

IN THE COURT OF SH. SANJEEV AGGARWAL
SPECIAL JUDGE : (CBI)-02 : (PC ACT)
ROUSE AVENUE DISTRICT COURT, NEW DELHI

CC NO. 46/2019

RC NO. 33(A)/2014/CBI/ACB/ND

PS : CBI/ACB/ND

U/S : 120B r/w 420, 467, 468, 471 IPC &
13 (2) r/w 13 (1)(d) of PC Act &
substantive offences thereof.

Central Bureau of Investigation (CBI)

Vs.

1. Praveen Kaushik (Accused No. 1)
S/o. Late sh. V.S. Kaushik
R/o. H.No. 3Rd F, 115, 1st Floor
Rakesh Marg, Nehru Nagar
Ghaziabad (U.P.)
2. Anoop Kumar Gupta (Accused No. 2)
S/o. Sh. Prem Shanker Gupta
R/o. H.No. 215, Old Bank Street
Behind SBI, Rithala, Delhi
3. Jagmohan Mittal (Accused No. 3)
S/o. Late Sh. Umrao Singh Mittal
R/o. 4193, Gali Barna
Sadar Bazar, Delhi-6
4. Pradeep Upadhyay (Accused No. 4)
S/o. Sh. Dev Dutt Upadhyay
R/o. C-10/128, Sec-5
Rohini, Delhi
(Permanent R/o. Vill. Bandrehi,
Teh. - Mankapur, Distt. Gonda (U.P.)

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5. Vijay Bhushan Rustogi (Accused No. 5)
S/o. Late Sh. Kishan Lal
R/o. 10/52, Vishwas Nagar
Shahdara, Delhi

Date of institution : 21.12.2015
Judgment reserved : 12.03.2020 (Soon thereafter Courts in Delhi were closed due to lock down due to Corona Virus disease i.e. Covid-19)
Judgment delivered : 16.06.2020

JUDGMENT

1. This case RC-DAI-2014-A-0033 has been registered on the basis of a written complaint dated 20.12.2013 received from Sh. Shekhar Tripathi, AGM, Bank of Baroda, Dy. Regional Manager, DMR-II, Regional Office (DMR-II), Bank of Baroda Building, 11th Floor, 16, Parliament Street, New Delhi, against Sh. Anoop Kumar Gupta and Jagmohan Mittal, on the allegations of illegally availing finance against a property which was already mortgaged with other banks. The complaint was verified and instant RC was registered. As per the FIR the key allegations are as follows :

i). The accused Anoop Kumar Gupta, Proprietor of M/s. Ashoka Agency, Delhi, managed to get a loan of Rs.315 lacs against the security of property at 7, Sainik Vihar, Pitampura, New Delhi, from Bank of Baroda, Kirti Nagar Branch, which was recommended to Small & Medium Enterprises Loan Factory (SMELF) by then Branch Manager Praveen Kaushik. Another proposal of same firm M/s. Ashoka Agency

for Rs.200 lacs under Baroda Traders Loan (BTL) Scheme to Retail Loan Factory (RLF) of Bank of Baroda, against security of same property at 7, Sainik Vihar, Pitampura, New Delhi, was earlier forwarded by the same Branch Manager while posted at Branch office Vishakha Enclave, Delhi, which was rejected by RLF, since the property was not clear as per legal advice.

- ii). It is further alleged that co-accused Sh. Jagmohan Mittal had already mortgaged the property and deposited all the original title deeds of the property at 7, Sainik Vihar, Pitampura, Delhi, with SBI. He further, created a Sale Deed on 08.12.2006 in respect of basement and ground floor of the said property in favour of Sh. Anoop Kumar Gupta and got the same registered in the office of Sub-Registrar, Pitampura on 08.12.2006. After creating the above Sale Deed, the accused persons prepared several duplicate sets (replicas) of this sale deed and deposited with several banks to create mortgage and availed credit facilities.
- iii). It is further alleged that other banks have also put their claims on the same property situated at 7, Sainik Vihar, Pitampura, New Delhi, which is mortgaged with Allahabad Bank, Indian Overseas Bank, Punjab National Bank, State Bank of India and Bank of Maharashtra, against various credit facilities sanctioned to different borrowers.
- iv). It is further alleged that Anoop Kumar Gupta, Proprietor of M/s. Ashoka Agency, Delhi was having three PAN cards i). AJLPG9392F with DOB-22.02.1978, ii). BUXPK7640 E with DOB-22.02.1976 and iii). ARCPG8191 M with DOB-22.02.1977).
- v). It is further alleged that the borrower (Ashoka Agency) is having

different balance sheets for the same period e.g. one of the balance sheet for the year ending 31.03.2010 is dated 24.04.2010 audited by M/s. Sandeep Malhotra & Co., while another dated 24.05.2010 is audited by M/s. Prakash K. Prakash.

vi). It is further alleged that borrower had used different addresses in the documents submitted with the banks. The address on the ITR returns etc is UG-4, Ashoka Place, 877, East Park Road, Karol Bagh, New Delhi. The address given to the bank is 7, Sainik Vihar, Pitampura. The address of Mr. Anoop Gupta on electricity bill is FD-6 (Shop), Ground Floor, Pitampura.

vii). It is further alleged that large value transactions in accounts of the borrower pertaining to BoB, Vishakha Enclave Branch and UCO Bank, Kamla Nagar Branch has been made and large sums of money have been transferred to M/s. Sonal Traders and M/s. Rama Agency. Sh. Anoop Kumar Gupta is the proprietor of both the firms through which he had defrauded other Banks also.

On the aforesaid allegations, the instant FIR was registered u/s 120-B r/w 420 IPC and sec. 13 (2) r/w 13 (1) (d) of PC Act, 1988 against Anoop Kumar Gupta (A-1) (Pvt. Person) S/o Sh. Prem Shanker Gupta, Proprietor of M/s. Ashoka Agency, R/o 208, Ambika Apartments, Rohini, Sector – 14, New Delhi -85 Delhi, Sh. Jagmohan Mittal (A-2) (Pvt. Person) S/o Late Sh. Umrao Singh Mittal, R/o 4193, Gali Barna, Sadar Bazar, Delhi-6 & other unknown officials of Bank of Baroda.

2. After investigations, the role of each of the accused persons as found is discussed as under :



Firstly, the role of Parveen Kaushik, public servant (hereinafter referred to as A-1) is being discussed :

As per the charge sheet, the A-1 was posted as Branch Manager, Bank of Baroda, Vishakha Enclave. The accused Anoop Kumar Gupta (hereinafter referred to as A-2) approached the said bank and opened a current account in the name of M/s. Ashoka Agency under the proprietorship of Anoop Kumar Gupta, which account was opened on 25.01.2011 under the sole signatures of A-1 without any introducer, thereby implying that the said account holder was introduced by the A-1 himself, being personally known to him.

Thereafter, a loan application was made by A-2 with the said branch regarding a loan proposal under Baroda Traders Loan (BTL) Facility of Rs. 200 Lakhs. The said loan proposal was recommended by A-1 to the retail loan factory (RLF) in January 2011, for seeking the said loan, the A-2 had offered his immovable property bearing no. 7, Sainik Vihar, Pitampura as collateral.

However, since there was an adverse legal opinion by one advocate Awanish Kumar empaneled with the bank, the said loan proposal was rejected on the basis of said adverse legal opinion.

After that it so happened that the same bank manager namely A-1 was subsequently transferred in June 2011 and was posted as Branch manager in Kirti Nagar branch of Bank of Baroda, where A-2, the proprietor of Ashoka Agencies again approached the said bank in November 2011 for availing loan of Rs. 315 Lakh under SME Scheme, for trading of *Hawan Samagri*, as collateral security, the A-2 again submitted the copy of the sale deed of 7, Sainik Vihar, Pitam

Pura (consisting of entire basement and ground floor), which was the same property which was earlier offered as collateral security while seeing the loan of Rs. 200 Lakhs from Vishakha Enclave Branch of Bank of Baroda.

Ultimately on the recommendation of A-1 the proposal of Ashoka Agency belonging to A-2 was accepted by SMELF Department of Bank of Baroda and after processing the loan of Rs. 315 Lakh was sanctioned to M/s. Ashoka Agency on 12.12.2011. It has been alleged in the charge sheet that while forwarding the loan proposal of Rs. 315 Lakhs vide letter dated 21.11.2011 to SMELF, the A-1 did not mention the fact regarding the dispute / defect in the property offered as collateral i.e. 7 Sainik Vihar. He also did not inform the SMELF regarding the fact that the earlier loan proposal of Rs. 200 Lakhs for BTL had earlier been rejected on the basis of adverse opinion given by the empaneled lawyer Mr. Awnish Kumar despite being fully aware about these facts, as he was the branch manager at both the branches and had forwarded both the proposals of Rs. 200 Lakhs and the proposal of 315 Lakhs of the same borrower, which resulted in sanctioning of the loan against the defected property, thereby causing pecuniary loss to the bank, as account turned into NPA and the bank could not liquidate the mortgage property.

Regarding the role of accused Anoop Kumar Gupta (hereinafter referred to as A-2), the investigations revealed that the property no. 7, Sainik Vihar (ground floor and basement) was sold to A-2 by Jagmohan Mittal (hereinafter referred to as A-3) and for this purpose, a sale deed was executed on 08.12.2006 duly registered with



the office of the Sub Registrar-VI, Pitam Pura, which sale deed was forged, as it was revealed that the two cheques of Rs. 4.5 Lakhs each mentioned in the sale deed as consideration were never presented for encashment and remained unused and the said sale deed was executed with the sole object to procure loan from the above bank in the name of A-2 by mortgaging the said property on the basis of forged sale deed.

During the investigations, it was also revealed that the A-2 had earlier (i.e. earlier to loan in question) executed a sale deed in respect of the same property i.e. 7, Sainik Vihar in favour of one Vijay Kumar @ Vijay Bhushan Rustogi (hereinafter referred to as A-5) vide sale deed dated 04.02.2010, which property was mortgaged by A-5 for seeking loan from Allahabad Bank, South Ex branch on 12.03.2010 in the name of Balaji Traders.

Regarding the role of Jagmohan Mittal (hereinafter referred to as A-3), it was revealed that the said accused had already obtained loan in the name of his firm M/s. Umrao Singh Jagmohan from State Bank of India Rajouri Garden branch by depositing the original conveyance deed dated 19.03.2004 of same property i.e. property bearing no. 7, Sainik Vihar, Pitam Pura (consisting of ground floor and basement) on 15.09.2005 with State Bank of India, Rajouri Garden branch and obtained CC Facility of Rs. 75 Lakhs and for obtaining the said loan, he had deposited the entire chain of documents with the said bank, therefore, it was not clear under what circumstances, he could have executed the sale deed dated 08.12.2006 in favour of A-2 with respect to the same property.



The investigations also revealed that even after the execution of the sale deed in favour of A-2 by A-3 on 08.12.2006 with respect to the same property, the A-3 had obtained loan from Yes Bank, Rajouri Garden by showing himself to be the owner of property as per the conveyance deed dated 19.03.2004 in the account of M/s. Bankey Bihari Toys, proprietor Sh. Jagmohan Mittal, S/o. Umrao Singh Mittal. The said loan was sanctioned for Rs. 100 Lakhs on 04.09.2008 by the Yes Bank against the collateral security of the above property i.e. 7 Sainik Vihar.

The investigations also revealed that A-3 prepared several duplicate sets of this forged sale deed as a seller and the witnesses on these sale deeds were Pradeep and one Sh. C.da respectively and on the basis of these sale deeds, credit facilities worth Rs. 27 Crores was obtained by opening bank accounts in different banks in the name of several firms.

Regarding the role of Pardeep Upadhyay (hereinafter referred to as A-4), the investigations revealed in the original sale deed of 7 Sainik Vihar, submitted as collateral for obtaining loan of Rs. 315 Lakhs by A-2 as proprietor of M/s. Ashoka Agencies, submitted by A-2 in the said bank, it was found that the A-4 actually signed as Pradeep Kumar on the said sale deed as witness, though, he was actually Pradeep Upadhaya S/o. Devdutt Upadhaya. The other witness namely C.da could not be identified and on comparison with the sale deed collected from the office of sub registrar, Pitam Pura various discrepancies, alterations were found on the one submitted with the Bank.



The investigations also revealed that from the account of M/s. Ashoka Agency, belonging to A-2 with Kirti Nagar Branch of Bank of Baroda Rs. 35 Lakhs had been siphoned off into the account held by A-4 as proprietor of Shiva Traders, maintained with Kotak Mahindra Bank, Karol Bagh branch and Rs. 25 Lakhs were similarly siphoned off in to the account held by A-4 in the name of Sunshine Enterprises in UCO Bank, Pitam Pura.

Regarding the role of accused Vijay Bhushan Rustogi (hereinafter referred to as A-5), the investigations revealed that A-5 had relied upon one sale deed dated 04.02.2010 purported to have been executed by A-2 in his favour duly registered with the office of Sub Registrar VI on 04.02.2010 with respect t the same property i.e. 7, Sainik Vihar (consisting of ground floor and basement) and this property was kept as collateral security by A-5 for obtaining a CC Limit of Rs. 200 Lakhs from Allahabad Bank, South Extension branch in the name of M/s. Balaji Traders. For obtaining the said loan, the said property was mortgaged to the bank on 12.03.2010, which also turned into NPA.

It was also revealed during the investigations that in fact Vijay Kumar and Vijay Bhushan Rustogi were one and the same persons. The investigations also revealed that from the account of M/s. Ashoka Agency, belonging to A-2 with Kirti Nagar Branch of Bank of Baroda Rs. 1 Cr. 58 Lakhs had been siphoned off into the current account belonging to A-5 as proprietor of M/s. United Stores, maintained with Kotak Mahindra Bank, Kamla Nagar branch.

3. In the charge sheet, investigating agency has also relied upon and had stated the various accounts belonging to accused persons namely A-2 to A-5 in different names and styles in which the money sanctioned as a loan in the account of M/s. Ashoka Agencies was siphoned off to show the inter se conspiracy between the accused persons.

4. The accused persons were charge sheeted for the offences punishable u/s 120-B r/w 420, 471 IPC and u/s 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988 and substantive offences thereof, against the accused persons namely Praveen Kaushik s/o Late Sh. V. S. Kaushik, then Branch Head, Bank of Baroda, branch office Kirti Nagar, Delhi (A-1), Anoop Kumar Gupta, Proprietor M/s. Ashoka Agency (A-2), Jagmohan Mittal S/o Late Sh. Umrao Singh Mittal (A-3), Pradeep Upadhyay S/o Dev Dutt Upadyay (A-4) and Vijay Bhushan Rustogi S/o Late Sh. Kishan Lal (A-5).

5. In the supplementary charge sheet, it was also mentioned that in view of the CFSL report, substantive offence(s) u/S. 467 and 468 IPC were also found to be made out against accused A-3 Jagmohan Mittal and A-4, Pradeep Upadhyaya.

During investigations, the sale deed obtained from the Kirti Nagar branch of the Bank of Baroda was also sent to Govt. of India Security Press, Nasik, the report was received, stating that the serial number of the stamp papers were tempered and had been obliterated. The Government Treasury, Tis Hazari Courts, Delhi had also reported



that the stamp papers with the series mentioned therein (on the certified copy of the sale deed obtained from Sub-Registrar office) were issued by the Treasury to SBI, Tis Hazari, Delhi from where as per the stamp delivery register, Anoop Kumar Gupta had purchased the said stamp papers on 14.11.2006.

6. Later on, a supplementary charge sheet was also filed, in which it was mentioned as under :

Besides this, during further investigation, office copy of conveyance deed pertaining to property No. 7, Sainik Vihar was also seized from the office of Sub Registrar-VI, Pitampura, Delhi. During further investigations, specimen / handwriting / signatures / thump impressions of accused Vijay Bhushan Rustogi were also obtained with the permission of the court. His specimen handwriting / signatures / thump impression and copy of conveyance deed were sent to CFSL for comparison and opinion with the already sent questioned documents.

The investigations also revealed that the other questioned documents i.e. sale deed related to property No. 7, Sainik Vihar, Pitampura, New Delhi, which was deposited in Bank of Baroda, Kirti Nagar Branch, Delhi for the purpose of mortgaging the immovable property, Original Cheques, along with Vouchers used for transferring money, Original A/c. Opening form bearing photographs and signature of accused Anoop Kumar Gupta related to CC Account No. 19410200000521 were already sent to CFSL along with specimen and admitted signatures of accused Anoop Kumar Gupta, Jagmohan Mittal and Pradeep Upadhyay for handwriting experts opinion. CFSL report

was awaited.

As per the findings of CFSL report with regard to the comparison done with respect to the questioned writings / impressions and admitted writings / impressions, it was found that on some of the documents writing matched with that of A-2, A-4, A-5 as well as A-3, the thumb impressions of A-4 and A-2 also matched on various documents.

Therefore, it was mentioned in the supplementary charge sheet that on the basis of CFSL opinions, it is established that the sale deed dated 08.12.2006 (D-6) pertaining to 7, Sainik Vihar, Pitampura, New Delhi, which was deposited in Bank of Baroda, Kirti Nagar, Delhi in loan account of M/s. Ashoka Agency, is false, fabricated and forged document.

During investigations, certain subsequent and prior facts to the transaction in question were also collected by the investigating agency, as it was mentioned that certified copies of FIRs and charge sheets filed in Delhi Police cases FIR No. 154/2013 PS Maurya Enclave, FIR No. 244/2013, PS Economic Offences Wing and FIR No. 313/13, PS Rajouri Garden, were collected from the concerned courts. Certified copy of search cum Seizure memos dated 02.06.2013 and 01.08.2013 pertaining to FIR No. 154/2013 PS Maurya Enclave, New Delhi were also obtained from the concerned court. The aforesaid 4 private accused persons had also cheated other banks on the basis of forged sale deed / conveyance deed pertaining to 7, Sainik Vihar, Pitampura, New Delhi, regarding which Delhi Police had registered FIR No. 154/2013 PS Maurya enclave, Delhi w.r.t. cheating committed with

Bank of Maharashtra. FIR No. 244/2013, PS Economic Offences Wing, Delhi. FIR had also been registered w.r.t. cheating committed with Kotak Mahindra bank and FIR No. 313/13, PS Rajouri Garden, Delhi was also registered w.r.t. cheating committed with Yes Bank Ltd. Delhi Police had already filed charge sheets in the concerned courts and the above cases were pending trial.

During investigations of case FIR No. 154/2013 PS Maurya Enclave, Delhi searches were conducted at residential and business premises of the accused persons. Rubber stamps in the name of bogus firms being run by accused persons, multiple PAN cards in the name of accused persons, rubber stamps in the name of M/s. Ajay & Ajay Co. Chartered Accountants and M/s. Sandeep Malhotra & Co. Chartered Accountants, were found during the aforesaid searches conducted by Delhi Police. During further investigation certified copies of the search memos have been obtained from concerned courts. The original search memo seized in FIR 154/13, PS Maurya Enclave has also been relied upon in this case.

7. Vide order dated 21.12.2015 chargesheet was filed in the Court. Thereafter vide detailed order dated 13.01.2017, charges u/s 120B r/w 420, 467, 468, 471 IPC & 13 (2) r/w 13 (1)(d) of PC Act against all the accused persons i.e. A1 to A5 and charges for the substantive offences u/s 420, 471 IPC & 13 (2) r/w 13 (1)(d) of PC Act against accused Praveen Kaushik (A-1) & offences u/s 420, 467, 468, 471 IPC against accused Sh. Anoop Kumar Gupta, (A-2) & offences u/s 467, 468 IPC against accused Jagmohan Mittal (A-3) were directed

to be framed, whereafter, the formal charge(s) were framed accordingly on 30.01.2017 and 01.02.2017 against the accused persons, to which they plead not guilty and claimed trial.

Additional charge(s) were also framed against the accused Pradeep Upadhaya (A-4) u/S. 467 & 468 IPC' vide order dated 11.07.2019 to which the said accused again plead not guilty and claimed trial.

8. Thereafter, prosecution has examined 82 witnesses in support of its case, the description of which is given as under :

PW/Name	Proved	Docu- ment No.	Exhibit No.
PW-1 Ram Kumar Gupta, GM, Bank of Baroda (Sanctioning Authority qua A- 1)	Sanction order dated 17.12.2015	D-118	PW-1/B
PW-2 Amit Mahaliyan, Panel Advocate, Bank of Baroda	Legal opinion dated 02.03.2013.	D-12	P-3
	Also proved the difference between the Sub-Registrar copy of sale deed dated 08.12.2006 obtained from SR Office and those obtained from bank.	D-89	P-56
PW-3 Anil Ashish Topno, Manager Credit, Bank of Baroda	Production memo with respect to submission of mortgage document.	D-30	PW-3/A

PW-4 Mahto, Manager, of India	Murari Sr. Bank	Information w.r.t. account of M/s. Shree Bankey Bihari Toys, Proprietorship firm of A-3 Jagmohan Mittal.	D-101	PW-4/A
		Proved CC Limit of Rs.1.65 crores taken on 22.05.2008 against the security of property no. 7, Sainik Vihar, Pitampura in the name of A-3 Jagmohan Mittal who had mortgaged the conveyance deed dated 19.03.2004 with the bank on 29.05.2008 along with personal guarantee of A-2 Anoop Kumar Gupta. Also proved suit file action initiated against the borrower/guarantor.		
PW-5 Rawat, Corporate Centre, Nariman Point, Mumbai.	Naveen AGM,	Information w.r.t. account of M/s. Sonal Traders, Proprietorship firm of A-2 Anoop Kumar Gupta.	D-98	PW-5/A (colly)
		Proved CC Limit of Rs.2 crores taken on 25.07.2012 against the security of property no. FD-6, Ground floor, Pitampura, Delhi in the name of A-2 Anoop Kumar Gupta. Also proved suit file action initiated against the borrower in DRT.		
PW-6 Chand Gururani, Manager, HO, C.P.	Girish SBI,	Information w.r.t. account of M/s. Suraj Sales Corporation, Proprietorship firm of A-2 Anoop Kumar Gupta.	D-99	PW-6/A (colly)
		Proved CC Limit of Rs.70 lacs taken in the year 2008 against the security of property at Plot		

		no.13, Vaishali, Pitampura, Delhi in the name of A-3 Jagmohan Mittal, who was also guarantor in the account. Also proved suit filed action initiated against the firm in DRT.		
PW-7	Laxmi Narayan Vasu, Chief Manager, Corporation Bank, New Delhi	Information w.r.t. account of M/s. Upadhyay Trading, Proprietorship firm of A-4 Pradeep Upadhyay.	D-115	PW-7/A (colly)
		Proved CC Limit of Rs.5 crores taken on 18.03.2013 against the security of property no. 165, First Floor, Kapil Vihar, Pitampura, New Delhi in the name of A-4 Pradeep Upadhyay. Also proved suit file action initiated against the firm in DRT.		
PW-8	Baldev Krishan, Sr. Manager, Allahabad Bank, New Delhi	Production cum seizure memo dated 07.10.2015 w.r.t. documents of M/s. Balaji Traders, M/s. Shyam Traders and M/s. Hanuman Traders.	D-97	PW-8/A (colly)
		Proved CC and term loan totaling Rs.213.63 Lakhs taken by M/s. Balaji Traders against the security of property at Ground floor, 7, Sainik Vihar, Pitampura, Delhi, in the name of Vijay Kumar vide sale deed dated 04.02.2010 and guarantee of Jagmohan Mittal. This property sold to Vijay Kumar by Anoop Kumar Gupta and mortgaged in the bank on 12.03.2010.		

		Proved CC and term loan totaling Rs.245 Lakhs taken by M/s. Shyam Traders against the security of two properties at FD-6, Ground Floor, Pitampura and C-1/18, First floor, Rana Pratap Bagh, Delhi, in the name of Anoop Gupta. Also proved suit file action initiated against the firm in DRT.		
		Proved CC and current account of M/s. Hanuman Traders, firm of Jagmohan Mittal in which Anoop Kumar Gupta was guarantor. He proved defaulter liability of Rs.2,62,74,655/- plus interest in the account of M/s. Hanuman Traders.		
PW-9 Koushik Goswami, Assistant Manager, Standard Chartered Bank, Gurgaon.		Production cum seizure memo Information w.r.t. account of M/s. Mahalaxmi Traders, Proprietorship firm of A-2 Anoop Kumar Gupta.	D-54, D-55 D-55 D-55	PW-9/A, P-45 PW-9/B (colly) PW-9/B1 to PW-9/B-13
PW-10 Tarun Parashar, Manager, Kotak Mahindra Bank, Kamla Nagar, New Delhi.		Information w.r.t. account of M/s. Shiva Traders Proprietorship firm of A-4 Pradeep Upadhyay and M/s. United Stores, Proprietorship firm of A-5 Vijay Bhushan. He further proved notice in FIR no.154/13, PS Maurya Enclave in both the above accounts.	D-111 D-47	P-67 PW-10/A (colly) PW-10/B (colly) PW10/C
PW-11 Sajal Mishra, Astd. Manager, IDBI		Documents pertaining to current account of M/s. Upadhyay Trading Co. Proprietorship of	D-104	PW-11/A & B

Bank, Punjabi Bagh, New Delhi.	Pradeep Upadhyay.		
PW-12 Sunil Kumar Mishra, AGM, IDBI Bank, Videocon Tower, New Delhi	Documents pertaining to account of M/s. Shyam Traders, Proprietorship of Anoop Gupta and guarantor Jagmohan Mittal.	D-109 D-109	PW-12/A to PW- 12/E P-61
	Also proved CC loan amount of Rs.100 lakhs, further enhanced to Rs.135 Lakhs against the security of property no. FD-6, Pitampura, Delhi in the name of Anoop Gupta. Also proved suit file against M/s. Shyam Traders, Anoop Gupta and Jagamohan Mittal, in DRT and police complaint against the firm due to fraud committed by the party		
PW-13 Sudanshu Kumar Singh, Asth. Manager, Syndicate Bank, Chandni Chowk, Delhi	Documents w.r.t. current account and CC account of M/s. Shyam Traders, Proprietorship of Anoop Kumar Gupta	D-100	PW-13/A
	Also proved CC Loan account of Rs.75 Lakhs taken on 31.03.2009 against property no. FD-6, Pitampura, Delhi in the name of Anoop Kumar Gupta and suit file action initiated against the borrower in DRT.		
PW-14 Ankur Jain, Astt. Manager, IDBI Bank,	Documents w.r.t. current account of Sh. Bankey Bihari Toys, Proprietorship of Sh. Jagmohan Mittal.	D-102	PW-14/A

Cuffeparade, Mumbai.			
PW-15 Umang Aggarwal, Astd. Manager, Sadar Bazar, Delhi	Documents w.r.t. Suraj Sales corporation, Partnership firm of Jagmohan Mittal and Anoop Gupta.	D-50 D-51 D-51 D-6	PW-15/A PW-15/B to E P-44 P-68
	Also proved that the cheques given for sale consideration of 7, Sainik Vihar, Property on 08.12.006 were not encashed. Also proved that the account was operated by Jagmohan Mittal and Anoop Gupta.		
PW-16 Ashok Kumar Mishra, AGM, RRL, Harsha Bhawan, E-Block, Connaught Place.	Documents w.r.t. M/s. Mittal & Co., M/s. Yashika Toys and M/s. Bhagwan Stores having account at OBC, Sadar Bazar, Delhi.	D-113	PW-16/A to D.
	Also proved Jagmohan Mittal as proprietor of M/s. Mittal & Co. having CC loan account of Rs.70 Lakhs against mortgage of property no. 7, Sainik Vihar, Pitampura with other properties. Proved recovery suit filing in DRT and lodging of FIR against Jagmohan Mittal and Co. for cheating and fraud.		
	Also proved current account of M/s. Yashika Toys, proprietorship of Vijay Bhushan and M/s. Bhagwan Stores, proprietorship of Pradeep		

	Upadhyay		
PW-17 Gurpreet Singh, CA	He proved that M/s. Ashoka Agency was not his client and its audit report submitted to the bank was not prepared by him and that his signatures and stamp are forged and fabricated.	D-14 D-24 D-29	PW-17/A to C. P-20 P-33,35 & 36
PW-18 Rajender Jain, Chief Manager, SBBJ, Karol Bagh, Delhi.	Documents w.r.t. accounts of M/s. Shree Bankey Bihari Toys and M/s. Upadhyay Trading Co.	D-105	PW-18/A & B
	Proved CC account of M/s. Shree Bankey Bihari Toys with limit of Rs.1.90 crores against the security of 7, Sainik Vihar, Pitampura, in the name of Jagmohan Mittal as on 06.12.2008. Proved deposit of original conveyance deed dated 19.03.2004 deposited / mortgaged by Jagmohan Mittal on 25 th December 2007. Proved suit file initiated against the firm in DRT and complaint lodged with PS DBG Road in May 2014 after declaration of loan as fraud account. Proved current account of M/s. Upadhyay Trading Co. Proprietorship of Pradeep Upadhyay on 15.01.2008 with introduction of Jagmohan Mittal. Proved the account as frozen being fraud account.		
PW-19, Sandeep Dabass, Sub-	Documents w.r.t. registration of property no. 7, Sainik Vihar,	D-91	PW-19/A to K

Registrar- VI A, Pitampura, Delhi	Pitampura records/guidelines registration of property.	and for	
PW-20, Hare Ram, Astit. Programmer, Sub-Registrar VI A, Rohini.	Documents w.r.t. registration of property no. 7, Sainik Vihar, Pitampura records/guidelines registration of property.	and for	D-91 Already PW-19/A & B. D-91 PW-20/A
PW-21, Rajnish Phalwal, Manager, Axis Bank, Kapashera, New Delhi	Documents w.r.t. CC account of M/s. Shyam Traders and M/s. Shree Bankey Bihari Toys.		D-112 PW-21/A to C
	Proved Anoop Kumar Gupta as Proprietor of above-said both firms. CC Limit of Rs.25 Lakhs was taken by M/s. Shyam Traders in September 2009 and CC limit of Rs.175 lakhs was taken by M/s. Shree Bankey Bihari Toys in September 2008.		
PW-22, Yuv Raj Handa, Retired, Dy. Manager, SBI, Tis Hazari, Delhi	Proved process of issue of stamp paper and issuance of the stamp papers of Rs.1,44,000/- used for sale/registration of 7, Sainik Vihar, Pitampura. Proved the treasury challan.		D-6 P-68 D-4 PW-22/A
PW-23, Dinesh Kumar, DGM, IDBI, Jaipur.	Documents w.r.t cash credit account and current account of M/s. Shree Bankey Bihari Toys, proprietorship firm of Jagmohan Mittal.		D-103 PW-23/A (colly) & B.
	Proved CC limit of Rs.1.6 crores against property no. 13, 3 rd Floor, Vaishali, New Delhi in		

	the name of Jagmohan Mittal and filing of suit in DRT against the borrower and guarantor Anoop Kumar Gupta. Proved declaration of account as fraud and filing of fraud complaint with RBI and PS Maurya Enclave.		
PW24, Satyapal Singh, Advocate, Patiala House Court.	Proved his inquiry regarding FIR no. 154/2013, PS Maurya Enclave and his legal opinion given to the bank for filing a complaint regarding mortgage of property no. 7, Sainik Vihar, Pitampura.		
PW-25, Ram Kanwar Goel, Valuer, Bank of Baroda, Delhi.	Valuation report dated 16.11.2011 w.r.t. property no. 7, Sainik Vihar, Pitampura, Delhi.	D-117	PW-25/A
PW-26, Meera Suri, Clerk, BOB, Rohini.	Documents/vouchers of M/s. Ashoka Agency w.r.t. opening of account and payment of legal and valuation charges.	D-15 D-15	PW-26/A to C. P-5
	Proved the signatures of Praveen Kaushik on the AOF and vouchers.		
PW-27, Anchal Jain, Manager, Allahabad Bank, Indirapuram, Ghaziabad, UP	Documents pertaining to M/s. Shree Rama Agency, Proprietor Anoop Kumar Gupta for CC limit of Rs.2 crores against 7, Sainik Vihar, Pitampura, Delhi.	D-73 D-73	PW-27/A & B. P-103
PW-28 Arun Aggarwal, Dy. Manager, State Bank of India, Narina, Delhi	Documents w.r.t. CC Limit of Rs.91 lakhs to M/s. Umrao Singh Jagmohan, Proprietorship account of Jagmohan Mittal against 7, Sainik Vihar, Pitampura, Delhi. Initially taken on 15.09.2005. Proved the	D-71 D-116	PW-28/A to D. PW-28 E to H.

		recovery proceedings and the police case FIR no. 313/13 at PS Rajouri Garden.		
PW-29 Prakash Chand, Asstt. Stamp Vendor		Documents w.r.t. Stamp Paper and stamp vendor register	D-7B D-8C D-92	P-69 P-65 PW-29/A
PW-30 Rampal Singh, Deputy Manager, SBI, Rai, Sonipat		SBI stamp issue register and challan	D-3 D-86 D-4	PW-30/A to C. PW-30/D to G. PW-22/A
PW-31 Pawan, Assistant of Sh.R.K.Goel, Valuer.		Letter dated 14.11.2011 issued by SME Loan Factory, Bank of Baroda and valuation report of Sh.R.K.Goel.	D-56 D-14	PW-1/D-3 PW-25/A
PW-32 Kamlesh Kumar Tiwari, Assistant of Sh.Amit Gupta, Advocate of Bank of Baroda		Letter dated 14.11.2011 issued by SME Loan Factory, Bank of Baroda and legal Opinion report of Sh.Amit Gupta.	D-56	PW-1/DA
PW-33 Joginder Singh, Tax Assistant, Income Tax		Documents with respect to different PAN numbers of Sh.Anoop Gupta.	D-80	PW-33/A to C
PW-34 S K Gupta, Senior Manager, Vigilance, Bank of Baroda		Documents submitted to CBI viz. valuation report, legal opinion and other documents collected from Kirti Nagar Branch and Vishakha Enclave Branch. He proved the receipt of the different reports and other documents from Vishakha	D-58 D-62 D-63	PW-34/A already PW-1/D5 PW-34/D-1

	Enclave Branch.	D-64	PW-34/D-2
PW-35 Narinder Nath, Manager, Bank of Baroda, Nangal Rai, Delhi	Proved the writing and signing of Praveen Kaushik (A-1) and letter dated 25.1.2011 addressed to Chief Manager, BOB, RLF forwarding the BTL proposal of M/s Ashoka Agency.	D-19 to D-28	P-8, P-7 P-16 to P-24
PW-36 Om Prakash Arora, Chief Manager, Bank of Baroda, Vishakha Enclave Branch, Delhi	Handing over of documents to CBI	D-16 D-17 to D-19 D-20 to D-28 D-28 D-16	PW-36/A P-6 to P-8. P-16 to P-24. PW-35A. PW-36B.
PW-37 Shekhar Tripathi, Regional Head, Bank of Baroda, Ahmadabad.	Original complaint made by bank to CBI alongwith other documents.	D-1 D-56	PW-37/A P-46 (colly)
PW-38 Kanwaljit Singh Butalia, then Senior Manager, Bank of Baroda, Munirka	Investigation report in NPA account of Ashoka Agency	D-56 D-56 D-56	PW-1/D6 P-46 (colly) PW-1/D2 to D4.
PW-39 Awanish Kumar, Advocate, Bank of Baroda	His legal opinion report dated 19.1.2011 with respect to 7 th Sainik Vihar, Pitam Pura.	D-61	PW-1/D1

PW-40 Ravindra Sanwal, OSD, DFS, Ministry of Finance, Delhi.	Documents w.r.t. CC loan taken from PNB, Wazirpur, Delhi of an amount of Rs.7.50 crore to M/s. Rama Agency, Proprietorship of Anoop Kumar Gupta against 7, Sainik Vihar, Pitampura, Delhi.	D-76 D-76	PW-40/A P-53
PW-41 Mahender Kumar, Data Entry Operator, SR-VI A, Pitampura, Delhi.	Certified copies of documents and original record produced from SR office.	D-90 D-44 D-45	PW-41/A & D PW-41/B PW-41/C
PW-42, Bhramar Saxena, Retired AGM, Bank of Baroda, Delhi.	Report regarding staff accountability in NPA account of M/s Ashoka Agency.	D-62 D-19 D-29	PW-1/D5 P-8 P-9
PW-43, Kusum Jain, retired Sr. Manager, Bank of Baroda, Karol Bagh.	Certified copy of SME Policy of the bank.	D-65 D-56 D-56 D-56 D-56	PW-43/A P-14 P-46 (colly) PW-43/B PW1/D-7
PW-44, Deepak Negi, Sr. Manager, Yes Bank, Tilak Nagar, Delhi.	Documents w.r.t. CC Limit of one crore taken by M/s. Shree Bankey Bihari Toys Proprietorship of Jagmohan Mittal against security of 7, Sainik Vihar, Pitampura, Delhi, in September 2008. Also proved FIR no.313/13, PS Rajouri Garden, registered against the borrower.	D-78	PW44/A

PW-45, Prakash Sharma, Retired AGM, BOB, SMELF, DMR-II, Delhi.	Jai Appraisal and sanction of Rs.315 lakhs limit to M/s Ashoka Agency at SMELF.	D-56 D-13 D-56/83	PW1/D3 and D4. PW45/A to D, PW45/D A to DC, P-4
PW-46, Nemichand Balotiya, AGM, UCO Bank, Parliament Street, New Delhi.	Documents w.r.t. CC limit of Rs.70 lakhs taken by M/s. Bankey Bihari Toys, Proprietorship of Jagmohan Mittal against property no 7, Sainik Vihar, Pitampura, Delhi and current account of M/s.Sunshine Enterprises, Proprietor-ship of Pradeep Upadhyay.	D-74	PW46/A to C.
PW-47, Upender Kishore, ACIT, Income-Tax, Ludhiana.	Documents w.r.t. PAN and ITR of Anoop Kumar.	D-79	PW47/1
PW-48, Shikha Semwal, ACIT, Circle-62 (1) and 63 (1), Delhi.	Documents w.r.t. PAN and ITR of Anoop Kumar Gupta @ Anoop Gupta	D-80	PW33/A to C. PW48/A
PW-49, Om Prakash, LDC, Divisional Commissioner Office, 5, Shamnath Marg, Delhi.	Certified copy of documents registered with SR office.	D-7 D-8 D-45 D-6 D-43	P-69 (colly) P-65 (colly) PW41/C, PW49/A & B.
PW-50, Kumar, Raj Sr. Manager,	Documents w.r.t. registration of property no. 7 Sainik Vihar, Pitampura at CERSAI portal and	D-84	PW50/A

CERSAI, Parliament Street, Delhi.	New	process of CERSAI.		
PW-51, Devashish Bakshi, Bank of Baroda, Kolkatta.	AGM	Documents submitted to CBI w.r.t. CC Account of M/s. Ashoka Agency.	D-5 D-14 D-29 D-11	PW51/A, PW51/D 1 to D4. P-2,
PW-52, Prakash Tanwar, Sr. Manager, RLF, Delhi.	Om DMR-II,	Rejection letter of RLF conveyed to Branch Manager, Vishakha Enclave.	D-17	P-6
PW-53, Subhrendu Karmakar, Officer Sultanpur Majra, New Delhi.	BOB,	Submission of documents by Vishakha Enclave Branch w.r.t. M/s. Ashoka Agency.	D-15	P-5 PW26/A to C.
PW-54, Ravi, Manager, Vishakha- patnam, Andhra Pradesh.	Aditya Chief BOB,	Processing of loan proposal of M/s. Ashoka Agency received from Kirti Nagar branch at SMELF. Stated that accused Praveen Kaushik had sent the photocopy of title deed of property 7, Sainik Vihar, Pitampura, so as to seek legal opinion by SMELF.	D-13 D-66 D-10 D-14 D-56	P-4, P-14 P-1 PW25 PW54/D A to DD. PW1/D2 to D4. PW45/D B
PW-55, Sandeep Malhotra, Pitampura, Delhi.	CA,	Proved forgery of his signature and seal/stamp over the financial documents submitted by M/s. Ashoka Agency to the bank.	D-25 to D-27	P-21 to P-23
PW-56, Shalesh Kumar,	Astt.	Denied his signatures over the Execution/Registration of sale	D-6 D-7	PW49/A, P-69

Controller, weights and measure department GNCTD.	deed of November 2006, w.r.t. property no. 7, Sainik Vihar, Pitampura by Jagmohan Mittal in favour of Anoop Kumar Gupta. Proved his signatures on the SR office copy of sale deed of the property	D-45 D-41	(colly), PW41/C PW56/A & B (colly)
PW-57, R. K. Singhal, Retired Sr. Manager, BOB, DMR-II, Parliament Street, New Delhi.	Handing over of documents to CBI w.r.t. creation of CERSAI ID of property no. 7, Sainik Vihar, Pitampura and guidelines thereof.	D-95	PW57/A
PW-58, Janardan Chaturvedi, Sr. Manager (IT) BOB, Rajasthan	Documents w.r.t. CERSAI ID.	D-96	PW58/A
PW-59, Amit Gupta, Advocate, BOB	His legal opinion report dated 21.11.2011 of property no. 7, Sainik Vihar, Pitampura and search documents thereof.	D-10 D-29	P-1 PW59/A
PW-60, Aditya Kumar, Manager, BOB, Dahod, Gujrat.	Documents relating to M/s. Ashoka Agency maintained at Kirti Nagar Branch.	D-29	PW51/D 3
PW-61, Shankar Lal Singh, Retired Manager, Bank of Maharashtra, Pitampura, Delhi	Documents with respect to CC Limit of Rs. 2.55 Crores taken by M/s Sonal Traders, Proprietorship of Anup Gupta against the security of property at 7, Sainik Vihar, Pitampura.	D-72	PW61/A & B P50 (Colly.)
PW-62, Devesh Jamloki, Manager,	Documents with respect to account of M/s Sonal Traders Proprietor-ship of Anup Kumar	D-75	PW62/A to C, P- 52

Nainital Bank Ltd., Shalimar Bagh, Delhi	Gupta along with statement of account showing entries from M/s Ashok Agency, Bank of Baroda.	D-38	PW62/D & F
PW-63, E. Sam Vijayanand, Assistant Manager, Corporation Bank, Agra	Documents with respect to account of M/s Sonal Traders Proprietor-ship of Mr. Anup along with statement of account showing entries from M/s Ashok Agency, Bank of Baroda.	D-106	PW63/A
PW-64, Abhishek Rathore, Assistant, Food Corporation of India, Delhi	Specimen hand writing / signature / finger print impressions of Vijay Bhushan Rastogi taken in Tihar Jail.	D-122	PW64/A (Colly.)
PW-65, N. K. Sanyal, Assistant Works Manager, Forgery Detection Cell, India Security Press, Nasik.	Examination report showing tampering in respect of 10 non-judicial stamp papers used in sale deed dated 08.12.2006 with respect to 7, Sainik Vihar, Pitam Pura.	D-88 D-6	PW65/A to D (Colly.) PW49/A
PW-66, Anil Kumar, Architect, CPWD, R. K. Puram, Delhi	Specimen hand writing / signature / finger print impressions of Jagmohan Mittal, Anoop Kumar Gupta and Pradeep Kumar Upadhyay taken in Tihar Jail.	D-39 D-40 D-42	PW66/A (Colly.) PW66/B (Colly.) PW66/C (Colly.)
PW-67, Alok Gupta, Senior Assistant, Delhi Jal Board, HQ, Delhi.	Specimen signatures/handwriting of Shailesh Kumar, then Sub-Registrar, Rohini.	D-41	PW56/B (Colly.)
PW-68, Sunil Kumar, then	Documents with respect to transactions, statement of	D-34	PW68/A

Manager, Bank of Baroda, Kirti Nagar Branch.	account, cheques and vouchers in the account of M/s Ashoka Agency.	D-36	PW68/B & C
		D-37	PW68/D
		D-35	P-40 (Colly.)
PW-69, Ram Lal Singh, Assistant Section Officer, Center Water Commission, R. K. Puram, Delhi.	Specimen signatures/handwriting/finger prints of Anup Kumar Gupta, Jagmohan Mittal, Vijay Bhushan Rastogi and Pradeep Kumar Upadhyay.	D-124	PW-69/A (Colly.)
		D-125	PW69/B (Colly.)
		D-126	PW69/C (Colly.)
		D-127	PW69/D (Colly.)
PW-70, Arun Kumar, Inspector, Investigation, P.S Jama Masjid	Investigation of FIR No. 154/2013 PS Maurya Enclave and FIR No. 244/2013 PS EOW and filing of chargesheet in both the cases against Anup Kumar Gupta, Pradeep Upadhyay, Vijay Bhushan Rastogi and Jagmohan Mittal.	D-123	PW70/A
		D-128	PW70/B & C
PW-71, Aman Sood, Assistant, ESIC, HQ, Delhi	Specimen signatures/handwriting of Om Prakash, Record Keeper, Office of Sub-Registrar, Pitampura, Delhi.	D-43	PW49/B
PW-72, Anil Sharma, Inspector, Vigilance, Barakhamba Road, Delhi	Initial investigation in FIR No. 154/13 PS Maurya Enclave and collection/seizure of documents related to 7, Sainik Vihar, Pitampura, Delhi, PAN Card, Voter ID etc.	-	-
PW-73, Prashant	CFSL reports with respect to	D-130 &	PW73/1

Sharma, Senior Scientific Assistant (Documents), CFSL, CBI, New Delhi.	title deeds of 7, Sainik Vihar, Pitampura, Delhi and loan documents of M/s Ashoka Agency.	131 D-133 to 134	to 3 PW73/4 to 7
PW-74, Mangesh Krishna Ratnam, Senior Scientific Officer, CFSL, CBI, New Delhi.	B. CFSL reports with respect to finger prints over the title deeds of 7, Sainik Vihar, Pitampura, Delhi.	D-132	PW74/A & B
PW-75, Devender Singh, SI EOW, New Delhi.	Further/part investigation in FIR No. 244/2013 and filing of supplementary chargesheet against Anup Kumar Gupta, Pradeep Upadhyay, Vijay Bhushan Rastogi and Jagmohan Mittal.	D-128	PW70/C
PW-76, Mantu Prasad, Assistant Vice President, NSDL, Mumbai	Documents with respect to PAN Cards issued in the name of Anoop Kumar @ Anoop Gupta	D-82	PW76/A to D
PW-77, Ram Pal Singh, then Deputy Manager, SBI, Tis Hazari	Specimen signatures/initials of Yuvraj Handa, official who issued the stamp papers used in sale deed dated 08.12.2006 with respect to 7, Sainik Vihar, Pitampura.	D-46	PW77/A (Colly.)
PW-78, Prem Bhushan Arora, Manager, Bank of Baroda, Alwar, Rajasthan	Documents submitted to CBI with respect to account of M/s Ashoka Agency	D-67 D-68 D-34	PW78/A P-15 PW78/B & C PW68/A

PW-79, Sandeep Kumar, then SI, PS Rajouri Garden, Delhi Police	Investigation of case FIR No. 313/2013, PS Rajouri Garden and documents thereof and filing of chargesheet against Anup Kumar Gupta, Pradeep Upadhyay, Vijay Bhushan Rastogi and Jagmohan Mittal.	D-129	PW79/A
PW-80, Ranvijay Singh, DSP/IO, CBI,ACB, Delhi	Collection/seizure of documents and investigation of CBI case RC-33(A)/2014 and filing of chargesheet and supplementary chargesheet against the accused persons.	D-2	PW80/A
		D-57	PW80/B
		D-77	PW80/C
		D-81	PW80/D
		D-83	PW80/E
		D-87	PW80/F
		D-92 to 94	PW80/G to I
		D-107 & 108	PW80/J & K
		D-88	PW80/L & M
		D-130	PW80/N & O
PW-81, Jyoti Mahendra Chavan, Division Manager, UTI Infrastructure		D-81	PW80/D P-54

Technology & Services Ltd., Mumbai			
PW-82, Ravi Gambhir, CBI, ACB, New Delhi	FIR & Initial part investigation conducted in the case	D-2 D-70 D-5	PW80/A PW82/A PW51/A

9. Thereafter, the statement of all the accused persons u/S. 313 CrPC was recorded in which the defence of all the accused persons was that they were falsely implicated in this case, however, only one accused A-1 Praveen Kaushik has examined himself u/S. 315 CrPC as DW1. No witness in defence was examined by any other accused persons.

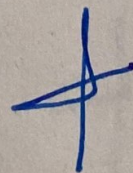
10. I have heard Sh. K.K. Sharma Ld. Counsel for A-1, Sh. J.S. Mishra Ld. Counsel for A-2 and A-4, Sh. Naveen Gaur Ld. Counsel for A-3, Sh. Manu Seth Ld. Counsel for A-5 and Sh. V. K. Pathak, Ld. PP for CBI.

11. The Ld. PP for the CBI has argued that A-1 is the public servant, who at that time was working as Senior Branch Manager at Vishakha Enclave Branch and had forwarded the loan application of M/s. Ashoka Agencies of which A-2 was the proprietor and the said account was also opened with the introduction of A-1 himself and thereafter he also forwarded the proposal of Rs. 200 lakhs, which was sent to the Retail Loan Factory (RLF) of the Bank of Baroda for

processing and in the loan application in the godown column the property of 7, Sainik Vihar was clearly mentioned. The same was vetted in the legal department of the RLF and vide legal opinion of the advocate Avnish Kumar, the title of the said property was found to be defective, hence, the proposal was returned vide letter dated 02.03.2011 to the Vishakha Enclave branch.

In the said return letter it was clearly mentioned that the legal opinion was enclosed and the bank manager was also directed to debit the legal charges as well as the valuation charges from the account of the customer, which was the processing fees incurred and on the top of the said letter, the endorsement "Cancelled" was also made by A-1 and during the cross-examination while appearing as DW1, A-1 also admitted that he had himself passed the vouchers of the legal expenses and the valuation charges from the account of the customer i.e. A-2. Therefore, he submits that it was very much in the knowledge of A-1 that the title of the property 7, Sainik Vihar was defective and due to the same, the proposal seeking loan of Rs. 200 lakhs was rejected by the RLF.

He has further argued that thereafter this bank manager i.e. A-1 was transferred to Kirti Nagar branch of Bank of Baroda in the month of June 2011 and thereafter again the same firm i.e. Ashoka Agencies of which A-2 was the proprietor again approached him seeking approval of Rs. 315 lakhs vide application dated 20.11.2011 in which it was the incumbent duty of A-1 to mention the title defect in the property 7, Sainik Vihar, as the same property was offered as collateral for the loan of Rs. 315 lakh this time. Despite having full knowledge of



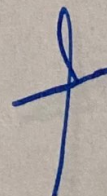
this fact, A-1 concealed this fact from the SMELF Department, the one which was to process the loan and due to this omission with criminal intent, the said loan was ultimately sanctioned on 12.12.2011 of Rs. 315 lakhs and the said amount was credited into the account of M/s. Ashoka Agencies, Kirti Nagar branch, from which it was ultimately siphoned off into different accounts of A-2 i.e. Mahalakshmi Traders with Standard Chartered Bank, Karol Bagh from which it was transferred into various account i.e. UCO Bank, Kamla Nagar branch of A-3 as also the Yes Bank account of A-3, which he was maintaining in the name of Bankey Bihari Toys. From the said account of Mahalakshmi Traders, similarly various entries / monies were siphoned off into the account of A-4 in the name of Shiva Traders, from the account of Ashoka Agencies as also into the Sun Shine, UCO Bank, Vaishali Pitam Pura from the same account of Ashoka Agencies, the amount was also siphoned off into the account of A-5 in the name of United Stores, Kotak Mahendra Branch, Kamla Nagar.

He further submits that the sale deed dated 08.12.2006 **Ex. PW49/A** was purportedly executed between A-2 and A-3 with respect to the property 7, Sainik Vihar, whereas the original of the said sale deed could not have been in possession of A-3, as he had taken a loan on the same property i.e. 7, Sainik Vihar on 15.09.2005 from SBI, Rajouri Garden by keeping the same as collateral vide letter of sanction of the loan by mortgaging the same property dated 15.09.2005 and in fact he had also kept the original conveyance deed dated 19.03.2004 with the said bank, as he had taken the loan in the name of firm M/s. Umrao Singh Jagmohan of which he was the

proprietor. Thereafter, A-3 had taken another loan from Yes Bank on 04.09.2008 on the basis of the same conveyance deed in the name of Bankey Bihari Traders offering the same property as collateral. Therefore, he submits that the A-3 had no title to sell or pass in favour of A-3 vide sale deed dated 08.12.2006. He further submits that even otherwise as per the investigation the consideration mentioned in the sale deed D-6 submitted with the bank and original copy retained with the Sub Registrar office D-5 never passed in favour of A-3, which shows the fraudulent transaction in nature.

He further submits that though the loan of Rs. 315 lakhs was sanctioned in December 2011 by offering the collateral of 7, Sainik Vihar, however, at that time A-2 was not having title left with the said property as he had sold the same property in favour of A-5 vide sale deed dated 04.02.2010 with respect to same property. Therefore, he should not have been in possession of any document or title pertaining to the said property at the time when he applied for loan with the Bank of Baroda, Kirti Nagar branch through SMELF.

He further submits that the said sale deed D-6 submitted with the bank is forged, as the number(s) on the stamp papers in question have been altered as per the report of the Government Security Press, Nasik and which is apparent from the fact that the stamp papers for Rs. 1,44,000/- were issued in favour of A-2 by the SBI, Tis Hazari Treasury, which is a government treasury. Since the A-2 had prepared number of forged copies of the said sale deed D-6, therefore, in order to match the numbers on the original stamp papers kept in the office of Sub Registrar D-45, he had tempered with the

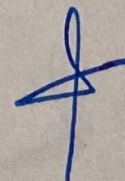


numbers of the stamp papers on D-6, as he was the only person, who was going to wrongfully gain by practicing deception on the bank.

He further submits that as per the CFSL report(s), the signatures of the Sub Registrar on the sale deed was also found to be forged, as there are glaring alterations / forgeries in the sale deed submitted with the bank D-6 when compared with the D-45 i.e. copy kept in the office of Sub Registrar. Though, the thumb impression of A-4 on D-6 matches with specimen of A-4.

Besides this he has argued that while applying the loan, the accused A-2 had annexed forged balance sheet and other documents in order to strengthen his case, which as per the testimonies of chartered accountants, whose stamps the said balance sheet allegedly bears are forged. Therefore, he submits that all the accused persons were acting in concert after the agreement to commit a crime was entered into by them, therefore, anything said, done or written by anyone of them during the course of the said conspiracy in reference to the common design is admissible against all the other accused by principle of agency, as contained in Section 10 of the Indian Evidence Act. Therefore, he submits that the A-1 is liable to be convicted u/S. 120B r/w 420, 467, 468, 471 IPC and substantive offences thereof, as per the charge framed. Similarly, A-2, A-3, A-4 and A-5 are also liable to be convicted for the charges of conspiracy and substantive offences, as per the charges framed against them.

12. On the other hand, Ld. Counsel for A-1 has argued that A-1 had not recommended both the loans, but had only forwarded the loan



applications. He further submits that the borrower i.e. A-2 had not offered collateral of 7, Sainik Vihar with the first loan proposal of Rs. 200 lakhs, but it was with respect to property FD-6, Pitam Pura. Therefore, there was no reason for A-1 to be aware that the first loan application was returned / rejected, as the title was defective with regard to the property 7, Sainik Vihar.

He further submits that in the letter returned from the RLF dated 02.03.2011 regarding the rejection of the first loan proposal, there is no mention of any legal issues and details of the property and even otherwise, he submits that the said documents as is evident during the testimony of the prosecution witnesses were collected from the SMELF office of the Bank of Baroda and not from the branch, which shows that the said letter dated 02.03.2011 was never seen by A-1 nor it was in his knowledge that there was any defect in the title of property 7, Sainik Vihar.

Regarding the introduction aspect, he has argued that it was not the requirement of KYC and even without introduction, the said account could have been opened as per the banking rules prevailing at that time. He further submits that second loan proposal was also not recommended by him and was only forwarded by him. He further submits that SMELF was already in touch with the A-2 / Ashoka Agencies as they had already initiated the letter to the valuer on 14.11.2011 and to the advocate Amit Gupta on 14.11.2011 and there was a Email written by SMELF to the A-2 asking for certain documents dated 09.11.2011 much prior to the forwarding of the loan application dated 20.11.2011 of Rs. 315 lakhs, which shows that SMELF had



initiated the proposal of its own and branch had no role in the same. In this regard, he had also relied upon the Operational and Administrative Guidelines of SMELF as per which the SMELF had to directly deal with the borrower and the branch had no role with the same, after the lead had been provided by the bank.

He further submits that it has come on the record that there was negligence at every level at the level of processing, sanction, post sanction and in this regard, disciplinary proceedings were initiated against three official(s) of SMELF namely Sh. J. P.Sharma, Sh. Aditya Ravi and Ms. Kusum Jain. He further submits that one of the most material witness who could have thrown light on this aspect namely Sh. Rupam Gupta was deliberately not examined by the prosecution, who could have thrown light on the entire controversy. He further submits that this has not been proved that the loan application of the first proposal was in the handwriting of A-1 as no specimen signatures or writing of A-1 was ever taken.

He further submits that sanction for prosecution u/S. 19 of the PC Act vide **Ex. PW1/A** has not been proved to have been given after due deliberation of the entire material and after application of mind, which is also evident from the reading of the testimony of PW1 Sh. R. K. Gupta as a whole, which shows that the sanction had been accorded in most mechanical manner without going through the material on the record. He has further argued that even otherwise, no sanction u/s. 197 CrPC was obtained in this case which was sine qua non, as the said protection was always available with the A-1 being a public servant even after his retirement from the job.

In view of the above submissions, it is contended that there was no criminal intent or acting in concert with other accused persons in furtherance of the common design / object of the conspiracy. He further submits that the said collateral property pursuant to the order of DRT had been sold and money is lying deposited with the DRT. Therefore, there is no pecuniary loss to the bank or causing any pecuniary advantage to any other person. Therefore, he submits that A1 is liable to be acquitted.

13. With regard to the role of A-2 and A-4, it has been argued by Ld. legal Aid Counsel that A-2 and A-4 were not the main actors and they were working for A-3 who is the main brain behind all this and he was the employer and A-2 and A-4 were his employees and he had got their signatures on various documents including certain blank cheques during the course of employment, as they are illiterate persons without their knowledge, which were later on converted into valuable securities therefore, they had no mens rea or criminal intention as well as actus reus to commit the crime in question for which they have been charged.

14. With regard to the argument of role of A-3, it is stated that the prosecution has miserably failed to prove that any of the documents i.e sale deed dated 08.12.2006 kept in the office of Sub Registrar or forged copy thereof kept in the Bank of Baroda Kirti Nagar branch at the time of taking loan by A-2 bears the signatures or thumb impression of A-3, as CFSL report has come negative that none of



those documents bears either thumb impression or signatures of A3, therefore, there cannot be conspiracy of A3 and other accused persons.

It is further stated that with regard to the receipt of money into the account of A-3 in Uco Bank, Kamla Nagar and Yes Bank, Rajouri Garden, it is submitted that they were the part of innocent and bonafide business transactions between A-2 and A-3, which the prosecution has failed to prove otherwise. Even otherwise, it was argued that in actuality no amount was ever received in the account of A-3 from the account of A-2. Therefore, he submits that the prosecution has miserably failed to prove its case qua A-3.

15. With regard to the role of A-5, it is stated that his signatures have nowhere been proved to be on either of the document i.e. D-6 or D-45 or any other documents pertaining to the transaction in question as per the CFSL reports and only some amount has been transferred into his account from the account of Ashoka Agencies, Kirti Nagar, which are bonafide and innocent business transaction(s) for which he cannot be hauled up neither there is unity of purpose nor any agreement between him and other accused persons or A-2 acting in the common design of the conspiracy, therefore, he submits that A-5 is also liable to be acquitted.

16. I have gone through the rival contentions.

17. Taking up the first contention i.e. sanction u/S. 197 CrPC,

qua A-1, who at the relevant time was working as Chief Manager with Bank of Baroda, when sanction under Section 19 of PC Act was accorded against him, he was not entitled to further protection sanction u/S. 197 CrPC, as he was not in the category of public servant removable from his office by the government i.e. either by the state government or central government. In this regard it would be relevant to cite the judgment of **K. CH. PRASAD Vs. SMT. J.VANALATHA DEVI AND ORS. 1987 AIR 722**, which squarely covers the argument of this accused :

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein the expression "State Government" were substituted. (4) The Central Government or the State Government as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held."

It is very clear from this provision that this Section is attracted only in cases where the public servant is such who is not removable from his office save by or with the sanction of the Government. It is not disputed that the appellant is not holding a post where he could not be removed from service except by or with the sanction of the Government. In this view of the matter even if it is held that appellant is a public servant still provisions of Section 197 are not attracted at all.

It was contended by the learned counsel that the competent authority who can remove the appellant

from service derives his power under regulations and these regulations ultimately derive their authority from the Act of Parliament and therefore it was contended that the regulations are flamed with the approval of the Central Government but it does not mean that the appellant cannot be removed from his service by anyone except the Government or with the sanction of the Government. Under these circumstances on plain read-ing of Section 197 the view taken by the Courts below could not be said to be erroneous. We therefore see no reason to entertain this appeal. It is therefore dismissed.

18. With regard to sanction u/S. 19 of the PC Act, the prosecution has examined PW1 Sh. R. K. Gupta, the then General Manager NZ/Competent Authority Bank of Baroda, Sansad Marg, New Delhi who had accorded the sanction vide sanction order Ex. PW1/A (D-118) vide sanction dated 17.12.2015 and the forwarding letter Ex. PW1/B dated 17.12.2015 itself.

In his cross-examination, a question was put to him as under :

Q. This letter dated 09 November 2011 (P-56) (Ex. PW1/D2) addressed to the proprietor M/s. Ashoka Agency by Senior Manager, SMLF DMR-II mentions an Email dated 10 November 2011 sent at 9:49 pm whereas the proposal from the branch (Ex. 9D29/1) had not been even sent as it was sent on 20 November 2011. What have you to say ?

Ans. I do not remember having seen this letter dated 09.11.2011.

In his further cross-examination, he has deposed that "it is correct that I have not been able to show the mention of property no. 7, Sainik Vihar in the proposal sent by Vishakha Enclave branch." He further deposed that "It is correct that pursuant to the order of DRT, 7 Sainik Vihar, Delhi, has been sold and money is lying deposited in DRT." He further stated that "I cannot point out any document pertaining the proposal of obtaining CC Limit of Rs. 315 Lakhs against which property no. 7 Sainik Vihar, Pitam Pura, Delhi was proposed to be mortgaged by the borrower was sent forward or recommend by Praveen Kaushik (A-1) as mentioned in my sanction my order." He further stated that it is correct that SMELF had taken steps on 14 November 2011 for seeking valuation report (D-56/50) Ex. PW1/D3 as well as legal opinion (D-56/51) Ex. PW1/D4. Much before the forwarding of proposal Ex. P-9 (D-29/1) by Sh. Praveen Kaushik (A-1) from Kirti Nagar branch. He further stated that there may be the probability of any negative report because CIBIL report is the last credit history of any individual and the same did not dealt with any property or asset of the concerned individual and borrower company. He further deposed that it is correct that vide comments, sanctioning authority Ex. PW1/D7 (D-56/90) Shri J.P. Sharma, Assistant Gen. Manager the then SMELF, had sanctioned the credit facilities on 12 December 2011, PSR is Post Sanction Review conducted after sanction of the credit limit. It is correct that PSR is dated 30 November 2011 Ex. PW1/D8 D-56/106-107, where limit was sanctioned on 12 December 2011.

19. The leading judgment on the point of sanction u/S. 19 of the PC Act is **2013 (8) SCC 119, State of Maharashtra through CBI Vs. Mahesh G. Jain**, in which it has been held as under :

"From the aforesaid authorities the following principles can be culled out :

14.1. It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out.

14.2. The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of the circumstances, has granted sanction for prosecution.

14.3. The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived at upon perusal of the material placed it.

14.4. Grant of sanction is only an administrative function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence.

14.5. The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order.

14.6. If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

14.7. The order of sanction is a pre-requisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be

a hypertechial approach to test its validity.”

(Underlining by me)

After considering the testimony of PW1 as a whole and keeping in mind the principles laid down in ***Mahesh G. Jain (supra)***, the prosecution has been able to prove that the sanctioning authority has granted the sanction **Ex. PW1/A** after going through the entire relevant material on the record. To my mind the sanctioning authority was not required to sift the material so as to reach the conclusion that ultimately it will result in conviction, as the same was not within the domain of the sanctioning authority, the same being a judicial function and the grant of sanction is purely an administrative function, which warrants that the sanctioning authority reaches the satisfaction *prima facie* after the entire relevant material has been placed before it for consideration.

Therefore, the sanctioning order cannot be construed in a hyper technical manner to test its validity, as in any case, the sanctioning authority was not holding a sort of mini trial at the time of according the sanction, which is the function of the trier of facts i.e. the Court. Therefore, it is apparent that the sanction u/S. 19 of the PC Act in the present case clearly satisfies all the principles laid down in the judgment ***Mahesh G. Jain (supra)***, therefore, the sanction has been accorded after due deliberation and after due application of mind after going through the relevant material by the sanctioning authority. Therefore, no fault can be found in the same.

20. **Now proceeding further, the analysis of the case in**



question will be done under the following heads :

ROLE OF A-2

Initially a current account was opened in the Bank of Baroda, Vishakha Enclave Branch, Pitam Pura in the name of Ashoka Agency of which A-2 Anoop Kumar Gupta was the proprietor, there was no introduction given by any other existing customer for the opening of the said account. It was mentioned in the column of introduction "known to the bank". The said account opening form has been proved as Ex. PW26/C (D15/4). The same also bears the signatures of A1 at point A who was the Sr. Branch Manager at that time. Thereafter, a loan application (D-19) which is admitted document Ex. P8 was moved by above A-2 Anoop Kumar Gupta, who was the proprietor of Ashoka Agency having his photograph at point B and signature at point A of the said loan application, in which he had offered the collateral of FD-6, Pitam Pura and that of Rana Pratap Bagh, Kamla Nagar, whereas the business of the firm was mentioned as trading of 'Hawan Samagri', having his existing account in UCO Bank, Kamla Nagar and the godown address was mentioned as 7, Sainik Vihar, Ground Floor, Pitam Pura. The said application was for Rs. 200 lakhs.

The said loan application was forwarded by another admitted document Ex. P7 (D-18) by A-1, whose signatures appears at point B to the Chief Manager, Bank of Baroda, RLF, DMR-II, Karol Bagh, New Delhi and contents of the letter are as under :

We are in receipt of BTL proposal from M/s. Ashoka Agency. The firm is dealing in whose sale trading of Hawan Samagri. We have visited the

godown of the firm at Sainik Vihar, Pitampura. We forward the proposal for your consideration. We have also visited the office of firm FD6 Pitampura, Delhi 34.

Along with the loan application, various documents which are also admitted by A-2 namely PAN card Ex. P16 (D-20) and election card Ex. P17 (D-21), electricity bill Ex. P18 (D-22), the balance sheet(s) Ex. P19 (D-23) and Ex. P20 (D-24) were also appended by the said accused, and other statement reflecting the income of the firm duly audited by the chartered accountant Ex. P21 (D-25). However, as per the testimony of PW55 Sh. Sandeep Malhotra, he never audited the said balance sheets and statement of accounts and the same did not bear his official seals and they were forged.

Thereafter, it so happened that the said loan proposal was returned vide another admitted letter Ex. P6 (D-17) dated 02.03.2011 by the RLF DMR-II, addressed to the Branch Manager, Bank of Baroda, Vishaka Enclave, New Delhi for Rs. 200 Lakhs, the contents of the said letter are as under :

Legal issue raised by empanelled lawyer Mr. Ashwani Kumar as per legal report enclosed, was as under :

We also request you to recover Rs.3500/- as legal charges & Rs. 1500/- as valuation charges from customer and credit to our a/c 009702/1234 as per bills (sic) for legal opinion and valuation report.

The legal opinion due to which the said loan was rejected is

contained in (D-61) **Ex. PW1/D1** dated 19.01.2011 of the counsel Avnish Kumar, who was the empaneled lawyer of the said bank. Pursuant there to the vouchers of Rs. 5,000/- **Ex. PW26/A** and **Ex. PW26/B** were debited from the account of M/s. Ashoka Agency towards the legal and valuation charges.

21. The accused A-1 had himself stepped into the witness box u/s. 315 CrPC as defence witness and has examined himself as DW1. In his cross-examination by the Ld. PP for the CBI, he has admitted that while he was posted in Vishaka Enclave branch, the account of Ashoka Agency was opened under his supervision for the first time and it was correct that there was no introducer for opening the account of Ashoka Agency. He had taken the interview of A-2 to ascertain his credibility and capability to do the business and to utilize the loan as per rules.

He also admitted that it was correct that on **Ex. P6** i.e. (D-17) which is the letter sent by RLF to the Vishakha Enclave Branch rejecting the proposal for the loan of Rs. 200 lakhs, the word "cancelled" at point A was endorsed by him. He also admitted that the vouchers **Ex. PW26/A** and **Ex. PW26/B** were passed by him.

Thereafter, the story moves to Kirti Nagar Branch of Bank of Baroda, where A1 was transferred somewhere in June 2011, where after another loan proposal was moved on behalf of the same firm M/s. Ashoka Agency of which A-2 was the proprietor vide document (D-29) dated 20.11.2011 addressed to SME, Loan Factory, DMR-II, New Delhi for Rs. 315 lakhs, also forwarded by A-1 along with the relevant

documents including the balance sheets. Along with the loan application proposal, there was the brief history of the applicant A-2, who was the proprietor of Ashoka Agency (D29/54 to 57) **Ex. P31 (colly.)** and for which the collateral security which was offered to the bank was residential property no. 7 basement and ground floor, Pitam Pura in the name of the proprietor A-2, the valuation of which was stated to be Rs. 50 lakhs. Further, as per the relevant documents appended with the loan application regarding the loan of Rs. 315 lakhs including the balance sheet upto 31.03.2011 purported to have been issued as M/s. Prakash K. Chartered Accountants, the same was stated to be forged as per the deposition of PW17 Mr. Gurpreet Singh vide document **Ex. PW17/A** and also the balance sheet for 31.03.2009 **Ex. PW17/B** and balance sheet for 31.03.2010 as the said witness stated that Ashoka Agency was never their client at any point of time and he was working in the said firm and Mr. Prakash Gupta was the senior most partner of the said firm. He has also proved the other relevant audit reports **Ex. PW17/D** to **Ex. PW17/E**.

Ultimately after processing of the said loan application at SME, Loan Factory, DMR-II, New Delhi the loan of Rs. 315 lakhs was sanctioned vide letter (D-13) **Ex. P4**.

22. The A-2 had offered as collateral a sale deed dated 08.12.2006 executed by A-3 in his favour in respect of entire basement and ground floor without its roof rights, which was the part of the property bearing no. 7, land measuring 300 sq. meters in the Delhi Sainik Cooperative House Building Society, known as Sainik Vihar,

Pitam Pura for a consideration of Rs. 18 lakhs. However, as per the case of the prosecution, the cheque amount of Rs. 4,50,000/- vide cheque no. 321076, dated 08.12.2006 drawn on Oriental Bank of Commerce at Sadar Bazar, Bara Tooti, Delhi and another amount of Rs. 4,50,000/- vide cheque no. 321077, dated 08.12.2006, drawn on Oriental Bank of Commerce, at Sadar Bazar, Bara Tooti, Delhi were never encashed in favour of A-3.

23. Further, as per the case of the prosecution, it is alleged that the said sale deed (D-6) Ex. PW49/A was a forged document, though as per the treasury challan (D-4), a stamp papers of Rs. 1,44,000/- were applied and issued in favour of A-2, which has been proved by PW22 Sh. Yuv Raj Handa, who was working as Dy. Manager, SBI, Tis Hazari branch, at the relevant time. He after seeing the copy of above treasury challan stated that this challan was pertaining to the purchase of the stamp papers P-68 (the original of which is D-6, as mentioned above) for a sum of Rs. 1,44,000/-, the challan is in the name of Anoop Kumar Gupta, which is Ex. PW22/A and he further submitted that the signatures at point A on P-68 (the original of which is [D-6], as mentioned above) on the back of the non judicial stamp papers amounting to Rs. 1,44,000/- are his.

He further deposed that the said stamps paper bearing no. 278943 to 278947 each for Rs. 25,000/-, stamp paper bearing no. 005746 for Rs. 15,000/- and four stamp papers bearing no. 576620 to 576623 for Rs. 1000/- each and total amounting to Rs. 1,44,000/- were issued by Tis Hazari Branch of SBI in the name of Sh. Anoop Kumar



Gupta S/o. Sh. Prem Shankar Gupta, R/o. D-13/19, Sector-7, Rohini, Delhi for sale of Property no. 7, Sainik Vihar, Delhi. Nothing has come out in his cross-examination, which could help the case of the defence.

24. The perusal of the original sale deed (D-6) Ex. PW49/A when compared with the copy of the same kept in the office of the sub Registrar Ex. PW56/A (D-45) shows that there are number of differences, as on the back of the first page the alleged signatures of A-3 appears at different place (compared with copy of original), as also the PAN number has been mentioned below the photograph of A-2, which is missing in the sale deed (D-6) submitted with the bank i.e. Kirti Nagar Branch as also on back of the page no. 2 of document (D-6), there are number of differences with the original, as the thumb impression of the alleged witnesses, the executant and the seller are at different places from that of the copy of original kept at the office of Sub Registrar. Even the signatures of the witnesses on the said document (D-6) on the last page are signed differently.

25. Further, as per the report of the India Security Press, Nasik, (D-88) where the original document (D-6) was sent for analysis and which has been proved by the testimony of PW65 Mr. S. K. Sanyal vide report Ex. PW65/A and the forwarding letter Ex. PW65/C, it has been stated / opined that the questioned exhibits Q1 to Q10 i.e. the serial number on the stamp papers in question on document (D-6) Ex. PW49/A have been obliterated and new serial numbers have been given on them. This report of the India Security Press coupled with the



testimony of PW22 who testified that the stamp papers were issued in favour of A-2 for Rs. 1,44,000/-, whereas the original copy of the said sale deed, which was executed on the non judicial stamp papers of Rs. 1,44,000/- issued in favour of A-2, shows that the numbers on the stamp papers, the original of which should have been in his possession as issued by the treasury of State Bank of India, Tis' Hazari, have been altered or obliterated, leads to conclusive inference that it was only A-2, who had tempered with the numbers on the stamp papers, as he was the one who had provided (D-6) original sale deed Ex. PW49/A to the Kirti Nagar branch as collateral of 7, Sainik Vihar and he was the one who had purchased the stamp papers from the treasury as discussed above and he must have been in possession of original sale deed (D-6) after the execution of sale deed in respect of the property 7, Sainik Vihar in his favour by A-3 on 08.12.2006. Therefore, the only logical conclusion which can be drawn from these facts is, that it was the A-2 only who had forged or altered or obliterated the numbers of the stamp papers, which were originally issued in his favour and no one else.

26. Further, to show the criminality of A-2, he was not having any legal title to the property in question, when he had offered the collateral of the same i.e. 7, Sainik Vihar with the Kirti Nagar branch with Bank of Baroda in November 2011 while seeking loan of Rs. 315 lakhs, as he had already executed sale deed dated 04.02.2010 in favour of A-5, as vide document Ex. P/59 (D-94), the A-2 had executed the sale deed in favour of the same property i.e. 7, Sainik Vihar, in favour of A-5 for a consideration of Rs. 33 lakhs.



Therefore, it is apparent that A-2 was not having any title left with respect to the property 7, Sainik Vihar, when he offered the collateral thereof with the Bank of Baroda, Kirti Nagar branch while seeking the loan in November 2011, as he had already been divested from the title of the said property in February 2010 itself, which also shows the criminal intention of the said accused from the very beginning of the loan transaction in question.

27. Further the CFSL report(s) in this case pertaining to the handwriting and thumb impressions Ex. PW73/1 to Ex. PW73/7 and Ex. PW74/A and B also corroborate the factum of forgery of the Ex. PW49/A (D-6), as it has come in those reports that signatures on sale deed D-6, purported to be of Sh. Jagmohan Mittal i.e. A-3 (seller), Sh. Anoop Kumar Gupta i.e. A-2 (purchaser) and Sh. Pradeep Upadhyay i.e. A-4 (witness) did not tally with their specimen and admitted signatures, which also leads to the inference that the said sale deed (D-6) Ex. PW49/A is a forged / false document(s), as if the same would have been genuine then it should have had the original signatures of the seller i.e. A-3, the purchaser A-2 and of the witness A-4. Further, as per the said report(s) the thumb impression Q-32, Q-33 (purported to be of Jamohan Mittal i.e. A-3 on sale deed D-6) are identical with specimen thumb impression of Sh. Pradeep Kumar Upadhyay, which also shows that the said document D-6 is a forged document, though, it matches with the admitted thumb impression of the A-4, when compared with those of specimens, in any case, the chances of error in the case of comparison of thumb impression are almost negligible as



unlike the science of identification of the handwriting, the science of the comparison of thumb impression is an exact science and no two persons on the planet can have similar thumb impressions.

28. Further, as per the said reports the questioned signatures Q-27 to Q-29 (D-6) could not be connected with specimen / admitted writing S-31 to S-40 (D-41) and A-31 (D-45) attributed to Sh. Shalesh Kumar, which also shows that the said sale deed submitted by the accused A-2 with the bank was a forged piece of valuable security. Further, as per the said reports, signatures of A-3 on copy of sale deed dated 08.12.2006 (D-45) Ex. PW56/A kept in record of Sub Registrar did not tally with that of A-3. Further, the signatures of A-4 on copy of sale deed dated 08.12.2006 (D-45) kept in record of Sub Registrar tallied with specimen signatures of A-4, which also shows that A-4 was also throughout active in the transaction of the execution of the sale deed dated 08.12.2006 and preparation of the false valuable security handed over to the bank (D-6) Ex. PW49/A to the bank at the time of availing loan facility of Rs. 315 lakhs.

Further, as per the seizure memo (D-5) Ex. PW51/A prepared by the Addl. Superintendent of Police, CBI Mr. Ravi Gambhir, the certified copy of the original sale deed (D-6) Ex. PW49/A was seized from the Kirti Nagar branch of Bank of Baroda, which is (D-7) and admitted as Ex. P69. In this regard, the witness PW49 the LDC from the said Sub Registrar office namely Sh. Om Prakash was examined, who stated that the said document does not bear his signatures at point(s) Q-37, Q-38, Q-39 and Q-40. Further, as per the



CFSL report(s) Ex. PW73/1 to 7 and Ex. PW74/A and B, it was opined that the questioned signatures Q-34 to Q-40 (D-7 & D-8) could not be connected with specimen / admitted writing S-66 to S-85 (D-43) attributed to Sh. Om Prakash. The testimony of PW49 coupled with the CFSL reports shows that even the certified copies seized from the records of the Bank of Baroda, Kirti Nagar branch were forged piece of document(s), which bore the forged signatures of the person issuing the certified copy / record keeper.

Therefore, it is apparent that A-2 had prepared a false document i.e. the copy of the sale deed dated 08.12.2006 (D-6) Ex. PW49/A along with other accused persons as discussed above, which was a valuable security for the purpose of dishonestly deceiving and inducing the Bank of Baroda, SMELF Branch in sanctioning the loan of Rs. 315 lakhs, which was a valuable security, which would fall within the definition of making a false document u/s. 464 IPC and therefore, would be forgery as defined u/s. 463 IPC, which forgery was committed intending that the said document Ex. PW49/A (D-6) shall be used for the purpose of cheating the said bank and which document was fraudulently and dishonestly used as genuine document while offering the collateral security of the property 7, Sainik Vihar, which A-2 knew or had reason to believe was a forged document.

29. **ROLE OF A-1**

With regard to the arguments of A-1 reproduced as above, it would be relevant to discuss the testimony of relevant witnesses qua the said evidence.



PW25 Sh. R. K. Goel, Valuer in his examination in chief has deposed that "I had submitted the report in the Bank of Baroda branch, SME-II, Parliament Street, New Delhi. Valuation report dated 16th November 2011 of the said property is Ex. PW25/A."

PW26 Ms. Meera Suri in her examination in chief has deposed that "Vouchers (Ex. PW26/A and Ex. PW26/B) are debit and credit vouchers towards valuation and legal charges i.e. Rs. 5,000/- collected by the bank."

PW32 Sh. Kamlesh Kumar Tiwari in his examination in chief has deposed that "at this stage, I have been shown a document already exhibited as Ex. PW1/DA... It is a letter dated 14.11.2011 issued by Manager, SME Loan Factory, DMR-II, Bank of Baroda addressing to Amit Gupta, Advocate..... I went to Bank of Baroda, parliament Street New Delhi in order to collect the letter and documents."

PW33 Sh. Navinder Nath in his examination in chief has deposed that "After receiving the loan proposal from the party, the 30. PW34 Sh. S. K. Gupta in his examination in chief has deposed that "I produced the documents to CBI after collecting the same from Kirti Nagar and Vishakha Enclave branch and some documents were available in our office and same were also handed over to CBI. He further deposed that "Today I have been shown production cum seizure memo dated 23.01.2015 (D58) running into 2 pages which bears my signatures at point A on both the pages. The same is Ex. PW34/A. In his cross-examination, he has deposed that the "Document Ex. P48 (D-60) valuation report was received from Vishakha Enclave. He further deposed that "I



did not requisition an document from Kirti Nagar branch. There has been a mistake on my part, when I stated requisitioning of documents from Kirti Nagar branch. He further deposed that "I did not write any letter to Vishakha Enclave branch requisitioning the exhibited documents D-59, D-60, D-61, D-63, D-64. I state that these documents were available in Regional office of Bank of Baroda and I collected the documents from the Regional office. It is correct that my statement to the effect that I had collected the documents from Vishakha office was not correct." He further deposed that "Prior to my posting in the vigilance department, Mr. S. K. Gupta was also posted there. So far as Mr. S. K. Gupta is concerned, he had not made any inquiry / verification with respect to any document pertaining to this case."

31. PW35 Sh. Narinder Nath in his examination in chief has deposed that "After receiving the loan proposal from the party, the branch further forwards it to Retail Loan Factory (RLF) for their consideration. Thereafter, RLF further scrutinize the documents submitted by the party." He further deposed that Ex. P-7 is a letter dated 25.01.2011 by virtue of this letter, the fresh BRL proposal of M/s. Ashoka Agency which was forwarded for kind consideration of Chief Manager, Bank of Baroda, RLF, DMR II, Karol Bagh, New Delhi. In his cross-examination he has deposed that "Ex. P-7 is simply a forwarding letter of the proposal of M/s. Ashoka Agency in which no recommendation has been made by the branch. He further deposed that "Vide D-19 Ex. P-8 the security at serial no. 3

offered for the proposal forwarded by the branch is FD-6 Pitampura and Rana Pratap Marg, Kamla Nagar: It is correct that property 7, Sainik Vihar, Pitam Pura is not the security offered for the proposal (Ex. P-8). Any statement showing 7, Sainik Vihar, Pitam Pura as security for the proposal will be an incorrect statement. Similarly any statement contemplating the recommendation by the branch for this proposal will be an incorrect statement in as much as security offered was FD-6, Pitam Pura, Delhi, as per Ex. P-8.

32. PW37 Mr. Shekhar Tripathi, is the complainant on whose complaint the present case was registered by CBI. in his examination in chief he has admitted that complaint listed as (D-1) Ex. PW37/A. In his cross-examination, he has deposed that the property in question i.e. 7, Sainik Vihar, Delhi title deeds of which equitably mortgaged was found in order, which enables Bank of Baroda to file civil suit. He further deposed that the "Document D-18 (Ex. P-7) does not contain recommendation on the part of the forwarding for sanction of the proposal vide document D-19 (Ex. P-8) at serial no. 3 under security head, the details of the property, mentioned are FD-6, Pitampura and Rana Pratap Marg, Kamla Nagar. It is correct in this application D-19 (Ex. P-8), there is no mention of property no. 7, Sainik Vihar, under the head of security at serial no. 3 of the application.

PW38 Sh. K.S. Butalia, internal investigation officer of Bank of Baroda has deposed in his examination in chief that "I had



discovered that an account of the said firm i.e. M/s. Ashoka Agency was opened in Vishakha Enclave branch of Bank of Baroda in the year 2011. Thereafter on perusal of statement of the account at Vishakha Enclave branch of Bank of Baroda, it was seen that Rs. 5,000/- was debited in the said account pertaining to legal and valuation charges indicating that a proposal for credit of the said party had been processed by our Retail Loan Factory, Karol Bagh. In his cross-examination, he has deposed "The witness is shown Ex. P-7 (D-18) along with Ex. P-8 (D-19) and according to witness he did not come across these documents while inquiring and preparing report. I did not feel it appropriate to obtain the above documents as relevant were confirmed to me by RLF." He further deposed that "I have not filed any document or manual with respect to guidelines concerning introduction of the new account." He further deposed that it is correct that normally valuation and legal opinion is initiated after the proposal.

33. PW42 Sh. Bhramar Saxena, by whom Staff Accountability was decided on behalf of the said Bank. He has given the staff accountability report vide D-62 (Ex. PW1/D-5). In his cross-examination, the following question was put to him ; and was replied as under :

Q. Did you raise any query with SMELF as to why and how they have started the exercise of processing the proposal in as much as the documents were sought from the prospective borrower vide Ex. PW1/D-2, dated

**09.11.2011 legal opinion from advocate on 14.11.2011
whereas the proposal application is dated 20.11.2011.**

**Ans. I did not raise any query with respect to the above
facts.**

34. PW43 Ms. Kusum Jain in her examination in chief has deposed that "I have seen the certified copy of the appraisal note dated 30.11.2011 which bear my signature at point A on page 89 of D-56 and signature of Aditya Ravi at point B whereby we have recommended for cash credit facility of Rs. 315 lakhs to M/s. Ashoka Agencies. The appraisal note is Ex. PW43/B." It is correct that NEC and valuation has been sought by SMELF on 14.11.2011 before the receipt of formal proposal." He further deposed that SMELF had been in the knowledge of the borrower, M/s. Ashoka Agency, having an account with Vishakha Enclave D-56/82, D-56/85, but they did not make inquiry from the branch. He further deposed that "No other inquiry was made from Vishakha Enclave branch except the statement of account of M/s. Ashoka Agency." He further deposed that "it is correct that certain points mentioned in the letter dated 02.01.2012 were dealt with on 03.04.2012 after a gap of about 3 months."

35. PW45 Sh. Jai Prakash Sharma in his examination in chief has deposed that "Then the duty of the processing officer is to scrutinize the document, generate CIBIL report analyzing the statement of account, balance sheet and valuation report,



advocate report verifying the papers of the mortgaged property.” In his cross-examination, he has deposed that “The sanction was approved as the documents were found in order including the CIBIL (forming the part of Ex. P-43/13).

PW50 is Sh. Raj Kumar in his cross-examination has deposed that Bank of Baroda registered its charge in CERSAI portal on 12.01.2012.

36. PW54 Sh. Aditya Ravi in his examination in chief has deposed that “I dealt the proposal of loan received at SMELF from Kirti Nagar branch, Bank of Baroda, I can identify the document received in the above context if shown to me. He further deposed that I have seen the document D-66, Ex. P-14, it is a bank SME policy under which all the proposal were dealt, I can identify the document which were forwarded to SMELF by Kirti Nagar branch. In his cross-examination, he has deposed that “My job role, study the complete proposal, which include eligibility for finance, marketability of product, background and experience of the firm, analyzing the financial past, project and future, credit rating of the borrower, scrutiny of legal search and valuation report, pre sanction visit of unit and go down of firm, pre sanction property visit offered as collateral and security of CIBIL report credit report. The following question was also put to him during his cross-examination :

Q. What activities were done in respect of seeking document and information from the prospective borrower



at SMELF ?

Ans. We independently did not seek any such document or information. We processed the proposal on the basis of documents and information forwarded by the branch to SMELF.

At this stage (D-56) Ex. PW1/D-2 dated 09.11.2011 is shown to the witness and it is admitted by the witness that the letter was written by marketing department of SMELF. He further deposed that "It is correct that opinion was also sought by SMELF on 11.11.2011 and 14.11.2011 as reflected vide Ex. PW1/D-3 and Ex. PW1/D-4 respectively. I do not remember the date when the proposal was received from Kirti Nagar branch. However, it may correct that it was received on 20.11.2011." He further deposed that "It is correct that opinion was sought by SMELF on 11.11.2011 and 14.11.2011 as reflected vide Ex. PW1/D-3 and Ex. PW1/D4 respectively. He further deposed that "I do not remember whether any letter inquiring about the account in the similar name with Vishakha Enclave branch was raised or not. I cannot admit or deny that the query was raised by me.

37. PW80 is Sh. Ranvijay Singh, the investigating officer of this case, who in his cross-examination has deposed that "The specimen hand writing of accused Praveen Kaushik was not taken." He further deposed that "It is correct that mention of the property 7, Sainik Vihar is not available in the list of collateral security furnished by M/s. Ashoka Agency, as mentioned in the application



form Ex. P-8 (D-19). He further deposed that "It may correct no CIBIL of borrower M/s. Ashoka Agency was generated at SMELF before the sanction of loan" He further deposed that "It is correct that three officials of SMELF namely Sh. J.P. Sharma, Shri Aditya Ravi and Ms. Kusum Jain were looking after the proposal of the present matter at this level. I do not remember whether any departmental proceedings were initiated against above officer. It is correct that as per Ex. PW78/B (D-68) disciplinary action has been communicated to me in respect of above three officers."

38. From the bare perusal of the documents (D-19) Ex. P8, (D-18) Ex. P7 and (D-17) Ex. P6 as well as the admissions made by A-1, who appeared as DW1 in his cross-examination that vouchers Ex. PW26/A and Ex. PW26/B were passed by him, shows that he was very much aware about the property 7, Sainik Vihar being offered as a collateral for the loan of Rs. 200 lakhs, while working as Senior Branch Manager at Bank of Baroda, Vishakha Enclave branch, which loan was rejected due to the adverse legal opinion given by the empaneled lawyer. In Ex. P8 (D-19) the godown address has been mentioned as 7, Sainik Vihar, Ground Floor, Pitam Pura and in the loan rejection letter (D-17) Ex. P6, it has been specifically mentioned that the legal issues raised by the empaneled lawyer as per the legal report are enclosed and DW1 also admitted in his cross-examination that he wrote the word "cancelled" at point A on the Ex. P6 and the legal report of the lawyer is (D-61) Ex. PW1/D1.

However, from perusal of the relevant documents with



regard to the loan of Rs. 315 lakhs, sanctioned from Kirti Nagar Branch pursuant to the loan proposal Ex. P9 (D-29/1), dated 20.11.2011 and loan sanction letter dated 30.11.2011 Ex. P4 (D-13) and another relevant document Ex. PW1/D3 (D-56/50), which is a letter written to the valuer Sh. R. K. Goel by the SMELF and another letter Ex. PW1/D4 (D-56/51), which is a letter written to the empaneled lawyer Sh. Amit Gupta also dated 14.11.2011 and another letter dated 09.11.2011 written by same SMELF to the borrower Ashoka Agency Ex. PW1/D2 (D-56/53) it appears that they have directly asked the party i.e the borrower for various documents as mentioned in the said letter, which was submitted to them directly and the report submitted on behalf of borrower Ashoka Agency giving the brief history of the business of Ashoka Agency and other particulars is Exhibit PW1/D2 namely (D-56/58), it is clearly mentioned therein that the property 7, Sainik Vihar consisting of basement and ground floor is being offered as collateral which was in the name of proprietor i.e. A-2 and the value of the property was Rs. 500 lakhs. These documents which have been seized by the prosecution itself during investigations clearly shows that SMELF was already in touch directly with the borrower and was processing the loan of A-2 independently, bereft of forwarding of the letter by A-1 Ex. P9 (D-29/1) which it appears, was not having any effect on the decision with regard to the sanction of the loan of Rs. 315 lakhs, which was ultimately sanctioned in favour of A-2.

39. Further, as per the administrative guidelines for SME Loan Factory which are Ex. P15 (D-67) and Ex. PW78/A, as per the serial

no. 10 which prescribes procedure for submission of proposal / processing of proposals and under the heading **Guidelines for processing proposals at various stages**, it has been mentioned as under :

In case of new accounts, all information should be sought from the prospective borrowers directly and not through the branch.

Further at serial no. 12 with regard to the role of the branch, under the heading **in case of new business**, it has been mentioned as under :

Once a lead is provided by the branch, it will be the responsibility of SME Loan Factory to coordinate with borrower directly to get the required information and not through branch. Recommendations of branch Manager in this case are not required.

These guidelines for processing of loan by SMELF shows that in case of new loan accounts, all information has to be sought directly from the prospective borrower and not through the branch. Further, once a lead had been provided by the branch, it was the responsibility of the SMELF to coordinate with the borrower directly to get the required information and not through the branch and recommendations of the branch manager in this case was not required.

These guidelines clearly show that there was no question of any role of the branch / branch manager in the processing of the loan application, once a lead had been provided by the branch then SMELF



had to deal with the borrower directly even taking information from the borrower directly and the documents Ex. PW1/D3, D4 and D2 clearly shows that though the loan proposal was forwarded by A-1 on 20.11.2011, whereas SMELF was already directly in touch with the borrower, as they had been seeking information from the borrower on 09.11.2011 and had written to the valuer on 14.11.2011 seeking valuation of the property offered as collateral and legal opinion from their empaneled lawyer. Therefore, it is not clear how the SMELF was directly dealing with the borrower even before forwarding of the loan application.

40. Further, it has been admitted by PW43 Ms. Kusum Jain, who was posted as Senior Manger at SMELF along with Mr. Aditya Ravi Manager and Sh. J. P. Sharma, Asst. General Manager, who was one of the team members of the SMELF, who had recommended the loan of Rs. 315 lakhs vide appraisal note Ex. PW43/B in her relevant cross-examination as under :

It is correct that NEC and valuation has been sought by SMELF on 14.11.2011 before the receipt of formal proposal.” She further deposed that SMELF had been in the knowledge of the borrower, M/s. Ashoka Agency, having an account with Vishakha Enclave D-56/82, D-56/85, but they did not make inquiry from the branch. She further deposed that “No other inquiry was made from Vishakha Enclave branch except the statement of account of M/s. Ashoka Agency.”



These admissions clearly shows that SMELF was very much aware that the Ashoka Agency i.e. the borrower was having an account with the Vishakha Enclave branch (D56/82) and (D-56/85) (sic.), yet no inquiry was made from the Vishakha Enclave branch except the statement of account of M/s. Ashoka Agency, which she has admitted in her cross-examination. Therefore, it appears that there was lack of due diligence on the part of the officials of SMELF, as if they wanted and if they had exercised due diligence then they would have known that the earlier loan proposal of the same borrower at Viskakha Enclave branch of Rs. 200 lakhs had been rejected, due to adverse legal opinion.

41. Further, it appears that the lapses were throughout at all levels, i.e. at the level of processing and digging out the past record of the borrower at legal and post-sanction stage, for which three officials of SMELF namely Sh. J. P. Sharma, Sh. Aditya Ravi and Ms. Kusum Jain were departmentally charged and department action was taken against them as per Ex. PW78/B (D-68). The said lapses have also been enlisted in detail in Ex. PW1/D-5 (D-62), the said staff lapses enlisted in the staff accountability report, prepared in tabular form by the investigating officer of the bank dated 06.01.2014 reveals the following lapses on part of the different officers of the bank at different levels :

Stage	Irregularity / Lapse	Name of the staff responsible
Proposal forwarding	The discrepancies pointed out by lawyer of	Mr. Praveen Kaushik, Chief

	RLF-II relating to title of the property proposed to be mortgaged were not disclosed while forwarding the proposal for CC limit of the firm from Kirti Nagar branch (Annexures 41 & 32)	Manager, No.45944 EC
Pre-sanction	Pre-sanction inspection was not conducted meaningfully and possession, valuation etc of the collateral security was not verified Reason for different addresses in invoices, ITRs and form 135 was not ascertained and correct address not verified (Annexure-19, 21, 24, 36)	Mr. Aditya Ravi, Manager SMELF EC No.63783 Mr. Praveen Kaushik, Chief Manager EC No.45944
Processing and sanction	Credit report of the firm from UCO Bank was not obtained, ITRs not got verified and CIBIL reports were not generated before sanction	Mr. J.P. Sharma, AGM / SMELF Head EC No.45678 Ms. Kusum Jain Head Credit SMELF EC No.48656 Mr. Aditya Ravi, Manager SMELF
	Difference in tax amount in ITRs and balance sheets was not questioned (Annexure-19)	EC No.63783

	Sale projection was not critically examined and the documents in its support such as purchase orders invoices were not properly scrutinized (Annexure 20, 34-36)	
	No justification for not availing limit from Vishakha Encl branch where the party had Current Account	
	-Involvement of an intermediary/outsider was allowed in processing of the proposal as is evident from the mails sent for getting information, contact person mentioned in letters sent to valuer & lawyer by SMELF (Annexure-44 & 45)	
	Validation of credit rating dated 03.01.12 was not done (Annexure-18) KYC documents obtained by SMELF had incoherent information as father's name in election Id card was Prem Shanker Gupta whereas in PAN card it was Prem Kumar and	Ms. Kusum Jain Head Credit SMELF EC No. Mr. Aditya Ravi, Manager SMELF EC No.63783

	the age also differs. (Annexure-38) but the discrepancy was not noticed by the processing officials	
Documentation	Permission for use of the mortgaged residential property for commercial purposes was not verified (Valuation report Annexure 42) Permission to sell floors separately was not examined	Mr. Praveen Kaushik , Chief Manager B/o Kirti Nagar EC No.45944 Ms. Snehlata Jain, Manager (Credit) Kirti Nagar Branch EC No.27519
	Transactions in current accounts of the firm were not properly scrutinized because of which the fictitious transactions escaped attention (Annexure-30,37)	
	-Address of proprietor, Anup Gupta given in ITRs and in form 135 are different (Annexure 19 a-c, 21)	
Post sanction monitoring	-Turnover in current account and CC together upto December 2011 during 2011-12 was not commensurate with reported sales of Rs. 2833.22 lacs during the period but no action was taken. -Details of legal heirs of	Mr. Praveen Kaushik, Chief Manager B/o Kirti Nagar EC No.45944 Ms. Snehlata Jain, Manager (Credit) Kirti Nagar Branch EC No.27519

	sole proprietor different in LDOC 134 and in F-135 but not aroused suspicion in minds of Branch officials (Annexure-15,21)	
	-Warning signals of fictitious transactions to and fro the same parties in CC and CA accounts of the firm were not captured (Annexure 30, 37).	
	-The electricity bill in respect of the mortgaged property is still in the name of the purported seller of the subject property namely Jagmohan Mittal although the property had been sold in November 2006 (Annexure 46)	

42. No doubt, A-1 had also the accountability as well as serious questions to answer, as he had introduced A-2 at the Vishakha Enclave branch when he firstly sought loan of Rs. 200/- Lakhs without any introducer, though, it has been argued on behalf of A-1 that it was not the requirement of KYC norms that any introducer was necessary and even the bank manager in order to generate business could introduce any person after taking his suitable interview, which he did. However, this fact cannot be glossed over that he had not disclosed that the

same property which was offered as collateral security for the loan of Rs. 315 lakhs at Kirti Nagar Branch was having legal defect as per the report of another lawyer and the rejection letter dated 02.03.2011, which also enclosed the legal report of the said lawyer. It may be that the said report during the investigations may not have been seized from the concerned branch, as it is quite possible that the same may have been transmitted to the internal investigating officer of the bank to fix the responsibility of the bankers in the lapses which lead to the loan of Rs. 315 lakhs turning into NPA. However, it is clearly evident from the evidence discussed above that A1 had passed the vouchers for the legal and valuation report and debited the account of the borrower i.e. A-2 and he had also endorsed the word "cancelled" on Ex. P6 (D-17) in which it is clearly mentioned that the report of legal empaneled lawyer is enclosed. Therefore, A-1 cannot run away from this fact by saying that he was not aware about the defect in the title of the property 7, Sainik Vihar as the collateral offered was FD-6, Pitam Pura, as the report of the lawyer Sh. Avnish Kumar (D-61) PW1/D1 clearly discusses the title of the property 7, Sainik Vihar and not FD-6, Pitam Pura.

However, his above act(s) would fall under the domain of negligence, as no criminal intent or criminality can be attributed to him nor any commonality or unity of purpose for project in question i.e. seeking the loan of Rs. 315 lakhs in conspiracy with other accused persons can be made out or inferred, as there was a departmental lapse(s) on his part as well as other bank officials of SMELF branch and for which the departmental action was also taken and lapses were



found throughout at all stages. Consequently, the act(s) of the A-1 would fall short of criminality and rather would be under the arc of negligence having no mens rea or criminal intention. Since the probative force of the prosecution evidence as a whole, is not touching the point of certainty or near it, the yardstick in criminal trial to convict is proof beyond reasonable doubt, as a consequence the accused Praveen Kaushik (A-1) stands acquitted of the charge(s) u/S. 120B IPC r/w. 420 IPC, 467 IPC, 468 IPC & 471 IPC & 13(2) r/w. 13(1) d of PC Act, as also of substantive offence(s) u/S. 420 IPC, 471 IPC & Section 13(2) r/w 13(1) d of PC Act 1988.

43. **ROLE OF A-3**

The A-3 who had allegedly executed the sale deed dated 08.12.2006 Ex. PW49/A (D-6) in favour of A-2 with regard to the property 7, Sainik Vihar consisting of ground floor and basement had a initial conveyance deed executed in his favour by the DDA Ex. PW28/C dated 19.03.2004 in which A-5 is also one of the witness. On the basis of the said conveyance deed, the said A-3 had availed a loan from SBI, Naraina Industrial Area of Rs. 75 lakhs vide sanction letter Ex. PW28/D (Colly) by mortgaging the same property 7, Sainik Vihar ground floor and basement. As already discussed above, if the original title deeds / conveyance deed of the same property was lying with the SBI, Raouri Garden in the year 2005, then how A-3 could have executed the sale deed in favour of A-2 dated 08.12.2006 Ex. PW49/A which clearly shows that the forgery / deception on part of A-2 and A-3 as discussed above. The said loan was sanctioned in favour of M/s.



Umrao Singh Jagmohan, which was the proprietorship concern of A-3.

44. Not only this, the same A-3 had entered into a loan agreement vide agreement dated 04.02.2008 with Yes Bank, Rajouri Garden for Rs. 10 lakhs vide sanction letter dated 15.07.2013, which was the loan sanctioned in favour of Bankey Bihari Toys of which A-3 was the proprietor, whereby he had again created all equitable mortgage of the same property i.e. 7, Sainik Vihar, Pitam Pura. The said document (D78/21) is also part of the Ex. PW44/B (Colly). The perusal of the said documents also reveals that the conveyance deed which should have been lying with the SBI, while taking earlier loan, as discussed above vide sanction letter dated 15.09.2005 was again kept as collateral with the Yes Bank which is also the part of Ex. PW44/B (colly.) (D-78/109), which also shows that forgery and deception had been practiced by the same accused with the above banks, which though is not the fact in issue in the present case, as separate FIR(s) have been registered with regard to the same. However, it does show the criminality of the accused A-3 as well as his mens rea.

45. Further, regarding the flow of money inter se into the accounts of A-2 and A-3, the statement of the account of Ashoka Agency in which the loan of Rs. 315 lakhs was disbursed after sanction in the Kirti Nagar branch reveals the transfer of money from the statement of account of Ashoka Agency Ex. PW68/D (D-37) of which A-2 was the proprietor, which shows that the money was transferred into the another account of this accused namely Mahalakshmi Traders



with the Standard Chartered Bank, for instance there is debit of Rs. 9,90,000/- vide entry dated 22.09.2012 from the said account of Ashoka Agency into the account of Mahalakshmi Traders and there is further transfer of Rs. 9 lakhs vide entry dated 04.09.2012 and similar amount had been debited in the account of Ashoka Agency on 31.08.2012. As per the statement of account of Mahalakshmi Traders with Standard Chartered Bank, Karol Bagh which is Ex. P/60 and which is part of Ex. P80/J (colly.) shows that the said account was opened by A-2 as proprietor of said firm manufacturing toys and the statement of account of the said firm maintained with the Standard Chartered Bank during the course of officials banking business shows that an amount of Rs. 14 lakhs have been received from Ashoka Agency, another account of A-2 on 22.07.2012 and another amount of Rs. 10,90,000/- has again been received from above Ashoka Agency on 29.07.2012 in the said account.

46. The perusal of the said statement of account also reveals that an amount of Rs. 2,10,000/- and Rs. 5,50,000/- had been transferred into the account of M/s. Bankey Bihari Toys of A-3 on 17.08.2012 and similarly an amount of Rs. 32,50,000/- had also been transferred into the account of Binkey Bihari Toys vide entry dated 28.09.2012 and an amount of Rs. 2 lakhs has also been transferred into the said account vide entry dated 03.10.2012 and so on. Similarly, the statement of account of the A-3 maintained with UCO Bank, Kamla Nagar branch in the name of Bankey Bihari toys which is collectively Ex. PW46/C and the statement of account is D-74/61 to 64 relevant



portions shows that an amount of Rs. 5,50,000/- had been received by way of RTGS from Mahalakshmi Traders which was the account of A-2 on 17.08.2011 and an amount of Rs. 3 lakh was received by way of RTGS from same account on 26.12.2011 and 08.10.2011. Similarly, an amount of Rs. 2,05,000/- was received from the said Mahalakshmi Traders on 31.01.2012 and amount of Rs. 5 lakhs was received from Mahalakshmi Traders by way of RTGS on 26.03.2012 and vide entry dated 31.07.2012 Rs. 3,10,000/- was similarly received in the said account by way of RTGS.

47. Further, this rotation of money is also corroborated by the statement of account seized from the Yes Bank, Rajouri Graden branch which document is **Ex. PW44/B (colly,)** and the relevant document is (D-78/181 and 182). The statement of account of Bankey Bihari Toys shows that an amount of Rs. 5 lakhs was received from the Mahalakshmi Traders, Standard Chartered Bank dated 15.10.2011. Similarly, an amount of Rs. 4 lakhs each was received from Mahalakshmi Traders vide entry dated 19.12.2011 and 20.12.2011 respectively and an amount of Rs. 3,25,000 was received from the same firm Mahalakshmi Traders on 27.12.2011 and another amount of Rs. 5,50,000 was received on 10.01.2012 and so on.

48. The CFSL report also corroborates the authenticity of the account opening form as in the CFSL report **Ex. PW73/1 to 7** and **Ex. PW74/A and B**, it has been opined as under :

Signatures of Sh. Anoop Kumar Gupta marked



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(A-36 to A-40) on Original Account Opening Form of M/s. Ashoka Agency (A/c. no. 19410200000521 with Bank of Baroda, Kirti Nagar, Delhi) along with self attested copies of PAN Card, Voter ID Card and Electricity Bill. (D-15/4 to D-15/12) tallied with his specimen signatures.

In view of the above CFSL report, the Ashoka Agency documents pertain to A-2 after comparison of his admitted signatures and specimen signatures. Therefore, cumulatively as discussed above in detail, these facts clearly depict the meeting of minds, unity of purpose and design and agreement between A-2 & A-3 to commit crime and to do acts in furtherance of their common object of the said conspiracy and agreement and focalization of effort on the project of seeking loan from the Bank of Baroda, Kirti Nagar branch through SMELF by preparation of forged documents and round tripping of money into various accounts of A-2 and A-3 as discussed above.

49. **ROLE OF A-4**

With regard to the role of A-4, as already discussed while discussing the role of A-2, as per the CFSL report Ex. PW73/1 to 7 and Ex. PW74/A and B, the thumb impressions at point Q-32 and Q-33 on the document (D-6) Ex. PW49/A, purported to be that of A-3 tallied with the specimen thumb impression of A-4, which was the copy of the sale deed submitted by A-2 with Kirti Nagar Branch for seeking the loan of Rs. 315 lakhs, as also already discussed above, the science of comparison of thumb impression is an exact science, unlike



the science of comparison of handwriting and signatures, which is prone to errors. The chances of error in the comparison of thumb impression(s) are almost negligible.

50. Further, the second copy of the sale deed dated 08.12.2006, kept with the office of the Sub-Registrar (D-45) Ex. PW56/A was also sent for forensic analysis and as per the above CFSL reports the signatures of A-4 on the copy of the sale deed dated 08.12.2006 above tallied with the specimen signatures of A-4. It is not a mere coincidence that thumb impression of A-4 tallied with the forged copy of the sale deed submitted with the Kirti Nagar branch, as collateral purporting to be signatures of A-3 having obliterated / changed numbers on the stamp papers and other places and that his signatures were also appearing on the second copy kept with the office of Sub Registrar for inspection and record. Therefore, it is absolutely clear that A-4 was neck deep involved in the conspiracy in question and had actively forged the sale deed submitted with the Kirti Nagar bank branch by preparing a false document, in tango with A-2.

51. Regarding the rotation of money, it is revealed that the A-4 was having a proprietorship account by the name of Shiva Traders in Kotak Mahindra Branch, Kamla Nagar. The said document(s) are Ex. P64 (Colly) (D-48/8 to 48/11). The corresponding statement of account of M/s. Ashoka Agency of which A-2 was the proprietor D-37 Ex. PW68/D reveals that there is a round tripping of money into this account from the said account as for instance an amount of Rs.



13,90,000/- was transferred into the account of Shiva Traders on 20.09.2012 and similarly there is an amount of Rs. 13,50,000/- transferred into the said account on 14.09.2012 and an amount of Rs. 12,50,000/- was transferred on 07.09.2012 from the same account. Further, an amount of Rs. 12 lakhs had been transferred to the said account on 28.08.2012. Further, as per the CFSL report(s) Ex. PW73/1 to 7 and Ex. PW74/A and B, the signatures of A-4 on the original account opening form of Shiva Traders at Kotak Mahindra, when compared with the annexure D-48/7 to D-48/14 and D-48/18 to D-48/20 tallied with the specimen signatures of A-4; which also makes the case of the prosecution more potent.

52. Further, there is a transfer of money from the account of Ashoka Agency to the another account of A-4, which was in the name of Sun Shine Enterprises, of which he was again the proprietor with UCO Bank, Pitam Pura branch, which is Ex. PW46/D and E (D-74). The statement of account of Ashoka Agency Ex. PW68/D (D-37) reveals that an amount of Rs. 56 had been transferred into the said account of Sun Shine Enterprises on 27.12.2011 from the account of Ashoka Agency Kirti Nagar branch and further an amount of Rs. 25 lakhs had been transferred from the said account of Ashoka Agency to the account of Sun Shine Enterprises.

Therefore, from the analysis of entire evidence as discussed above in detail, these facts clearly depict the meeting of minds, unity of purpose and design and agreement between A-2 & A-4 to commit crime and to do acts in furtherance of their common object of the said

conspiracy and agreement and focalization of effort on the project of seeking loan from the Bank of Baroda, Kirti Nagar branch through SMELF by preparation of forged documents and round tripping of money into various accounts of A-2 and A-4 as discussed above.

53. **ROLE OF A-5**

With regard to the role of A-5, the perusal of the document (D-49) Ex. P66 (colly.) reveals that A-5 was having an account as proprietor in Kotak Mahindra Branch, Kamla Nagar in the name of United Stores and from the perusal of the statement of account of the Ashoka Agency in which the loan of Rs. 315 lakhs was sanctioned and disbursed belonging to A-2 in Kirti Nagar branch of Bank of Baroda. There is a round tripping of money from the said account into the account of United Stores as for instance an amount of Rs. 25 lakhs was transferred from the account of Ashoka Agency into the account of United Stores on 21.02.2012 and further there is a transfer of Rs. 35 lakhs from the said account into the account of United Store on 05.01.2012 as also transfer of Rs. 30 Lakhs into the said account on 07.01.2012 as well as transfer of Rs. 30 lakhs on 29.12.2011, which shows that A-2 And A-5 were in conspiracy with each other.

54. Further, this is strengthened / corroborated by the CFSL report(s) Ex. PW73/1 to 7 and Ex. PW74/A & B where, as per the signatures of A-5 on the account opening form of M/s. United Stores alongwith its relevant annexure D-49 tallied with the specimen signatures of A-5, which makes the case of the prosecution more

stronger. To further buttress the case of the prosecution with regard to the conspiracy between A-2 and A-3 and A-5, the perusal of the document D-78 Ex. PW44/B (colly.) which also contains the copy of the sale deed at page D-74/109 shows that as per the conveyance deed executed in favour of the A-3 by DDA on 189.03.2004 the A-5 appeared as a witness on the said conveyance deed which shows the close connection and meeting of mind between them.

55. Further, a sale deed dated 04.02.2010 (D-94) was executed by A-2 in favour of A-5 with respect to the same property i.e. 7, Sainik Vihar consisting of ground floor and basement which is Ex. P/59. Since as discussed above, the A-2 had kept the original sale deed with respect to the same property with Bank of Baroda, Kirti Nagar branch while taking loan in November 2011 of Rs. 315 lakhs, at that time, he was not left with any right, title or interest in the said property as he had already sold the same in faovur of A-5 on 04.02.2010 much prior to the keeping of the same as collateral security with the Bank of Baroda, Kirti Nagar branch for taking loan of Rs. 315 lakhs. This further shows that A-2 and A-5 were in conspiracy with each other to defraud the bank by making fraudulent transaction. The same coupled with the rotation of money clearly shows the criminality of the accused as well as unity of purpose, unity of design and focalization of effort upon a particular project by the accused persons in furtherance of their common design.

56. **ACTS OF CONSPIRACY BETWEEN ACCUSED PERSONS**

With regard to the conspiracy aspect between the accused



persons, the relevant law in this regard as has been discussed by Hon'ble Supreme Court in the case titled **K.R.Purushothaman Vs State of Kerala (2005) 12 Supreme Court Cases 631**, relevant extract is reproduced as under:-

11. **Section 120-A IPC defines "criminal conspiracy". According to this Section when two or more persons agree to do, or cause to be done (i) an illegal act, or (ii) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy. In Major E.G.Barsay V. State of Bombay Subba Rao J., speaking for the Court has said :(SCR p.228)**
12. **"The gist of the offence is an agreement to break the law. The parties to such an agreement will be guilty of criminal conspiracy, though the illegal act agreed to be done has not been done. So too, it is not an ingredient of the offence that all the parties should agree to do a single illegal act. It may comprise the commission of a number of acts."**
13. **In State V. Nalini it was observed by S.S.M. Quadri, J. at JT para 677: (SCC pp.568-69, para 662)**
"In reaching the stage of meeting of minds, two or more persons share information about doing an illegal act or a legal act by illegal means. This is the first stage where each is said to have knowledge of a plan for committing an illegal act or a legal act by illegal means. Among those sharing the information some or all may form an intention to do an illegal act or a legal act by illegal means. Those who do form the requisite intention would be parties to the agreement and would be conspirators but those who

drop out cannot be roped in as collaborators on the basis of mere knowledge unless they commit acts or omissions from which a guilty common intention can be inferred. It is not necessary that all the conspirators should participate from the inception to the end of the conspiracy; some may join the conspiracy after the time when such intention was first entertained by any one of them and some others may quit from the conspiracy. All of them cannot but be treated as conspirators. Where in pursuance of the agreement the conspirators commit offences individually or adopt illegal means to do a legal act which has a nexus with the object of conspiracy, all of them will be liable for such offences even if some of them have not actively participated in the commission of those offences."

14. To constitute a conspiracy, meeting of minds of two or more persons for doing an illegal act or an act by illegal means is the first and primary condition and it is not necessary that all the conspirators must know each and every detail of the conspiracy. Neither is it necessary that every one of the conspirators take active part in the commission of each and every conspiratorial acts. The agreement amongst the conspirators can be inferred by necessary implication. In most of the cases, the conspiracies are proved by the circumstantial evidence, as the conspiracy is seldom an open affair. The existence of conspiracy and its objects are usually deduced from the circumstances of the case and the conduct of the accused involved in the conspiracy. While appreciating the evidence of the conspiracy, it is incumbent on the court to

keep in mind the well-known rule governing circumstantial evidence viz. each and every incriminating circumstance must be clearly established by reliable evidence and the circumstances proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn, and no other hypothesis against the guilt is possible. Criminal conspiracy is an independent offence in the Penal Code. The unlawful agreement is sine qua non for constituting offence under the Penal Code and not an accomplishment. Conspiracy consists of the scheme or adjustment between two or more persons which may be express or implied or partly express and partly implied. Mere knowledge, even discussion, of the plan would not per se constitute conspiracy. The offence of conspiracy shall continue till the termination of agreement.

- 15. Suspicion cannot take the place of legal proof and prosecution would be required to prove each and every circumstance in the chain of circumstances so as to complete the chain. It is true that in most of the cases, it is not possible to prove the agreement between the conspirators by direct evidence but the same can be inferred from the circumstances giving rise to conclusive or irresistible inference of an agreement between two or more persons to commit an offence. It is held in Noor Mohd. Mohd. Yusuf Momin V. State of Maharashtra, that: (SCC pp.699-700, para 7)**
- 16. “[I]n most cases proof of conspiracy is largely inferential though the inference must be founded on solid facts. Surrounding circumstances and antecedent and subsequent conduct, among other factors,**

constitute relevant material."

17. It is cumulative effect of the proved circumstances which should be taken into account in determining the guilt of the accused. Of course, each one of the circumstances should be proved beyond reasonable doubt. The acts or conduct of the parties must be conscious and clear enough to infer their concurrence as to the common design and its execution. While speaking for the Bench it is held by P. Venkatarama Reddi, J. in State (NCT of Delhi) V. Navjot Sandhu (p.63) as follows: (SCC pp.691-92, para 103) "103. We do not think that the theory of agency can be extended thus far, that is to say, to find all the conspirators guilty of the actual offences committed in execution of the common design even if such offences were ultimately committed by some of them, without the participation of others. We are of the view that those who committed the offences pursuant to the conspiracy by indulging in various overt acts will be individually liable for those offences in addition to being liable for criminal conspiracy; but, the non-participant conspirators cannot be found guilty of the offence or offences committed by the other conspirators. There is hardly any scope for the application of the principle of agency in order to find the conspirators guilty of a substantive offence not committed by them. Criminal offences and punishments therefor are governed by the statute. The offender will be liable only if he comes within the plain terms of the penal statute. Criminal liability for an offence cannot be fastened by way of analogy or by extension of a common law principle.

It has been further held in a case 1999 Cri.L.J.3124 State of Tamil Nadu through Superintendent of Police CBI/SIT Vs Nalini and others WITH T.Suthenthiraraja alias Santhan and others Vs State by DSP, CBI, SIT, Chennai WITH P.Ravichandran and others Vs State by DSP, CBI, SIT, Chennai WITH Robert Payas and others Vs State by DSP, CBI, SIT, Chennai WITH S.Shanmugavadivelu and others Vs State by DSP, CBI, SIT, Chennai WITH S.Nalini and others Vs State by DSP, CBI, SIT, Chennai, as under:-

"110. The first condition which is almost the opening lock of that provisions is the existence of "reasonable ground to believe" that the conspirators have conspired together. This condition will be satisfied even when there is some prima facie evidence to show that there was such a criminal conspiracy. If the aforesaid preliminary condition is fulfilled then anything said by one of the conspirators becomes substantive evidence against the other, provided that should have been a statement "In reference to their common intention". Under the corresponding provision in the English Law the expression used is "in furtherance of the common object". No doubt, the words "in reference to their common intention" are wider than the words used in English Law, (vide Sardar Sardul Singh Caveeshar v. State of Maharashtra, (1964) 2 SCR 378: 1965 (1) Cri.L.J.608: (AIR 1965 SC 682).

57. As already discussed in detail in the preceding para(s) while discussing the individual roles of A-2, A-3, A-4 and A-5, for

instance in furtherance of the said common design the A-2 forged the sale deed dated 08.12.2006, which was submitted with the Bank of Baroda Kirti Nagar branch for seeking the loan of Rs. 315 lakhs which he did by obliterating / altering the numbers on the stamp papers, which were issued in his favour from the SBI, Tis Hazari branch. Before that, the act(s) of the A-3 in executing the said sale deed dated 08.12.2006 in favour of A-2 wherein no consideration was actually passed in favour of A-3, as the said cheques mentioned as consideration in the said sale deed were never encashed.

58. Further A-3 at that time when he executed the sale deed dated 08.12.2006 should not have been in possession of the original title deed(s) with respect to the property 7, Sainik Vihar, ground floor and basement, as he had taken a loan from SBI, Rajouri Garden on 15.09.2005 and from Yes Bank on 04.09.2008 by keeping the original of the title deeds / conveyance deed executed in his favour by DDA dated 19.03.2004. Further, the rotation of money into his account(s) i.e. in the name of Bankey Bihari Toys at UCO Bank, Kamla Nagar and Yes Bank, Rajouri Garden from the account of A-2 in the name of Mahalakshmi Traders, wherein the money was transferred from the account of Ashoka Agency, both of which A-2 was the proprietor, which was the loan account in which the loan amount of Rs. 315 lakhs was sanctioned by the Bank of Baroda, Kirti Nagar branch, shows the commonality of the design between A2 and A3.

59. Further, as per the CFSL reports, the thumb impression/ signatures of A-4 were found forged on the original sale deed dated



08.12.2006 and the copy of the sale deed kept with the office of Sub Registrar and further the rotation of the money into the accounts of A-4 in the name of Shiva Traders with Kotak Mahindra Bank, Kamla Nagar branch and Sun Shine Enterprises with UCO Bank, Vaishali, Pitam Pura from the loan account of Ashoka Agency of Rs. 315 lakhs in favour of A-2 also shows the unity of design and unity of purpose between A-2 and A-4.

60. Further, A-5 had allegedly purchased the same property i.e. 7, Sainik Vihar ground floor and basement from A-2 in the year 2010, which he had kept as collateral for seeking the loan of Rs. 315 lakhs with Bank of Baroda, Kirti Nagar branch in November 2011. It is not clear as to how the A2 was in possession of the original sale deed of the same property, which he had offered as collateral while the loan of Rs. 315 lakhs was sanctioned in his favour in November, 2011. Further, the money was rotated into the account of A-5 from the loan account of Ashoka Agency with Kirti Nagar branch, Bank of Baroda, as vide various entries, money was rotated into the account of A-5 at Kotak Mahindra Bank, Kamla Nagar branch in the name of United Stores, of which A-5 was the proprietor.

61. Further, in the conveyance deed executed by DDA in favour of A-3 dated 19.03.2004, A-5 is one of the witness to the said conveyance deed, which relates to 7, Sainik Vihar. The said property 7, Sainik Vihar, basement and ground floor seems to be a stock sale deed, which was used by most of the accused persons at various point of time for seeking loan from different bank(s) by preparing different



forged copies thereof as collateral securities for getting loan(s) from different banks.

62. All these acts on part of A-2, A-3, A-4 and A-5 as discussed above, clearly depict meeting of mind, unity of purpose and design, commonality of agreement between them to commit crime and to do acts in furtherance of their common object of the said conspiracy and agreement and focalization of their effort on the project of seeking loan from Bank of Baroda, Kirti Nagar Branch through SMELF by preparation of false documents and round tripping of money into various accounts of A-2, A-3, A-4 and A-5.

63. Therefore, from the above discussion, Anoop Kumar Gupta (A-2), Jagmohan Mittal (A-3), Pradeep Upadhyay (A-4) and Vijay Bhushan Rustogi (A-5) are all liable to be convicted for conspiratorial act(s) u/S. 120B r/w 420 r/w 467 r/w 468 r/w 471 IPC.

64. **TO SUM UP**

In view of above detailed analysis of evidence and discussion, A-2 stand convicted u/S. 120B IPC r/w 420 IPC, 467 IPC, 468 IPC & 471 IPC and also substantively under Section 420 IPC, 467 IPC, 468 IPC & 471 IPC.

Whereas, A-3 stand convicted u/S. 120B IPC r/w 420 IPC, 467 IPC, 468 IPC & 471 IPC.

Further, A-4 stand convicted u/S. 120B IPC r/w 420 IPC, 467 IPC, 468 IPC & 471 IPC and also substantively under Section 467 IPC




& 468 IPC.

And A-5 stand convicted u/S. 120B IPC r/w 420 IPC, 467 IPC, 468 IPC & 471 IPC.

However, A-1 stand acquitted of the charge(s) u/S. 120B IPC r/w. 420 IPC, 467 IPC, 468 IPC & 471 IPC & 13(2) r/w. 13(1) d of PC Act, as also of substantive offence(s) u/S. 420 IPC, 471 IPC & Section 13(2) r/w 13(1) d of PC Act 1988.

**Announced in the Open Court
on this 16th day of June, 2020
through CISCO Webex Platform/
Video Conferencing.**


**(Sanjeev Aggarwal)
Special Judge (PC Act) (CBI)-02
Rouse Avenue District Courts
New Delhi**