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

Reserved on: ***04.11.2026***
Date of Decision: ***26.11.2026***
Uploaded on: ***26.11.2026***

\# **CNR No. DLHC010068682003**

\+ **CRL.A. 699/2003**

BASANT KUMAR & ANR. ....Appellants

Through: Mr. Rajesh Tyagi, Adv.

versus

THE STATE (C.B.I.) .....Respondent

Through: Mr. Premtosh K. Mishra (SPP), Mr. Krish Bhatia, Mr. Mayank Tripathi, Ms. Sakshi Mangla, Advs.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been preferred under Section 374 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC'), seeking setting aside of the judgment of conviction dated 25.09.2003 and the order on sentence dated 29.09.2003 passed by the learned Special Judge, Delhi, in ***CC No. 111/94***, arising out of ***RC No. 9(A)/90-DLI***, whereby both the appellants were convicted for the offences punishable under Section 120-B read with Sections 420, 467 and 471 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1947 (hereinafter referred to as the 'PC Act'). Both the appellants were also convicted for the substantive offences punishable under Sections 420 and 471 IPC, while appellant no. 1, Basant Kumar, was additionally convicted for the substantive offences punishable

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under Section 467 IPC and Section 5(2) read with Section 5(1)(d) of the PC Act.

FACTUAL BACKGROUND

Prosecution's Case

2. The case of the prosecution is that the appellants, Basant Kumar and Satish Kumar, are brothers. That during the relevant period, appellant no. 1 i.e. Basant Kumar was working as an Assistant in Establishment Section II of the Department of Industrial Development, Ministry of Industry, Government of India. His official work included processing matters relating to the appointment and posting of candidates nominated by the Staff Selection Commission (hereinafter referred to as 'SSC') for appointment in the clerical grade. It was alleged, that the appellants entered into a criminal conspiracy to secure the appointment of appellant no. 2 as a Lower Division Clerk (hereinafter referred to as 'LDC') by manipulating the official recruitment record.

3. The SSC had conducted the Clerks' Grade Examination, 1984. *Vide* letter dated 18/19.06.1985, the Department of Personnel and Training forwarded to the Department of Industrial Development a list of twenty-five (25) candidates who were nominated for appointment as LDCs. Tapash Kumar Haldar, who was shown as a Scheduled Caste (SC) candidate with rank no. 4937, appeared at serial no. 19 of the said list. Upon receipt of the list, appellant no. 1 i.e. Basant Kumar prepared a note dated 02.07.1985 for issuance of communications to the nominated candidates requiring them to undergo medical examination and submit their attestation forms. A communication dated 17.07.1985 was accordingly issued to Tapash Kumar Haldar.

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4. It was further alleged that, the original list was subsequently reproduced in a cyclostyled form, marked during trial as Mark 'X', in which the name of appellant no. 2 was shown at serial no. 19 with the same rank and category, in place of Tapash Kumar Haldar. The remaining twenty-four (24) names in the two lists were stated to be identical. According to the prosecution, the substituted list was used as the basis for processing the candidature of appellant no. 2 i.e. Satish Kumar as though he had been nominated by the SSC on the basis of the Clerks' Grade Examination, 1984.

5. In the *interregnum*, appellant no. 1 i.e. Basant Kumar was transferred from the Department of Industrial Development in January 1986 and returned to the Establishment Section in April 1986. A letter dated 17.02.1986, signed by L.D. Toora, Under Secretary, was shown in the record as having been issued to appellant no. 2, requiring him to report for medical examination and to submit the duly completed attestation forms. On 18.08.1986, appellant no. 1 opened a separate personal file relating to appellant no. 2 and recorded a note that no response had been received to the aforesaid communication. He proposed that a reminder be issued before the dossier was returned to the SSC. The proposal was approved and a reminder dated 21.08.1986 was thereafter issued.

6. Appellant no. 2 responded that he had not received the earlier communication, obtained the attestation forms and appeared for medical examination, whereupon he was declared fit. On 09.09.1986, appellant no. 1 recorded a further note proposing that, having regard to the shortage of LDCs, a provisional offer of appointment be issued to appellant no. 2 pending verification of his character and antecedents. The proposal was approved by the concerned officers. Appellant no. 2 accepted the offer and joined the Directorate General of Technical Development as an LDC on 24.09.1986.

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Upon receipt of the antecedent-verification report, his appointment was regularised *vide* order dated 13.01.1987.

7. On the basis of source information received in April 1990, the Central Bureau of Investigation (hereinafter referred to as 'CBI') registered ***RC No. 9(A)/90-DLI*** on 11.04.1990 against both the appellants. During investigation, the relevant recruitment and appointment records were seized, specimen handwriting and signatures of the appellants were obtained, and the questioned writings were sent for forensic examination. Upon completion of the investigation and after obtaining sanction for prosecution, a charge-sheet was filed before the concerned learned Trial Court.

Framing of Charges

8. Upon consideration of the material on record, the learned Trial Court framed charges against both the appellants under Section 120-B read with Sections 420, 467 and 471 of IPC and Section 5(2) of the PC Act, besides substantive charges under Sections 420 and 471 of IPC. Appellant no. 1 was separately charged for the substantive offences punishable under Section 467 IPC and Section 5(2) read with Section 5(1)(d) of the PC Act. Both the appellants pleaded not guilty to the charges so framed against them, and claimed trial.

Prosecution Evidence (PE)

9. In support of its case, the prosecution examined thirteen (13) witnesses. Sisir Das (PW-1), an official of the Department of Personnel and Training, proved the forwarding letter and the list of twenty-five (25) nominated candidates. Tapash Kumar Haldar (PW-2) deposed regarding his participation in the Clerks' Grade Examination, 1984, and proved his admit card. L.D. Toora (PW-3), A.L. Dhawan (PW-4) and V.P. Verghese (PW-10), officials of the Department of Industrial Development, deposed regarding the official

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files, the notings recorded therein and the communications issued in connection with the appointment of appellant no. 2.

10. A.E. Ahmed (PW-5) proved the sanction orders issued for prosecution of the appellants. P.C. Tanwar (PW-6), an official of the SSC, deposed from the examination record that appellant no. 2 had not appeared in the Clerks' Grade Examination, 1984, whereas Tapash Kumar Haldar had qualified with rank no. 4937. S.L. Mukhi (PW-7), the handwriting expert, proved his report concerning the questioned and specimen writings. Naresh Kumar (PW-8) deposed regarding the taking of specimen signatures, while K. Balasubramaniyam (PW-9) proved the production and seizure of official records. D.C. Saurari (PW-11), Mehar Singh (PW-12) and D.M. Sharma (PW-13), the investigating officers associated with different stages of the investigation, deposed regarding the registration of the case, seizure of records, obtaining of specimen writings, forensic examination and filing of the charge-sheet.

Defence Evidence (DE)

11. After the conclusion of the prosecution evidence (PE), the incriminating circumstances appearing against the appellants were put to them in their statements recorded under Section 313 CrPC. Appellant no. 1 admitted that appellant no. 2 was his brother and that he had dealt with the appointment files and recorded the relevant official notes. He however denied having fabricated any record. He stated that he had remained posted outside the Department when the first communication dated 17.02.1986 was issued and that the subsequent reminder and appointment-related notes were processed by him in the ordinary course on the basis of the material available in the file. He further claimed that appellant no. 2 had appeared in the Clerks'

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Grade Examination, 1985, qualified in Phase I and appeared in Phase II, but did not receive any rejection communication.

12. Appellant no. 2 also claimed that he had appeared in the Clerks' Grade Examination, 1985, qualified in Phase I and appeared in Phase II. He admitted having received the communication dated 21.08.1986, undergone medical examination and accepted the provisional and regular appointments. He further stated that he had resigned from service on 08.03.1990, prior to registration of the RC. Neither appellant led any evidence in their defence.

Impugned Judgment dated 25.09.2003

13. Upon appreciation of the evidence on record, the concerned learned Trial Court held, that both the appellants were public servants within the meaning of the applicable law and that the sanction for their prosecution had been validly issued on behalf of the Central Government. It further held that, although there was no direct evidence of conspiracy, the prosecution case rested upon a chain of documentary and circumstantial evidence which was capable of establishing the offences charged.

14. The learned Trial Court found that, the original list of candidates contained the name of Tapash Kumar Haldar at serial no. 19, whereas Mark 'X' contained the name of appellant no. 2 at the same serial number and with the same rank, the remaining names being identical. It relied upon the SSC record to hold that appellant no. 2 had not appeared in the Clerks' Grade Examination, 1984, and rejected the plea that his appointment could be traced to the examination held in 1985. The learned Trial Court also relied upon the personal file opened on 18.08.1986, the subsequent notings and communications processed by appellant no. 1, and the forensic opinion concerning his handwriting.

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15. The explanation that the senior officers had approved the relevant proposals was rejected on the ground that they had acted upon the official record placed before them in the ordinary course. The learned Trial Court concluded that, the appellants had knowingly used the substituted list and the connected documents to induce the Government to appoint appellant no. 2, and that appellant no. 1 had abused his official position for that purpose. Accordingly, *vide* judgment dated 25.09.2003, the appellants were convicted for the offences noticed hereinabove.

Order on Sentence dated 29.09.2003

16. *Vide* order dated 29.09.2003, both the appellants were sentenced to rigorous imprisonment (RI) for a period of three (3) years and six (6) months for the offence of criminal conspiracy, rigorous imprisonment (RI) for a period of three (3) years and six (6) months with a fine of Rs. 1,000/- each for the offence punishable under Section 420 IPC and rigorous imprisonment (RI) for a period of one (1) year for the offence punishable under Section 471 of IPC. Appellant no. 1 was further sentenced to rigorous imprisonment (RI) for a period of three (3) years and six (6) months with a fine of Rs. 1,000/- on each count for the offences under Section 467 of IPC and Section 5(2) read with Section 5(1)(d) of the PC Act. In default of payment of each fine, the concerned appellant was directed to undergo further rigorous imprisonment (RI) for a period of three (3) months. All substantive sentences of imprisonment were directed to run concurrently.

Present Proceedings

17. Aggrieved by the aforesaid judgment of conviction and the order on sentence, the appellants preferred the present appeal. The appeal was admitted on 20.10.2003. *Vide* order dated 20.11.2003, the substantive sentences awarded to the appellants were suspended during the pendency of the appeal,

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subject to deposit of the fine and their furnishing personal bonds to the sum of Rs. 20,000/- each with one surety each in the like amount to the satisfaction of the concerned learned Trial Court. The appeal was thereafter directed to be listed in the category of regular matters.

SUBMISSIONS ADVANCED

On behalf of the appellants

18. The learned counsel appearing on behalf of the appellants submitted, that the impugned judgment proceeds largely on suspicion arising from the relationship between the two appellants and does not identify a complete chain of proved circumstances establishing, that either appellant forged or knowingly used a forged document. It was submitted that the prosecution was required to prove the provenance and authorship of the documents said to have been fabricated and could not shift that burden merely because appellant no. 1 was the brother of appellant no. 2 and had dealt with recruitment files in the concerned section.

19. Learned counsel further submitted that appellant no. 1, Basant Kumar, was not posted in the Establishment II Section from 27.01.1986 to 04.04.1986. That the first letter concerning the medical examination of appellant no. 2, dated 17.02.1986 and exhibited as ***Ex. PW-4/DA***, was issued during that period and bears the signature of L.D. Toora, the then Under Secretary. It was contended, that the said letter was not sent for forensic examination to verify the signature of L.D. Toora and that there was no evidence identifying the person who prepared or placed it before him. That in these circumstances, the concerned learned Trial Court could not infer that appellant no. 1 had created or backdated the letter while he was posted in another office.

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20. It was further submitted that the note dated 18.08.1986, ***Ex. PW-4/A***, and the reminder dated 21.08.1986, ***Ex. PW-3/B-1***, were admittedly processed after appellant no. 1 returned to the section and were founded upon the earlier letter dated 17.02.1986 already available on the record. That appellant no. 1 did not dispute preparing the note or processing the reminder and his case was that these were routine follow-up steps taken under the directions and approval of the senior officers concerned. The mere preparation of the personal file on 18.08.1986 was therefore stated not to establish, that the underlying recruitment record had also been fabricated by him.

21. Learned counsel assailed the finding concerning the list marked 'X'. It was submitted that the list relied upon by the prosecution as being genuine i.e. ***Ex. PW-1/B***, and the list marked 'X' were both cyclostyled and unsigned. That no author, typist or other person responsible for preparing either list was examined, nor was any evidence led, to establish when, by whom and under whose authority the list marked 'X' had been generated. It was submitted that, in the absence of proof of provenance, the prosecution had not excluded the possibility of a revised or supplemental list and the concerned learned Trial Court could not therefore declare one list genuine and the other forged, solely because the latter contained the name of appellant no. 2.

22. It was also submitted that PW-6, P.C. Tanwar, did not produce the phase-wise record of the Clerks' Grade Examination held in 1985. That in cross-examination, he initially stated that he had not verified the result of the qualified candidates for the 1985 examination and that the result had neither been requisitioned by the Investigating Officer (IO) nor shown during investigation. That he thereafter asserted that he had verified the 1985 result and that appellant no. 2 had not appeared. Learned counsel submitted that

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these statements were internally inconsistent and were unsupported by the primary record of the 1985 examination.

23. The learned counsel further submitted that the defence of appellant no. 2 was that he had appeared in the 1985 examination, cleared its first phase and appeared in the second phase, but received no letter of rejection. It was contended that the examination described as the 1984 Clerks' Grade Examination and the subsequent examination process both extended into 1985, and that the prosecution had conflated the two, and since the complete 1985 result was not produced, it was submitted that the plea of appellant no. 2 was not affirmatively disproved by the best available evidence.

24. Learned counsel referred to the testimony of Tapash Kumar Haldar, PW-2, who stated, that he had qualified the first phase and appeared in the second phase of the 1984 examination but received no further response. That PW-2 had meanwhile joined Punjab National Bank (PNB) and thereafter the State Bank of India (SBI) and did not pursue the matter with the Staff Selection Commission (SSC). It was submitted that PW-2 did not depose that he had received a final selection or appointment and that his testimony did not, by itself, prove that appellant no. 2 had been substituted in his place.

25. It was further submitted that the official record did not move on the authority of appellant no. 1 alone. It was submitted that A.L. Dhawan approved the proposal for the reminder, that V.P. Verghese forwarded the proposal for provisional appointment, that the proposal was approved at the level of the Under Secretary and the Director, and that the appointment letter dated 25.09.1986 was issued under the signature of L.D. Toora. It was also submitted that PW-10 also accepted that there was a bulk requirement of more than twenty (20) LDCs and that the appointment proposals were processed in the same manner through the departmental hierarchy. The expedition in

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processing the case was therefore attributed to the admitted shortage of staff and not to a guilty design.

26. The learned counsel placed particular reliance upon the cross-examination of PW-10, who accepted that appellant no. 1, being an officer of Class II, was not responsible for typing or cyclostyling lists and that those functions were performed by the clerical staff and *daftaries*. PW-10 further stated that appellant no. 1 was not posted in the section when the letter dated 17.02.1986 was issued, that a file allotted to one official could be handled by another during his absence, and that the collective recruitment file had been allotted to A.L. Dhawan during the relevant period. These admissions were stated to negate the inference that appellant no. 1 must have prepared the impugned list or the first medical-examination letter.

27. It was submitted that the opinion of the handwriting expert did not cure this deficiency. The opinion identified the admitted handwriting and initials of appellant no. 1 on the departmental notes and subsequent processing documents but it did not establish that he had typed or cyclostyled the list marked 'X' or prepared the letter dated 17.02.1986. The learned counsel therefore contended that the proof of the routine notes admittedly made by appellant no. 1 could not be treated as proof of authorship of the documents alleged to be forged.

28. Learned counsel also submitted that the concerned learned Trial Court treated the explanations furnished by the appellants under Section 313 CrPC as strong incriminating circumstances and used them to complete the alleged chain of conspiracy. It was contended that an allegedly false explanation could be considered only after the prosecution had independently established a complete chain of circumstances and could not fill gaps in proof of forgery, use or agreement. The circumstance that provisional appointment was

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proposed before receipt of the antecedent-verification report was also stated not to form part of the charge and not to establish the alleged fabrication.

29. It was accordingly prayed that the judgment of conviction dated 25.09.2003 and the order on sentence dated 29.09.2003 be set aside and both the appellants be acquitted of the charges framed against them.

On behalf of the CBI

30. *Per contra*, the learned Special Public Prosecutor (SPP) appearing on behalf of the CBI opposed the appeal and submitted that the concerned learned Trial Court had founded the conviction upon a complete chain of documentary and circumstantial evidence. It was submitted that the case did not rest merely on the relationship between the appellants, but on the substitution of appellant no. 2 in the recruitment record, the admitted role of appellant no. 1 in processing the file, and the conduct of both appellants before and after the appointment.

31. Learned SPP submitted that the Department of Personnel and Training forwarded, under its letter dated 18/19.06.1985, a list of twenty-five (25) candidates selected on the basis of the 1984 Clerks' Grade Examination. That ***Ex. PW-1/B*** showed Tapash Kumar Haldar at serial no. 19, with rank no. 4937 and in the Scheduled Caste (SC) category. That appellant no. 1 processed that list and initialled the related note, and a letter dated 17.07.1985 was thereafter issued to PW-2 for medical examination. That the further list of fifty (50) candidates received in December 1985 likewise did not contain the name of appellant no. 2.

32. It was submitted that the list marked 'X', found in the personal file of appellant no. 2, reproduced the particulars of the original list but showed appellant no. 2 at serial no. 19 with the same rank no. 4937 and the same category earlier assigned to PW-2. The exact substitution of the name, while

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retaining the rank and category, was stated to rule out the suggestion that the list marked 'X' was an independent or supplemental nomination list.

33. Learned SPP further submitted that, after returning to the section, appellant no. 1 opened the personal file of appellant no. 2 on 18.08.1986 and placed in it the list marked 'X' and the letter dated 17.02.1986. That he then processed the reminder dated 21.08.1986, the attestation and antecedent papers, and the proposal dated 09.09.1986 for provisional appointment before receipt of the antecedent-verification report as a result of which appellant no. 2 joined on 24.09.1986. The speed and sequence of these steps, immediately after the creation of the personal file, were submitted to be inconsistent with a routine and *bona fide* recruitment process.

34. It was emphasised, that the dossier, the reminder, the offer of appointment and the subsequent regularisation all referred to the 1984 Clerks' Grade Examination and to rank no. 4937. That appellant no. 2 did not claim to have qualified that examination and that his defence rested upon an alleged appearance in the 1985 examination. Learned SPP submitted that a belief based on the 1985 examination could not explain why appellant no. 2 accepted appointment documents expressly founded on the 1984 examination and on the rank allotted to PW-2.

35. Learned SPP relied upon PW-6, the concerned officer of the Staff Selection Commission (SSC), who stated after examining the official record that appellant no. 2 had not appeared in the 1984 examination and that PW-2 had qualified with rank no. 4937. It was submitted that PW-6 further denied the suggestion that appellant no. 2 had appeared in the 1985 examination. It was contended that no admit card, result, correspondence or other primary record was produced by the appellants despite their assertion that defence evidence would be led.

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36. The testimony of PW-2 was also stated to support the prosecution as PW-2 proved his admit card, roll number and participation in both phases of the 1984 examination. It was submitted that his failure to pursue the matter after joining a bank did not displace the official record showing him at serial no. 19 and rank no. 4937. Learned SPP submitted that PW-6 had also explained that letters of rejection were not ordinarily sent to unsuccessful candidates, and that the absence of further correspondence from PW-2 did not make the substituted list genuine.

37. In an answer to the reliance placed upon the absence of appellant no. 1 from the section between January and April 1986, learned SPP submitted that the letter dated 17.02.1986 was introduced into the file precisely to make it appear that the process had commenced while he was posted elsewhere. That upon his return, appellant no. 1 created the personal file, referred to the earlier letter as the foundation for a reminder, and thereafter moved every material stage of the appointment. That the cover and the relevant notes in the file were also identified as being in his handwriting. His temporary absence was therefore stated not to break the chain but to explain the manner in which the record was backdated.

38. Learned SPP further submitted that the approval of senior officers did not exonerate appellant no. 1 as the proposals were placed before them as routine recruitment matters on the basis of the records prepared and routed through the concerned section, and that they had no apparent reason to suspect that the list or the earlier letter had been fabricated. The unchallenged opinion of the handwriting expert corroborated the authorship of appellant no. 1's notes and initials on the material documents and therefore it was submitted that the prosecution was not required to prove, that appellant no. 1 personally

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operated the typewriter or cyclostyling machine when the surrounding circumstances established his control over and use of the fabricated record.

39. It was further submitted that the appellants' explanations did not furnish a probable alternative to the proved circumstances. That appellant no. 2 produced no record of the alleged 1985 candidature, accepted an appointment expressly referable to the 1984 examination, and sought to rely upon his resignation shortly before registration of the RC as evidence of *bona fides*. According to the learned SPP, the resignation neither proved his candidature nor neutralised his knowing use of the recruitment record. That the opportunity and motive of appellant no. 1, the exact substitution in the list, the rapid processing of the appointment and the absence of any supporting defence record cumulatively established the agreement and common design between the appellants.

40. Learned SPP accordingly submitted that the prosecution had proved the charges beyond reasonable doubt, that the findings of the concerned learned Trial Court did not warrant interference, and that the appeal was liable to be dismissed.

ANALYSIS AND FINDINGS

41. This Court has heard the learned counsel appearing on behalf of the appellants as well as the learned SPP for CBI, and has also perused and appreciated the evidence and other material placed on record.

42. The prosecution’s case against the appellants rests entirely upon documentary and circumstantial evidence. This Court must therefore, examine whether each circumstance has been proved beyond reasonable doubt and whether taken together, they form an unbroken chain pointing only to the guilt of each appellant, leaving no reasonable possibility of innocence.

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43. At the outset, it would be appropriate to identify the questions that arise for consideration of this Court. The first concerns the authenticity of the list marked ‘X’ and the connected recruitment record. If the record is found to be false, the Court must then examine whether either appellant made the false document or used it with knowledge of its falsity. It must further be considered, whether the evidence establishes an agreement between the appellants to secure the appointment of appellant no. 2 by unlawful means. It is in the light of these questions that the prosecution evidence and the findings returned by the concerned learned Trial Court must be examined.

44. Turning first to the authenticity of the list marked ‘X’, it records the name of Tapash Kumar Haldar i.e. PW-2 at serial no. 19, with rank no. 4937 in the Scheduled Caste (SC) category. Mark ‘X’, while reproducing the remaining twenty-four (24) entries without any change, replaces PW-2’s name with that of appellant no. 2. Now this substitution, leaves little room to accept the suggestion that Mark ‘X’ was an independent or supplementary nomination list. It cannot therefore be regarded as the genuine list which was forwarded with the letter dated 18/19.06.1985. This conclusion however, can only be confined to the authenticity of the document and it does not in any manner, answer, as to who prepared it or whether either appellant knew it to be false.

45. The concerned learned Trial Court inferred guilt of the appellants principally from appellant no. 1’s role in the recruitment work, his relationship with appellant no. 2, his alleged knowledge of the authentic recruitment record, and his participation in opening the personal file and processing the reminder and provisional appointment. It also drew an adverse inference from appellant no. 2 having accepted official communications referring to the 1984 examination, the absence of material supporting the

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asserted 1985 candidature, the lack of proof of his resignation and the non-refund of the salary received by him. It must therefore be examined, that whether these circumstances, individually or collectively, prove the essential ingredients of the charged offences beyond reasonable doubt or not.

46. In ***Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116***, the Supreme Court reiterated that the circumstances from which guilt is inferred must be fully established, that they must be consistent only with the hypothesis of guilt, and that they must form a chain so complete so as to leave no reasonable ground for a conclusion that might be consistent with innocence. ***Kali Ram v. State of H.P., (1973) 2 SCC 808*** holds, that where the evidence on record reasonably admits of two possible views, the view favourable to the accused must prevail. This principle is not a concession to an accused person, but a consequence of the prosecution's obligation to prove the accused's guilt beyond reasonable doubt.

47. Section 106 of the Indian Evidence Act, 1872 (hereinafter referred to as the 'Evidence Act') does not dilute this obligation of prosecution either. In ***Shambu Nath Mehra v. State of Ajmer, (1956) 1 SCC 337***, the Supreme Court explained that Section 106 of the Evidence Act is intended for exceptional facts pre-eminently within the knowledge of an accused person, and that it is not a device, to relieve the prosecution of proving its case beyond reasonable doubt. In the present case, acts such as the preparation, movement and custody of an official list or departmental letter were capable of investigation through the officials, registers, dispatch record, typists and *daftaries* concerned. They could not be treated as proved merely because appellant no. 1 did not explain how those documents came to be in the file.

48. The learned Trial Court also treated the asserted 1985 candidature, the resignation and the absence of an offer to refund salary as strong incriminating

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circumstances. In ***Perumal Raja v. State, 2024 SCC OnLine SC 12***, the Supreme Court clarified that a false explanation may lend assurance only after the prosecution has satisfactorily proved all links in the chain. That it cannot fill an incomplete chain. The same principle applies to the failure of an accused to lead defence evidence, for the weakness of a defence cannot substitute the requirement of proof of the prosecution's case.

49. The charge under Section 467 of IPC required proof, that appellant no. 1 made the false document falling within the provision of Section 464 IPC. In ***Sheila Sebastian v. R. Jawaharaj, (2018) 7 SCC 581***, the Supreme Court held, that a charge of forgery cannot be fastened upon a person who is not proved to be the maker of the false document. A person who benefits from a document, or whose conduct gives rise to suspicion, does not on that account become its maker. So the prosecution in the present case is therefore required to prove, by direct or cogent circumstantial evidence, that appellant no. 1 made or caused Mark 'X' or the letter dated 17.02.1986 to be made.

50. For an offence under Section 471 of the IPC, the prosecution must prove that the accused voluntarily and fraudulently or dishonestly used a forged document as genuine, knowing or having reason to believe it to be forged. In ***A.S. Krishnan v. State of Kerala***, ***(2004) 11 SCC 576***, the Supreme Court held that "*reason to believe*" denotes a state of mind higher than suspicion or doubt, though short of knowledge, and must arise from circumstances furnishing sufficient cause to infer the forgery. ***Deepak Gaba v. State of Uttar Pradesh***, ***(2023) 3 SCC 423*** clarifies, that Section 471 IPC is not attracted unless the document is first proved to be false under Section 464 and forged under Section 470, followed by proof of its knowing use as genuine. It further holds, that Section 420 IPC requires deception followed by

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dishonest inducement to deliver property or to make, alter or destroy a valuable security. Each ingredient must be separately proved.

51. ***L. Chandraiah v. State of A.P., (2003) 12 SCC 670***, is especially instructive in this regard. The officials in this case had passed forged vouchers for payment. The Supreme Court held that, in the absence of proof that they forged the vouchers or passed them with knowledge of the forgery, their negligence could not sustain convictions under Sections 467 and 471 of IPC or the PC Act, further emphasising that, the possibility of carelessness or a disciplinary lapse does not establish criminal intent. This principle in the opinion of this Court applies with equal force where an official processes a note on the basis of documents already available on a departmental file.

52. Now the essence of the offence under Section 120-B of IPC is an agreement to commit an illegal act or a legal act by illegal means. In ***Ram Sharan Chaturvedi v. State of M.P., (2022) 16 SCC 166***, the Supreme Court held, that although an express agreement need not be proved, some physical manifestation of the meeting of minds must emerge from the proved circumstances. It was further held, that a few disconnected pieces and mere suspicion are insufficient to hold an accused person(s) guilty for the same. More recently, in ***State of U.P. v. A.K. Gaba, 2026 SCC OnLine SC 967***, the Supreme Court reiterated that, association, opportunity or presence cannot replace proof of prior concert and that conjecture cannot sustain a conviction for conspiracy.

53. The same caution applies to the offences of cheating and criminal misconduct. In ***Anil Kumar Bose v. State of Bihar, (1974) 4 SCC 616***, an accountant and a cashier had processed and disbursed amounts under false pay bills. The Supreme Court held, that a failure to observe the prescribed procedure could amount to an administrative lapse but without something

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more, could not establish the guilty intention required for cheating. ***Abdulla Mohd. Pagarkar v. State, (1980) 3 SCC 110*** and ***C. Chenga Reddy v. State of A.P., (1996) 10 SCC 193*** similarly hold, that grave procedural irregularities and strong suspicion do not dispense with proof of the dishonest intention and agreement required for the penal offences and for criminal misconduct by a public servant.

54. Further, where the prosecution has access to evidence capable of resolving a material issue, its non-production assumes significance. ***Tomaso Bruno v. State of U.P., (2015) 7 SCC 178*** recognises, that an adverse inference may arise under Section 114 illustration (g) of the Evidence Act when the best available evidence is withheld. ***State of U.P. v. A.K. Gaba (supra)*** also applied this principle while assessing a charge of conspiracy. Such an inference is not being used here to prove the defence's case, but it is relevant, because, the prosecution sought to convert the appellants' failure to produce the 1985 record into proof of guilt even though that primary record was with the SSC and was never seized or produced.

55. Applying these principles, the first question is, whether the prosecution has proved who prepared Mark 'X' and how it came into existence. Both ***Ex. PW-1/B*** and Mark 'X' are unsigned cyclostyled documents. PW-3, L.D. Toora, had no personal knowledge of the preparation of Mark 'X' and eventually acknowledged that he did not know whether it had been prepared by appellant no. 1 or not. The prosecution also neither examined the typist, clerk or *daftari* concerned, nor connected any typing or cyclostyling equipment with either appellant. So the mere presence of Mark 'X' on an official file does not without anything further, identify its maker.

56. This omission assumes greater significance in the light of the testimony of PW-10, V.P. Verghese. He stated in his cross-examination that appellant

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no. 1 was a Class II officer and that typing and cyclostyling did not form part of his duties. According to him, typing work was performed by the clerical staff and cyclostyling by the *daftaries*. According to him, the office had 2 or 3 clerical employees and appellant no. 1 had never been assigned either task. The opinion of PW-7, the handwriting expert, also takes the prosecution case no further as although, he identified the official notes and initials of appellant no. 1, he did not connect him with the typed or cyclostyled contents of Mark 'X'.

57. Faced with this evidentiary gap, the learned Trial Court inferred authorship from motive and opportunity, principally that appellant no. 1 was interested in securing employment for his brother. Now motive and opportunity may lend support to other proved facts, but they cannot take the place of proof of the accused having made the false document. Nor can authorship be presumed from the alleged conspiracy and then that very presumption be then used, to establish that conspiracy itself. As explained in ***Sheila Sebastian v. R. Jawaharaj (supra)***, liability for forgery can be fastened only upon the person shown to have made the false document and the fact that an accused may have had a motive or stood to benefit from it, is not by itself, sufficient in nature.

58. The next circumstance concerns the letter dated 17.02.1986, ***Ex. PW-4/DA***. Appellant no. 1 had been transferred out of the Department on 27.01.1986 and returned only on 04.04.1986 and the concerned letter was issued during this interval which further bears the signature of L.D. Toora, the then Under Secretary. PW-10 further acknowledged, that the recruitment file had been allotted to A.L. Dhawan on 27.01.1986 and that whenever required, an official file could be handled by an officer other than the one to whom it stood allotted. But even after examining the original record, PW-10 could not

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say that who had placed the letter before the then Under Secretary. The departmental record therefore, does not trace its preparation to appellant no. 1.

59. Despite this, the learned Trial Court concluded that the "*only inference*" was that, appellant no. 1 had obtained a blank, pre-signed cyclostyled letter and inserted the particulars appearing in the letter dated 17.02.1986. This inference in the opinion of this Court has no foundation, as the evidence on record provides no reason for inferring as such. No witness stated that blank letters bearing the signature of L.D. Toora were maintained in the office or were accessible to appellant no. 1. No such letter was recovered, and no dispatch record, clerical testimony or forensic opinion disclosed, as to when or by whom the particulars were inserted. Significantly, the prosecution never alleged that the signature of L.D. Toora had been forged. In the absence of any supporting evidence, the theory of a blank pre-signed letter is complete conjecture and thus, it cannot be treated as a proved circumstance.

60. Now even if ***Ex. PW-4/DA*** (the letter) could not have been issued on the basis of the original list, ***Ex. PW-1/B***, the fact that it was issued only shows that an error or manipulation occurred within the Department. But it does not in any way prove, that appellant no. 1 was responsible for it. As has been stated above, to prove the offences with which the appellants have been charged, the prosecution has to establish the 'ingredients' of the concerned offences. They have to show, that these ingredients are made out against them beyond any shadow of a doubt. Just because a letter has been issued on the basis of a false list, it does not make out that appellant no. 1 was responsible for such issuance, especially when he was not even working in the concerned department at the time. The possibility that another official prepared or processed the letter on the basis of Mark 'X' i.e. the false list or some other

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incorrect entry available on the file, cannot be ruled out. But this or any other Court if there had been, is not required to discover who actually prepared the letter. The relevant question is whether the prosecution has proved beyond reasonable doubt that appellant no. 1 did so, and in the opinion of this Court, the prosecution has failed to do so.

61. Now the note dated 18.08.1986 must be viewed in its proper context. Appellant no. 1 does not dispute that after returning to the section, he opened the personal file and recorded the note. But the note merely referred to the letter dated 17.02.1986, which was already on the file, and suggested that a reminder be issued before the dossier was returned to the SSC. This proposal was approved by A.L. Dhawan, under whose initials the reminder dated 21.08.1986 was issued. PW-10 also acknowledged that the official notes recorded by appellant no. 1 were based on the material available on the file. So the fact that appellant no. 1 prepared a follow-up note, does not establish, that he had fabricated, or knew of the falsity of, the earlier material upon which the note was based.

62. Now the matter thereafter moved through the ordinary departmental channel. A.L. Dhawan approved the issuance of the reminder after which the proposal for provisional appointment was considered and approved by superior officers and the appointment letter was issued under the signature of L.D. Toora. These approvals would not absolve appellant no. 1 if there were independent evidence(s) on record to show or prove, that he knew the underlying record to be false and acted dishonestly. But there is no evidence on record that would show as such. **The acts of the superior officers cannot be regarded as routine administrative action while a similar routine administrative action performed by appellant no. 1 is treated as incriminating merely because the candidate happened to be his brother**.

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Their relationship may give rise to suspicion, but it cannot by itself, prove the knowledge or dishonest intention required for criminal liability.

63. The learned Trial Court also viewed the proposal for provisional appointment as having been processed with unusual haste. The note dated 09.09.1986 recorded that there was an acute shortage of LDCs and PW-10 also confirmed that more than twenty (20) persons were required and that appointment proposals were processed in a similar manner. Now the proposed appointment was only provisional, subject to verification of character and antecedents, and was approved by the competent superior officers. So the observation that one appointment could not have resolved the entire shortage misses the point, which is, that the shortage itself explained the need to fill the available vacancies promptly. And even if the proposal was processed irregularly or with undue speed, that circumstance would not by itself prove the very core enquiry in the present case, which is, that appellant no. 1 prepared Mark 'X' or knew that it was false or acted with knowledge of it falsity, which if proved would result in his conviction.

64. Now the forensic evidence also does not take the prosecution's case any further. PW-7 merely confirmed that the admitted notes and initials belonged to appellant no. 1 and that the genuine signatures belonged to appellant no. 2, but he did not connect either appellant with the typed or cyclostyled contents of Mark 'X'. Nor did he identify the person who inserted the particulars in the letter dated 17.02.1986 or find any alteration in a writing attributable to either appellant. The expert evidence thus again proved only what was already proven, which is, that it did not connect either appellant with the disputed documents.

65. A further difficulty arises from the manner in which the alleged candidature of appellant no. 2 in the 1985 examination was investigated. In

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cross-examination, PW-6 initially stated that he had not verified the result of the successful candidates, had not brought the phase-wise results and could not speak about the final selection letters. He acknowledged, that the results of both phases were available with the SSC and that the Investigating Officer (IO) had never sought them. He later stated, that he had verified the result and found that appellant no. 2 had not appeared in the examination. Now this later statement was unsupported by the relevant record and was inconsistent with his earlier answers. The evidence of PW-12, the Investigating Officer (IO), also confirms this omission. He admitted that he had not seized from the SSC the dossier, final selection letter or result relating to the 1984 examination. More importantly, he neither seized nor verified the Phase I and Phase II results of the corresponding examination held in 1985. PW-13 had also not seen the lists of candidates who had appeared or qualified in the relevant examinations. **Now the SSC records could have conclusively resolved the issue, yet they were neither collected nor produced. And even if the effect of this omission is kept within proper limits which is, that it does not establish that appellant no. 2 had in fact appeared in or qualified the 1985's examination, the appellants' failure to prove the assertion that they did, cannot be treated as proof that they fabricated the 1984 record. The burden still remained upon the prosecution to establish the charged offences, particularly, when the primary SSC records were readily available to the investigating agency**.

66. The evidence of PW-2 i.e. Tapash Kumar Haldar also has a similarly limited bearing. It proves that he participated in the 1984 examination and supports the genuine list showing his name at serial no. 19 with rank no. 4937 in the SC category. His testimony thus supports the conclusion that Mark 'X' was not genuine. But PW-2 neither identified either appellant as the person

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who altered the list nor claimed to have had any interaction with them. So his evidence proves the falsity of Mark 'X', but does not prove, that who prepared or knowingly used it or whether the appellants acted pursuant to an agreement in that regard.

67. Viewed in this background, the learned Trial Court was not justified in drawing an adverse inference because appellant no. 1 did not explain how the letter dated 17.02.1986 came to be placed on the file. Section 106 of the Evidence Act applies to facts especially within the knowledge of the accused person(s), but it does not relieve the prosecution of its initial burden of proving the offence. The preparation and movement of an official letter could have been established through the departmental records and the officials who handled it. Having failed to identify the typist, the person who placed the letter before the then Under Secretary, the relevant dispatch record or any forensic link, the prosecution could not require appellant no. 1 to disprove its authorship. Section 106 would be made applicable if the appellant knew the material placed before him to be forged in nature or specifically the list which contained his brother's name to be forged, but as has been stated above, the prosecution has failed establish that appellant no. 1 forged the said document or used it even after or during knowing it to be false.

68. The remaining circumstances relied upon by the learned Trial Court do not fill these gaps either. The alleged resignation of appellant no. 2 shortly before the case was registered, the failure to prove that resignation and the non-refund of the salary received by him, do not establish that the appellants had earlier agreed to fabricate or use a false record. An offer to return the salary is not an ingredient of any of the charged offences, and to reason that an innocent person would necessarily have returned the salary would in effect, require appellant no. 2 to prove his innocence through his subsequent conduct

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which would go against the foundational principle of 'presumed innocent until proven guilty'. As explained in ***Perumal Raja v. State (supra)***, a false or unsatisfactory defence may be considered as an additional circumstance only after the prosecution has otherwise established a complete chain but it cannot supply the links missing from the prosecution case.

Case against Appellant No. 1 Basant Kumar

69. Now the evidence discussed above explains, that why suspicion fell upon appellant no. 1. He is the brother of appellant no. 2, had earlier dealt with the genuine recruitment list and after returning to the section, opened the personal file and processed the reminder and the proposals that eventually led to the appointment. These circumstances required close scrutiny, and upon such scrutiny, the essential links remain missing. There is no evidence that appellant no. 1 prepared Mark 'X', procured or altered the letter dated 17.02.1986, knew that either document was false, or acted pursuant to an agreement with appellant no. 2.

70. This evidentiary gap is sufficient to dislodge the conviction of appellant no. 1 under Section 467 of the IPC, since relationship, access and possible motive do not prove that he made the disputed document. Quite apart from the question of authorship, the conviction encounters a further legal difficulty, which is that Section 467 of IPC is attracted only when the document alleged to have been forged is a valuable security or is otherwise one of the documents specified in that provision. A document constitutes a valuable security within the meaning of Section 30 of the IPC when it itself creates, extends, transfers, restricts, extinguishes or releases a legal right, or acknowledges a legal liability.

71. Mark 'X' did none of these things. It did not appoint appellant no. 2, confer upon him an enforceable right to appointment or authorise him to

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receive salary. At the highest, it purported to place his name in the recruitment process. His appointment still depended upon medical fitness, verification of character and antecedents, and an independent decision of the appointing authority. As held by the Constitution Bench in ***Shankarsan Dash v. Union of India, (1991) 3 SCC 47***, even inclusion in a select list does not confer an indefeasible right to appointment. Mark 'X' was therefore, only a document capable of being acted upon at a subsequent stage and was not the instrument by which any legal right or authority was itself created.

72. This distinction bears directly upon the applicability of Section 467 of the IPC as in ***Shriniwas Pandit Dharamadhikari v. State of Maharashtra, (1980) 4 SCC 551***, the Supreme Court held, that certificates forged for obtaining admission to a college were not valuable securities within the meaning of Section 30 of the IPC. Applying the same principle, even if Mark 'X' was assumed to be a forged document, it would not fall within the provision of Section 467 IPC. In any event, since the prosecution has also failed to prove that appellant no. 1 made that document, his conviction for forgery cannot be sustained.

73. The conviction under Section 471 IPC encounters a similar difficulty as the provision does not make every handling or processing of a forged document punishable. The prosecution must prove, that the accused used the document as genuine, did so fraudulently or dishonestly, and that at the time of such use, knew or had reason to believe that the document was forged. Thus, even if the notes recorded by appellant no. 1 are treated as use of the material available on the file, the material question remains whether he acted upon it with the requisite knowledge or not.

74. That knowledge cannot be inferred merely from the fact that appellant no. 1 processed the file. His note proceeded upon the letter dated 17.02.1986,

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which was already available on the official record, and the proposal thereafter passed through the prescribed departmental hierarchy. There is no evidence that he prepared either Mark 'X' or the earlier letter, caused either document to be placed on the file, or was informed that either of them was false. His earlier association with the recruitment record and his relationship with appellant no. 2 undoubtedly make the circumstances suspicious. They do not, however, prove beyond reasonable doubt that, when he recorded the note, he knew or had sufficient reason to believe that the material before him was forged. At the highest, the prosecution case would suggest that he ought to have undertaken a more careful verification but Section 471 IPC does not punish a failure to exercise due care.

75. The decision in ***L. Chandraiah v. State of A.P. (supra)*** is directly instructive in this regard. In that case, the officials had passed forged vouchers for payment. The Supreme Court held that, although greater care on their part might have disclosed the fraud, their negligence did not establish that they knew the vouchers to be forged or that they acted with criminal intent. In the absence of proof of such knowledge or of a common design, the conviction under Section 471 IPC could not be sustained. The same distinction applies here. Proof that appellant no. 1 processed a file containing false documents is not proof that he knowingly used those documents as genuine. Since this essential ingredient of Section 471 IPC remains unproved, his conviction under that provision cannot stand.

76. The charge of cheating fares no better. The incorrect record may have resulted in the appointment of appellant no. 2 and the payment of salary to him, but that consequence alone does not prove that appellant no. 1 deceived the Government. It had to be shown that, while processing the matter, he knowingly made a false representation or dishonestly concealed the truth. His

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notes referred to the material then appearing on the file, and were placed before the superior officers for approval. Without proof that he knew the underlying material to be false, the dishonest intention required under Section 420 of the IPC cannot be inferred. The same was the principle applied in ***Anil Kumar Bose v. State of Bihar (supra)***, where a procedural lapse in processing false pay bills was held insufficient in the absence of proof of guilty intention, to sustain a conviction for cheating.

77. The charge under Section 5(2), read with Section 5(1)(d), of the PC Act rests upon the same conduct. The prosecution was required to prove that appellant no. 1 used corrupt or illegal means, or abused his official position, to obtain a pecuniary advantage for appellant no. 2. His notes show, that he processed the proposal through the prescribed official hierarchy. The process may have been irregular or unusually quick, but there is no independent evidence of a dishonest design. Once the alleged fabrication and knowing use of the disputed documents remain unproved, the same official acts cannot, without anything further, establish criminal misconduct. As held in ***L. Chandraiah v. State of A.P. (supra)***, ***Abdulla Mohd. Pagarkar v. State (supra)*** and ***C. Chenga Reddy v. State of A.P. (supra)***, an irregular or negligent official act, even when it raises suspicion, cannot substitute proof of criminal intent.

Case against Appellant No. 2 Satish Kumar

78. The case against appellant no. 2 must be examined independently. The most significant circumstance against him is that the departmental communications connected his appointment with the Clerks' Grade Examination, 1984 and rank no. 4937, whereas in his statement under Section 313 CrPC, he claimed to have appeared in an examination held in 1985. Now his acceptance of the appointment without questioning this discrepancy was

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undoubtedly a circumstance which called for an explanation. But its evidentiary value however, must be kept within proper limits because at the highest, the discrepancy casts doubt upon the explanation offered by appellant no. 2, but it does not by itself prove, that he had seen or possessed Mark 'X', knew that rank no. 4937 belonged to PW-2, or that he had participated in the fabrication of the recruitment record.

79. This limitation follows from the nature of an examination under Section 313 of CrPC. In ***Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722***, the Supreme Court held that the statement of an accused under Section 313 of CrPC is not a substantive piece of evidence. That although the answers given by the accused may be considered while appreciating the prosecution's evidence, they cannot be used to fill gaps in that evidence or constitute the sole basis of conviction. The prosecution was therefore still required to prove, through independent evidence, that appellant no. 2 knowingly used the forged document or acted pursuant to an agreement with appellant no. 1. Unless those foundational facts were first established, the inconsistency in his explanation could not supply them.

80. This decision makes it clear that the explanation of appellant no. 2 could be weighed along with the prosecution evidence, but it could not relieve the prosecution of proving the essential ingredients of the offences with which he has been charged.

81. The prosecution evidence concerning the acts of appellant no. 2 does not go far enough. There is nothing to show that he ever saw or possessed Mark 'X', placed it on the official file, prepared any part of it or forwarded it to the Department, and the communication dated 21.08.1986 originated from the Department itself. In his reply, appellant no. 2 merely stated that the earlier letter had not been received and requested that the requisite forms be supplied.

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No application, declaration or other document has been produced in which he claimed to have passed the 1984's examination or represented that rank no. 4937 belonged to him. The attestation forms, medical examination and joining documents were genuine documents issued or required by the Department. His compliance with those requirements does not establish that he knowingly used the internal list marked 'X' as genuine.

82. The decision in ***A.S. Krishnan v. State of Kerala (supra)*** is distinguishable on this ground. In that case, the accused personally relied upon the forged mark list, the false marks were entered in an admission application signed by him, and the surrounding record made the falsity apparent. In the present case, from the evidence on record, appellant no. 2 did not tender Mark 'X' or write or certify the disputed rank in any document. The prosecution also failed to produce the primary SSC record relating to his asserted participation in the 1985's examination. The references to the year 1984 and rank no. 4937 in the departmental correspondence do not prove beyond reasonable doubt that appellant no. 2 knew that Mark 'X' had been fabricated or that the rank shown against his name belonged to PW-2, and as is well settled, if any doubt arises in the prosecution's case, the benefit of such doubt has to be extended to the accused person.

83. To be clear, this Court is not holding that appellant no. 2 actually appeared in or qualified the 1985's examination. His assertion to that effect has not been proved yet. The prosecution however, could have tested this assertion conclusively by obtaining the relevant SSC records, but it did not do so. In their absence, the possibility that appellant no. 2 understood the departmental communication requiring him to furnish the concerned documents to relate to the examination in which he claimed to have actually participated cannot be ruled out. His explanation need not be accepted as true,

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but it is enough that it remains reasonably possible and has not been excluded by the prosecution evidence.

84. The remaining circumstances also do not establish an agreement between the appellants. They are brothers, appellant no. 2 obtained the benefit of appointment, and questions remain regarding his alleged resignation and the salary received by him. But none of these circumstances show a meeting of minds. There is no proved communication, meeting, instruction, exchange of documents or joint representation from which an agreement to fabricate the recruitment record may reasonably be inferred. As held in ***Ram Sharan Chaturvedi v. State of M.P. (supra)*** and ***State of U.P. v. A.K. Gaba (supra)***, conspiracy may be proved through circumstances, but those circumstances must reveal some outward act or conduct indicating a prior agreement. That relationship and benefit, without anything further, are insufficient.

85. The convictions of appellant no. 2 under Sections 420 and 471 of the IPC therefore, cannot be sustained. The prosecution has proved neither a dishonest representation made by him which induced the Government to grant the appointment nor his voluntary use of Mark 'X' with knowledge or reason to believe that it was forged. In the absence of proof that he acted pursuant to an agreement with appellant no. 1, the charge of conspiracy, whether in relation to the IPC offences or the offence under the PC Act, must also fail.

CONCLUSION

86. Accordingly, in view of the aforesaid discussion, the conviction of appellant no. 1, Basant Kumar, under Section 120-B read with Sections 420, 467 and 471 IPC and Section 5(2) read with Section 5(1)(d) of the PC Act, as also his substantive convictions under Sections 420, 467 and 471 IPC and Section 5(2) read with Section 5(1)(d) of the PC Act, is set aside. He is

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thereby, as a result of his conviction being set aside, acquitted of all the charges framed against him.

87. Further, the conviction of appellant no. 2, Satish Kumar, under Section 120-B read with Sections 420, 467 and 471 IPC and Section 5(2) read with Section 5(1)(d) of the PC Act, as also his substantive convictions under Sections 420 and 471 IPC, is also set aside. He is also therefore, acquitted of all the charges framed against him.

88. Consequently, the impugned judgment of conviction dated 25.09.2003 and the order on sentence dated 29.09.2003 are set aside in their entirety.

89. Accordingly, the present appeal is allowed and is thereby disposed of.

90. The amounts of fine deposited by the appellants, if any, shall be refunded to them upon due verification.

91. The appellants shall be released forthwith, if in custody, provided they are not required to be detained in any other case. If they are on bail pursuant to the order dated 20.11.2003, their bail bonds and surety bonds shall stand discharged, subject to their compliance with the requirements of Section 437A CrPC.

92. Pending application(s), if any, also stand(s) disposed of.

93. Interim order(s), if any, also stand(s) vacated.

94. A copy of this judgment be sent to the concerned Jail Superintendent as well as to the concerned learned Trial Court for information and necessary compliance.

95. This judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

NOVEMBER 26, 2026/PG

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