (Page-405). He further deposed that a sum of Rs.2,50,000/- was withdrawn by the said Vikash

and identified his signatures at point A and B. He deposed that the details of the denomination of currency notes is mentioned at point D. He further deposed that **Exhibit PW-23/F-1** also contains signatures of Shri D.B. Singh at point E, above the details of cash payment at point D. The witness repeated that the signatures at point A and B on **Exhibit PW-23/H-1** are of his relative Shri Vikas which he identified. He further deposed that on 06.04.1998, Shri D.B. Singh issued a bearer's cheque No. 063582 for Rs.5,00,000/- in the name of self, **Exhibit PW-23/J** (Page-403). The backside of this cheque was proved as **Exhibit PW-23/J-1** (Page-405). The witness also deposed that on 15.04.1998, Shri D.B. Singh issued a bearer's Cheque No. 0635884 Rs.2,50,000/- in the name of Rajesh Singh, **Exhibit PW-23/K** (Page-407). The witness further deposed that on 28.04.1998, Shri D.B. Singh issued Cheque No. 063589 for Rs.3,00,000/- in self name, **Exhibit PW-23/L** (Page-407). The backside of this cheque was proved as **Exhibit PW-23/L-1** (Page-409). The statement of account of Shri D.B. Singh was proved as **Exhibit PW-23/M** (Page-411). In cross examination by learned counsel for Shri Vikas Srivastava, the witness deposed that there is no irregularity in the opening of account of Shri D.B. Singh as the same was opened in the name of a real person, with his proper address and after

obtaining the proper documents i.e. registration certificate of the vehicle and driving license. The only exceptional thing was that the introducer was not having a bank account in the same branch of the bank. The witness also deposed that any staff member of branch who is authorised to open the account can open it without any introducer. He also deposed that payment of a cheque can be made to a person who presents the cheque in the bank and signs on the back of it. The witness deposed that Exhibit PW-23/H-1 contains the signatures of Shri D.B. Singh below the details of currency notes which show that Shri D.B. Singh was the recipient of the payment. Though the witness deposed that the signatures of Shri D.B. Singh are below the currency notes but he denied that he was the recipient of money because Shri Vikas Srivastava had put his double signatures on Exhibit PW-23/F-1 (A perusal of record shows that the signatures of Shri D.B. Singh are not below the details of currency notes but above that. The signatures of Shri Vikas Srivastava are below the details of currency notes). The witness deposed that he had recognised the writing and signatures of Shri Vikas Srivastava as he had signed and written the bank documents in his presence at the time of opening of bank account of Shri D.B. Singh. The witness also deposed that Shri Vikas Srivastava had not

signed on the back of cheque in his presence. The witness deposed that he was not knowing whether Shri D.B. Singh was a financier or not but volunteered that at the time of opening the bank account, Shri D.B. Singh had told that he was a financier. The witness denied a suggestion that he was also under scanner of CBI during investigation as a suspect and is deposing falsely under pressure of CBI. During cross examination by learned counsel for Shri D.B. Singh, the witness deposed he had seen Standard Chartered Bank Money License Card No. 5885993030007400 in the name of Shri D.B. Singh and its details were mentioned on the backside of specimen signature card, Exhibit PW-23/A.

59. PW-24 Shri DS Sankaranarayanan:- This witness was AGM of Central Bank of India from 1996 to 1998 and deposed about the vigilance enquiry conducted in this case and filing of complaint with CBI by Shri Vijay Prakash, Regional Manager of Central Bank of India. He also proved as **Exhibit PW-24/A** (D-9, Page 539) a letter written by Shri U.B. Upadhyay to CVO Shri R.R. Sharma enclosing therewith his investigation report.

60. **PW-25 Shri Lakshman Singh Dhik:-** This witness had deposed about the documents pertaining to M/s. Oriental Automobiles Limited.

61. **PW-26 Smt. Sudershan Sony:-** This witness had retired as Assistant Manager from Central Bank of India, Patel Nagar Branch, New Delhi. She identified signatures of Smt. Sudershan Kapoor on Exhibit PW-3/A, which is proposal sent by her to Regional Office for grant of OD limit in favour of Accused No. 1 to Accused No. 3.

62. **PW-27 Shri Shyamal Kanti Dutta:-** This witness was the Supervisor, Certificate Branch, NSE/KVPs/IPO, Calcutta. Shri Swapan Kumar Chaudhary, Superintendent, Circle Stamp Depot, West Bengal Circle, Calcutta was his Head. The said Sh. Chaudhury had given letter dated 10.05.1997 after attesting the same under his signatures along with rubber seal of his office. As per this, Superintendent, Circle Stamp Depot, West Bengal Circle, Calcutta stated that as against 1,60,000 KVPs only 57,706 KVPs were received thereby that 1,02,294 KVPs were lost in transit. The said Shri Chaudhury had also given photocopy of letter dated 05.02.1999 after attesting the same under his signatures along with rubber seal of his office. As per this letter, 1,02,294 KVPs were lost in transit (all the KVPs of Accused No. 2 Shri Hari Narayan

Sharma as shown in Exhibit PW-7/B worth Rs.50,00,000/- are covered in the series of KVPs lost in the transit). Since the said Shri Chaudhury had died during pendency of the trial, this witness was examined to prove the signatures of Shri Swapan Kumar Chaudhary on the two letters referred above. The second letter is written by Assistant Director (INV) O/o the Chief Postmaster-General, West Bengal Circle, Calcutta giving the serial numbers of the KVPs that were lost in transit. Both the letters were marked as **Exhibit PW-27/A** (Page 915) and **Exhibit PW-27/B** (D-84, Page 925). Marking the letters was objected to, the objection to be decided at the final stage. During cross examination, the witness deposed that the said Shri Swapan Kumar Chaudhary had signed and put the rubberstamp of his office on both the letters in his presence.

63. PW-28 Shri Gopal Gupta:- This witness had purchased the house of Shri Dilbhajan Singh Sandhu namely A-217, New Rajinder Nagar New Delhi for a sum of Rs.60,00,000/-. He deposed that he had purchased the same in pursuance of officers of Punjab National Bank, New Rajendra Nagar Branch, New Delhi. He deposed that a sum of Rs.10,00,000/- was taken by Sh. Dilbhajan Singh Sandhu in cash for

which, no receipt was given by him. This payment was stated to be given by Shri Dilbhajan Singh Sandhu to the officials of bank.

64. PW-29 Shri A.K. Dubey:- This witness was Accountant in Hotel Swastika at Lucknow. He proved seizure memo dated 06.02.1999 as **Exhibit PW-29/A** (Page 335-355) vide which he had given Guest Entry Forms dated 02.11.1997, 15.11.1997, 13.12.1997, 06.01.1998 and 20.03.1998 and Bill dated 04.11.1997, 15.11.1997, 24.12.1997, 08.01.1998 and 23.03.1998 to CBI. In these documents, the name of the guest was mentioned as Shri Ashwani Dhingra and Shri D.S. Sandhu. He deposed that he is not aware for what purpose Shri Ashwani Dhingra and Shri D.S. Sandhu used to visit the hotel. Further, in cross-examination he deposed that he was not having interactions with hotel guests as he was in Accounts Department. He could not identify the handwriting of the guest on Entry Form dated 13.12.1997 which is part of Exhibit PW-29/A.

65. PW-30 Shri Ashok Kumar Sharma:- This witness is brother of accused Shri Rakesh Sharma and identified the signatures of Shri Rakesh Sharma on Account Opening Form of Jammu and Kashmir Bank in the name of M/s. Chick Feed Private Limited, New Delhi as **Exhibit PW-30/A** (D-95, Page 997).

66. PW-31 Shri Sandeep Kumar Srivastava:- The record which this witness had to prove was destroyed by the hotel at Lucknow where he was employed as Front Office Manager. Therefore, this witness was not examined any further.

67. PW-32 Shri Chain Singh:- This witness was Branch Manager of Central Bank of India, Bhatinda, Punjab. Vide Exhibit PW-32/A Seizure Memo, he had handed over two demand drafts bearing No. 032798 and 032799 for Rs.9,00,000/- and Rs.1,00,000/- respectively issued in favour of M/s. Oriental Highway Private Ltd. by Central Bank of India, Patel Nagar Branch, New Delhi. He had also handed over one letter dated 23.01.1999 and all these documents were exhibited as Exhibit PW-32/A to Exhibit PW-32/D (D-108, Page 1139, 1141, 1143 and 1145 respectively).

68. PW-33 Shri D.N. Verma:- This witness was a Controller of Stamps, Central Stamp Depot of India, Security Press, Nasik Road, Nasik, Maharashtra from 1996 to 2000. He deposed about the procedure for supplying KVPs, IVPs and all stamps and postal stationery required by the Department of Posts. He deposed that indent used to be received by the Central Stamp Depot of India, Security Press, Nasik Road, Nasik. According to stock available with the Central Stamp Depot, the supply of

the requirements was made. He deposed that vide invoice **Exhibit PW-33/A** (D-79, Page 913) 80,000 pieces of 5 ½ years KVP's in denomination of Rs.5000/- were issued by Central Stamp Depot, India Security Press, Nasik Road, Nasik to Superintendent, North-Eastern Stamp Depot, Gauhati, Assam. The series of KVPs was **45BB/440001-520000**. Part of the KVPs of Accused No. 1 Sh. Dilbhajan Singh Sandhu are also from same series, Exhibit PW-7/B. He also proved the reply given by him to SP, CBI dated 29.01.1990 in response to letter of CBI dated 15.01.1999 describing the procedure of indented supply of KVPs as **Exhibit PW-33/B** (D-81, Page 917). The witness also proved indent for KVPs for the period **4/96-9/96** from Circle Stamp Depot, West Bengal Circle, Kolkata and proved the same as **Exhibit PW-33/C** (D-82, Page 921). Similar indent for KVPs received from Circle Stamp Depot, Gauhati, Assam was proved as **Exhibit PW-33/D** (D-83, Page 923). The indent for KVPs received from Circle Stamp Depot, Kolkata was proved as **Exhibit PW-33/F** (D-78, Page 911). Lastly, the witness also proved dispatch slip used for dispatching 1,60,000 pieces of 5 ½ years KVPs in denomination of Rs.10,000/- by Central Stamp Depot, India Security Press, Nasik Road, Nasik to Superintendent, Circle Stamp Depot, West Bengal Circle, Kolkata. The witness deposed the consignment was

made vide invoice already exhibited as Ex. PW-27/A. The witness deposed that vide aforesaid invoice, 1,60,000 pieces of 5 ½ years Kisan Vikas Patras of 1996 year for the denomination of Rs.10,000/- having series 46CC/840001-46CC/1000000 were dispatched.

69. PW-34 Shri O.B. Srivastava:- This witness was Manager in Central Bank of India, Non-Banking Office, Jaipur and proved seizure memo dated 12.01.1999 as **Exhibit PW-34/A** (D-88, Page 965) and as per this seizure memo, he had handed over five demand drafts which were exhibited as **Exhibit PW-34/A-1** to **Exhibit PW-34/A-5** (D-89, Pages 967, 969, 971, 973 and 975 respectively). These are five DDs in favour of Mahindra & Mahindra.

70. PW-35 Shri Nattha Prasad Hans:- This witness was Sub-Postmaster at Armapur Post Office, Kanpur from 18.02.1998 to 31.01.2002. He deposed that KVPs No. 46CC/876401 to 876409 purported to have been issued under the signatures of Supervisor, Armapur Post Office, Kanpur bearing the stamp of said Post Office and endorsement to the effect that the same have been pledged to Central Bank of India have not been issued by Armapur Post Office. He deposed that as per the Stock Register of Armapur Post Office 46CC series of KVPs were not received in Armapur Post Office in the year 1995. (These

are those nine KVPs which were allegedly got pledged with Central Bank of India, Patel Nagar Branch, New Delhi by Accused No. 4 Sh. Amar Nath Rastogi). He also deposed that KVPs 876401 to 876500 of Rs.10,000/- were not issued by Armapur Post Office. (These are KVPs which Accused No. 2 Sh. Hari Narayan Sharma claimed to be issued from Post Office Armapur, Kanpur). He also deposed that KVPs of series 45BB/475001 to 475100 of Rs.5,000/- each, were not issued by Armapur Post Office (These are KVPs which Accused No. 3 Sh. Baljinder Singh claimed to be from Post Office Armapur, Kanpur). He deposed that as per Stock Register of Armapur Post Office, series 45 BB of KVPs was not received in Armapur Post Office in the year 1995. (All the KVPs of Accused no. 1 Sh. Dilbhajan Singh Sandhu and Accused No. 3 Sh. Baljinder Singh are of 45BB series). Same was his response with regard to KVPs of series 45BB/457001 to 457500 of Rs.5,000/- each (These are some of the KVPs of Accused No. 3 Sh. Baljinder Singh). The witness further deposed that KVPs of series 45BB463001 to 464000 of Rs.5,000/- each were not issued by Armapur Post Office (These KVPs were claimed by Accused No. 1 Sh. Dilbhajan Singh Sandhu as purchased from Post Office Armapur, Kanpur). Same was the reply of the witness for KVPs of series 45BB443501 to 444000 of

Rs.5,000/- each. Similarly, the witness also deposed that KVPs of series 45BB475501 to 476000 of Rs. 5000 each were not issued by Post Office Armapur, Kanpur (These KVPs were claimed by Accused No. 1 Sh. Dilbhajan Singh Sandhu as purchased from Post Office Armapur, Kanpur). The witness also deposed that letter dated 11.03.1998 of Central Bank of India addressed to postmaster for transfer of the Security Forms Exhibit PW-9/I is not signed by Sub-Postmaster of Armapur because the rubberstamp is showing Sub-Postmaster LSG whereas the postmaster of the Post Office is Higher Selection Grade, HSG. Same was the response of the witness with regard to Exhibit PW-9/J. The witness proved seizure memo dated 18.06.1999 as Exhibit PW-35/A (Page 1091) and six pages bearing his signatures and stamp of Post Office on each page as Exhibit PW-35/B (Page 1093). These include stock/issue register of KVPs for the periods from 16.05.1995 to 18.11.1995 of Armapur Post Office, Kanpur. The papers containing specimen seals of Post Office Armapur were proved as Exhibit PW-35/C. The Seizure Memo dated 18.06.1999 was proved as Exhibit PW-35/D. During cross examination by learned counsel for the Accused No. 5 Smt. Sudershan Kapoor, the witness deposed that the procedure for making endorsement on the KVPs in the Post Office is that after receipt

of KVPs from concerned bank who has sent the same for endorsement, the fees for endorsement is got deposited in the Post Office and thereafter the record of Post Office of the concerned KVPs checked and accordingly endorsement is made on the KVPs. The witness reiterated that cash used to be deposited before verification of KVPs.

71. PW-36 Shri L.K. Chhabra:- This witness was Deputy Manager of Bank of India and proved seizure memo dated 08.02.1999 as Exhibit PW-36/A (D-117, Page 1245) vide which he had given original Specimen Signature Card of CD Account No. 2409 in the name of MGF (India) Ltd., demand draft no. 032786 dated 19.03.1998 for Rs.2,00,000/- in the name of MGF (India Ltd. and Statement of Account No. 2409.

72. PW 37 Shri Tara Singh Sandhu:- This witness was Assistant Manager in Treasury Branch, State Bank of India, Chandigarh and proved Bank Draft No. 032828 dated 20.03.1998 for Rs.9,00,000/-, 032830 dated 20.03.1998 for Rs.1,41,167/- and Demand Draft No. 032829 dated 20.03.1998 for Rs.9,00,000/- which were received in his branch as Exhibit VW 16/C, Exhibit VW 16/D and Exhibit PW-16/E. He deposed that these drafts were payable to Assistant Excise and Taxation Commissioner, Union Territory, Chandigarh.

73. **PW 38 Shri Virendra Prasad Gupta:-** This witness was declared hostile and did not support the prosecution.

74. **PW 39 Shri Bhulonmoy Halder:-** This witness was officer in Punjab and Sindh Bank, Kolkata. He had handed over Specimen Signature Card of Saving Bank Account No. 671 in the name of Shri Baljinder Singh vide seizure memo dated 07.06.1999 and other documents which were proved as **Exhibit PW-39/A** (D-87, Page 963). The statement of account of this account was proved as **Exhibit PW 39/B** (D-112, Page 1069). He deposed that there is an entry of Rs.3,00,000/- for depositing a demand draft, Exhibit PW-44/C.

75. **PW 40 Shri Manoj Kumar Bansal:-** This witness was declared hostile but during cross examination by Sr. PP for CBI, he admitted that CBI Officer had recorded his statement truly and correctly and the same was exhibited as Exhibit PW-40/A.

76. **PW-41 Shri Lal Bachan:-** This witness was Superintendent, Circle Stamp Depot, Kanpur from 1993 for 3-4 years. He deposed that during his tenure, IVPs, NSCs, Postal Orders, Stamps and all stationeries used to be printed at Government Security Press, Nasik and used to be supplied to different Head Post Offices under Circle Stamp Depot. The witness deposed that KVPs of 46CC and 45BB series sent

from Government Security Press, Nasik were not received in CSD Kanpur. He deposed that 45BB series KVPs bearing No. 45BB475601 to 45BB475700 were not received in CSD Kanpur.

77. PW 42 Shri Upender Kumar:- This witness has deposed regarding M/s. Chick Feed Private Ltd. of Shri Rakesh Sharma but was declared hostile and did not support the prosecution.

78. PW 43 Ms. Rajashree:- This witness was the Legal Executive of Mahindra and Mahindra. In the very beginning of her statement, she was declared hostile.

79. PW-44 Shri Ashim Kumar Mitra:- This witness was Manager, Central Bank of India, Non Business Office, Kolkata. He proved seizure memo dated 18.01.1999 as Exhibit PW 44/A (Page 863). He proved Draft No. 032788 as Exhibit PW 44/B (Page 961) and Draft No. 032789 as Exhibit PW 44/C (Page 959).

80. PW 45 Shri Ram Kumar Dwivedi:- This witness an official of postal department deposed that Shri D.B. Singh had tried to encash KVPs issued by Post Office Ballia from Kanpur but could not succeed. However, he could not identify Shri D.B. Singh in the court.

81. PW-46. Ajay Kumar Singh:- This witness was declared hostile and did not support the prosecution.

82. PW-47 Madhab Mukherjee:- In the year 1997, this witness was posted as Inspector in Circle Stamp Depot, Kolkata and his duty was to collect the parcels from Howrah Railway Station against railway receipt. He deposed in March 1997, RR No. 049221 was given to him to collect parcel from Central Stamp Depot, Nasik containing KVPs of Rs.10,000/- denomination. He deposed that the indent for KVPs Exhibit PW 33/F was sent by his office. He further deposed that the consignment was received in a broken condition and was therefore given in open delivery. At the time of open delivery it was found that out of 4 cases, one case bearing No. 312 had been received totally in empty condition, another case No. 313 was not received, the third case No. 314 had been received in a mixed condition and fourth case No. 315 had been received in broken condition and out of 40,000 KVPs in the fourth case only 17,706 KVPs had been received.

83. PW-48 Shri Rama Kant Tiwari:- This witness is the Investigating Officer of this case. He proved the FIR registered in this case as **Exhibit PW-48/1** (Page-453A). He deposed that he had taken the specimen of seal and stamps of Armapur Post Office, Kanpur and had also taken the specimen signatures and handwritings of accused persons and also sent the specimen seals and signatures/handwritings

to GEQD Shimla for expert opinion. He deposed that he had proposed seeking sanction for prosecution of the public servants and sanction was requested by SP, CBI. The bank had not granted the sanction and the sanction was granted by CVC. He proved the chargesheet as **Exhibit PW-48/2** (Page-15). The search lists prepared after search at the residence of Accused No. 3 Shri Baljinder Singh, Accused No. 2 Shri Hari Narain Sharma, Accused No. 3 Shri Baljinder Singh, Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 4 Shri Amarnath Rastogi were proved as **Exhibit PW-48/3** (Page-847), **Exhibit PW-48/4** (Page 849), **Exhibit PW-48/5** (Page-851), **Exhibit PW-48/6** (Page-853), **Exhibit PW-48/7** (Page-855), **Exhibit PW-48/8** (Page-857) and **Exhibit PW-48/9** (Page-845) respectively. The seizure memo of documents seized from Shri Chain Singh was proved as **Exhibit PW-48/10** (Page-867). Production memo dated 17.06.1999, seizure memo dated 18.06.1999, seizure memo dated 27.01.1999, seizure memo dated 02.12.1998, seizure memo dated 24.11.1998, seizure memo dated 09.06.1999, seizure memo dated 18.12.1998, seizure memo dated 20.01.1999, seizure memo dated 29.01.1999, seizure memo dated 07.01.2000, the seizure memo for seizure of register from Shri Natha Parsad Hans were proved as **Exhibit PW-48/11** to **Exhibit PW-48/20**.

Letter dated 21.04.1999 addressed to General Manager, Indian Security Press, Nasik was proved as **Exhibit PW-48/21**. Letter dated 17.02.2000, impression of rubber-stamp used in KVPs at Armapur, Kanpur, impressions of metallic stamps used at Armapur Post Office, Kanpur, seizure memo dated 24.11.1998, production memo dated 16.06.1999, production memo dated 15.06.1999, seizure memo dated 26.04.1999 and seizure memo dated 08.02.1999 were proved as **Exhibit PW-48/22** to **Exhibit PW-48/30**. In cross examination by learned counsel for Accused No. 12 Shri Vikas Srivastava, the witness deposed that there is no order of the Magistrate under section 17 of the PC Act in favour of S.I. Nidhi Dev. The witness deposed that he had obtained specimen signatures of Shri Vikas Srivastava but he was not remembering the report of GEQD as the case was an old case. During cross-examination by learned counsel for Accused No. 1 Shri Dilbhajan Singh Sandhu, the witness deposed that he had not parted with his files or documents or statements of witnesses during the investigation except for few hours. The witness could not answer why FIR was not registered immediately after receiving the complaint from the Chief Manager of the bank. The witness deposed that all the KVPs were sent to the Government of India, Security press, Nasik and a reply was received that those KVPs were

being sent to Gauhati which were stolen on the way somewhere near Patna and when enquiry was made from Gauhati Post Office, it was clarified by them that they had never received these KVPs. He deposed that every nationalised bank has its own ways of finding out the genuineness of the KVPs before sanctioning the loan. He deposed that he did not find out anything during his investigation that Accused No. 5 Smt. Sudershan Kapoor had obtained any pecuniary advantage from this transaction. In cross examination by learned counsel for Accused No. 6 Shri Ashwani Dhingra and Accused No. 12 Shri D.B. Singh, the witness deposed that he had come to know from GRP Patna about sale of stolen KVPs by Accused No. 13 to Accused No. 11 but he has not recorded the statement of any official of GRP Patna as it was internal correspondence between CBI and GRP Patna. During cross examination by learned counsel for Accused No. 1 Shri Dilbhajan Singh Sandhu, the witness admitted that he has not filed on record the opinion of GEQD.

84. PW-49 Shri Jaga Jyoti Bhattacharjee:- This witness was the General Manager of Central Bank of India, Mumbai up to 31.10.2000. He was the competent authority to remove the Branch Manager and Assistant Manager. He had given the sanction to prosecute Accused

No.5 Smt. Sudershan Kapoor vide sanction order dated 20.10.2000 which was proved as **Exhibit PW-49/B** (Page-19). During cross examination by learned counsel for Accused No. 5 Smt. Sudershan Kapoor, the witness deposed that the terms of sanction were not complied with by the Branch manager. He also deposed that the KVPs on the basis of which OD facility was granted, turned out to be stolen.

85. CW-1 and CW-2 are the officials of CBI whose statement was recorded before declaring Accused No. 9 Shri Rakesh Sharma as proclaimed offender.

86. Statements of accused under section 313 Cr.P.C:- The response of the accused persons to the questions put to them under section 313 of Cr.P.C. was of denial. However, Accused No. 1 Shri Dilbhajan Singh Sandhu when questioned "Have you anything else to say?" stated that "Through one of our common friends I met Ashwani Dhingra who is a chartered accountant by profession and I requested him to arrange for a loan from a bank and he assured me that he will manage the same. It was he who had arranged for the KVPs and through him I had applied for a loan from Central Bank of India. It was not to my knowledge that the said KVPs were the stolen property. I had visited Armapur Post Office for the purposes of endorsement on the said

documents and the requisite fees was deposited with the postal authorities. On the basis of collateral security of the said KVPs, loan was obtained. However, when it was learnt that the KVPs were stolen property, a suit for recovery was filed before the DRT, Delhi by the Bank qua me and two other persons who had jointly obtained the loan. I had settled with the bank and had made full and final payment of my share of loan and the matter was settled by making full and final payment of Rs.1,07,00,000/- (Rupees One Crore and Seven Lakh Only). Thereafter, the properties mortgaged with the bank as equitable mortgage has also been released by the bank” (emphasis supplied).

87. Similarly, the response of Accused No. 5 Smt. Sudershan Kapoor to the question “Have you anything to say?”, is that “It has been inadvertently stated in reply to question No. 281 that Armapur and Armapore is one and the same Post Office. However, the fact remains that Armapur is a Post Office of (HSG) and Armapore is a sub-post office (LSG) in the area located in the postal index PIN code No. 208009 under head Post Office Kanpur. In the first week of March, 1998 Mr. D.S. Sandhu came to the bank along with Sh. Amit Kapoor who was known to me through his maternal uncle (MAMA) and maternal grandfather (NANA) who were my colleagues in the bank since 1966. Mr. Sandhu

wanted to avail overdraft limit against government securities up to Rs.1.5 Crores. I flatly refused him as I was not the permanent Branch Manager of the Branch Patel Nagar, I was issued a letter by Regional Manager Shri D.L. Khanijo to look after the Branch till permanent posting is done. I told him to approach Regional Office at Chandni Chowk for such a big amount of loan facilities. I was telephonically informed by Regional Manager Sh. D.L. Khanijo to forward the request of borrower Mr. D.S. Sandhu. Accordingly, the proposal was sent to Regional Office on 09.03.1998 and the very next day I received a sanction letter for grant of O.D. limit of Rs.1.4 Crores against government Security, without any query/objections/clarifications by Regional Office. On receipt of sanction letter the list of KVPs was given by the borrower (no original KVPs were given) for marking lien by the concerned Post Office. Further for getting the endorsement of lien mark on documents, Mr. A.N. Rastogi, the Assistant Manager was deputed to look into the matter personally and go to the concerned Post Office for getting the same done for which purpose the requisite fee had to be deposited with head Post Office concerned. Thereafter, now it was the duty of officer concerned to get the job done from the concerned postal authority. It is a fact that endorsement for their pledging was to be made after receipt of requisite

fee which had been deposited at head Post Office Kanpur for which computerized cash receipts were issued (D-118, D-119 and D-120). At this stage it seems that some persons from Post Office and some other persons were in conspiracy with each other to cheat the Post Office as well as the bank and have fraudulently marked the lien, since these officials of Post Office were posted in different Post Offices and have been using different postal stamps while sitting in one Post Office. As such the bank officers deputed for doing the concerned job could not suspect anything wrong. It becomes crystal clear from the evidence on record that I had no role to play in any manner in alleged conspiracy and had simply performed my part of duty. A false case has been foisted upon me. I am innocent” (emphasis supplied).

88. Defence Evidence:- In their defence, accused examined five witnesses.

89. DW-1 Shri Mahinder Singh, Deputy General Manager, Central Bank of India, Audit Office, Mumbai:- This witness proved letter dated 26.12.2011 bearing letter No. ARBDEL/F-136/2011-12/2015 written by AGM, Central Bank of India, asserts recovery branch, New Delhi to Accused No. 1 Shri Dilbhajan Singh Sandhu as **Exhibit DW-1/C**. The witness deposed that in this account, one-time settlement was

sanctioned by the committee of Board at Central office, Mumbai for Rs.90,00,000/- which was deposited by the party subsequently with interest and made a payment of Rs. 90,11,537/-.

90. DW-2 Shri Hari Shankar Lal, Deputy Chief Postmaster,

Kanpur Head Post Office, Kanpur, UP:- This witness was examined

on behalf of Accused No. 5 Smt. Sudershan Kapoor. He deposed that

for pledging of KVPs, the owner of instruments has to contact the same

Post Office from where he had purchased the certificates on the

directions of the bank for pledging the same in favour of the lender bank.

He deposed that in case the KVPs have been issued by Branch Post

Office (which works for few hours), the pledging fees shall be deposited

with Head Post Offices as all the documents and records are with the

head Post Office. However, if the KVPs have been issued by Sub Post

Office (a full-fledged office working for 8 hours), in that case the pledging

fees shall be deposited with the said sub Post Office. Exhibit PW7/D Z1

and Exhibit PW8/DX2 are one and the same slip and first Exhibit is on

the backside and second Exhibit is on its front. Same is the position with

Exhibit PW7/DZ2 and Exhibit PW8/DX3 as well as with Exhibit PW7/DZ3

and Exhibit PW/DX4. After showing these exhibits to the witness, he was

asked a question where will the owner of certificates go for pledging of

the certificates in favour of lending bank? The witness responded that since it is a matter of 1998 he cannot answer this question.

91. DW-3 Shri Chhote Lal, Sub- Postmaster, Armapur Estate,

Kanpur:- This witness deposed that in case the certificates have been issued by sub Post Office the pledging fees will have to be deposited in the sub Post Office.

92. DW-4 Shri Jagadish Chandra, Dak Assistant, Armapur,

Kanpur, UP:- This witness deposed there is no such Post Office in Kanpur at Armapur.

93. DW-5 Shri Chandra Prakash Assistant Superintendent Post

Office in the office of SSP, Kanpur City Division, Kanpur:- This

witness deposed that the Post Office Armapore is under Nawabganj Head Post Office and is a delivery office. At some distance from this Post Office, there is non delivery office i.e. at Armapore estate. He deposed these offices are in existence since British times and from the very beginning, the Post Office is written as Armapore and not Armapur.

94. Points for determination:- The points for determination in this

case would be (i) whether Accused No. 1 Sh. Dilbhajan Singh Sandhu, dishonestly induced Central Bank of India, Patel Nagar Branch, New Delhi to sanction loans of Rs. 1.40 Crores against KVPs purportedly

issued by Armapur, Kanpur Post Office, UP which KVPs were stolen and forged to his knowledge and thereby committed an offence punishable under section 420 of IPC? **(ii)** whether Accused No. 1 Sh. Dilbhajan Singh Sandhu fraudulently used as genuine, for the purpose of cheating, KVPs mentioned above which to his knowledge were stolen and forged documents and thereby committed an offence under section 471 read with section 467 and 468 of IPC? **(iii)** whether Accused No. 1 Sh. Dilbhajan Singh Sandhu dishonestly received stolen KVPs and pledged with the Central Bank of India for obtaining fraudulently overdraft limits knowing the said KVPs to be stolen property and thereby committed an offence under section 411 IPC? **(iv)** whether Accused No. 5 Smt. Sudershan Kapoor abused her official position and recommended proposal for grant of limit of Rs. 1.50 Crores against false/forged KVPs (No. 3498) purportedly issued by Armapur Post Office, Kanpur, to the Regional Manager and facilitated Accused No. 1 Sh. Dilbhajan Singh Sandhu to avail OD limit and disbursed the amount in violation of terms of sanction order and enabled the accused persons to obtain pecuniary advantage to the tune of Rs. 1.40 Crores and corresponding loss to the Central Bank of India, Patel Nagar Branch, New Delhi and committed an offence punishable under section 13 (2) read with section 13(1)(d) of the

Prevention of Corruption Act, 1988? (v) whether Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 5 Smt. Sudershan Kapoor, Accused No. 6 Shri Ashwini Dhingra, Accused No. 7 Shri Amit Kapoor, Accused No. 8 Shri Rishi Raj Behl, Accused No. 11 Shri Dal Bahadur Singh and Accused No. 12 Shri Vikas Srivastava were party to a criminal conspiracy having agreed to cheat the Central Bank of India, Patel Nagar Branch, New Delhi by fraudulently inducing it to sanction demand loans in the name of Accused No. 1 Shri Dilbhajan Singh Sandhu and others to the extent of Rs. 1.40 Crores by presenting and later pledging valuable securities in the form of stolen and forged 3498 pieces of KVPs of total purported value of Rs.1,99,85,000/- purportedly issued by sub Post Office, Armapur, Kanpur, UP which KVPs were to their knowledge not issued by the said Post Office but had been stolen during transit from Nasik to Howrah from a railway wagon and subsequently forged and pledged for obtaining aforesaid loan so as to defraud and cheat the bank and in furtherance of which criminal conspiracy Shri Dilbhajan Singh Sandhu presented the said forged KVPs and Smt. Sudershan Kapoor abusing her official position facilitated the accused persons in obtaining the defrauded amount and accused Rishi Behl, Ashwani Dhingra, D.B. Singh and Shri Amit Kapoor facilitated false verification

and earmarking on the said forged and fabricated KVPs and accused Shri Vikas Srivastava helped accused D.B. Singh in opening the saving bank account and received Rs.2,50,000/- from the said account?

95. Arguments were addressed by Shri Brijesh Kumar Singh, learned Senior Public Prosecutor for CBI, Shri Yudhishtar Kahol learned counsel for accused No. 1 Dilbhajan Singh Sandhu and Accused No. 5 Smt. Sudershan Kapoor (who also filed written arguments). The arguments addressed by Sh. Yudhister Kahol on 16.06.2020, 17.06.2020, 18.06.2020, 19.06.2020, 22.06.2020 and 16.07.2020, 17.07.2020, 20.07.2020, 21.07,2020 and 23.07.2020 were noted in detail in the order-sheets of respective dates. Shri M.K. Verma, learned counsel for Accused No. 6 Shri Ashwani Dhingra, Accused No. 8 Shri Rishi Raj Behl and Accused No. 11 Shri D.B. Singh had addressed the court on 25.06.2020, 26.06.2020, 29.06.2020 and 13.07.2020 and the arguments are noted in detail in the order-sheets of respective dates. Shri Vikram Panwar, learned counsel for Accused No. 7 Shri Amit Kapoor had addressed the court on 08.07.2020 and the detailed arguments were noted in the order-sheet of the said date. Shri I.D. Vaid, learned counsel for Accused No. 12 Shri Vikas Shrivastava (who also

filed written arguments) had addressed the court on 02.07.2020 and the arguments addressed are noted in the order-sheet of the said date.

96. Discussion of evidence and arguments addressed:- First point for determination is whether Accused No. 1 Sh. Dilbhajan Singh Sandhu, dishonestly induced Central Bank of India, Patel Nagar Branch, New Delhi to sanction loans of Rs. 1.40 Crores against KVPs purportedly issued by Armapur, Kanpur Post Office, UP which KVPs were stolen and forged to his knowledge and thereby committed an offence punishable under section 420 of IPC?

97. The basic and foremost question which comes to the mind in the very beginning is whether the KVPs in question were stolen and forged?

98. The trial of the case lingered on for almost two decades to prove that the KVPs presented and later pledged for securing OD limit with Central Bank of India, Patel Nagar Branch, New Delhi were stolen and forged. Each and every witness examined by prosecution to prove that the KVPs in question were stolen and forged was cross-examined at length. However, it is already noted above that Accused No. 1 Shri Dilbhajan Singh Sandhu when questioned, after examining him under section 313 Cr.P.C., "Have you anything else to say?", the response of

the accused was "... However, when it was learnt that the KVPs were stolen property, a suit for recovery was filed before the DRT, Delhi by the bank qua me and two other persons who had jointly obtained the loan. I had settled with the bank and had made full and final payment of my share of loan and the matter was settled by making full and final payment of Rs.1,07,00,000/- (Rupees One Crore and Seven Lakh Only) ...” It will be discussed in following paragraphs that the prosecution has successfully proved its case that KVPs in question were stolen and forged but admission of the Accused No. 1 Shri Dilbhajan Singh Sandhu noted above is the best proof of the allegation that he had procured overdraft facility from the Bank on the basis of stolen and forged KVPs. As per Section 58 of the Evidence Act, no fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing.

99. Moreover, when the principal borrower Accused No. 1 Shri Dilbhajan Singh Sandhu settled the civil liability with the bank in One-Time Settlement and paid nearly Rs.90,00,000/- to the Bank without requesting the return of original KVPs pledged with the Bank, nothing further was required to prove that the KVPs pledged with the bank were stolen and forged KVPs.

100. However, to complete the summation, it is noted here again that the following witnesses proved that the KVPs in question were never issued to Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh:-

- (i) **PW-35 Shri Natha Parsad Hans:-** Sub-Postmaster, Armapore, who clearly stated that the KVPs in question were never issued from Armapore Post Office, Kanpur to accused persons and also proved that lien marking, is forged. The detailed testimony of this witness is noted in para 70 of this judgment above.
- (ii) **PW-41 Shri Lal Bachan:-** Superintendent, Circle Stamp Depot, Kanpur clearly stated that the KVPs in question were never issued from Armapur Post Office, Kanpur to accused persons and proved that the said KVPs were never received in CSD, Kanpur and not genuinely issued. The detailed testimony of this witness is noted in para 76 of this judgment above.
- (iii) **PW-33 Shri D.N. Verma:-** This witness was the Deputy Controller of Stamps, Indian Security Press, Nasik, proved that the KVPs in question were sent to Calcutta and Gauhati. He proved the indent and invoices Exhibit PW-33/A (D-79), PW-33/C (D-82), PW-33/D (D-83), PW-33/E (D-77), PW-33/F (D-

78), PW-27/A (D-80) and Reply Letter PW-33/B (D-81). The detailed testimony of this witness is noted in para 68 of this judgment above.

(iv) **PW-21 Shri Sahay Jojo:-** He was the Chief Parcel and Luggage Inspector, Howrah Railway Station. The detailed testimony of this Witness is noted in para 56 of this judgment above.

(v) **PW-27 Shri Shymal Kant Dutta:-** Supervisor, Certificate Branch, NSC/KVPs/IPO, Calcutta. The detailed testimony of this witness is noted in para 62 of this judgment above.

(vi) **PW-47 Shri Madhab Mukherjee:-** Circle Stamp Depot, Calcutta, proved D-78 Exhibit PW-33/F, he stated that consignment was received in broken/empty condition and open delivery was granted. In detail testimony of this witness is noted in para 82 of this judgment above.

(vii) **PW-8 Shri J S Bhatti:-** Deputy Chief Officer (Law), Central Bank of India, Zonal Office, Delhi. In detail testimony of this witness is noted in para 42 of this judgment above.

(viii) **PW-10 Shri KC Sharma**:- Vigilance Officer of Central Bank of India. In detail testimony of this witness is noted in para 44 of this judgment above.

(ix) **PW-12 Shri U B Upadhyay**:- Vigilance Officer, Zonal Office, Central Bank of India, Lucknow. In detail testimony of this witness is noted in para 46 of this judgment above.

101. Having admitted that the KVPs in question were stolen and forged, the defence taken by Accused No. 1 to Dilbhajan Singh Sandhu in the written arguments is as under:-

“(2) That it is also an admitted fact by the prosecution that Accused No.1 had nothing to do with the purchase of KVPs and the same had been arranged/procured by Ashwini Dhingra (Chartered Accountant) engaged by Accused No. 1 D.S. Sandhu who had in fact requested him to arrange for the requisite finance. The funds were required for running his business i.e. for making payments to Mahindra and Mahindra. Accused No. 1 who was a dealer of Mahindra and Mahindra having agency at Chandigarh, Shri Ganga Nagar, Bhatinda etc. In fact there was no conspiracy amongst A-1 and A-6 for the simple reasons that A-6 was to be paid for his professional services of arranging loan. This fact in itself is sufficient to prove the innocence of the accused no.1 that he had never been in physical possession of the KVPs in question since the entire transaction was stage managed by his Chartered Accountant engaged for procuring loan”.

102. The hands off approach taken by Accused No. 1 Shri Dilbhajan Singh Sandhu, on the face of it, is not believable. The following overwhelming evidence is to the contrary:-

- (i) Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh had given individually undated applications to the Manager, Central Bank of India, Patel Nagar Branch, New Delhi mentioning specifically that the overdraft facility is being sought on the basis of KVPs standing in their names. These applications are Exhibit PW-9/A, Exhibit PW-9/B and Exhibit PW-9/C (D-19, Pages 711, 713 and 715).
- (ii) Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh had given lists of KVPs held in their names along with their applications for overdraft facility. These lists, Exhibit PW-9/D (D-19, Page 705) include Registration No., Serial No., Date of Issue, Date of Maturity and Face Value of the KVPs indicating total face value of KVPs and are duly signed by Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2

Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh.

- (iii) Accused No. 5 Smt. Sudershan Kapoor vide her letter dated 18.03.1998 addressed to Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh had informed them that their KVPs are not totaling Rs.2 Crores but were short by Rs. 15,000 and the worth of their KVPs was Rs.1,99,85,000/-. This letter is Exhibit PW-9/H (D-30, Page 757).
- (iv) Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh had given Letters of Lien mentioning each and every KVP number totaling Rs.1,99,85,000/- on stamp papers mentioning in those letters that they are giving a lien on their KVP numbers as mentioned in the letters. The letters are Exhibit PW-9/N and Exhibit PW-9/O (D-20, Pages 723, 727 and 731).
- (v) On each KVP given to the bank the name of Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh is mentioned which leaves no scope for doubt in the mind of borrowers that

they were claiming overdraft facility on the basis of KVPs alleged to be in their own names.

- (vi) Accused No. 1 Shri Dilbhajan Singh Sandhu had accompanied Accused No. 4 Shri Amarnath Rastogi to Post Office Armapore, Kanpur when he was given the assignment of getting the lien created on the KVPs in favour of Central Bank of India, Patel Nagar Branch, New Delhi. Accused No. 4 Shri Amarnath Rastogi returned back to Delhi only after creating so-called lien on 9 KVPs and rest of the KVPs remained with Accused No. 1 Shri Dilbhajan Singh Sandhu who returned to Delhi subsequently after creating so-called lien on remaining KVPs and submitted them to Central Bank of India, Patel Nagar Branch, New Delhi (Page-741).
- (vii) Accused No. 1 Shri Dilbhajan Singh Sandhu was the dealer of Mahindra and Mahindra. He was a businessman and it is difficult to believe that overdraft facility of Rs. 1.40 Crore was sanctioned in his favour by the bank and he was not knowing on what basis/security the bank has granted this facility.

103. Therefore, the Accused No. 1 Shri Dilbhajan Singh Sandhu cannot take the plea that whatever was being done was done by

Accused No. 6 Shri Ashwani Dhingra and he was not knowing that the KVPs in question were stolen or forged.

104. In the written arguments, one of the objections is that Exhibit PW-7/A is dated 31.07.1998 which is the complaint given by the Bank to CBI but the FIR was registered on 24.08.1998. It is submitted that it shows unnecessary delay or there had been some preliminary enquiry/ investigation even before the registration of the FIR which strikes at the root of the prosecution's case. The objection is noted to be rejected. It is already noted above that Accused No. 1 Shri Dilbhajan Singh Sandhu has admitted that the KVPs in question were stolen KVPs. Before his admission, the prosecution has successfully proved that the KVPs in question were stolen KVPs. The accused has not shown any prejudice suffered by him by this delay in registration of FIR. It is not his case that this time was misused by the investigating agency to create false evidence against him. The entire case is documentary in nature. Most of the record pertains to government offices such as the bank in question, postal department, Indian security press, Nasik etc. and therefore no benefit can be given to the accused for the delay in the registration of FIR.

105. The other argument of the Accused No. 1 Shri Dilbhajan Singh Sandhu is that the prosecution is heavily relying on the fact that he had accompanied Accused No. 4 Shri Amarnath Rastogi to Kanpur for getting the lien marked on the KVPs. It is his submission that no bank will bear the expenses for verification as well as marking of lien on KVPs and the expenses are to be borne by the owner/holder of the certificates. Even otherwise KVPs were as good as currency/liquid cash and no person would like to part with the possession of the KVPs unless the loan was sanctioned or disbursed to him. Reliance is also placed on evidence of DW-5, a witness from postal department who has deposed that "The borrower has to go with the banker to the post office as he has to give an application for pledging the KVPs". At the time of framing of charge, it was noted that PW Sh. Vijay Prakash had stated in his statement under section 161 of Cr.P.C. that such inquiries are to be made discreetly by the bank without knowledge of the borrower. However, when the witness appeared before the court he did not depose about discreet enquiries for verification of KVPs. Be that as it may, all such objections pale into insignificance considering admission by the accused that the KVPs on the basis of which he had secured huge overdraft limit of Rs. 1.40 crores were stolen.

106. Another submission in the written arguments on behalf of Accused No. 1 Shri Dilbhajan Singh Sandhu is that the bank officials themselves were not knowing before July 1998 about stolen KVPs being in circulation. Therefore, the submission is that it could not have been in the knowledge of Accused No. 1, Accused No. 2, Accused No. 3 or Accused No. 5 that the KVPs in question were stolen. The argument is totally devoid of any merit. These accused did not need a circular from Reserve Bank of India/Postal Department/Head Office of Central Bank of India to know that stolen KVPs are in circulation because Accused No. 1, 2 and 3 knew very well that they have not invested any money on KVPs and the KVPs worth Rs.1,99,85,000 in their names cannot be but stolen KVPs. Therefore, even if the bank officers were not knowing before July 1998 that stolen KVPs are in circulation, even then the accused get no benefit from that as they were very well aware that they cannot have KVPs of such a huge amount in their names without having spent a single penny on them unless and until they were stolen.

107. Even after admitting that the KVPs on the basis of which they had secured overdraft limit of a huge amount of Rs.1,99,85,000/- from the bank were stolen KVPs, the accused still argued that he could not have known that the KVPs were stolen because the KVPs were lien

marked by the postal authorities at Kanpur in the post office itself. It is their submission that an amount of Rs.3,000/- was deposited at the Head Post Office, proper receipts (Exhibit PW-7/DZ-1, PW-7/DZ-2 and PW-7/DZ-3) whereof had been issued by the postal department and the same have been filed on record by the prosecution itself. Reliance is also placed on evidence of DW-2 Shri Hari Shankar Lal, Deputy Chief Postmaster an official witness who deposed that pledging fees can be accepted only when the records are available with the Head Post Office. The accused has admitted that the KVPs on the basis of which he secured the loan were stolen KVPs but is trying to show that it was not in his knowledge that the KVPs are stolen. It is already noted above that each KVP mentions the name of purchaser and the KVPs showed that the purchasers are Accused No. 1 Shri Dilbhajan Singh Sandhu, Accused No. 2 Shri Hari Narain Sharma and Accused No. 3 Shri Baljinder Singh. These KVPs were submitted in the bank by these borrowers themselves. Still, the accused is trying to show that he never knew that the KVPs were stolen. It is already noted in para 70 above that PW-35 Shri Natha Parsad Hans, Sub- Postmaster at Armapur Post Office, Kanpur has clarified during his cross-examination by learned counsel for the Accused No. 5 Smt. Sudershan Kapoor that the

procedure for making endorsement on the KVPs in the post office is that after receipt of KVPs from concerned bank who has sent the same for endorsement, the fees for endorsement is got deposited in the post office and thereafter the record of Post Office of the concerned KVPs' is checked and accordingly endorsement is made on the KVPs. The witness reiterated that cash used to be deposited before verification of KVPs. This explanation seems more logical because any office be it public or private, will start action only after receiving application and prescribed fee for the services to be rendered. It is not expected that any office will devote its time and energy for verifying whether they have the records of the KVPs with them are not without receiving any application and requisite fee. This argument by the accused deserves no consideration because no individual can be misled to believe that he is the owner of KVPs worth Rs.2 Crores merely by deposit of fees for creation of lien on those KVPs even if he has not spent a single penny for purchasing those KVPs. This submission of the accused is therefore rejected.

108. Next, the accused is trying to make a mountain out of a mole hill by playing with the words Armapore and Armapur. The submission of the accused is that the prosecution has tried to prove that the KVPs were

not issued by Armapore Post Office and no such Post Office by the name of Armapur ever existed but the fact remains that the witnesses examined from the postal department were from the post office Armapur and not from Armapore. As noted earlier, PW-33 Shri D.N. Verma, Deputy Controller of Stamp, Indian security press, Nasik has proved that the KVPs in question were sent to Calcutta and Gauhati and therefore could not have been sold from Kanpur, whether Armapore or Armapur. In this context, it is worth noticing that no endeavour was made by the accused to summon any witness from the post office to show that the KVPs were genuine. The reason being the accused knew and had already admitted on record in this case that the KVPs were stolen.

109. It is the submission of the accused that in the evidence of the Investigating Officer of this case PW-48 Rama Kant Tiwari it has come that he had seized the seal stamp and sent the same for comparison to GEQD, Shimla but the result of the comparison was not placed before the court to screen somebody else and falsely implicate the accused persons. It is already noted that one of the proposed accused in this case was Shri S.N. Panday Sub-Postmaster, Post Office Armapore, Kanpur but he died before the chargesheet would be filed. Had the said Shri Pandey been alive today facing the trial, the court would have

ordered producing the result of experts examination at GEQD, Shimla but as the said accused has died, non-production of the report is not sufficient to prove the innocence of the accused persons before this court especially Accused No. 1 Shri Dilbhajan Singh Sandhu. There is sufficient evidence on record, as discussed in earlier paragraphs above, to show that knowingly the Accused Shri Dilbhajan Singh Sandhu used stolen and forged KVPs for procuring overdraft facility of Rs.1.40 Crores from Central Bank of India, Patel Nagar Branch, New Delhi. Therefore, non-placing on record the result of GEQD, Shimla is not going to help Accused No. 1 Shri Dilbhajan Singh Sandhu in any manner.

110. Another objection of the Accused No. 1 Dilbhajan Singh Sandhu in the written arguments is that there are several documents which are photocopies and therefore are inadmissible in evidence. There are certain documents whose photocopies were got attested and certified by the bank officials. They were exhibited without there being any objection and therefore now can be read in evidence while deciding the case.

111. Accused No. 1 Shri Dilbhajan Singh Sandhu has objected to the allegations of the prosecution that his bank accounts in Central Bank of India, Patel Nagar Branch, New Delhi were got introduced by PW-2 Shri Kuljit Singh although he was not knowing the said Accused No. 1 Shri

Dilbhajan Singh Sandhu. The submission of the accused is that PW-2 Shri Kuljit Singh also knew the Regional Manager Shri D.L. Khanijo but did not make any complaint against Smt. Sudershan Kapoor in this regard. The objection has no merits. When this witness PW-2 Shri Kuljit Singh entered the witness box no question was put to him in cross-examination to remind him the association/relationship/acquaintance of this witness with accused No. 1 Shri Dilbhajan Singh Sandhu. This is sufficient to reject the argument of the accused.

112. One of the arguments in the written submission of the Accused No.1 Shri Dilbhajan Singh Sandhu is that there is nothing to doubt grant of loan to him by the Bank at Delhi even if he was resident of Bhatinda, Punjab because the documents relating to M/s. Oriental Automobiles Company registered at E-217, Rajinder Nagar, New Delhi which property in fact was disposed of by the bank and the same money was paid to the bank show that there is nothing wrong in grant of OD facility to a person residing at Bhatinda, Punjab. In this case, the only thing to doubt is not that Accused No. 1 Dilbhajan Singh Sandhu was a resident of Bhatinda, Punjab. What makes the entire story doubtful is that one borrower was resident of Punjab, another borrower was resident of Delhi and the third borrower was resident of Calcutta. All of them claimed having purchased

KVPs worth Rs.2 Crores from Armapur Post Office, Kanpur. All the three applicants claimed that they were dealers of Mahindra and Mahindra. No enquiry was made at the Branch level whether all the three applicants were individual dealers or there was any partnership or they were directors of any company having the dealership of Mahindra and Mahindra. Their income tax returns of the period when they claimed to have invested a huge amount of Rs. 2 Crores for purchasing KVPs were not examined. No effort was made to find out why they were not availing the loan from their present banker and why they were coming to this bank and branch for the first time for availing overdraft facility for such a huge amount. These are the doubts which should have come to the mind of a prudent banker before entertaining the request for overdraft facility.

113. Next, the accused is trying to show his bona fides by submitting that he came to know on 27.07.1998 that the KVPs were forged and on 28.07.1998 he offered certain properties and LIC policies as securities to clear his debts. It is seen in the evidence of PW-28 Shri Gopal Gupta that he had purchased the property from Accused No. 1 Shri Dilbhajan Singh Sandhu situated at New Rajinder Nagar, New Delhi for a sum of Rs.60 lakhs but he was given receipt only for Rs.50 lakhs and a sum of

Rs.10 lakhs was taken by Accused No. 1 Shri Dilbhajan Singh Sandhu in cash from him. The bank was left poorer by another Rs.10 lakhs in as much as this amount was taken by Accused No. 1 Dilbhajan Singh Sandhu from PW-26 Shri Gopal Gupta in cash which remained unaccounted vis-à-vis the bank. Therefore, rather than a favourable circumstances in favour of the accused it shows is malafide intentions even after it was found by everyone that the KVPs are stolen.

114. Another written submission on behalf of Accused No. 1 Shri Dilbhajan Singh Sandhu is that the prosecution has not examined Shri Rajendra Prasad who had registered the FIR/RC in question. He had also sought the sanction to prosecute the public servants and had been actively participating in investigation of the case. Similarly, another witness Shri S.K. Kashyap who had investigated the case for nearly six months was not examined. The submission of the accused is that had these important witnesses been examined some fact against the prosecution version “might” have cropped up; non-examination of these witnesses i.e. part investigating officers has caused prejudice to the accused. The submission of the accused is in the nature of surmises and conjectures. The accused has not stated how he has suffered any prejudice by non examination of these two witnesses. In the facts and

circumstances of this case, in the opinion of this court, the accused has not shown any prejudice in this regard and therefore this objection is rejected.

115. The last written submission of the accused is that he has already settled the account as one-time settlement with the bank and the matter has been compromised. It is his submission that the accused made the payments long back knowing fully well that the criminal proceedings against him would continue as it is, even after making the payment to the bank. The submission of the accused is that he never intended to cheat the bank but he himself is a victim of circumstances. He has submitted that the Damocles sword has been hanging over his head for the last more than two decades without any fault on his part. This court does not agree with the accused that the Damocles sword has been hanging over his head without any fault on his part. The fault of the accused is vividly clear. However, the effect of one-time settlement can only be taken into consideration at the time of order on sentence and not for deciding guilt or innocence of the accused.

116. As a result of above discussion on the evidence on record and arguments addressed by learned counsel for Accused No. 1, Shri Dilbhajan Singh Sandhu, the first point for determination namely whether

Accused No. 1, Shri Dilbhajan Singh Sandhu, dishonestly induced Central Bank of India, Patel Nagar Branch, New Delhi to sanction loan of Rs.1.40 Crores against KVPs purportedly issued by Armapur, Kanpur Post Office, UP which KVPs were stolen and forged to his knowledge and thereby committed an offence punishable under section 420 of IPC is answered in the affirmative. Accordingly, the charge under section 420 of IPC framed against the Accused No. 1 Shri Dilbhajan Singh Sandhu also stands proved.

117. The second point for determination is whether Accused No. 1 Sh. Dilbhajan Singh Sandhu fraudulently used as genuine, for the purpose of cheating, KVPs in question which, to his knowledge were stolen and forged documents and thereby committed an offence under Section 471 read with Section 467 and 468 of IPC?

118. After coming to a conclusion that Accused No. 1 Sh. Dilbhajan Singh Sandhu had dishonestly induced Central Bank of India, Patel Nagar Branch, New Delhi to sanction loan of Rs.1.40 Crores against KVPs purportedly issued by Armapur, Kanpur Post Office, U.P. which KVPs were stolen and forced to his knowledge, nothing further is required to be discussed with regard to this point of determination. As per section 471 of IPC, whoever fraudulently or dishonestly uses as

genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record shall be punished in the same manner as if he had forged such document or electronic record. It has been discussed above at length that the Accused No. 1 Sh. Dilbhajan Singh Sandhu has admitted that the KVPs worth Rs.2,00,00,000/- were stolen KVPs. Besides this admission, the prosecution has also successfully proved that the KVPs were stolen and forged. Since the Accused No. 1 Sh. Dilbhajan Singh Sandhu had not spent a single penny for purchasing KVPs himself and had personally given these KVPs (except nine KVPs which were given in the bank by Accused No. 4 Sh. Amarnath Rastogi) standing in his own name and in the names of Accused No. 2 Sh. Hari Narayan Sharma and Accused No. 3 Sh. Baljinder Singh in the Bank with forged endorsement of lien in favour of Central Bank of India, Patel Nagar Branch, New Delhi shows that he has fraudulently or dishonestly used as genuine the KVPs which he knew or had reason to believe to be stolen and forged. Therefore, the second point of determination is also answered in affirmative. As a result, the charge framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu under Section 471 read with Section 467 and 468 IPC also stands proved.

119. The third point for determination in this case is whether Accused No. 1 Sh. Dilbhajan Singh Sandhu dishonestly received stolen KVPs and pledged with the Central Bank of India for obtaining fraudulently overdraft limits knowing the said KVPs to be stolen properties and thereby committed an offence under Section 411 of IPC?

120. This point of determination can also be decided on the basis of detailed discussion on evidence on record and arguments addressed with regard to the previous points for determination.

121. Section 411 of IPC provides that whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be the stolen property, shall be punished with imprisonment of either description for a term which may extend to three years or with fine, or with both.

122. It is already decided that the prosecution has proved that the KVPs in question were stolen KVPs. The KVPs were sent by Indian Security Press, Nasik to Gauhati and Calcutta but were stolen during transit in the Railways at Patna. It is already proved on record that the KVPs of these series were never sent to Kanpur, U.P. and were never received at Armapur Post Office. In the statement under Section 313 Cr.P.C., the Accused No. 1 Sh. Dilbhajan Singh Sandhu has already

admitted that the KVPs in question were stolen KVPs. It is already proved that he had used fraudulently or dishonestly as genuine these KVPs which he knew or has reason to believe to be forged. He himself had submitted these KVPs in the bank for OD limit. All the KVPs bear the names of Accused No. 1 Sh. Dilbhajan Singh Sandhu, Accused No. 2 Sh. Hari Narayan Sharma and Accused No. 3 Sh. Baljinder Singh. It is established on record that none of these accused had spent money for purchasing these KVPs. Section 3 of the Indian Evidence Act provides that a fact is said to be proved, when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. In this case also, after considering the matters before it, this court believes that the Accused No. 1 Sh. Dilbhajan Singh Sandhu had received stolen KVPs knowingly very well that the same are stolen. Therefore, the third point of determination is also decided in affirmative against Accused No. 1 Sh. Dilbhajan Singh Sandhu holding that he had dishonestly received stolen property. As a result, the charge under Section 411 of IPC also stands proved against him.

123. The fourth point for determination is whether Accused No. 5 Smt. Sudershan Kapoor abused her official position and recommended proposal for grant of limit of Rs.1.50 Crores against false/forged KVPs (No. 3498) purportedly issued by Armapur Post Office, Kanpur, to the the Regional Manager and facilitated Accused No. 1 Sh. Dilbhajan Singh Sandhu to avail OD limit and disbursed the amount in violation of terms of sanction order and enabled the accused persons to obtain pecuniary advantage to the tune of Rs. 1.40 Crores and corresponding loss to the Central Bank of India, Patel Nagar Branch, New Delhi and committed an offence punishable under section 13 (2) read with section 13 (1) (d) of the prevention of corruption act 1988?

124. In para 87 of this judgment, the response of Accused No. 5 Smt. Sudershan Kapoor to the question “Have you anything to say?” is also that “... it seems that some person from Post Office and some other persons were in conspiracy with each other to cheat the post office as well as the bank and have fraudulently marked the lien, since these officials of post office were posted in different post offices and have been using different postal stamps while sitting in one post office...”

125. The Ld. Counsel for Accused No. 5 Smt. Sudershan Kapoor has also filed written arguments in defense of the accused.

126. The first submission is about delay in registration of FIR, in as much as, the complaint from the bank is dated 31.07.1998 but the FIR was registered on 24.08.1998. This submission is common with regard to written arguments of Accused No. 1 Shri Dilbhajan Singh Sandhu and Accused No. 5 Smt. Sudershan Kapoor. The objection of delay has been dealt with in this judgment in para 104 above and requires no repetition. For the similar reasoning as recorded in para 104, the objection with regard to delay is rejected.

127. The second objection in the written arguments is that it is wrongly mentioned in the chargesheet that Accused No. 5 Smt. Sudershan Kapoor agreed in principle to sanction the loan. This submission is that neither she had nor she could have sanctioned the loan as the same was not within the ambit or her power. She simply had to work like a postman and had merely forwarded the loan proposal for sanction with recommendation for sanction to the regional office. The argument is partly accepted as she could not have sanctioned the loan so in principle she could not have agreed to sanction the loan. The loan had to be sanctioned by the Regional Manager as the same was within its pecuniary limits. However, the fact remains that she had recommended for sanction to the Regional Office without having seen

the KVPs, without knowing the post office which had issued the KVPs, without examining the income tax returns of the borrowers to ascertain whether they had financial capacity to purchase KVPs of huge amount of Rs.2,00,00,000/- that too in the year 1998 i.e. 22 years ago from today and without making any inquiry regarding agency of Mahindra & Mahindra as each of the three borrowers claimed that they had the agency of Mahindra & Mahindra. In the first submission, it is also mentioned that the borrowers had met the Regional Manager on her advice whereas PW-3 Sh. D.L. Khanijo the Regional Manager did not entertain them and told them to give their application to the branch. Nothing much depends on this whether the borrowers had met the Regional Manager on the advice of Accused No. 5 Smt. Sudershan Kapoor or not. Besides this allegation, there is plenty of evidence against this accused.

128. The third objection in the written argument is that there was nothing wrong in directing Accused No. 1 Sh. Dilbhajan Singh Sandhu to accompany Accused No. 4 Sh. Amarnath Rastogi to Kanpur for getting the lien marked on KVPs. This objection was also taken by Accused No.1 Sh. Dilbhajan Singh Sandhu and has been dealt with in para 105 of this judgment. Similarly, this submission merits no attention considering

plethora of evidence against Accused No. 5 Smt. Sudershan Kapoor for criminal misconduct resulting in huge financial loss to the bank.

129. The fourth argument in the written submissions is as under:-

“That it may also be pertinent to mention here that being head of the branch (officiating), the branch in-charge is not supposed to conduct the entire work of the branch in-person as the same would be humanly impossible. Hence there are different departments created in the branch with a specific head thereof, the work whereof has to be looked into/carried out by that designated officer. There is a credit department, loans department, Cash Department and various other departments. Each of these department is headed by a different manager/officer who has to look after the work of his department specifically. For the misconduct or negligence of any of the officers the branch head cannot be held liable. More over the entire banking industry works on the basis of good faith and in the instant case A-5 Smt. Sudershan Kapoor directed Asstt. Manager Sh. AN Rastogi A-4 to personally visit Kanpur and get the lien marked and revert back to the bank with the same. Thus under the circumstances A-5 had no other way out except to depute some officer to get the work done. In addition thereto she had no knowledge or reason to suspect the bonafides of her staff. She could not have even an inkling to suspect the genuineness of the documents, the numbers/list whereof was submitted to the bank the Accused no. 1, 2 & 3 as the same were to be got verified and lien marked by the postal authorities themselves.”

130. In this submission of Accused No. 5 Smt. Sudershan Kapoor, she has omitted to mention that Accused No. 4 Sh. Amarnath Rastogi, the Assistant Manager of the Bank had returned back only after so-called pledging of only 9 KVPs No. 876401 to 876409 and had informed

in writing vide letter dated 14.03.1998, D-27, Page 741 that the remaining Kisan Vikas Patras will be given by Sh. Dilbhajan Singh Sandhu after the needful is done. This letter was given to CBI by PW-7 Sh. Vijay Parkash vide seizure memo Exhibit PW-7/F (D-56, Page 839) where it finds mention at Sr. No. 21. Exhibit PW-7/6 (D-10, Page 627) is the report given by Sh. K.C. Sharma, Vigilance Officer, who was examined as PW-10. While discussing the role of Accused No. 4 Sh. A.N. Rastogi, the report mentions that on 14.03.1998 Sh. A.N. Rastogi gave the report to the Branch Manager informing that he went to Kanpur, Armapur Post Office on 12.03.1998, along with Sh. Dilbhajan Singh and delivered all the three application forms for transfer of KVPs to the post master, which were duly receipted on the branch forwarding letter. At that time, only nine KVPs (No. 876401 to 876409 – Registration No. 1447) duly pledged in favour of CBI, Patel Nagar, New Delhi were reportedly given to him by the Post Master, who signed in his presence. He further stated that the above nine KVPs were given by him to the Branch Manager and the rest will be given to the Branch Manager by Sh. Dilbhajan Singh after the needful is done. In her statement under Section 313 of Cr.P.C., Question No. 47 was that Mr. K.C. Sharma had also conducted the vigilance inquiry and had made a report Exhibit PW-

7/E. The response of the accused was it is a matter of record. She did not say that the report is false. Again, in response to Question No. 85, this report Exhibit PW-7/E was again put to her and her stand remained that it was a matter of record. PW-12 Sh. U.B. Upadhyay, the Vigilance Officer had also conducted investigation and gave his report Exhibit PW-12/A (Page 1265) where at Page 1281 and internal page 10, the contents of the letter dated 14.03.1998 written by Sh. A.N. Rastogi to Smt. Sudershan Kapoor are quoted verbatim. The report quotes Sh. A.N. Rastogi mentioning that he had given only nine KVPs to the Branch Manager and remaining KVPs will be given by Sh. Dilbhajan Singh, after the needful is done. In Question No. 102 under Section 313 Cr.P.C., this report was put to the accused and her response was that the report is a matter of record. The response is not that it is a false report. Relying on pledging of 1991 number of KVPs brought by the borrower himself shows criminal misconduct by Accused No. 5 Smt. Sudershan Kapoor. Therefore, she cannot say that for the misconduct or negligence of any of the officers of the branch, she cannot be held liable.

131. The fifth written argument of the accused is that the case of the prosecution is based mainly on the theory that the KVPs pledged with the bank were forged and this fact was in the knowledge of Accused

No.1, 2, 3 as well as Accused No. 5. It has been argued that PW-3 Shri D.L. Khanijo, who is alleged to have issued circular to the effect that some fake or stolen instruments were in circulation, he himself had no knowledge relating to the stolen KVPs. It is submitted that seven officers of the bank had been examined by the prosecution but none of them utters even a word that they had any knowledge relating to theft of KVPs and their circulation in the market before June - July 1998 i.e. the date when the first official circular was issued by the postal authorities, by the bank and All India Banks Association in July, 1998. However, the date of disbursement of loan i.e. 18.03.1998 is much prior to the issuance of any such circular or notification. In the opinion of this court, even independent of issuance of circular about stolen KVPs, the fact that Smt. Sudershan Kapoor accepted nine KVPs after so-called pledging over them from the Accused No. 4 Sh. Amarnath Rastogi and the remaining KVPs from Sh. Dilbhajan Singh Sandhu for release of loan is sufficient to hold her guilty of criminal misconduct as she should not have accepted KVPs from the borrower after pledging. The purpose of independent verification and purpose of pledging loses all value when the task of pledging is abdicated to the borrower himself.

132. The sixth argument of the Accused No. 5 Smt. Sudershan Kapoor is that she had no knowledge or reason to suspect that the KVPs were either stolen or forged since the KVPs were lien marked by the postal authorities at Kanpur in the post office itself. An amount of Rs.3,000/- was deposited at the Head Post Office, proper receipt (Exhibit-PW-7/DZ-1, PW-7/DZ-2 and Exhibit PW-7/DZ-3) whereof had been issued by the postal department and the same has been filed on record by the prosecution itself. She is also relying on the evidence of DW-2 Sh. Hari Shankar Lal, Deputy Chief Post Master, who has admitted that pledging fees can be accepted only when the records are available with the Head Post Office. This argument was also taken by Accused No. 1 Sh. Dilbhajan Singh Sandhu and has been dealt with in detail in para 107 of this judgment. The reasoning recorded there shall apply in the case of Smt. Sudershan Kapoor also and is reiterated to avoid repetition.

133. The seventh argument addressed by this accused is with regard to different post offices at Armapore and Armapur. The same has also been dealt with in para 108 of this judgment while dealing with the submissions of the Accused No. 1 Sh. Dilbhajan Singh Sandhu and are not reiterated again to avoid repetition.

134. The accused has also addressed similar arguments as were addressed by Accused No. 1 Sh. Dilbhajan Singh Sandhu regarding non-placing of GEQD, Shilma Report before the court, relying on photocopies of document, opening of account of Sh. Dilbhajan Singh Sandhu on the introduction of PW-2 Sh. Kuljeet Singh under pressure of Accused No. 5 Smt. Sudershan Kapoor, genuineness of the borrowers, non-examining Sh. Rajender Prasad and Sh. S.K. Kashyap and payment of dues as one time settlement by the borrower. These have been dealt with while discussing the arguments of Accused No. 1 Sh. Dilbhajan Singh Sandhu and rejected and are not reiterated again to avoid the repetition.

135. In para 15 of her written arguments, she has taken an objection that the bank did not accord sanctions of its own and the sanction was procured under pressure of CVC as is evident from the judicial record. Reliance is placed on evidence of PW-49 Sh. Jaga Jyoti Bhattacharji, who had deposed that no body from CBI had approached him for the discussion in the case before he accorded sanction, no telephonic discussions between him and the CBI were entered into before he accorded the sanction. Reference is also made to the evidence of PW-48 Sh. R.K. Tiwari, IO of the case, who deposed that the sanction was

obtained by the SP, CBI Sh. R.K. Prasad. The IO also stated that he never parted with the statement of the witnesses and documents of the file whereby it can be inferred that the sanction has been accorded without looking into the statements and documents of the case and an inference can be drawn that there was no application on the part of the sanctioning authority. Reliance is also placed on the use of expression “Shri” before the name of sanctioning authority in sanction order to submit that the use of word “Shri” to address himself indicates that the draft sanction order was received by him and he merely signed on the dotted lines without even going through the material on record or the draft sanction order.

136. The sanction orders sanctioning prosecution of Smt. Sudershan Kapoor and Sh. A.N. Rastogi are Exhibit PW-49/A and B respectively. The sanction orders are thoroughly prepared. They note the entire case against the accused Smt. Sudershan Kapoor and Sh. A.N. Rastogi. They note about criminal conspiracy of all the accused in furtherance of which Smt. Sudershan Kapoor showed undue favour to the three borrowers by abusing her official position causing wrongful loss of Rs.1.40 Crores to the Central Bank of India, Branch Office Patel Nagar, New Delhi. The orders note that Smt. Sudershan Kapoor directed

Accused No. 4 Sh. Amarnath Rastogi, Assistant Manager of the bank vide her letter dated 11.03.1998 to visit Post Office Armapur, Kanpur along with Sh. D.S. Sandhu to get transferred the KVPs amounting to Rs.1,99,85,000/- in bank's favour standing in the names of Sh. Dilbhajan Singh Sandhu, Hari Narayan Sharma and Sh. Baljinder Singh to whom OD facility was given. The order notes that the applications of the borrowers were undated applications and Smt. Sudershan Kapoor ignored circular dated 04.12.1997 regarding fake KVPs in circulation because Sh. Rishi Behl and Sh. Amit Kapoor who introduced Sh. D.S. Sandhu to Smt. Sudershan Kapoor were personally known to her. The sanction orders note that though the requests were made separately by the three applicants without specifying the amount, Smt. Sudershan Kapoor recommended the proposal to the Regional Office for joint facilities of Rs.1.50 Crore through her letter dated 09.03.1998. The sanction orders further note Sh. A.N. Rastogi visited Kanpur on 12.03.1998 for the said assignment and deliberately came back to New Delhi on the same day without completing the job. Out of total KVPs of the face value Rs.1,99,85,000/-, Sh. Rastogi got verified and got transferred only the nine KVPs amounting to Rs.90,000/- in his presence while the remaining 3489 number of KVPs were handed over to Sh.

Dilbhajan Singh Sandhu by Sh. A.N. Rastogi. The sanction orders note all the 3498 of KVPs pledged to the bank as securities for the OD Limit of Rs.1.40 Crores were subsequently found as forged.

137. During cross-examination by Ld. Counsel for Accused No. 1 Sh. Dilbhajan Singh Sindhu and Accused No. 5 Smt. Sudershan Kapoor, the witness clarified that the term were not complied by the manager. He also deposed that the KVPs in question were stolen KVPs. He also deposed that he had seen the report given by the Vigilance Department. During cross-examination by Ld. Counsel for Accused No. 4 Sh. A.N. Rastogi, the witness deposed that after grant of loan, the sanctioning authority does not carry out itself the process of verification regarding genuineness of the securities and it is delegated to the Branch Manager. He had reiterated that the 9 KVPs were verified by Sh. A.N. Rastogi were also forged and stolen. This witness was not given any suggestion that the bank had declined the sanction but it was given under pressure of CVC.

138. After noticing these details minutely, the sanctioning authority could have taken no other decision but to grant direction for prosecution of Accused No. 4 Sh. A.N. Rastogi and Accused No. 5 Smt. Sudershan

Kapoor. Therefore, the challenge to the sanction order by the accused Smt. Sudershan Kapoor is rejected.

139. After discussing the written arguments of the accused Smt. Sudershan Kapoor, now the evidence against her shall be discussed to decide the point for consideration and the charge under Section 13(2) read with Section 13(i)(d) of PC Act framed against her. The incriminating evidence against her is under:-

- (i) In Exhibit PW-12/A, which is the report of Vigilance Officer of the bank Sh. U.B. Upadhyay, it is mentioned that in the written statement given by Smt. Sudershan Kapoor, she had stated that at Page 1315 that S/Sh. Amit Kapoor and Rishi, who run consultancy service and travel agency are known to her. Accused No. 7 Sh. Amit Kapoor was known to Smt. Sudershan Kapoor is also evident from her statement under Section 313 of Cr.P.C. wherein response to the question "Have you got anything to say?", she had stated that "...in the first week of March 1998, Mr. D.S. Sandhu came to the bank along with Mr. Amit Kapoor who was known to me through his Maternal Uncle (Mama) and Maternal Grandfather (Nana) who were my colleague in the bank since 1966...".

Therefore, there was possibility of undue favour due to old association of Smt. Sudershan Kapoor and Sh. Amit Kapoor.

- (ii) The response of the accused Smt. Sudershan Kapoor under Section 313 Cr.P.C. is also that she had flatly received to entertain Sh. Amit Kapoor and Sh. D.S. Sandhu as she was not the permanent Branch Manager but she was telephonically informed by Regional Manager Sh. D.L. Khanijo to forward the request of borrower Mr. D.S. Sandhu and that is why the proposal was sent to the Regional Office on 09.03.1998. However, when PW-3 Sh. D.L. Khanijo was in the witness box, no suggestion was given to him that he had made a telephonic call to Smt. Sudershan Kapoor to forward the request of the borrower Mr. D.S. Sandhu. On the contrary, the witness stated that after receiving the recommendation from Smt. Sudershan Kapoor, he had telephonically inquired about the party from the branch and was told that the party was well known to the bank. The party was economically sound and there was nothing to worry. No suggestion was given to the witness that the Regional Manager had not made any query from the branch over the phone about the party. How the branch/Smt. Sudershan Kapoor could assure the

Regional Manager that the party was well known to the bank? How the branch/Smt. Sudershan Kapoor could assure the Regional Manager that the party was economically sound and there was nothing to worry?

- (iii) Smt. Sudershan Kapoor entertained undated applications of Accused No. 1, 2 and 3. These applications are Exhibit PW-9/A, Exhibit PW-9/B and Exhibit PW-9/C (D-19, Pages 711, 713 and 715). The applications had not even specified the amount of overdraft facility required by them. The name of the branch from where KVPs were purchased was not mentioned in the applications. Each applicant claimed himself to be dealer of Mahindra & Mahindra. No inquiry was made whether all three were individual dealers or were partners or directors of the company which was the dealer. No income tax returns of Accused No. 1, 2 and 3 were seen to find out their financial position. It did not raise suspicion in the mind of the Branch Manager that the parties have invested a huge amount of Rs.2,00,00,000/- in KVPs leaving them constrained to knock the doors of the banks for OD facilities. The applicants were residents of Delhi, Calcutta and Bhatinda but the KVPs were purchased from Kanpur, U.P. Who were the bankers of

the applicants, with whom the applicants were dealing with before approaching Central Bank of India, Patel Nagar Branch, New Delhi. None of this was asked and the applications were recommended for grant of OD limit to the Regional Office.

- (iv) The applicants did not mention in their applications that they will deposit a sum of Rs.30,00,000/- with the bank. However, in the recommendation letter written by Smt. Sudershan Kapoor, Exhibit PW-3/A (D-20, Page-703) on her own added that Accused No. 1 Sh. Dilbhajan Singh Sandhu has promised to give the bank deposit of Rs.30,00,000/- in his individual name. Why did she add this promise in her recommendation letter where there was no such promise made by Accused No. 1 Sh. Dilbhajan Singh Sandhu in his application seeking for OD limit?
- (v) The Regional Manager while sanctioning the OD limit at Exhibit PW-9/E made it a condition that "Branch also to obtain Rs.30,00,000/- deposit as assured." No such deposit was taken by the branch before relieving the OD limit. Sh. Brijesh Kumar Singh, Ld. Sr. PP for CBI rightly pointed out that leave aside insisting on Rs.30,00,000/- as a pre-condition for release of Rs.1.40 Crores,

Smt. Sudershan Kapoor even did not retain last Rs.30,00,000/- in the account but disbursed the entire amount.

- (vi) In their applications for overdraft facility, all the three applicants had stated that they need this facility to lift the Mahindra & Mahindra vehicles. This was noted at the time of sanctioning of OD limit at Regional Office when Sh. Ram Mehar Singh, the Assistant Manager had noted that the applicants shall be utilizing the loan for lifting stock of Mahindra Jeep. So, for proper utilization, direction can be given for direct payment in supplier's favour. The Regional Manager while sanctioning the OD limit, directed that and use of funds as applied should be assured. The branch was conveyed vide Exhibit PW-7/G (D-22, Page 737) that end use of fund as applied should be ensured. Smt. Sudershan Kapoor failed to ensure that the funds were utilized for the purpose of loan i.e. lifting of Mahindra & Mahindra Jeep. Out of a sum of Rs.1.40 Crores, only Rs.40,00,000/- were utilized for paying to Mahindra & Mahindra Ltd. and rest of the amount had nothing to do with purchasing of Mahindra & Mahindra Jeeps. During this lengthy trial, none of the accused could show the relationship of payment to MGF, (India) Ltd., Chandigarh, J.P.C Credit Lines Pvt.

Ltd., M/s Skylines, Calcutta, Sh. Baljinder Singh, Sh. D.B. Singh, Oriental Auto Industries Ltd., M/s Kavika Marketing Consultants Pvt. Ltd., M/s Paramount Marketing, M/s Chick Feed Pvt. Ltd., M/s Oriental Highways, Bhatinda, Self payment to Sh. Dilbhajan Singh Sandhu, Assistant Excise and Taxation Commissioner and Sh. M.K. Sood with purchase of jeeps of Mahindra & Mahindra. PW-1 Sh. S.C. Chopra has identified the signatures of Smt. Sudershan Kapoor on all the six drafts Exhibit PW-1/A1 to A6. Smt. Sudershan Kapoor was the Branch Manager (may be officiating) and should have kept a watch where the funds were going. Out of sanctioned loan of Rs.1.40 Crores, she allowed siphoning of funds to an extent of Rs.1,00,00,000/- which had nothing to do with the end use of the funds i.e. lifting of Mahindra & Mahindra Jeeps.

- (vii) Smt. Sudershan Kapoor quietly accepted KVPs given to her by Sh. Dilbhajan Singh Sandhu showing creation of lien in favour of Central Bank of India, Patel Nagar Branch, New Delhi whereas, Accused No. 4 Sh. A.N. Rastogi deputed by her had returned back from Kanpur with only 9 KVPs with him worth Rs.90,000/- and had informed her in writing that remaining KVPs will be given by Sh. Dilbhajan Singh Sandhu after the needful is done.

140. Considering all the matters before this court, it is proved that Accused No. 5 Smt. Sudershan Kapoor abused her official position and recommended proposal for grant of limit of Rs. 1.50 Crores against false/forged KVPs (No. 3498) purportedly issued by Armapur Post Office, Kanpur, to the the Regional Manager and facilitated Accused No.1 Sh. Dilbhajan Singh Sandhu to avail OD limit and disbursed the amount in violation of terms of sanction order and enabled the accused persons to obtain pecuniary advantage to the tune of Rs. 1.40 crores and corresponding loss to the Central Bank of India, Patel Nagar Branch, New Delhi. As a sequel, it is also proved that she committed an offence punishable under section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988. The charge framed against her under section 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988 is established.

141. The last point of determination is pertaining to conspiracy of the accused persons. Almost all the Ld. Counsels including Sh. Vikram Panwar, Ld. Counsel for Accused No. 7 Sh. Amit Kapoor have relied on State through SP, CBI versus Nallini & Ors., AIR 1999 2640 and referred to para 590 where the following principles have been noted with regard to charge of conspiracy:-

- (i) Under Section 120A, IPC offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is legal act by illegal means overt act is necessary. Offence of criminal conspiracy is exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused had the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever, horrendous it may be, that offence be committed.
- (ii) Acts subsequent to the achieving of object of conspiracy may tend to prove that a particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any subsequent act, which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder.

- (iii) Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.
- (iv) Conspirators may, for example, be enrolled in chain A enrolling B, B enrolling C, and so on and all will be members of the single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrolls. There may be a kind of umbrella-spoke enrolment, where a single person at the centre doing the enrolling and all the other members being unknown to each other, though they know that there are to be other members. These are theories and in practice it may be difficult to tell whether the conspiracy in a particular case falls into which category. It may, however, even overlap. But then there has to be present mutual interest. Persons may be members of single conspiracy even though each is ignorant of the identity of many others who may have diverse role to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.

- (v) When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such person to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.
- (vi) It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.
- (vii) A charge of conspiracy may prejudice the accused because it is forced them into a joint trial and the Court may consider the entire mass of evidence against every accused. Prosecution has to produce evidence not only to show that each of the accused has knowledge of object of conspiracy but also of the agreement. In

the charge of conspiracy Court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided. By means of evidence in conspiracy, which is otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. There is always difficult in tracing the precise contribution of each member of the conspiracy but then there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. As observed to Judge Learned Hand that "this distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders".

- (viii) As stated above it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement, which

is the gravamen of the crime of conspiracy. The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.

- (ix) It has been said that a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan. Thus, if two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done, or written by each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incident to and growing out of the original purpose. A conspirator is not responsible, however, for acts done by a co-

conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators, and the mere fact that conspirators individually or in groups perform different tasks to a common end does not split up a conspiracy into several different conspiracies.

- (x) A man may join a conspiracy by word or by deed. However, criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy. One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the other but the conspiracy into effect, is guilty though he intends to take no active part in the crime.

142. The role and evidence with regard to conspiracy pertaining to Accused No. 1 Sh. Dilbhajan Singh Sandhu and Accused No. 5 Smt. Sudershan Kapoor has been noted in detail in earlier paragraphs of the judgment. Now the role and evidence of Accused No. 6 Sh. Ashwani Dhingra, Accused No. 7 Sh. Amit Kapoor, Accused No. 8 Sh. Rishi Raj

Bahl, Accused No. 11 Sh. D.B. Singh and Accused No. 12 Sh. Vikas Srivastava is required to be examined.

143. The arguments with regard to the prosecution case against Accused No. 6 Sh. Ashwani Dhingra were addressed by Ld. Sr. PP for CBI on 22.06.2020 and are recorded in the order-sheet of the said date. The Ld. Sr. PP for CBI had submitted that the charge against this accused is only under Section 120B of IPC read with Section 411, 420, 467, 468 and 471 of IPC and Section 13(2) read with Section 13(1)(d) of the P.C. Act, 1988. There is no charge for any substantive offence against this accused. The Ld. Counsel had drawn attention to para 7 of the chargesheet where at Sr. No. 8 of the table, it is mentioned that DD No. 40/3700 and 40/3701 dated 18.03.1988 were issued from the OD Account of Accused No. 1 Sh. Dilbhajan Singh Sandhu in favour of M/s Oriental Auto Industries Limited of Sh. D.S. Sandhu but the actual beneficiary was Sh. Ashwani Dhingra through self cheque issued by Sh. D.S. Sandhu and the cash was collected by Sh. Ashwani Dhingra from Bank of Baroda, Hauz Khas Branch, New Delhi. The Ld. Sr. PP for CBI referred to Exhibit PW-1/A2 and Exhibit PW-1/A3 (D-105, Pages 1117 and 1119) for a sum of Rs.9,00,000/- and Rs.6,00,000/- in favour of M/s Oriental Automobiles Ltd. He submitted that this account was introduced

by PW-18 Sh. Tarun Dhingra on the behest of Sr. Manager PW-19 Sh. Ved Bhagwan Katoria blindly. It was also submitted that this was a newly opened account. It was submitted that the prosecution had sought to examine this witness to prove the signatures of Accused No. 6 Sh. Ashwani Dhingra on the reverse of two cheques to show that the money involved in those cheques was received by Sh. Ashwani Dhingra. However, the witness refused to identify the signatures encircled at point C, C1 and C2. These two cheques were cheque no. 163511 and 163522 dated 25.03.1998 favoring self for a sum of Rs.15,00,000/-. He had submitted that response of this accused during statement under Section 313 of Cr.P.C. was not of specific denial but denial as the allegation is not proved as per law. He had argued that it was not necessary to send the disputed signatures to GEQD for examination. The Ld. Counsel for the accused Sh. Ashwani Dhingra had argued that the Accused No. 6, contrary to the allegations against him in chargesheet in para 2 had never visited Central Bank of India, Patel Nagar Branch, New Delhi or any other branch with Accused No. 1 Sh. D.S. Sandhu. The Ld. Counsel referred to the evidence of PW-9 Sh. V.K. Jain, PW-3 Sh. D.L. Khanijo, PW-37 Sh. Ram Mehar Singh, PW-1 Sh. S.C. Chopra, PW-26 Smt. Sudershan Soni and he even referred to the statement under Section

161 of Cr. P.C of Sh. S.C. Jain (since deceased) to submit that these witnesses have deposed about loan transaction but none of them have deposed about Accused No. 6 Sh. Ashwani Dhingra visiting the bank for assisting Accused No. 1 Sh. D.S. Sandhu procure the loan. He submitted that no witness has deposed about relationship between Sh. Ashwani Dhingra on one hand and Sh. Rishi Raj Behl and Sh. Amit Kapoor on the other hand. Reference was made to Para 5 of the chargesheet where there is an allegation Sh. Ashwani Dhingra and Sh. D.B. Singh had joined Sh. D.S. Sandhu, Sh. A.N. Rastogi and Sh. Rishi Raj Behl at Lucknow for contacting Sh. S.N. Pandey (now dead), Sub Post Master, Armapur, Kanpur. Ld. Counsel submitted that no witness has deposed that Sh. Ashwani Dhingra had gone to Post Office Armapur for verification or creation of lien over KVPs in favour of Central Bank of India, Patel Nagar Branch, New Delhi. It was submitted that no official of post office Armapur including PW-35 Sh. Natha Prasad Hans has made any deposition against Sh. Ashwani Dhingra. It was submitted that the internal reports of investigation do not make any mention of statement of Sh. Ved Prakash Katoria about who had withdrawn Rs.15,00,000/- from the Bank of Baroda Account of M/s Automobiles Limited. It was submitted that this accused Sh. Ashwani Dhingra was in custody for a

period of three months but no effort was made during that period or during pendency of investigation to take his signatures for examination by GEQD. He submitted that even today he was ready for examination of specimen signatures of this witness. The main arguments addressed was that when PW-19 had not identified signatures of Sh. Ashwani Dhingra on the back of two cheques, nothing survived in the case of the prosecution.

144. The allegations against Accused No. 6 Shri Ashwani Dhingra in the chargesheet are that:-

- (i) He was requested by Accused No. 1 Shri Dilbhajan Singh Sandhu to arrange requisite finance for making payment to Mahindra and Mahindra Ltd. However, there is no evidence in this regard. No witness has deposed that Shri Dilbhajan Singh Sandhu had requested Shri Ashwini Dhingra to arrange requisite finance for making payments to M/s. Mahindra and Mahindra Limited. Shri Ashwani Dhingra was never seen with him in any bank. Shri Ashwani Dhingra has not signed any documentation for Shri Dilbhajan Singh Sandhu. The Ld. Counsel for the accused has also referred to cross-examination of the IO of the case recorded on 07.04.2017 to submit that no witness has deposed that Sh.

Dilbhajan Singh Sandhu requested Sh. Ashwani Verma to raise finance for him. So, therefore, there is no evidence with regard to the allegation in the chargesheet that Shri Dilbhajan Singh Sandhu had requested Shri Ashwani Dhingra to arrange finance for him for making payments to M/s Mahindra & Mahindra.

- (ii) Accused No. 6 Shri Ashwani Dhingra made arrangements for procuring Stolen KVPs through Accused No. 12 Sh. D.B. Singh who procured the same from Accused No. 13 Mohd. Anwar so that the same can be pledged for obtaining OD limit from Central Bank of [India, Patel Nagar Branch, New Delhi](#). This allegation has remained merely an allegation. There is no evidence of meeting between Accused No. 12 Shri D.B. Singh and Accused No. 13 Mohd. Anwar. There is no evidence of any meeting between Accused No. 6 Shri Ashwani Dhingra and Accused No. 12 Shri D.B. Singh. During evidence, the KVPs in question are either mentioned for depositing that they were sent from Indian Security Press, Nasik to Calcutta and Gauhati. Next, they are mentioned when they were stolen at Patna. Thereafter, they are mentioned when they were produced before Smt. Sudershan Kapoor, the Branch Manager, Central Bank of India, Patel Nagar Branch, New

Delhi by Accused No. 1 Sh. Dilbhajan Singh Sandhu, Accused No. 2 Sh. Hari Narayan Sharma and Accused No. 3 Sh. Baljinder Singh. No witness has deposed what happened to the KVPs when they were stolen from Patna. Who is the thief, who had stolen the KVPs at Patna is not known. There is no evidence whether the KVPs had reached Accused No.1, Accused No. 2 and Accused No. 3 through Accused No. 12 Sh. D.B. Singh and Accused No. 6 Sh. Ashwani Dhingra. During his statement under Section 313 Cr.P.C., Accused No. 1 Sh. Dilbhajan Singh Sandhu had stated that Sh. Ashwani Dhingra had arranged for the KVPs and he was not knowing that the KVPs were stolen. This submission of Accused No. 1 has not been believed.

- (iii) Shri Dilbhajan Singh Sandhu, Shri Amar Nath Rastogi and Shri Rishi Raj Behl left New Delhi on 12.03.1998 at 8 AM by Indian Airlines Flight to Lucknow where Shri Ashwani Dhingra and Shri D.B. Singh also joined them. All of them contacted Shri S.N. Panday (now dead) Sub-Post Master, Armapore, P.O. Kanpur who made endorsements on 9 KVPs in presence of Shri Amarnath Rastogi and the rest of the KVPs were left with Shri Dilbhajan Singh Sandhu for getting further endorsements made by Sub-Post Master. This too has remained only an allegation in the

chargesheet. There is no evidence that Shri DB Singh and Shri Ashwini Dhingra had joined Shri Dilbhajan Singh Sandhu, Shri Amarnath Rastogi and Shri Rishi Raj Behl at Lucknow and had gone to Armapur Post Office for endorsement of pledging by Shri S.N. Pandey sub postmaster. The Ld. Counsel Sh. M.K. Verma had also submitted that in the internal inquiry report of Sh. U.B. Upadhyay, Page 557 where there is a discussion about the trip of Sh. Amarnath Rastogi, Sh. Dilbhajan Singh Sandhu and Sh. Rishi Raj Behl, there is no mention about Sh. Ashwani Dhingra or Sh. D.B. Singh at Lucknow or Kanpur. In this regard, reference was also made to Page 591 of the same report where there is no mention of presence of Sh. Ashwani Dhingra and Sh. D.B. Singh at Lucknow or Kanpur in the written statement of Sh. A.N. Rastogi. The Ld. Counsel for the accused has also pointed out from the evidence of the Investigating Officer recorded on 07.04.2017 that no witness has deposed that Sh. Ashwani Dhingra and Sh. D.B. Singh had joined Sh. A.N. Rastogi, Sh. Dilbhajan Singh Sandhu and Sh. Rishi Raj Behl at Lucknow/Kanpur.

- (iv) Shri Dilbhajan Singh Sandhu withdrew the entire loan amount by way of purchase of demand drafts for Rs.40 lakhs in favour of M/s. Mahindra and Mahindra and other private parties and a sum of

Rs.15,00,000/- was withdrawn by way of Cheque No. 32792 to 32793 dated 18.03.1998 favouring M/s. Oriental Automobiles Industries Ltd. of Shri Dilbhajan Singh Sandhu (actual beneficiary Shri Ashwini Dhingra through self cheques issued by Shri Dilbhajan Singh Sandhu and the cash collected by Shri Ashwini Dhingra from Bank of Baroda, Hauz Khas Branch, New Delhi). The witness who was supposed to prove this allegation is PW-19 Sh. Ved Bhagwan Katoria, Sr. Manager of Bank of Baroda, Hauz Khas Branch, New Delhi. His testimony has been noted in detail in earlier paragraphs of this judgment. He proved Cheque No. 163511 dated 25.03.1998 and Cheque No. 163512 dated 25.03.1998 signed by Sh. Dilbhajan Singh Sandhu as Exhibit PW-19/A and Exhibit PW-19/B. The case of the prosecution is that the money was withdrawn by Shri Ashwani Dhingra who signed on the back of these cheques. However, the witness could not tell the name of the person who had received the money through these cheques from the bank. The witness was cross-examined by the Ld. Public Prosecutor where he deposed that his statement was recorded by the Investigating Officer and proved the same as Exhibit PW-19/E where it is recorded that the money against these

two cheques was withdrawn by Sh. Ashwani Dhingra. However, he further deposed that he cannot recollect the same. There is no report of any expert witness to confirm that the signatures on the back of two cheques are of Sh. Ashwani Dhingra. No witness has been examined familiar with the handwriting of Sh. Ashwani Dhingra to depose that the same are in the handwriting of Sh. Ashwani Dhingra. The Ld. Counsel for the accused has also referred to Page 567 of the report of Sh. U.B. Upadhyay (Internal Page 14, Para VIII) where there is no allegation that a sum of Rs.15,00,000/- was withdrawn from the account of M/s Oriental Automobiles Ltd. by Sh. Ashwani Dhingra. It is also submitted that these documents ought to be proved by PW-19 were with the Economic Offence Wing, Chandigarh, Punjab and the originals were not summoned and only copies of copy were certified/attested and given, which are not admissible. Therefore, the star allegation against Accused Sh. Ashwani Dhingra that he had withdrawn a sum of Rs.15,00,000/- from the account of Sh. Dilbhajan Singh Sandhu has also remained unproved.

145. As a result, the charge framed against Accused No. 6 Sh. Ashwani Dhingra is not proved. Now, the allegations and evidence against Accused No. 7 Sh. Amit Kapoor shall be considered.

146. The first allegation against Accused No. 7 Sh. Amit Kapoor in the chargesheet is that during the month of March 1998, he along with Accused No. 8 Sh. Rishi Behl had introduced Sh. D.S. Sandhu to Smt. Sudershan Kapoor and discussed the matter regarding loan against KVPs and Smt. Sudershan Kapoor agreed in principle to sanction the loan: PW-12 Sh. U.B. Upadhyay, the Vigilance Officer of the Bank in his report Exhibit PW-12/A (Page 1265) has stated that S/Sh. Rishi Behl and Sh. Amit Kapoor belong to the friends circle of Smt. Sudershan Kapoor, Branch Manager, Branch Office, Patel Nagar, Delhi. He has also stated that Smt. Sudershan Kapoor, in her written statement has stated that S/Sh. Amit Kapoor and Sh. Rishi Behl are known to her. In Question No. 107 under Section 313 of Cr.P.C. put to this accused, his response was "I have no knowledge". The report was also supplied to this witness under Section 207 of Cr.P.C. The response of the accused is not that the report is wrong or false but the response is that "He has no knowledge". In her statement under Section 313 of Cr.P.C., Smt. Sudershan Kapoor has deposed that Sh. Amit Kapoor was known to her as her Maternal Uncle (Mama) and Maternal Grand-father (Nana) were her colleagues at Central Bank of India. She has stated that Sh. Amit Kapoor had met her with Sh. D.S. Sandhu in connection with overdraft

limit against government securities. PW-2 Sh. D.L. Khanijo has deposed that in March 1998, one Sardarji, an aged person whose name was Sh. Dilbhajan Singh had contacted him with two other persons in connection with OD limit. The witness could not identify Sh. Dilbhajan Singh but identified Accused No. 7 Sh. Amit Kapoor and Sh. Rishi Behl who were present in the court at that time. It is to be noted at this stage that as pointed out by Ld. Counsel for Accused No. 7 Sh. Amit Kapoor, as per chargesheet, the two persons who had gone to meet Sh. D.L. Khanijo along with Sh. Dilbhajan Singh Sandhu were Sh. H.N. Sharma and Sh. Baljinder Singh. It was also submitted that the witness had not identified the principal borrower but had identified the two persons who had accompanied him and that too after seven years of the first momentary meeting in the year 1998. However, Accused No. 7 Sh. Amit Kapoor in Question No. 15 under Section 313 Cr.P.C. was put a question that PW-3 Sh. D.L. Khanijo has correctly identified you and your co-accused Sh. Rishi Behl, the response of Accused No. 7 Sh. Amit Kapoor was "it may be matter of record". Therefore, in the opinion of this court, it is proved that Accused No. 7 Sh. Amit Kapoor had introduced Sh. D.S. Sandhu to Smt. Sudershan Kapoor in March 1998.

147. The second allegation against Accused No. 7 Sh. Amit Kapoor is that he had arranged the air tickets for Sh. Dilbhajan Singh Sandhu, Sh. Amarnath Rastogi and Sh. Rishi Behl for 12.03.1998 to Lucknow. This allegation is not mentioned in the chargesheet but is appearing in the deposition of witnesses. PW-6 Sh. Ashok Kumar Gupta, a travel agent carrying on business in the name of M/s Careway Tours & Travels Pvt. Ltd. has deposed that the tickets in the name of Sh. Amarnath Rastogi was booked by M/s S.K. Travels which is owned by Sh. Amit Kapoor and exhibited the same as Exhibit PW-6/B (D-17, Page 687). Similarly, the air ticket for passenger Sh. Rishi Raj Behl was also issued on the request of M/s S.K. Air Travels and was proved as Exhibit PW-6/C (D-18, Page 695). PW-22 Sh. Raj Chopra, Assistant Manager (Commercial) at IGI Airport, New Delhi deposed that as per agent coupon of M/s S.K. Travels in the name of Sh. Amarnath Rastogi and Sh. Dilbhajan Singh Sandhu and Sh. Rishi Raj Behl, tickets were issued from Delhi to Lucknow. The Ld. Counsel for Accused No. 7 Sh. Amit Kapoor has also not denied the purchase of these air tickets through Accused No. 7 Sh. Amit Kapoor but argued that these tickets could have been booked by any travel agent. Rather the Accused No. 7 Sh. Amit Kapoor was helping in the verification of KVPs by facilitating the tickets

for the visit of bank official to Lucknow and cannot be imputed with any knowledge that the KVPs whose verification is sought to be done are stolen. Be that as it may. It is proved on record and admitted by the accused that he had provided the air ticket for Sh. Amarnath Rastogi, Sh. Rishi Raj Behl and Sh. Dilbhajan Singh Sandhu for their visit to Lucknow and back.

148. The third allegation against Accused No. 7 Sh. Amit Kapoor is that he has received a sum of Rs.2,00,000/- in the account M/s Kavika Marketing Consultant (Pvt.) Ltd. (of Accused No. 7 Sh. Amit Kapoor). PW-1 Sh. S.C. Chopra has proved DD No. 032794 for a sum of Rs.2,00,000/- dated 18.03.1998 in favour of M/s Kavika Marketing (Pvt.) Ltd. The said demand draft was exhibited as Exhibit PW-1/A4 (D-105, Page 1121). PW-6 Sh. R.K. Taneja from Oriental Bank of Commerce, Paharganj Branch, New Delhi had handed over documents pertaining to Current A/c No. 3888 in the name of M/s Kavika Marketing & Consultants Pvt. Ltd. and proved the seizure memo as Exhibit Pw-5/A (D-62, Page 879). The seizure memo mentions that the witness has handed over original Account Opening Form dated 24.06.1997 in respect of Current A/c No. 3888 opened in the name of M/s Kavika Marketing & Consultants Pvt. Ltd. by Sh. Amit Kapoor and Sh. Rishi

Behl. However, the Ld. Counsel for the Accused No. 7 Sh. Amit Kapoor had argued that this original Account Opening Form was not filed with the chargesheet. As per seizure memo, Board Resolution dated 23.06.1997, typed on the letter head of M/s Kavika Marketing & Consultants Pvt. Ltd. signed by Sh. Amit Kapoor, Director was also given. However, the Ld. Counsel for the accused pointed out that this resolution is also not on record. The witness PW-5 also deposed that demand draft no. 032794, Exhibit PW-1/A4 was also deposited in his account on 20.03.1998. The certified copy of the account was proved as Exhibit PW-5/B. When the seizure memo Exhibit PW-5/A mentioning that Sh. Amit Kapoor was the Director of M/s Kavika Marketing & Consultants Pvt. Ltd. was put to the accused in statement under Section 313 of Cr.P.C., his response was "it is a matter of record". The accused never responded that the seizure memo wrongly mentions that he is the Director of M/s Kavika Marketing & Consultants Pvt. Ltd. When the Accused No. 7 Sh. Amit Kapoor was asked in Question No. 104, have you anything to say, he never came forward with the response that he was not the Director of M/s Kavika Marketing & Consultants Pvt. Ltd. No evidence was led to show that in March 1998, this witness was not the Director of M/s Kavika Marketing & Consultants Pvt. Ltd.

149. This witness had contested framing of charge against him. At that time, it was noted that this accused with Sh. Rishi Behl was at the scene at the side of Accused No. 1 since beginning. It was made clear to this accused way back in the year 2003 that having received Rs.2,00,000/- from Accused No. 1 Sh. Dilbhajan Singh Sandhu their argument that it was received for the services rendered, cannot be the end of the story. This accused was cautioned in the year 2003 that it would be his obligation to show during the trial as to what lawful services he had rendered, so as to be recipient of such large amounts sourced from the illegal gains of the crimes that appear to have been committed.

150. The accused Sh. Amit Kapoor simply ignored this caution and no step whatsoever was taken at his end i.e. neither during prosecution evidence, nor during recording of his statement under Section 313 of Cr.P.C. or during defense evidence to show what lawful services he had rendered so as to be recipient of such a huge money from Accused No.1 Sh. Dilbhajan Singh sandhu.

151. Therefore, it is proved that this accused had introduced Accused No. 1 Sh. Dilbhajan Singh Sandhu and Accused No. 5 Smt. Sudershan Kapoor. This accused had gone with Accused No. 1 Sh. Dilbhajan Singh Sandhu to meet DW-3 Sh. D.L. Khanijo. This is also

proved that this accused had arranged air tickets of Accused No. 1 Sh. Dilbhajan Singh Sandhu, Accused No. 4 Sh. Amarnath Rastogi and Accused No. 8 Sh. Rishi Raj Behl for their visit to Lucknow and back. This is also proved that he has received a sum of Rs.2,00,000/- in his bank account. It is also proved that inspite of clearly cautioning this accused that he will have to explain what services he had rendered to Sh. Dilbhajan Singh Sandhu for receiving Rs.2,00,000/-, no such explanation has come on record. Merely receiving the money from Accused No. 1 Sh. Dilbhajan Singh Sandhu would not have been sufficient for the charge of conspiracy but in this case there is sufficient evidence in the nature of introduction of Accused No. 1 and Accused No. 5 by this accused, visit of this accused with Accused No. 1 for meeting the Regional Manager, PW-3 Sh. D.L. Khanijo for requesting OD facility and providing air tickets for the travel of bank official and other co-accused to Lucknow and back. These facts coupled with receiving a payment of Rs.2,00,000/- from the account of Accused No. 1 Sh. Dilbhajan Singh Sandhu are sufficient to prove the charge of conspiracy against this accused. The Ld. Counsel for the accused had argued that all these allegations do not form a part of formal charge with which this accused was charged. A perusal of formal charge shows that Accused

Sh. Amit Kapoor was charged facilitating false verification and lien marking on the said forged and fabricated KVPs with the assistance of co-accused and facilitating in obtaining the defrauded amount. The evidence against this accused is covered in the charge framed against him. Moreover, if there was anything left out, same was dealt with in detail in the speaking order on charge dealing with the arguments of accused seeking discharge. The other arguments addressed were that this accused was neither named in the complaint given by the Chief Manager of the Bank nor in the FIR. This is not necessary that every accused especially in a conspiracy will be named in the FIR. During investigation also the role of a person can come to light and he can be made an accused. It is also argued that there is no evidence viz-a-viz the offence under Section 411 of IPC. But, then the accused is not facing the substantive charge of offence under Section 411 IPC. It is also argued that the introducer of account of Sh. Dilbhajan Singh Sandhu was PW-2 Sh. Kuljeet Singh but he was left out. The chargesheet and the evidence of the said witness has shown that he was not part of any conspiracy. Rather, he was compelled to be the introducer of account although he was not knowing Sh. Dilbhajan Singh Sandhu. Therefore, he was not made an accused. Another argument

addressed was that this accused Sh. Amit Kapoor had no role in securing the loan. In an offence of conspiracy, different accused play different roles with the common objective. The role played by this accused was in introducing Sh. Dilbhajan Singh Sandhu to Smt. Sudershan Kapoor. His role was in meeting PW-3 Sh. D.L. Khanijo, Regional Manager of the Bank. His role was in providing air tickets to the bank official and other two accused for their visit to Lucknow and back. For this, he was rewarded with a payment of Rs.2,00,000/- by Sh. Dilbhajan Singh Sandhu for which the accused could not justify what special services were rendered by him to receive this amount from the accused. Therefore, the charge of conspiracy framed against this Accused Sh. Amit Kapoor is clearly proved.

152. Now the allegations and evidence against Accused No. 8 Sh. Rishi Raj Behl shall be considered. The allegations and evidence against this accused are almost similar to the allegations and evidence against Accused No. 7 Sh. Amit Kapoor.

153. In answer to Question No. 47 and Question No. 107, when the report of PW-7 Sh. K.C. Sharma and PW-12 Sh. U.B. Upadhyay making allegations that this accused and Sh. Amit Kapoor were in the friend's circle of Smt. Sudershan Kapoor was put to this witness, his response

was only "He has no knowledge". Like identification of Sh. Amit Kapoor, this witness was also identified by PW-3 Sh. D.L. Khanijo. It is already noted that this accused had accompanied Accused No. 1 Sh. Dilbhajan Singh Sandhu and Sh. Amarnath Rastogi to Lucknow by Air. The Ld. Counsel for accused had argued that merely having air ticket in the name of this accused is not sufficient to prove that he had actually gone to Lucknow on 12.03.1998. The tickets could have been cancelled also before the scheduled departure. The prosecution should have produced the boarding passes which are the ultimate proof that a particular passenger had actually travelled or not. The argument is not accepted because the response of this accused in Question No. 36 under Section 313 of Cr.P.C. when the Exhibit PW-6/C for ticket in his name was put to him, the response was only "He has no knowledge". When he was asked "Whether you have anything to say", in Question No. 414, he never came forward with his defense that the ticket was cancelled and he had not boarded the flight. No such defense evidence was adduced. PW-4 Sh. Ajit Singh Malhotra has deposed against this accused and proved the Account Opening Form of M/s Paramount Marketing of this accused as Exhibit PW-4/B (D-92, Page 985). He has also proved specimen signature card as Exhibit PW-4/C (D-92, Page 989). He has also proved

the statement of account as Exhibit PW-4/E. The current account paying slip dated 19.03.1998 through which a demand draft for a sum of Rs.2,00,000/-, Exhibit PW-1/A5, was deposited in his account was proved as Exhibit PW-4/F. Like Sh. Amit Kapoor, this accused inspite of being cautioned way back in 2003 did not show what services he had rendered to Sh. Dilbhajan Singh Sandhu for receiving the sum of Rs.2,00,000/- that too out of money obtained by fraud.

154. Therefore, it is proved that this accused Sh. Rishi Raj Behl and Sh. Amit Kapoor were in the friend's circle of Smt. Sudershan Kapoor. This accused Sh. Rishi Raj Behl and Sh. Amit Kapoor had accompanied Accused No. 1 Sh. Dilbhajan Singh Sandhu for meeting PW-3 Sh. D.L. Khanijo. This accused had accompanied Sh. Amarnath Rastogi and Sh. Dilbhajan Singh Sandhu to Lucknow for verification of KVPs and he had returned back with Sh. Amarnath Rastogi before all the KVPs could be verified and pledged. This accused has received a sum of Rs.2,00,000/- in his account from ill gotten money of Sh. Dilbhajan Singh Sandhu. He had also received a sum of Rs.40,000/- from the account of M/s Kavika Marketing & Consultants Pvt. Ltd. where he himself is the Director. He has led no evidence to show the services rendered for the receipt of money from Sh. Dilbhajan Singh Sandhu. The other argument

addressed was that PW-20 Sh. Ram Mehar Singh has not deposed anything against this witness. There is no allegation in the chargesheet or in the evidence of any prosecution witness that this accused had met PW-20 Sh. Ram Mehar Singh. Therefore, this PW-20 had not deposed anything against this accused. It is further argued that evidence of PW-4 does not show that any wrongful gain was made by this accused from Sh. Dilbhajan Singh Sandhu. PW-4 was examined to prove deposit of Rs.2,00,000/- by way of a demand draft in the account of this accused from the account of Sh. Dilbhajan Singh Sandhu. The inference is for the court to draw whether this accused has made any wrongful gain or not. It is argued that no witness had deposed about the presence of this accused at Kanpur. This argument has no merits. The evidence of PW-6 Sh. Ashok Kumar Gupta has proved the air ticket of this accused with Sh. Amarnath Rastogi and Sh. Dilbhajan Singh Sandhu from Delhi to Lucknow and back on 12.03.1998. The Ld. Counsel for this accused gave an example of a lawyer receiving the fees will not become an accused. The example given is not at all applicable to the facts and circumstances of the case. There is evidence that this accused played his part of the role in conspiracy. The last submission made was that this accused was a financial consultant and Sh. Dilbhajan Singh Sandhu

may have borrowed the money from him and returned by way of this draft. This is not the stage for surmises and conjectures. The trial of the case has run full course. Everybody was given the opportunity to prove whatever defense he had. Now, accused cannot say that he may have given the loan and Sh. Dilbhajan Singh Sandhu may have returned the loan. Therefore, the charge of conspiracy framed against his accused stands proved.

155. The next accused is Accused No. 11 Sh. Dil Bahadur Singh.

156. So far as the allegations against Accused No. 11 Sh. D.B. Singh are concerned, the Ld. Sr. PP for CBI had relied heavily on statement of this witness recorded by PW-12 Sh. U.B. Upadhyay, Ex. PW-12/C. It was submitted by the Ld. Sr. PP for CBI that evidence of this witness is sufficient to prove extra judicial concession by Accused No. 11 Sh. D.B. Singh. Moreover, it was argued that in spite of opportunity, neither Accused No. 1 nor Accused No. 11 could show why Accused No. 11 was given a sum of Rs.15,00,000/- by Accused No. 1. These demand drafts are Exhibit PW-13/C and PW-13/D for Rs.6,00,000/- and Rs.9,00,000/- respectively in favour of Sh. D.B. Singh. On the other hand, the Ld. Counsel for the accused had submitted that in the order dated 04.02.2003, convicting Accused No. 12 Mohd. Anwar, it was held

that Accused No. 13 was not the one who had stolen KVPs. It was submitted that the entire investigation could not show who was the chief of the KVPs. It was submitted that till the time this accused Sh. Dal Bahadur Singh is not connected in some way with the theft of KVPs, he cannot be convicted with the aid of Section 120B IPC. It was submitted that receiving the DDs on 18.03.1998 and opening the account on 19.03.1998 will not show any conspiracy. Reliance was placed on the evidence of PW-23, who deposed that at the time of opening the account, Sh. Dal Bahadur Singh had told him that he is a money lender by profession when he had opened the account. It was submitted that PW-46 Sh. Ajay Kumar Singh is a hostile witness and has not supported the prosecution. Moreover, he has deposed about IVPs (Indra Vikas Patras) and not KVPs (Kisan Vikas Patras). It was also argued that Sh. S.N. Pandey at Kanpur could not have deposed that Sh. Ashwani Dhingra and Sh. Dal Bahadur Singh at Lucknow Airport. He deposed that the Investigating Officer had not investigated the statement of this accused dated 10.08.1998. It was submitted that extra judicial confession is a weak piece of evidence and requires corroboration by other evidence which is missing in this case. It was submitted that no witness has deposed meeting of Sh. Dal Bahadur Singh with Accused

No. 1, 2 or 3 at any place. No witness has deposed about meeting of this accused with Accused No. 13 Mohd. Anwar. No witness has deposed that this accused had procured stolen KVPs from Mohd. Anwar.

157. Ld. Counsel has referred to following paras from the case of *Kehar Singh vs. Delhi Administration*, AIR 1998 SC 1883:

269. Before considering the other matters against Balbir Singh, it will be useful to consider the concept of criminal conspiracy under Ss. 120-A and 120-B, IPC. These provisions have brought the Law of Conspiracy in India in line with the English law by making the overt-act unessential when the conspiracy is to commit any punishable offence. The English Law on this matter is well-settled. The following passage from Russell on Crime (12 Ed. Vol. I, 202) may be usefully noted:

"The gist of the offence of conspiracy then lies, not in doing the act, or effecting the purpose for which the conspiracy is formed, nor in attempting to do them, nor in inciting others to do them, but in the forming of the scheme or agreement between the parties. Agreement is essential. Mere knowledge, or even discussion, of the plan is no, per se, enough."

270. Glanville Williams in the "Criminal Law" (Second Ed.382) explains the proposition with an illustration:

"The question arose in an Iowa case, but it was discussed in terms of conspiracy rather than of accessoryship. D, who had a grievance against P, told E that if he would whip P someone would pay his fine. E replied that he did not want anyone to pay his fine, that he had a grievance of his own against P and that he would whip him at the first opportunity. E whipped P. D was acquitted of conspiracy because there was no

agreement for "concert of action", no agreement to "co-operate".

271. Coleridge, J., while summing up the case to Jury in *Regina v. Murphy*, (1837) 173 ER 502 (f/08) pertinently states:

"I am bound to tell you, that although the common design is the root of the charge, it is not necessary to prove that these two parties came together and actually agreed in terms to have this common design and to pursue it by common means, and so to carry it into execution. This is not necessary, because in many cases of the most clearly established conspiracies there are no means of proving any such thing, and neither law nor common sense requires that it should be proved. If you find that these two persons pursued by their acts the same object, often by the same means, one performing one part of an act, so as to complete it, with a view to the attainment of the object which they were pursuing, you will be at liberty to draw the conclusion that they have been engaged in a conspiracy to effect that object. The question you have to ask yourselves is, "Had they this common design and did they pursue it by these common means -- the design being unlawful?"

272. It will be thus seen that the most important ingredient of the offence of conspiracy is the agreement between two or more persons to do an illegal act. The illegal act may or may not be done in pursuance of agreement, but the very agreement is an offence and is punishable. Reference to Ss. 120-A and 120-B, IPC would make these aspects clear beyond doubt. Entering into an agreement by two or more persons to do an illegal act or legal act by illegal means is the very quintessence of the offence of conspiracy.

273. Generally, a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same.

The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial. But the Court must enquire whether the two persons are independently pursuing the same end or they have come together to the pursuit of the unlawful object. The former does not render them conspirators, but the latter does. It is, however, essential that the offence of conspiracy required some kind of physical manifestation of agreement. The express agreement, however, need not be proved. Nor actual meeting of two persons is necessary. Nor it is necessary to prove the actual words of communication. The evidence as to transmission of thoughts sharing the unlawful design may be sufficient. Gerald Orchard of University of Canterbury, New Zealand (Criminal Law Review 1974, 297 at 299) explains the limited nature of this proposition:

"Although it is not in doubt that the offence requires some physical manifestation of agreement, it is important to note the limited nature of this proposition. The law does not require that the act of agreement take any particular form and the fact of agreement may be communicated by words or conduct. Thus, it has been said that it is unnecessary to prove that the parties "actually came together and agreed in terms" to pursue the unlawful object; there need never have been an express verbal agreement it being sufficient that there was "a tacit understanding between conspirators as to what should be done."

274. I share this opinion, but has been to add that the relative acts or conduct of the parties must be conscientious and clear to mark their concurrence as to what should be done. The concurrence cannot be inferred by a group of irrelevant facts artfully arranged so as to give an appearance of coherence. The innocuous,

innocent or inadvertent events and incidents should not enter the judicial verdict. We must thus be strictly on our guard.

275. It is suggested that in view of S. 10 of the Evidence Act, the relevancy of evidence in proof of conspiracy, in India is wider in scope than that in English Law. Section 10 of the Evidence Act introduced the doctrine of agency and if the conditions laid down therein are satisfied, the acts done by one are admissible against the co-conspirators. Section 10 reads:

"10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it."

276. From an analysis of the section, it will be seen that sec. 10 will come into play only when the Court is satisfied that there is reasonable ground to believe that two or more persons have conspired together to commit an offence. There should be, in other words, a prima facie evidence that the person was a party to the conspiracy before his acts can be used against his co-conspirator. Once such prima facie evidence exists, anything said, done or written by one of the conspirators in reference to the common intention, after the said intention was first entertained, is relevant against the others. It is relevant not only for the purpose of proving the existence of conspiracy, but also for proving that the other person was a party to it. It is true that the observations of Subba Rao, J. in Sardul Singh Caveeshar v. State of Maharashtra, (1964) 2 SCR 378 lend support to the contention that the

admissibility of evidence as between co-conspirators would be liberal than in English Law. The learned Judge said (at 390):

"The evidentiary value of the said acts is limited by two circumstances, namely, that the acts shall be in reference to their common intention and in respect of a period after such intention was entertained by any one of them. The expression "in reference to their common intention" is very comprehensive and it appears to have been designedly used to give it a wider scope than the words "in furtherance of" in the English Law; with the result, anything said, done or written by a co-conspirator, after the conspiracy was formed, will be evidence against the other before he entered the field of conspiracy or after he left it"

277. But, with respect, the above observations that the words of sec. 10 have been designedly used to give a wider scope than the concept of conspiracy in English Law, may not be accurate. This particular aspect of the law has been considered by the Privy Council in Mirza Akbar v. King Emperor, AIR 1940 PC 176 at page No. 180, where Lord Wright said that there is no difference in principle in Indian Law in view sec. 10 of the Evidence Act.

278. The decision of the Privy Council in Mirza Akbar's case has been referred to with approval in Sardul Singh Caveeshar v. State of Bombay, (1958) SCR 161 at page No. 193 where Jagannadhadas, J., said:

"The limits of the admissibility of evidence in conspiracy case under S. 10 of the Evidence Act have been authoritatively laid down by the Privy Council in Mirza Akbar v. King Emperor (supra). In that case, their Lordships of the Privy Council held that S. 10 of the Evidence Act must be construed in accordance with the principle that the thing done, written or spoken, was

something done in carrying out the conspiracy and was receivable as a step in the proof of the conspiracy. They notice that evidence receivable under S. 10 of the Evidence Act of "anything said, done or written, by any one of such persons" (i.e., conspirators) must be "in reference to their common intention". But their Lordships held that in the context (notwithstanding the amplitude of the above phrase) the words therein are not capable of being widely construed having regard to the well-known principle above enunciated".

158. In this case, it could not be proved that A-11 had procured stolen KVPs from Accused No.13 Mohd. Anwar. It could not be proved that he had joined Sh. A.N. Rastogi, Sh. Rishi Behl and Sh. D.S. Sandhu at Lucknow and had contacted Sh. S.N. Pandey, Sub-Post Master, Armapur, Kanpur. No witness has deposed about the presence of this accused either at Lucknow or at Kanpur. However, it is proved that he had received a sum of Rs.15,00,000/- from the account of Sh. Dilbhajan Singh Sandhu and he had opened a bank account with the help of Accused No. 12 Sh. Vikas Srivastava at Central Bank of India, Alambagh Branch, Lucknow where he had deposited this demand draft. PW-12 Sh. U.B. Upadhyay has proved as Exhibit PW-12/C the statement of this witness where he has stated that he had given Rs.13,50,000/- in cash to Sh. Ashwani Dhingra and had received the demand drafts from Sh. Ashwani Dhingra for a sum of Rs.15,00,000/-.

The statement made by the accused containing an exculpatory matter which if accepted would absolve him from all liability, cannot amount to a confession. In the end, the only evidence against this accused is that he had received a sum of Rs.15,00,000/- in his account from Accused No. 1 Sh. Dilbhajan Singh Sandhu. There is no evidence that he had joined Accused No. 1, Accused No. 4 and Accused No. 8 at Lucknow or Kanpur. There is no evidence that he had arranged stolen KVPs.

159. In this case, there is no prima facie evidence of affording a reasonable ground for this court to believe that Accused No. 12 Sh. D.B. Singh conspired with other co-accused to cheat Central Bank of India on the basis of stolen and forged KVPs.

160. In the end, the allegations and evidence against Accused No. 12 Sh. Vikas Srivastava shall be considered.

161. In the written submissions filed by Sh. I.D. Vaid, Ld. Counsel for Accused Sh. Vikas Srivastava it is mentioned that regarding 'Circumstances', the following facts and the rulings laid down by the Hon'ble Apex Court may kindly be appreciated:-

*"The five golden principles on circumstantial evidence are laid down in **Sharad Virdhi Chand Sharda v. State of Maharashtra** (AIR 1984 SC 1622), which reads as follows:*

The following conditions must be fulfilled before a case against an accused can be said to be fully established:

*1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned ‘must or should’ and not ‘may be’ established. There is not only a grammatical but a legal distinction between ‘may be proved’ and “must be or should be proved” as was held by Apex Court in **Shivaji Sahabrao Bobade v. State of Maharashtra** where the following observations were made: [SCC para 19, p.807: SCC (Cri) p.1047]*

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.

2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

3) the circumstances should be of a conclusive nature and tendency.

4) they should exclude every possible hypothesis except the one to be proved, and

5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

162. The Ld. Counsel had submitted the following:-

- A) The circumstance that there is no overt act or omission on the part of Sh. Vikas Srivastav A12 to arraign in the conspiracy of obtaining stolen KVPs, pledging the said KVPs in the Bank, getting the advances sanctioned by the bank and getting the DDs issued by which amounts were withdrawn is consistent with the innocence of Vikas Srivastava A12.
- B) The circumstance that there is no irregularity in introducing D.B. Singh for the opening of S/B account no. 22202 in Alambagh branch Central Bank of India, Lucknow is consistent with the innocence of Vikas Srivastava A12.
- C) The circumstance that ExPW22/H is a bearer cheque is consistent with the innocence of Vikas Srivastava A12.
- D) The circumstance that backside of the cheque ExPW23/H contain the signature of D.B. Singh account holder below the details of denomination of notes is consistent with the innocence of Vikas Srivastava A12.
- E) The circumstances that documents ExPW23/A to ExPW23/M were neither seized by the I.O. PW48, nor included in the list of documents from D1 to D120 enclosed with the chargesheet nor sent to the handwriting expert for opinion is consistent with the innocence of Vikas Srivastava A12.
- F) The circumstance that there is no reference of RC 5(E)/1998 BS&FC New Delhi in which these documents were seized by Nidhi Dev SI, who is not I.O. in this case, in the chargesheet filed by R.K. Tiwari is consistent with the innocence of Vikas Srivastava A12.
- G) The circumstance that PW23 was not familiar with the signature of Vikas Srivastava A12, so he could not have

identified the said signature is consistent with the innocence of Vikas Srivastava A12.

- H) The circumstance that ExPW23/F & ExPW23/K are cheques similar to cheque ExPW23/H and payments have been received by **Nagender Singh & Rajesh Singh**, who have neither been examined nor arraigned as accused is consistent with the innocence of Vikas Srivastava A12.

163. The allegations against accused are mentioned in para 8 of the chargesheet. The allegations are that he has received a sum of Rs.2,50,000/- from Accused No. 12 Sh. D.B. Singh and he had helped him in opening a Saving Bank A/c No. 22202 opened on 19.03.1998 with the help of PW-23 Sh. P.C. Srivastava who was the Branch Manager of Central Bank of India, Alambagh Branch, Lucknow. The evidence of PW-23 is noted in detail in para 88 of this judgment. This is proved that Sh. Vikas Srivastava had withdrawn a sum of Rs.2,50,000/- from the account of Sh. D.B. Singh. It is also proved that this accused had introduced Sh. D.B. Singh for opening the account although he had no account in that branch. PW-23 has also deposed that any staff member of branch who is authorized to open the account can open it without any introducer. When there is no evidence of conspiracy against Sh. D.B. Singh, merely accepting a sum of Rs.2,50,000/- from Sh. D.B. Singh cannot be considered as sufficient evidence of conspiracy to cheat Central Bank of India, Patel Nagar Branch, New Delhi on the basis of stolen KVPs and

forged lien marking. Therefore, the charge of conspiracy framed against this accused is not proved.

164. Conclusion:-

(i) Charge under Section 420 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**

(ii) Charge under Section 471 IPC read with Section 467 and 468 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved.

He is convicted accordingly.

(iii) Charge under Section 411 IPC framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**

(iv) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 1 Sh. Dilbhajan Singh Sandhu is proved. **He is convicted accordingly.**

(v) Charge under Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 5 Smt. Sudershan Kapoor is proved. **She is convicted accordingly.**

(vi) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of

Prevention of Corruption Act, 1988 framed against Accused No. 5 Smt. Sudershan Kapoor is proved. **She is convicted accordingly.**

(vii) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 6 Sh. Ashwani Dhingra is not proved. **He is therefore acquitted.**

(viii) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 7 Sh. Amit Kapoor is proved. **He is convicted accordingly.**

(ix) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 8 Sh. Rishi Raj Behl is proved. **He is convicted accordingly.**

(x) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 framed against Accused No. 11 Sh. Dal Bahadur Singh is not proved. **He is therefore acquitted.**

(xi) Charge under Section 120B IPC read with Section 411, 420, 467, 468 and 471 IPC and Section 13(2) read with Section 13(1)(d) of

Prevention of Corruption Act, 1988 framed against Accused No. 12 Sh. Vikas Srivastava is not proved. **He is therefore acquitted.**

165. Let a copy of this judgment be given Dasti immediately to all the convicts.

166. In this case, as per the directions of the Hon'ble High Court of Delhi, the entire arguments were addressed by Sh. Brijesh Kumar Singh, the Ld. Sr. PP for CBI and Sh. Yudhishter Kahol, Sh. Vikram Panwar, Sh. M.K. Verma and Sh. I.D. Vaid, all the Ld. Defence Counsels through video conferencing using Cisco WebEx App. This court records its appreciation for the Ld. Sr. PP for CBI (who addressed all the arguments from the video conferencing room of Rouse Avenue District Court) and all the Ld. Defence Counsels in addressing lengthy arguments through video conferencing.

ARUN
BHARDWAJ

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Date:
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**Announced in the open court
on 06.08.2020**

**(ARUN BHARDWAJ)
Special Judge (PC Act)
(CBI-5), Rouse Avenue
District Court, New
Delhi: 06.08.2020
(RY)**