



2026:DHC:40



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 04<sup>th</sup> August, 2025  
Pronounced on: 05<sup>th</sup> January, 2026*

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**CRL.A. 1147/2025**

**CENTRAL BUREAU OF INVESTIGATION**

Through Inspector Satyabir Singh  
EOU-V/EO-II, CBI, CGO Complex,  
Lodhi Road, New Delhi-110003.

.....Appellant

Through: Mr. Rajesh Kumar, SPP, CBI with  
Mr. Mohd. Changez Ali Khan,  
Advocate.

versus

**KULWANT RAI**

S/o Joginder Pal  
R/o H.No.7/159, Moh. Muktapura,  
Banga, Nawashahr,  
Distt. Shahid Bhagat Singh Nagar,  
Punjab.

....Respondent

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T**

**NEENA BANSAL KRISHNA, J.**

1. Criminal Appeal under Section 378(2)(b) of Cr.P.C., has been filed on behalf of the Appellant/CBI, against the Impugned Judgment dated



28.01.2017 whereby the learned Special Judge, has acquitted the Respondent, Kulwant Rai in RC No. 19/2012, CBI, EOU-V, EO-II, New Delhi.

**2. *Brief facts of the case*** are that a Complaint was received from Mr. Sandeep Kumar Rawal, Deputy Commissioner (Preventive), Customs, IGI Airport, T-3, New Delhi, that on the intervening night of 11/12.09.2012, Respondent landed at IGI Airport, Delhi from Bangkok, Thailand by Flight No. TG-315 and was intercepted by the team of Customs (Preventive) IGI Airport, New Delhi. Because of his suspicious movements and an abnormal bulge in the lower part of both his legs, his bag was examined and personal search was conducted, after serving him with a Notice under Section 102 of the Customs Act, 1962. During his personal search, FICNs to the tune of Rs.6,01,500/- in dominations of Rs.1,000/- and Rs.500/-, which were found concealed in the socks of both of his legs, was recovered. The Case under Section 120B read with Section 489-B & 489-C Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*), was registered on 13.09.2012, *vide* RC No.220/2012/E0019/EOU-V/EO-II.

**3.** The genuineness of the recovered currency notes was confirmed by taking accused and the money to the counter of SBI located at the arrival hall of IGI Airport, New Delhi. The recovered Indian currency notes were put through the machine, which rejected all the notes, which *prima facie* confirmed that the recovered notes were fake. The FICNs were seized by the Customs Officers and a *Panchnama* dated 11/12.09.2012 was prepared on the spot, which was signed by the independent witnesses.

**4.** The voluntary Statement of the Respondent under Section 108 of the Customs Act, 1962, was recorded wherein he disclosed that while leaving



for Bangkok from India, he had met one person, Kuldeep Singh Dua on 07.09.2012 in Flight No.TG-324, who handed him over six bundles of notes of Rs.500/- denomination and three bundles of Rs.1,000/- denomination at Bangkok and asked him to carry these currency notes to India and to deliver the same to some person who will contact him on his mobile phone, on arrival. Kuldeep Singh Dua promised him payment of handsome amount on completion of delivery of the currency notes, which reflected that the Respondent had a knowledge that the smuggled FICNs from Bangkok to India, for circulation in India and for personal monetary gain.

5. The sealed packet containing the FICNs, was taken by the CBI from the Customs Authorities on 09.11.2012 and was forwarded to Bank Note Press (BNP), Dewas, M.P., for scientific examination. The BNP, Dewas found that the packet had 600 notes of Rs.500/- denomination instead of 601 and the notes of 300, instead of 301 notes, of Rs.1,000/-. Citing these discrepancies, the packet was re-sealed by BNP, Dewas and returned to CBI *vide* Letter dated 24.11.2012. Thereafter, the CBI moved a Letter before the Ld. CMM, Tis Hazari Courts, New Delhi, for seeking permission to reopen the sealed packets and to prepare a list of seized FICNs, which was allowed *vide* Order dated 15.12.2012.

6. On 22.12.2012, the sealed packet was opened again in the presence of Seizing Officer and the fresh independent witnesses, at the CBI Office. The proceedings confirmed that there were total notes of 600 of Rs.500/- denomination and 300 notes of Rs.1,000/- denomination, having a total value of Rs.6,00,000/- and thus, confirmed the correctness of the observations of BNP, Dewas.



7. The packet was again sealed on 22.12.2012 and forwarded to BNP, Dewas, M.P., for the expert opinion. The '*Examination Report*' dated 06.03.2013 opining that the seized notes were '*counterfeit Notes*' were given by BNP, Dewas.

8. During the investigations, efforts were made to ascertain the identity of Kuldeep Singh Dua and his whereabouts, but to no success. In regard to the error in the counting of the notes, it was ascertained to be a human error at the time of counting of the notes.

9. On completion of the investigations, the Charge-Sheet was filed on 31.05.2013 in the Court of Ld. CMM and was committed to the Court of Ld. Additional Sessions Judge vide order dated 17.02.2014. The ***Charges were framed*** under *Section 489B/489-C of IPC*, to which the Respondent pleaded not guilty.

10. The Prosecution, in support of its case, examined 11 prosecution witnesses. These were ***PW-1, Sh. Praduman Kumar Yadav***, who was posted at IGI Airport as Superintendent, Customs, and deposed about the interception of the accused. ***PW-2, Sh. Prithish Chakrovorty***, who was posted as Inspector (Air Customs Officer) at IGI Airport, deposed about the currency recovered from the accused. ***PW-3, Sh. Pradeep Kumar***, is an independent panch witness during the recovery and seizure proceedings conducted by the Customs authorities from the accused. ***PW-4, Sh. I.P. Singh***, who was posted as Senior Manager, Punjab National Bank, deposed regarding the proceedings dated 22.12.2012 conducted at the CBI Office for recounting. ***PW-5, Sh. Rohit Kumar Gupta***, is a formal witness who produced the relevant file. ***PW-6, Sh. Nirmal Das***, who was posted as Junior Assistant in the SDM Office, Nawanshahr, Punjab, deposed regarding the



search proceedings conducted at the premises of Kulwant Rai and Kuldeep Singh. **PW-7, Sh. Balbir Singh**, is an independent panch witness during the recovery proceedings conducted by the Customs authorities. **PW-8, Sh. Sandeep Kumar Rawal**, who was posted as Deputy Commissioner (Preventive), Customs, at IGI Airport in the year 2012, had a role in monitoring the investigation conducted by the Customs department and submitted the file in the present case. **PW-9, Sh. D.K. Srivastava**, who was posted as Technical Officer, Bank Note Press (BNP), Dewas, during the year 2012, is an expert witness in identifying BNP-printed currency notes. **PW-10, Ms. Romi Bagga**, who was posted as Station Superintendent at IGI Airport, deposed regarding the travel and boarding details of the accused Kulwant Rai. **PW-11, Inspector Mohit Kumar**, is the Investigating Officer (IO) in the present case.

**11.** The Statement of the Accused (Respondent), Kulwant Rai under Section 313 Cr.P.C., was recorded in which he denied the entire incriminating evidence. He did not lead any evidence in his defence.

**12.** The Ld. ASJ the Impugned Judgment dated 28.01.2017, acquitted the Respondent of all the Charges.

**13.** *Aggrieved by the said acquittal, the present Appeal has been filed.*

**14.** The **grounds of challenge** are that the Respondent was found trafficking in FICNs and was found in possession of FICNs to the tune of Rs.6,00,000/- knowing and having reasons to believe the same to be forged and counterfeit, with an intent to use them as genuine.

**15.** The testimony of **PW-2**, namely, **Mr. Pritish Chakravorty**, Inspector (Air, Customs Officer), **PW-3**, namely, **Mr. Pradeep Kumar**, independent Panch witness and **PW-7**, namely, **Mr. Balbir Singh**, Independent Panch



witness, clearly proved the interception of the Respondent in the intervening night of 11/12.09.2012. The Accused on interception, had given a negative reply with reference to possession of any contra band. The recovery of FICNs to the tune of Rs.6,01,500/- was made from the socks which were worn by the Respondent Kulwant Rai, after giving Notice under Section 102 Customs Act.

**16.** The Ld. ASJ has failed to appreciate that the Panchnama dated 11/12.09.2012 was prepared by the Custom Officer at the spot, which was duly signed by the independent witnesses, who later identified the Respondent in the Court.

**17.** The error in counting the FICNs and shortfall of one note in the denomination of Rs.1,000/- and Rs.500/- each, was due to human error, and cannot be considered as a ground to disbelieve the recovery itself. It has also not been appreciated that this discrepancy in the counting of notes, had been mentioned in the Chargesheet itself. Furthermore, the Statement of the Respondent under Section 108 of the Customs Act, 1962 wherein he admitted his guilt, has also not been considered.

**18.** It is further submitted that **PW9- Sh. D.K. Shrivastava**, official from BNP Dewas had deposed that the sealed packets were received in the office. On de-sealing the Packets, he noted the discrepancy in the number of FICNs and he re-sealed the packet and sent them back to CBI Office. However, his testimony has not been appreciated correctly. *Ld. CMM* Court on 15.12.2012 permitted the CBI to open, count and re-seal the said packet. This packet was re-opened in the presence of **PW11 Sh. Mohit Kumar, PW2 Sh. Prithish Chakravorty, PW3 Sh. Pradeep Kumar and PW7 Sh. Balbir Sharma** and **PW4 Sh. IP Singh**.



**19.** It has not been appreciated by the Ld. ASJ that the discrepancy in regard to number of total currency notes, was mentioned and explained in the Chargesheet. It has been erroneously held by Ld. ASJ that the currency notes were taken out, changed or added to the packet containing the case property. It is on record that the case property was handed over to CBI in sealed container which was then sent to BNP, Dewas for *Expert Opinion* who also confirmed that this packet was received with seal intact. The notes, therefore, could not have been taken out, changed or added to the packet of the case property.

**20.** The evidence pertaining to fake currency notes and conscious possession of the same by the Respondent has not been considered. Only on the technical grounds, the seizure had been held to be doubtful and the defence taken by the Respondent has been accepted. The contradiction, discrepancy, double entry of two currency notes has been given undue weightage by the Court, even though it was only of trivial nature and had been duly clarified by the Prosecution. The Ld. ASJ has not given any finding with regard to the seizure of remaining FICNs and has not considered the entire Prosecution evidence.

**21.** The Statement of the Respondent under Section 108 Customs Act was recorded, wherein he admitted his guilt, which has also not been appreciated.

**22.** Reliance is placed on *State of Kerala vs. Mathai Verghese & Ors.*, (1986) 4 SCC 746, wherein it was held that the possession and knowledge that the currency notes were counterfeited, are not necessary ingredients to constitute offence under Section 489C and 489D of IPC.



23. It is submitted that the benefit of doubt has been erroneously given to the Respondent by incorrect appreciation of law. The Supreme Court in the case of Shivaji Sahabrao Bobde vs. State of Maharashtra, 1973 SCC (CrI.) 1033, had held that the reasonable doubt can be given to the Accused only if there are circumstances to justify; otherwise, the practical system of justice would breakdown and loses its credibility in the eyes of the community. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicted persons and more severe punishments for those who are found guilty.

24. Reliance is also placed on Trimurth Maroti Kirakan vs. State of Maharashtra, (2006) 10 SCC 681, wherein it was held that the Prosecution is not required to prove the impossible. All that it requires is establishment of such degree or probability that a prudent man may, on its basis, believe in the existence of a fact in issue. The legal proof is thus, not necessarily a perfect proof; often it is nothing more than a prudent man's estimate as to the probabilities of the case.

25. The Examination Report dated 06.06.2012 of the Expert of the BNP, Dewas, M.P who concluded that the seized notes were counterfeit, has also not been considered. The *mens rea* of the Respondent can be easily inferred from the nature of possession of FICNs, his non-declaration at the disembarkation point as well as the negative reply on material points. The Judgment dated 28.01.2017 is, therefore, bad in law, which may be set aside and the Respondent be convicted and punished in accordance with law.

26. The ***Reply has been filed on behalf of the Respondent*** who has denied all the averments made in the Appeal. It is contended that there is no



infirmity in the impugned judgement and the Appeal is liable to be dismissed.

**27.** A *Rejoinder had been filed by the CBI* in which they reiterated the assertions as made in the Appeal.

**Submissions heard and record perused.**

**28.** *Briefly stated*, on 11.09.2012 as the *Respondent, Kulwant Rai* disembarked from a flight from Bangkok to Delhi at IGI Airport, he was apprehended by the Custom Officers and 301 notes of 100 denominations and 601 notes of Rs.500/- denomination, having a total face value of Rs.601500/- were recovered from his socks. After due investigation and confirmation of the Notes being fake, the Chargesheet was filed against the *Respondent, Kulwant Rai*.

**29.** **The Charges under Section 489(B) and 489(C) IPC were framed** against him on 06.08.2014, to which he pleaded not guilty.

**30.** The Prosecution to prove the recovery of FICNs from the Respondent, had examined *PW1 Praduman Kumar Yadav* who had deposed that the Respondent was passing through green channel, he was intercepted and asked if he was having any dutiable items or contraband, to which he denied. His bag was x-rayed, but nothing was recovered. Thereafter, it was enquired if he was carrying any contraband goods on his person, to which again he replied in negative. The two panch-witnesses namely *PW3 Pradeep Kumar* and *PW7 Balbir Sharma* were called and in their presence it was again enquired if he wanted to declare anything, to which he again replied in negative. Notice under Section 102 Customs Act was given, after which his



personal search was conducted. Currency notes were recovered from his socks. The Panchnama was prepared and in the presence of the witnesses, statement of **Kulwant Rai** under Section 108 Customs Act **Ex.PW1/A**, was recorded by him.

**31. PW2 Prithish Chakravorty**, who was posted as Inspector (Air Custom Officer), has deposed on similar lines as PW1. The panch-witnesses namely **PW3 Pradeep Kumar** and **PW7 Balbir Sharma** have corroborated the testimony of **PW1 Praduman Kumar Yadav** and **PW2 Prithish Chakravorty**. All these witnesses have deposed about the recovery of FICNs of a total amount of Rs.6,015,00/- from the two socks of the Respondent. In the cross-examination of these respective witnesses, no material contradiction could be brought forth. The testimony of all these witnesses is consistent about the recovery of FICNs from the *Respondent, Kulwant Rai*.

**32.** The testimony of **PW-2 Pritish Chakravarty** stands fully corroborated by **PW-1 Pradyuman Kumar Yadav**, Superintendent, Customs (Preventive), who stated that he was informed by his Superintendent, i.e. **PW-2, Pritish Chakravarty** about the apprehension of the respondent, **Kulwant Rai**, who was found in possession of **FICNs**. He further stated that a notice under Section 102 of the Customs Act was issued for the search, the panchnama was drawn by his officer, and the statement of the respondent, marked as **Ex. PW-1/A**, was recorded, wherein the respondent admitted carrying the FICNs.

**33. PW8 Sandeep Kumar Rawal**, who was posted at IGI Airport as Deputy Commissioner (Preventive) Customs, deposed that he had the role of monitoring the investigations conducted by Inspectors and Superintendents



of Department of Customs. He came to know about this case on 12.09.2012 when the file was submitted to him by the Superintendent and it came to his knowledge that passenger Respondent Kulwant Rai who was travelling in Flight TG315 from Bangkok was intercepted by the customs officers on duty in Green Channel and he was found in possession of FICNs amounting to Rs.601500/-. The case was forwarded to CBI *vide* Complaint dated 13.09.2012, *Ex.PW8/A*. Later, some documents were also forwarded to CBI *vide* letter dated 18.09.2012 *Ex.PW8/B*.

**34.** *PW11 Mohit Kumar, Inspector*, who was posted as Sub Inspector, CBI in the year 2012, deposed that the instant FIR was recorded on the basis of written Complaint of Shri Sandeep Rawal and he had arrested the Respondent on 15.09.2012 *vide* Arrest Memo *Ex.PW11/A*.

**35.** The ocular testimony of these witnesses is fully corroborated by the **Statement under Section 108 Customs Act, Ex.PW1/A** given by the *Respondent Kulwant Rai*, wherein he explained that his father Jogender Pal was a mason by profession and he had an elder brother Raj Kumar, who was working in a readymade garment shop in Banga. He explained that he was working with Kuldeep Singh who was running a shop of readymade garments with his father in Railway Road, Banga but he thereafter separated from the shop and started his business of carrying cotton bedsheets, footwears, etc. in commercial quantity to Thailand. He used to carry his goods booked in his name to Bangkok for which he used to get Rs.10,000/- per month as a salary. He was with Kuldeep Singh since April, 2012.

**36.** He further explained that he had visited Bangkok four times; his first visit being in April, 2012 and the next two visits were in the month of August, 2012. He last went to Bangkok on 07.09.2012 along with Kuldeep



and they had carried 200 pairs of footwear. He explained that all his expenses were borne by Kuldeep Singh during his visit to Bangkok. Kuldeep Singh had an Apartment in Chatu Chak near Major Rashijyoteen, Bangkok. He further explained that every time he got a Samsung 32 LED TV and passed through Green Channel. This time he had brought Indian currency of Rs.601500/-. He explained that he was handed over six bundles of Rs.500/- denomination and three bundles of Rs.1000/- denomination. In addition, he was given one note of Rs.1000/- Rs.500/- each for his own expenses to Punjab. He had concealed the currency notes in his socks on the advice of Kuldeep Singh. He admitted that on reaching the Airport he was apprehended and the currency notes were recovered from his socks. He further explained that he was not aware about the genuineness of these currency notes, about which he came to know from the Bank officials who checked the currency notes. He admitted that on reaching IGI Airport, he crossed the Green Channel and was intercepted at the Exit Gate by a Custom Officer. On an enquiry, he told the Custom Officer that he had nothing to declare. Thereafter, his personal search was conducted in the presence of two independent panch witnesses and Panchnama dated 11/12.09.2012 was drawn on the spot. He further clarified that he had brought these currency notes for the first time and that he was not aware about the genuineness of these currency notes. He came to know about this fact only from the Bank officials, who checked the notes. He gave the name and address of Kuldeep Singh in Banga, Punjab.

**37.** As per the case of the Prosecution, Kuldeep Singh was interrogated but was not arrested as no incriminating evidence was found from him.



38. Kuldeep Singh was earlier doing business with Kulwant Singh. He used to carry his goods in commercial quantity to Thailand, for which he used to get Rs.10,000/- per month as salary. He has been associated Kuldeep Singh with since April, 2012. He further stated that Kuldeep Singh had handed over six bundles of notes of Rs.500 denomination and three bundles of Rs.1000 denomination and advised him to take the currency to India and promised to pay him Rs.20,000/- on his arrival. He also gave him a single note of Rs.1000/- and Rs.500/- denomination, for his onward expenses to Punjab.

39. This raises the *evidentiary value of statement of the Respondent recorded under Section 108 Customs Act*. Section 108 Customs Act gives power to a Custom Officer to issue summons to a person to give evidence and to produce documents. The Notice under Section 102 Customs Act was given to the Respondent, after which his statement under Section 108 Customs Act was recorded.

40. In the case of Union of India vs. Padam Narain Aggarwal (2008) 13 SCC 305, the Apex Court observed that Section 108 enables a Custom Officer to elicit the truth from a person examined. The underlying object of Section 108 is to ensure that the Officer questioning a person gets all the truth concerning the incident. It does not amount to abuse of the process of law. The entire idea behind Section 108 Customs Act, is that the Custom Officer questioning the person must gather all the truth concerning the episode. Therefore, the statement recorded under Section 108 Customs Act is distinct and different from the statements recorded by the Police during the course of investigations.



41. Likewise, in *K.I Pavunny vs. Collector* (1997) 3 SCC 721, it was held that the Statement recorded under Section 108 Customs Act, is admissible in evidence. While answering the question whether such statement can be form sole basis for conviction, it was observed that there is no prohibition under the evidence act to rely upon a retracted confession to prove the prosecution's case.

42. After referring to these Judgments, the Supreme Court in the case of *Commissioner of Customs (imports), Mumbai vs. Ganpati Overseas* (2023) 10 SCC 484, and has observed as under;

*“28. Thus, what is deducible from an analysis of the relevant legal provisions and the corresponding judicial pronouncements is that a customs officer is not a police officer. Further, the person summoned and who makes a statement under Section 108 is not an accused. However, a statement made by a person under Section 108 of the Customs Act before the concerned customs officer is admissible in evidence and can be used against such a person. Object underlying Section 108 is to elicit the truth from the person who is being examined regarding the incident of customs infringement. Since the objective is to ascertain the truth, the customs officer must ensure the truthfulness of the statement so recorded. If the statement recorded is not correct, then, the very utility of recording such a statement would get lost. It is in this context that the customs officer who is empowered under Section 108 to record statement etc. has the onerous responsibility to see to it that the statement is recorded in a fair and judicious manner providing for procedural safeguards to the concerned person to ensure that the statement so recorded, which is admissible in evidence, can meet the standard of basic judicial principles and natural justice. It is axiomatic that when a statement is admissible as a piece of evidence, the same has to conform to minimum judicial standards. Certainly a statement recorded under duress or coercion cannot be used against the person making the statement. It is for the adjudicating authority to find*



*out whether there was any duress or coercion in the recording of such a statement since the adjudicating authority exercises quasi-judicial powers.”*

**43.** The Apex Court has held that a statement made under Section 108 of the Customs Act before a Customs Officer is admissible in evidence and can be used against the maker. The object of Section 108(b) is to elicit the truth in such cases. While recording such a statement, the Customs Officer is required to act fairly and judiciously, ensuring all procedural safeguards, so that the statement meets the minimum judicial standards and principles of natural justice. However, a statement recorded under duress or coercion cannot be relied upon.

**44.** In the present case, the statement Under S.108 Customs Act was recorded by PW-2 Sh. Prithish Chakravorty in the presence of Steno Abay Sikri. There is no tangible evidence either by way of cross-examination of the material witnesses or otherwise which has been led to even cast a slightest doubt on the genuineness of the Statement recorded under Section 108 Customs Act. Pertinently, this Statement under Section 108 Customs Act was never retracted by the Respondent. It is only at the stage of arguments, a plea has been taken that it was made under duress, which is clearly not made out from the record. The Statement under Section 108 Customs Act made by the Respondent corroborates that there was a recovery of FICNs from his possession.

**45.** The truthfulness of his statement is corroborated by independent facts. The Respondent had disclosed the name of Kuldeep Singh as the main perpetrator. Pertinently, this Kuldeep Singh (though not charge sheeted for want of sufficient evidence) was traced, which lends credence to the



voluntariness of the statement made by the Respondent. The statement of the Respondent under Section 108 Customs Act is not only voluntary, but also proves the case of the Prosecution in regard to the recovery of FICN from the possession of the respondent.

**46.** The *second aspect which requires consideration* is the process of **seizure of these Notes and also the discrepancy of there being one note of Rs.1000/- and of Rs.500/- respectively, found less in the sealed bundle.**

**47.** The Respondent on being apprehended by the team of Customs (Preventive) IGI Airport, the recovery of FICNs to the tune of Rs.6,01,500/- was made from the person of *Respondent, Kulwant Rai*. The procedure for seizure of the case property was undertaken by **PW2 Prithish Chakravarty**, Air Customs Officer, who prepared the *Panchnama Ex.PW2/B* in the presence of two witnesses **PW3 Pradeep Kumar** and **PW7 Balbir Singh**. He deposed that the currency notes were counted and were founded to be of Rs.601500/-, which was handed over to CBI in sealed container and the same container was sent to Dewas, M.P for verification of the currency Notes.

**48.** The testimony of **PW2 Prithish Chakravarty** is fully corroborated by **PW3 Pradeep Kumar** and **PW7 Balbir Singh**, the two panch witnesses, who have deposed to the similar effect and that they had put their signatures at points No. C and A respectively, on the *Panchnama Ex.PW2/*. Nothing material could be elicited in the cross-examination of any of the witnesses.

**49.** The main controversy which emerged in the Prosecution evidence was a *mismatch in total number of recovered FICNs and also some discrepancy in the serial number of a few Notes*. The significant fact which emerges is that while preparing the *Panchnama*, the List of serial number of



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the Notes so recovered, was prepared which was annexed along with the Panchnama, by **PW2 Prithish Chakravarty** to which there is no challenge. As per the testimony of **PW2 Prithish Chakravarty**, the packet containing the Notes was sealed with the Customs seal No.'6' and was thereafter, forwarded to BNP, Dewas.

**50.** The next material witness is **PW9 Sh. D.K. Srivastava** Technical Officer, Bank Press Note, Dewas, M.P. who was an Expert in identification of FICN.

**51.** He deposed that he received a sealed packet, duly sealed bearing facsimile seal impression Seal No.'6' of Customs official, vide Letter dated 23.11.2012 **Ex.PW9/A** from the then SP, CBI forwarded through General Manager, Bank Press Note, M.P., for examination of the suspected FICNs. However, on counting the notes, he found some discrepancy in total number and serial number of FICN and therefore, the packet was returned to CBI, vide Letter dated 24.11.2012 **Ex.PW9/B**. It read as under:

*"No.BNP/IF/FND/Corres/DKS/Vol.I Date: 24.11.2012*

*To,*

*The Superintendent of Police,*

*Office of the Supdt. Of Police,*

*Central Bureau of Investigations,*

*Economic Offences Unit-V,*

*4<sup>th</sup> Floor, CBI HQ Building*

*Lodhi Road,*

*New Delhi-110003.*

*Sub:- Discrepancies found during counting of FICNs sent by you.*

*Ref.:- 11577/3/19/2012/-EOU-VI dt.23.11.2012 dt. 23.11.2012.*

*Sir,*



*During detailed counting of notes in presence of your representative we found the following discrepancies in FICNs list attached with this letter and in the suspected actual notes.*

*1. Rs.500/- deno.*

- a) No. of pieces of Rs.500/- deno. **Actually found 600 notes instead of 601 notes.***
- b) Sr.No. of note 7BK 142830 and 7 BK 144625 are mentioned in your list but these notes are not available in the bundle.*
- c) 7 BK 147322 and 7 BK 143816 not mentioned in the list but available in the bundle.*

*2. Rs.1000/- deno.*

- a) **Total FICNs of Rs.1000/- notes there are only 300 notes instead of 301 notes.***
- b) Series No. of note 6 CH 547102 is mentioned in your list but not available in the bundle.*
- c) In your list Sr.No.83 to 100 is not matching with actual notes.*

*All the FICNs of Rs.500/- and Rs.1000/- notes are sending herewith through your representative Shri Jagbir Singh, Ct, CBI, EOU-VI, New Delhi in sealed condition.*

*Yours faithfully,*

*(D.K. Shrivastava)  
Technical Officer (I.F.)”*

**52.** From the above letter *Ex.PW9/B*, it emerges that the FICNs in the denomination of Rs.500/- were found to be 600 instead of 601. Likewise, the notes of serial No. ‘**7 BK 142830**’ and ‘**7 BK 144625**’ (of Rs.500/- denomination) as mentioned in the list were not available in the bundle. Likewise, notes of denomination of Rs.500/- at serial No. ‘**7 BK 147322**’ and ‘**7 BK 143816**’ were not mentioned in the list, but were found available in the bundle.



53. Likewise, the total FICNs of Rs.1000/- denomination were found to be 300 instead of 301 notes. It was also noted that one Note as mentioned in the list, was not found in the bundle and there was discrepancy in the serial numbers mentioned from serial No.83 to 100.

54. The fact which emerges from the testimony of **PW2 Pritish Chakravarty** and **PW9 Sh. D.K. Srivastava** when read together, is that the case property had been sealed on the spot with the Custom Seal No.'6' and the seal was found to be intact on the packet, when received in Bank Note Press, Dewas, M.P. It clearly reflects that there was no tampering with the packet.

55. **PW11 Mohit Kumar Inspector**, CBI who in the year 2012 was posted as Sub Inspector, CBI deposed that the Bank Note Press letter dated 24.11.2012, along with the case property, was received in the CBI office. An Application was filed by the CBI for de-sealing the case property for the purpose of counting. However, since the letter **Ex.PW9/B** did not contain any information about the status of seal at the time of receiving the case property by them and returning it, the Court directed the CBI to seek clarification from the Bank Note Press, Dewas.

56. On official request, the Bank Note Press, Dewas *vide* its official Letter dated 08.12.2012 **Ex.PW9/D** clarified that the case property was received with seal intact and that description of the Seal on the case property matched with the specimen seal of Customs Authority. Further, the official seal of Bank Note Press, Dewas was appended, while resealing the case property and the impression of the same was embossed on this letter. The chain of events and the seal impressions, therefore, confirmed that there was



no tampering of the case property while being sent from the CBI office to Dewas or its return.

**57.** *PW11 Mohit Kumar, Inspector* further deposed that an Application was moved before the CBI for re-counting of the case property, which was allowed by the Court *vide* Order dated 15.12.2012.

**58.** As per the directions of the Court, the case property was opened at the CBI office on 22.12.2012 in the presence of Senior Officer, witnesses and one additional independent witness and the proceedings *Ex.PW3/A* were drawn which bears his signatures at point E. The Seal of the CBI was used to re-seal the packet after the counting was completed and the signatures of all the witnesses were obtained on the list *Ex.PW4/1*. The impression of the Seal was at point F1 to F3 and G1.

**59.** *PW11* further deposed that on re-counting, the discrepancy noted in the letter from Bank Note Press, Dewas was correct, but it was explained that the discrepancy crept because of human error. The sealed packets were again sent to Bank Note Press, Dewas from where the Expert Report dated 06.03.2013 which is *Ex.PW9/E*, was received in a sealed cover which is *Ex.PW11/E* in CBI office. As per this Expert Report, the notes sent for examination (and which were seized from the Respondent), were found to be counterfeit notes.

**60.** From the aforesaid discussion of the evidence, what emerges is that the Notes that were recovered from the Respondent Kulwant Rai at the Airport, were duly sealed with the Seal of Customs Seal No. '6' and the packet with seal intact, was received by Bank Note Press, Dewas, wherein the serial numbers of all the FICNs were tallied and there was some discrepancy in few notes was found.



61. The packet was re-sealed and the notes were sent back to CBI which opened the packet having the seal of Bank Note Press, Dewas and after re-counting it was sealed and sent back with the Seal of CBI to Dewas. The subsequent Report of Bank Note Press, Dewas also confirms that the packet had the seal of CBI.

62. *It has established beyond reasonable doubt that the seized notes were sent in the sealed packet and there was no tampering in the transit.* It is also proved that the FICNs recovered from the Respondent were found to be counterfeit, in terms of Report Bank Note Press, Dewas *Ex.PW9/E*.

63. Another significant aspect which emerges is that the serial number of all the Notes had been noted initially by the Customs Officer along with the Panchnama *Ex.PW2/1* and the currency notes serial numbers had also been checked by the Bank Note Press, Dewas wherein certain discrepancies were noted.

64. The only ground on which the Ld. ASJ has given the benefit to the Respondent is on account of discrepancy in the counting of the notes and in some serial numbers. It is pertinent to note that even though there was one note short in the bundle of Rs.500/- note denomination and in Rs.1000/- note respectively, but it cannot be overlooked that it does not negate the recovery of the remaining 600 notes of Rs.500/- and 300 notes of Rs.1000/-.

65. It is also pertinent to significant to note that the explanation given for discrepancy in the serial numbers of two notes in the series of Rs.500/- is partly explainable from the fact there was one note number had been repeated twice i.e., *7BK 144652 (500 Denomination)*.

66. The explanation given on behalf of the Prosecution that the discrepancy in counting the Notes leading to one short in the Bundle of Rs



1000/- denomination, may have been on account of human error, cannot be ignored. This is also evident from the fact that in the serial number from 83 to 100 of the Notes of Rs.1000/- denomination, there is only a discrepancy of mentioning the serial number wherein the number had been indicated as ‘5AG 664\*\*\*’, when in fact it should have been ‘5AG 674\*\*\*’.

**67.** It clearly corroborates that there was some human error in the mentioning of the serial numbers. Even if the Notes in respect of which there is a discrepancy, is overlooked, then too, there were 600 Notes of Rs.500/- and 300 notes of Rs.1000/-, as mentioned in the List, which tallied completely and were found to be counterfeit. This is more so, as the prosecution has proved the recovery of FICNs from the Respondent, beyond reasonable doubt.

**68.** The Ld. Trial Court, therefore, fell in error in disbelieving the entire case of the Prosecution, despite there being overwhelming evidence establishing the guilt of the Respondent, beyond reasonable doubt.

**69.** *The Prosecution had proved its case of recovery of counterfeit notes from Respondent beyond reasonable doubt.*

**70.** Though, the Respondent was charged under *Section 489(B) IPC*, but there is no evidence whatsoever to show that he had sold, bought, received or otherwise trafficked in the counterfeit currency notes. The offence under *Section 489 (B) IPC* is, therefore, not proved.

### **Order:**

**71.** This court is conscious that the judgement of Acquittal should not be easily disturbed in Appeal, but this is a case where there is overwhelming evidence against the Respondent for the offence under *Section 489(C) IPC*.



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**72. The Respondent is convicted for the said offence under Section 489(C) IPC.**

**73. The Appeal, along with pending Application(s), if any, is accordingly disposed of.**

**74. List for arguments on Sentence on 16. 01.2026, in the supplementary list.**

**(NEENA BANSAL KRISHNA)  
JUDGE**

**JANUARY 5, 2026/RS/VA**