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

***Reserved on : 29<sup>th</sup> August, 2025***  
***Date of Decision : 9<sup>th</sup> September, 2025***

+ CRL.A. 195/2012, CRL.M.(BAIL) 1668/2025 & CRL.M.A. 9366/2025

AASHIM & ANR.

.....Appellants

Through: Mr. Arun Sharma, Advocate.

versus

STATE

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for  
the State with SI Kavish Rana, P.S.  
Lahori Gate.

**CORAM:**

**HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA**

**JUDGMENT**

**RAJNEESH KUMAR GUPTA, J.**

1. The present criminal appeal has been filed under Section 374 Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C') by the Appellants, namely, Aashim and Mehtab Jahan challenging the judgment dated 4<sup>th</sup> January, 2012 (hereinafter referred to as '*impugned judgment*') and the Order on Sentence dated 6<sup>th</sup> January, 2012 (hereinafter referred to as '*impugned Order In Sentence*') passed by the learned Additional Sessions Judge-II (North), Tis Hazari Courts, Delhi (hereinafter referred to as '*Trial Court*') in Sessions Case bearing No. 63/2011 arising out of FIR bearing No. 146/2008 registered at Police Station-Lahori Gate.



2. *Vide* the impugned judgment, the learned Trial Court convicted the Appellants under Section 489C of the Indian Penal Code, 1860 (hereinafter referred to as '*IPC*') and sentenced them to undergo 03 years of Simple Imprisonment (hereinafter referred to as '*SI*'), each along with a fine of ₹10,000/- each, and in default of payment of fine, to undergo SI for 05 months.

3. In brief, the Prosecution case is that on 31<sup>st</sup> July, 2008, at about 04:45 PM, SI Surender Singh (PW- 4) was on patrolling duty near Fatehpuri Masjid, Chandni Chowk. While on patrolling duty, a secret information was received that a young man and a woman, who were engaging in the selling of counterfeit currency notes were present near Backar Watch Company, Chandni Chowk and were waiting for the customers.

Acting upon the said information, a raiding team was formed. At about 04:45 PM, on the pointing out of the secret informer, both the Appellants were apprehended. From the search of the Appellant-Aashim, 12 counterfeit currency notes of Rs.500/- each, were recovered from the back pocket of his trousers. From the search of the Appellant-Mehtab Jahan, 8 counterfeit currency notes of Rs.500/- each, were recovered from a small black purse. The recovered currency notes were seized and sealed in separate *pullandas* ('*cotton cloth*'). Thereafter the FIR was got registered under Sections 489B/489C/34 IPC. The exhibits were forwarded to the Currency Note Press (hereinafter referred to as '*CNP*'), Nashik, for expert examination and the currency notes were opined as counterfeit. After investigation, the chargesheet was filed in the Court.

Separate charges under Section 489C of the IPC were framed against the Appellants, to which they pleaded not guilty and claimed trial. The Prosecution in order to prove its case has examined 11 witnesses. The



statements of the Appellants were recorded under Section 313 of the Cr.P.C., wherein the Appellants had denied the incriminating evidences and pleaded innocence and claimed false implication and have also examined one witness in their defence. The trial resulted in conviction, as aforesaid. Being aggrieved and dissatisfied with the *Impugned Judgment*, the present appeal has been preferred by the Appellants.

4. Ld. Counsel for the Appellants has argued that the Trial Court has passed the impugned judgment on the basis of submisers and conjectures, which is against the facts of the case. The alleged counterfeit currency notes are planted upon the Appellants. The recovery of the alleged counterfeit currency notes from the possession of the Appellants is doubtful, as no public witness has been a part of the investigation. All the Prosecution witnesses are Police officials and their evidence does not inspire confidence as they are interested witnesses. As the Prosecution has failed to prove its case, therefore, it is prayed that the impugned judgment be set aside and the Appellants be acquitted.

5. On the other hand, Id. APP for the State has argued that the Trial Court has passed the impugned judgment after considering the evidences on record. The evidences produced on behalf of the Prosecution have proved the case beyond reasonable doubt. The arguments of the Appellants are without any merit. Thus, the appeal is liable to be dismissed.

6. PW-4 SI Surender Singh has deposed that on 31<sup>st</sup> July, 2008, he was posted as an ASI in PS Lahori Gate. On that day, he was on patrolling duty in the area of Chandni Chowk near Fatehpuri Masjid and at about 04.40 PM, two Police officials, namely, Ct. Rajnikant and Ct. Kaptan Singh met with him and in the meantime, someone informed him that one boy along with one lady



were involved in the business of fake currency notes and they were present near Backar Watch Company, Chandni Chowk waiting for some customers. Thereafter, a raiding party was organized, and he requested a few public persons to join the raiding party, but none of them agreed to do so and left without giving their names. They immediately went near Backar Watch Company, where a boy wearing a green T-shirt along with a lady was standing. They were pointed out by the secret informer who was with them. He further submits that the secret informer left thereafter, and they started keeping watch on the boy and the lady. The lady was spotted holding a cream-colored handbag in her right hand. They were waiting for a customer, and when no customer came, they were about to leave that place. They were stopped by the raiding party, and the lady's handbag was checked. Counterfeit currency notes were found in a small black purse with a green-colored zip inside her handbag. Upon checking the black purse, the currency notes appeared to be fake. Thereafter, he searched the boy and recovered 12 currency notes of Rs. 500/- denomination each from the back pocket of his trousers. All 12 currency notes, upon checking, seemed to be fake as well. The names of the boy and the lady were revealed as Aashim and Mehtab Jahan. He signed and dated all the currency notes recovered from the accused, namely Aashim and Mehtab Jahan, and they were seized vide memo Ex.PW-4/B and Ex. PW-4/A, respectively. He prepared Rukka Ex.PW-4/C and got the case registered. Further investigation was conducted by SI Raj Kumar, who identified the currency notes in Court as Ex. P-2 to P-21.

PW-10 Ct. Rajnikant, who is also the member of the raiding party, has deposed on the same lines as PW-4.

PW-5 Sh. M.D. Bagul from the CNP has proved his report as Ex. PW-



5/A. As per the report, the 20 counterfeit currency notes were opined to be forged notes.

PW-11 Insp. Raj Kumar is the Investigating Officer of the case and has deposed that on 31<sup>st</sup> July, 2008, he was posted as an Inspector at PS-Lahori Gate and the case was marked to him for conducting further investigation. He further submits that he went to the spot where SI Surender Singh handed over two sealed *pullandas* to him, which were duly sealed with the seal of 'SS' and produced both the accused persons for interrogation and subsequently, arrested them. Thereafter, he prepared site plan Ex. PW-11/A at the instance of SI Surender Singh and deposited the case property in *malkhana* PS-Lahori Gate. On 18<sup>th</sup> August, 2008, he had sent the case property to CNP for examination of fake currency notes through PW-6/Ct. Surinder. The result obtained from CNP is Exhibited as PW-5/A. After completing the investigation, the *challan* was prepared.

DW-1 Smt. Safia has deposed that on 31<sup>st</sup> July, 2008, she was present at her house. She heard some noise from the neighbourhood, at about 04:00 or 05:00 PM, Police came to the house of Mehtab Jahan and lifted accused persons i.e., Mehtab Jahan and Aashim and told them that they are being taken to PS-Chandni Mahal. But after two days, it was transpired that the accused persons, namely, Mehtab Jahan and Aashim were taken to PS-Lahori Gate and have been arrested in some fraud case.

7. I have heard the Id. Counsels for the Appellants and Id. APP for the State and have examined the records.

8. As to the reliability of the evidence of Police officials, Hon'ble Supreme Court in ***Kalp Nath Raj v. State, (1997) 8 SCC 732*** has held as under:

*"As a legal proposition it was argued that it would it would be*



*unsafe to base a conclusion on the evidence of police officers alone without being supported by at least one independent person from the locality. To reinforce the said contention Shri V.S.Kotwal, Senior Advocate cited the decision of this Court in Pradeep Narayan Madgaonkar and Ors. v. State of Maharashtra (1995) 4 SCC 255 wherein want of independent witnesses of the locality rendered suspicious a raid conducted by the police.*

*There can be no legal proposition that evidence of police officers, unless supported by independent witnesses, is unworthy of acceptance. Non-examination of independent witness or even presence of such witness during police raid would cast an added duty on the court to adopt greater care while scrutinising the evidence of the police officers. If the evidence of the police officer is found acceptable it would be an erroneous proposition that court must reject the prosecution version solely on the ground that no independent witness was examined. In Pradeep Narain Modgaonkar (supra) to which one of us (Mukherjee. J) is a party, the aforesaid position has been stated in unambiguous terms, the relevant portion of which is extracted below.*

*Indeed, the evidence of the official (police) witnesses cannot be discarded merely on the ground that they belong to the police force and are, either interested in the investigation or the prosecution agency but prudence dictates that their evidence needs to be subjected to strict scrutiny and as far as possible corroboration of their evidence in material particulars should be sought. Their desire to see the success of the case based on their investigation, requires greater care to appreciate their testimony.”*

9. PW-4 and PW-10 have supported the case of the Prosecution as to the recovery of counterfeit currency notes from the possession of the Appellants. They have identified the notes, which were seized under seizure memo Ex. PW-4/A & PW-4/B.

PW-4 and PW-10 have also been cross examined on behalf of the



Appellants, but no such material has come on record to disbelieve their testimonies. They have no grudge or reason to depose against the Appellants.

PW-11, who is the investigating officer of this case has also supported the case of the prosecution as to the arrest of the Appellants and the seizure of the *pullandas* of the fake currency notes at the spot.

10. Ld. Counsel for the Appellants has argued that the Appellants were lifted from their residence, as also deposed by DW-1.

I do not find any merit in this argument, as from the cross-examination of the Prosecution Witnesses, it is evident that no such suggestion has been put to these witnesses to support their defence and this defence is an afterthought.

11. Ld. Counsel for the Appellants has also argued that the case of the Prosecution is doubtful as the alleged recoveries were effected in two separate *pullandas* but PW-5 had deposed that only one *pullanda* was received in their office and also that PW-6 had also deposed that he took one sealed *pullanda* and deposited the same at CNP.

In this regard, the evidence of PW-2 H.C. Arun Kumar is material, as he was the MHC(M) at that relevant period. He has proved the relevant entries in the records as PW2/A to Ex. PW-2/D. As per the record, two sealed parcels were deposited and both these parcels were sent through PW-6/Ct. Surinder to deposit the same with the CNP and both these parcels were received after the examination from the CNP. The document Ex. PW-6/A of the CNP also shows the receiving of one sealed paper envelop and one cotton *pullanda*.

From these documents, it stands proved that the said two *pullandas* were sent to CNP and after examination, the same were received at the Police Station.



12. Ld. Counsel for the Appellant has argued that in the absence of *mens rea* to show that the alleged recovered currency notes were meant to be used as genuine, no order of conviction can be passed against the Appellants.

In *VK Jain vs. CBI, 2015(3) JCC 1944*, wherein the Co-ordinate Bench of this Court has held as under :

*“22. Section 489C provides for punishment for possession of forged or counterfeit currency notes or bank notes. The same reads as under :-*

***Section 489C in The Indian Penal Code***

*489C. Possession of forged or counterfeit currency-notes or bank-notes.—Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.*

23. *From a reading of this Section it becomes very clear that mere possession of forged or forfeited currency notes or bank notes with the knowledge that the same was forged or counterfeit is punishable.*

24. *If a person is found to be in possession of counterfeit currency and chooses not to give any explanation for such counterfeit currency and denies altogether the recovery which defence is ultimately found to be false, the only inevitable inference could be that he had reasons to believe that the currency notes were counterfeit and it was precisely for this reason that the appellant has been denying or has made attempts at denying the same to have been recovered from him.*

25. *Knowledge and intention are the state of mind which cannot be proved by direct evidence and have to be inferred from*





*the attending circumstances. Possession of counterfeit currency about which there is a denial simplicitor accompanied with no attempts at explaining as to how the appellant came into possession of such currency is sufficient to infer such requisite knowledge which would attract the mischief of Section 489C of the Indian Penal Code.*

26. *True it is that in a criminal case the prosecution is under an obligation to prove all the ingredients of the offence but when the circumstances have been proved by the prosecution and if a fact which remains in the exclusive knowledge of the accused which would be compatible with his innocence, the accused has to account for the same.*

27. *Section 106 of the Evidence Act reads as hereunder:-*

***Section 106 in The Indian Evidence Act, 1872***

*106. Burden of proving fact especially within knowledge.— When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.....*

28. *The prosecution must discharge the initial burden of establishing prima facie the guilt of the accused beyond all reasonable doubts. Section 106 of the Evidence Act, being an exception to Section 101 of the Evidence Act is attracted after the initial burden of the prosecution is proved.”*

13. From the evidence of the Prosecution on record, it stands proved that 12 counterfeit currency notes were recovered from the possession of the Appellant-Aashim and 8 counterfeit currency notes were recovered from the possession of the Appellant-Mehtab Jahan. Now, the burden was on the Appellants to explain their innocence, with regard to their lack of knowledge about such currency notes, being fake. However, the defence of the Appellants was that, that these currency notes were planted upon them and no recovery



was effected from them, but this defence is without any merit, as discussed above.

The Appellants have also not given any explanation in their statements recorded under Section 313 Cr.P.C., as to the source from where such currency notes were obtained. From these circumstances and the facts proved on record, it stands proved that they were having the requisite intention and knowledge that these currency notes were counterfeit and to use the same as genuine.

14. In view of the above discussion, the conviction of the Appellants by the Trial Court does not warrant any interference by this Court and it is maintained and upheld.

15. The Appellants have prayed for modification of the sentence seeking reduction of the sentence in consideration of the period already undergone. In support of their plea, the Appellant-Aashim has also submitted that he is aged about 39 years and Appellant-Mehtab Jahan has submitted that she is aged about 68 years.

The present case relates to an incident which had occurred 17 years ago, while the impugned judgment itself was delivered nearly about 13 years ago.

After considering the facts of the case and the mitigating circumstances, the interest of justice would be served, if the Appellants are sentenced to Simple Imprisonment for a period of six months and a fine of Rs. 10,000/- each, and in default of the payment of fine, to undergo SI for a period of 15 days with a benefit of Section 428 Cr.P.C. to which they are entitled.

16. Accordingly, the appeal is disposed of with the modification in the



2025:DHC:7839



impugned Order on Sentence, as stated above. Pending application(s), if any, also stand disposed of.

17. A copy of this judgment be communicated to the concerned Trial Court as well as to concerned Jail Superintendent forthwith for necessary information and compliance.

**RAJNEESH KUMAR GUPTA**  
**JUDGE**

**SEPTEMBER 9, 2025**

*nd/tsv*