



2025:DHC:6910



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

% Date of Decision: 06.08.2025

+ **CRL.A. 796/2024**

MD IMRAN@SAHEEDAppellant

Through: Ms. Pallavi Garg, Advocate.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Amrendra, ANTF, Crime
Branch.

**CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

JUDGMENT (ORAL)

1. The present appeal has been preferred under Section 415 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the appellant challenging the judgment of conviction dated 13.05.2024 and the order on sentence dated 29.05.2024 passed by the learned Principal District & Sessions Judge, South-East District, Saket Courts, New Delhi in Sessions Case No. 452/2019 arising out of FIR No. 198/2019 registered at Police Station Crime Branch, Delhi under Sections 489B/489C/34 IPC.

Vide the impugned judgment, the appellant was convicted for offences punishable under Sections 120B/489B read with 120B/489C IPC. By the order on sentence, he was sentenced to undergo RI for 4 years with fine of Rs. 5,000/- and in default of payment to undergo SI for 15 days for



the offences punishable under Section 120B IPC and Section 489B r/w 120B IPC each. For the offence punishable under Section 489C IPC, he was directed to undergo RI for 3 years. The appellant was also directed to pay Rs.8,438/- towards expenses incurred by the State and in default, to undergo SI for 15 days. All sentences were directed to run concurrently. The benefit of Section 428 Cr.P.C. was also extended to the appellant.

2. The brief facts of the case are that on 09.07.2019, on secret information received by SI *Ravi Saini*, a raiding party was constituted near Sarai Kale Khan flyover. Around 3:00 PM, the appellant with co-accused *Mohd. Jiyaullah* arrived and was approached by decoy customer HC *Ramesh*. The appellant allegedly delivered six counterfeit currency notes of Rs.2,000/- denomination to the decoy in exchange for three genuine Rs.2,000/- notes. On the decoy's signal, both the accused were apprehended on the spot, the notes were seized and sealed, and the genuine notes received from the decoy were recovered from the appellant. On further search of the appellant, 33 counterfeit notes of Rs.2,000/- denomination were recovered from the appellant and 11 similar counterfeit notes were recovered from co-accused *Jiyaullah*. After investigation, the FIR was registered under section 489B/489C/34 IPC. The charges were framed under Sections 120B/489B r/w 120B/489-C IPC to which the appellant pleaded not guilty and claimed trial. In his statement under Section 313 Cr.P.C., the appellant denied all incriminating circumstances, asserted false implication, and claimed that no recovery was effected from him. He did not lead any evidence in defence.

3. In total, the prosecution examined 9 witnesses. PW5 Ct. *Ravi Saini*, deposed about receiving the secret information, formation of raiding party,



apprehension, recoveries, seizure/ arrest memos, site plan, and forwarding of case property. PW-4 *HC Ramesh* corroborated PW5's testimony on the aspects of the particulars of the raid. PW-3 *HC Ramesh* (decoy) stated that the appellant handed over six counterfeit notes in exchange for three genuine notes and identified the appellant in Court. Other prosecution witnesses were formal in nature and deposed as to various aspects of the investigation.

4. The sentence of the appellant was suspended by this Court vide order dated 03.02.2025. The Co-accused of the appellant, *Md. Jiyaulah* absconded and has been declared a Proclaimed Offender.

5. Learned counsel for the appellant argued that the prosecution failed to prove the requisite *mens rea* under Sections 489B/489C IPC. It was further contended that the decoy transaction was planted and the recovery witnesses being police officials and no independent public witness being joined, rendered the prosecution case doubtful. It is further submitted that there was no videography of the raid and no fingerprints were taken so there is no FSL to support the prosecution case.

6. *Per contra*, learned APP for the State supported the impugned judgment and submitted that the testimonies of PW-3 to PW-5 are consistent, corroborated by contemporaneous documents. It was contended that the appellant was apprehended in the act of trafficking counterfeit notes and that the quantity and circumstances clearly establish knowledge and intent.

7. PW5 in his testimony stated that on 09.07.2019 at around 1 P.M., he received secret information that the appellant would be coming at Sarai Kale



khan flyover around 2-3 pm with fake notes. He deposed that a raiding party was formed consisting of himself, the secret informer and PW4 and PW6. The secret informer told him that the appellant used the word '*bengali rasgulla.*' They asked 5-6 persons to join the party, however they declined and no notice could be served due to paucity of time. He further deposed that they reached Sarai Kale Khan flyover at about 2 pm. He deputed PW4 as the decoy customer and handed over him 3 currency notes of Rs. 2,000/- each, vide handing over memo (Ex. PW4/A). He further stated that at 3 pm one person wearing white pant shirt came on foot and stopped at the roadside, waiting for someone. The secret informer pointed out this person to be the appellant and PW5 sent PW4 to make a deal for the fake currency notes. At around 3.15 pm, PW4 sent a signal and thereafter the appellant and another person were apprehended. PW4 handed over 6 currency notes which he said were given by the appellant after taking the same from the co-accused *Md. Jiyauallah.* All these notes were having the same number OKF974462 and their paper was also different from original currency notes. On search of the appellant, 3 currency notes of Rs.2000/- which had been given to PW4 were recovered from left side pocket of pant. 33 other fake currency notes of Rs.2000/- denomination were also recovered from the appellant. 11 notes were also recovered from the co-accused.

In his cross examination, PW5 stated that the spot of incident did not have CCTV cameras and no photography/videography of the raid was done and no fingerprints were lifted from the spot.

8. PW4, who was the decoy witness, corroborated the version of PW5. He further deposed that he handed over 3 currency notes of Rs.2000/- notes



given to him by PW5 to the appellant who asked other co-accused using the code word 'Bengali Rasgulla' to give him 6 fake currency notes of Rs.2000/- denomination each, whereafter he gave the signal to the raiding party. PW4 identified the fake currency notes seized from both the appellant as well as the co-accused.

9. PW6 also deposed on similar lines as PW4 and PW5 and corroborated the material particulars of the raid.

10. *Mr. Divakar Laxman Gangurde*, Manager (Technical Operation), Currency Note Press, Nasik Road, who was examined as PW-8 deposed that three sealed plastic boxes were received from ACP, Narcotics Branch, Darya Ganj. Pertinently, the samples sent included 50 currency notes including the 6 notes given by the appellant to PW4 and these notes were found to be fake.

He deposed that even on a cursory comparison with the naked eye, the notes could still be identified to be fake. Though it was contended that the seized currency notes ought to have been examined by VSC machine, however, the contention fails as PW8 in his cross examination has stated that he used a machine similar to VSC machine to check the genuineness of the currency notes. The Opinion Report was exhibited as Ex. PW-8/A which clearly notes that the suspected notes were compared with the genuine notes with the help of Modern Scientific Instruments and variations were found in size of design, texture. The watermarks were found to be imitated and fluorescent fibers were found absent. Thus, it is evident that a thorough analysis was done to establish the duplicity of the notes.



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11. It is thus seen that PW-4, PW-5 and PW-6, who were material witnesses, being part of the raiding party, have given a consistent account of the decoy transaction and the recoveries. The factum of secret information and formation of raiding party finds mention in GD No.2A (Ex. PW5/A) which was recorded around 1.30 p.m. The decoy (PW-4) specifically identified the appellant as the person who handed over six counterfeit notes in exchange for genuine currency. The numbers of the original currency notes which were given to the decoy customer were noted in the handing over memo Ex. PW4/A and the numbers were found to be tallying with the notes recovered from the person of the appellant, which were exhibited as Ex. PW4/C. PW-5 and PW-6 corroborated the recovery of 33 counterfeit notes from the appellant and 11 from the co-accused. The aforesaid counterfeit notes were duly tested, exhibited and identified in Court. Nothing has come out in their cross-examination to discredit their testimonies. No material has been placed on record to suggest prior enmity or bogus secret information. It is trite law that mere non-examination of independent witnesses would not be fatal to the prosecution case especially if the witnesses cited by prosecution are found to be truthful and reliable.

12. The sequence of events, the recovery of counterfeit notes from the appellant contemporaneous with the decoy carrying out the exchange, and the positive FSL report, collectively establish beyond reasonable doubt that the appellant possessed and trafficked in counterfeit currency. The appellant's bare denial in his Section 313 statement, unaccompanied by any defence evidence, does not dent the prosecution case.



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13. Insofar as the contention that the appellant did not possess the requisite *mens rea* is concerned, the same can be inferred from the circumstances including the quantity of counterfeit notes, the manner of possession and the conduct at the time of recovery. Considering that the appellant was apprehended in the very act of delivering counterfeit notes to the decoy in exchange for real currency and being caught with a substantial quantity of such notes; the requisite *mens rea* stands established.

14. Consequently, the judgment of conviction dated 13.05.2024 and the order on sentence dated 29.05.2024 are upheld. The appeal is dismissed. The appellant's bail bonds are cancelled, and he is directed to surrender immediately before the concerned Jail Superintendent.

15. Let a copy of this judgment be communicated to the concerned Jail Superintendent as well as the learned Trial Court for information and necessary compliance.

**MANOJ KUMAR OHRI
(JUDGE)**

AUGUST 6, 2025

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(corrected & released on 14.08.2025)