



2026:CGHC:14070  
NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No.662 of 2007**

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
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29.01.2026	24.03.2026	--	24.03.2026

1 - Rohit Kumar, S/o Kripa Shankar Pandey, aged 32 years, R/o Latiya Road, Police Station Akaltara, District Janjgir-Champa (C.G.)

**Appellant (s)**

**versus**

1 - State Of Chhattisgarh through Station House Officer, Police Station Akaltara, District Janjgir-Champa (C.G.)

**Respondent(s)**

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For Appellant (s) : Ms. Vaishali Jeswani, Advocate  
For Respondent(s) : Mr. Himanshu Yadu, PL

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**Hon'ble Smt. Justice Rajani Dubey**

**C A V Judgment**

1. The present appeal is directed against the judgment of conviction and order of sentence dated 24.07.2007 passed by the learned Session Judge, Janjgir Champa (C.G.) in ST No.61/2006, arising out of order dated 04.07.2006 passed by the



learned Judicial Magistrate, Class-1, Janjgir in Criminal Case No.837/2006, whereby the appellant has been convicted under Sections 489 (B) & 489 (C) of IPC and sentenced to undergo RI for 3 years with fine of Rs.5000/- and RI for 2 years, respectively, with default stipulation.

2. The prosecution case, in brief, is that accused Rohit Kumar Pandey on 22/12/2005 reached State Bank of India, Akaltara branch to deposit Rs.50,000/- in the account of his father Kripa Shankar Pandey and Rs.1,51,000/- in the account of his uncle Jata Shankar Pandey and filled the deposit slip and handed over the currency notes to P.W.3 G.L. Dewangan. As in the Cash counter, cashier takes the water from the sponge to count the currency note, colour of some notes got fed. When the other bundles were checked the same fact found. Then the cashier informed to the Branch Manger (P.W.1). P.W.1 Branch Manger told to keep them separately and the Branch Manager got checked the same from Ultra-Violate Machine and caught the counterfeit currency notes. Thereafter a case was registered against the appellant. After investigation, the charge sheet was submitted before the Magistrate concerned and on the basis of the evidence adduced by the prosecution and material available on record, learned trial court convicted and sentenced the accused/appellant, as mentioned in para 1 of the judgment.
3. Learned counsel for the appellant submits that the judgment



passed by the learned Trial Court is contrary to law and material available on record. There are material omissions and contradictions in the statements of the prosecution witnesses. She further submits that there is delay in preparing arrest/court surrender memo (Ex-P/3) as the appellant was present in the Bank at that time when the police came to take currency notes. There was no evidence that the appellant had knowledge and intention about the counterfeit currency notes but the said aspects of the matter have not been considered by the learned Trial Court and the appellant has been wrongly convicted and sentenced for the aforesaid offence. Therefore, the appeal deserves to be allowed. Reliance has been placed on the judgment rendered by the Hon'ble Supreme Court in the matter of **Dipakbhai Jagdishchandra Patel vs State of Gujarat and another, reported in (2019) 16 SCC 547.**

4. Per contra, learned State counsel supports the impugned judgment and submits that the learned Trial Court has minutely appreciated the evidence available on record and has rightly convicted the appellant. Therefore, the appeal is liable to be dismissed.
5. Heard learned counsel for the parties and perused the material available on record.
6. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Section 489 (B) and Section 120-B of IPC against the appellant and after appreciation



of oral and documentary evidence available on record, the learned Trial Court convicted and sentenced the appellants, as mentioned in para 1 of the judgment.

7. PW-2 Suresh Kumar, Senior Assistant Manager Branch State Bank of India, Akaltara stated that on the date of incident, he was working as accountant at that time Manager Choudhary called him and told him that some person has come to deposit counterfeit currency, as such the matter is to be reported at the police station. The Investigating Officer prepared the seizure memo before him vide Ex-P/1. The article seizure memo is attached in ST No.61/06 in between State vs Rohit and he admitted his signature on A to A part of Ex-P/1.
  
8. PW-3 Prakash Choudhary stated that he was posted as Branch Manager in SBI, Akaltara. On the date of incident, the accused Rohit had come to deposit money in two account holders namely Jatashankar and Krapashankar and total 161 notes were found counterfeit, upon which notes were dissolved in water solution, upon which their colour got faded, thereafter the matter was reported the police station concerned and FIR was registered, which is attached in ST No.61/2006. The copy of this FIR is Ex-P/2 and he admitted his signatures on A to A part and B to B part of the same. The written complaint is also attached along with ST No.61/2006. The police seized all forged currency notes and prepared seizure memo (Ex-P/1). The written complaint of FIR is



Ex-P/3. He admitted his signatures on A to A part of the same. The copy of original FIR is attached in ST No.61/06. He further stated that the accused Jatashankar in another case is the account holder in his bank and in his account the accused Rohit had come to deposit money. The bank slips are Ex-P/4 & P/5 and he admitted his signatures on A to A part of the same. The bank account of Jatashankar is mentioned in Ex-P/6 which is the part of ST No.61/2006. In the cross-examination he stated that earlier also the accused Rohit used to come to the bank and he recognized him but he did not come to meet him on the date of incident and went to cashier to deposit money.

9. PW-4 Goverdhan Lal Dewangan, Assistant Manager SBI, Akaltara stated that the accused Rohit had come to deposit Rs.50,000/- and Rs.1,51,000/- through two vouchers in the account of accused Jatashankar, who was absconding. When they tried to count the notes, they found that notes are counterfeit and the same were dissolved in water solution, upon which colour of the notes got faded, thereafter matter was reported to Branch Manager Prakash Chand Choudhary and thereafter notes were counted on machine and total 161 counterfeit notes were found, thereafter matter was reported to police station. In the cross-examination, he admitted that the accused Rohit had come to bank. He denied this suggestion that bank employees had deliberately considered the forged notes as brought by accused Rohit.



10. PW-5 Inspector A. K. Khan admitted his signature on FIR (Ex-P/2), seizure memo (Ex-P/3), (Ex-P/6), arrest memo (Ex-P/8) and he sent forged counterfeit notes for enquiry to currency note Press at Nasik through the letter of Police Superintendent vide Ex-P/9. The report prepared by Nasik Press is Ex-P/10 and the sample of handwriting of accused Rohit was sent vide Ex-P/11 for analysis and the report of handwriting expert is Ex-P/12. He also obtained sample signature of Rohit as per Ex-P/15. In para 13 of cross-examination, he admitted this suggestion that it is true that Jatashankar had given money to accused Rohit to deposit and Rohit had gone to bank to deposit the same. He denied this suggestion that he wrongly investigated the matter on bank officials' saying.
11. PW-7 Dinesh and S. Kamthan admitted their signatures on seizure memo (Ex-P/18 & P/19). PW-9 Syambhu handwriting expert stated that he examined handwriting of Rohit Kumar and gave his report (Ex-P/13-A).
12. The accused Jatashankar, who was absconding, examined himself in his statement recorded under Section 313 of CrPC and in answer of question No.52, he stated as under:-

“मैं निर्दोष हूँ झुठा फंसाया गया है मैं ठेकेदारी का कार्य करता हूँ कलकत्ता का ठेकेदार अचीतो चटर्जी व शिवकुमार मण्डल से मुझे एक लाख पचास हजार रुपये लेना था उन्होंने मुझे रबर में बंधे अवस्था में नोट को गिनकर मुझे दिया था उस रुपये के बंडल को मैं अपने घर आने के पश्चात भतीजा रोहित को मेरे और मेरे भाई कृपा शंकर के खाते में जमा करने के लिए दिया था करेंसी नोट सही है की जप्ती है इस संबंध में मुझे विशेष कोई जानकारी नहीं है। मेरे जानकारी में कलकत्ता के ठेकेदार द्वारा दिया गया नोट सही नोट थे।”



13. Close scrutiny of statement of all the witnesses clearly shows that the prosecution only proved this fact that some fake currency notes were seized as per seizure memo from the possession of the appellant, but there is no any evidence provided by the prosecution which may show that appellant had any knowledge or reasons to believe that notes were counterfeit. The accused Jatashankar also admitted in his statement under Section 313 of CrPC that he had only given money to the appellant to deposit in his account.
14. The Hon'ble Supreme Court in the matter of **M. Mammutti vs State of Karnataka**, reported in **(1979) 4 SCC 723**, held that where it is not shown that the appellants had knowledge or reason to believe that the notes were counterfeits, the conviction is not proper. It further held that the presumption of knowledge from mere possession can only be drawn if the appellants knew this fact that the notes were counterfeit.
15. The Hon'ble Supreme Court in the matter of **Dipakbhai Jagdishchandra Patel** (supra) held in paras 9 & 10 as under:-
  - "9. It is the further case of the appellant that the ingredients of Section 489B and 489C of the IPC have not been established. In regard to Section 489C, he sought support from judgment of the Lahore High Court in *Bur Singh v. The Crown*. Still further, he sought some support from the judgment of the learned Single Judge of the Punjab and Haryana High Court, viz., Justice 2(1930) ILR 11 Lah 555 [Criminal Revision No. 1527 of 1929] 13M.M. Punchhi (as His Lordship then was), in *Bachan Singh v. State of Punjab*<sup>3</sup>. The Court held as follows:
  - "10. In order to sustain the convictions of Joginder Kaur



appellant, the prosecution has not only to prove that she had the possession of counterfeit note, Exhibit P. 1, ensuring it or having reason to believe it as such, but further to prove circumstances which lead clearly, indubitably and irresistibly to her intention to use the notes on the public as has been held in *Bur Singh v. The Crown*, (1930) ILR 11 Lah 555 : (1931) 32 Cri LJ 351). It has further been held that such intention could be proved by a collateral circumstance that she had palmed off such notes before, or that she was in possession of such notes in such large numbers, that her possession for any other purpose was inexplicable. The facts as found are that she had on her person only one made-up note, that she was an illiterate lady and that anybody as Sh. 3 1981 SCC Online P&H 47 14Darshan Kumar Ahluwalia, P.W. 2, would have us believe could be misled to treat it as a genuine note. She gave the note to Kundan Lal, P.W. 2 and he told her that it was not a genuine note and his belief was confirmed when he showed it to others as well. It has nowhere been asserted that the note was ever returned to her and having known fully well or having reason to believe the same to be forged for counterfeit she yet made another attempt to palm it off. Thus tendering alone such note to Kundan Lal, P.W., unless the prosecution could prove that it was with dishonest intention so as to cause wrongful loss to him and wrongful gain to herself would not make her act to fall squarely within Section 420/511, Indian Penal Code, or to have come within the mischief of Section 489-B or 489-C, Indian Penal Code. The inference sought to be drawn that she must have known or reason to believe the note, Exhibit P1, to be counterfeit because her husband accompanying her was found to be in possession of similar notes is entirely misplaced for no common intention has been attributed to them and they have not been charged with the aid of Section 34, Indian Penal Code. For the individual act of Joginder Kaur she cannot be convicted for the above named offences and must be extended the benefit of doubt.

11. With regard to the case of Bachan Singh it is to be noted that he was found in possession of 13 counterfeit ten rupee notes. He is an iron-smith by profession and barely literate. How could he have the knowledge or reason to believe the same to be counterfeit is one part but the other important part is whether he intended to use the same as genuine or that they may be used as genuine has further to be proved by the prosecution. It



was held in *Bur Singh v. The Crown*, ((1931) 32 Cri LJ 351) (Lah) (supra), that mere possession of a forged note is not an offence under the Indian Penal Code and in order to bring a case within the purview of Section 489-C, Indian Penal Code, it was not only necessary to prove that the accused was in possession of forged notes but it should further be established that:

(a) at the time of his possession he - knew the notes to be forged or had the reason to believe the same to be forged or counterfeit; and b) he intended to use the same as; genuine. No further collateral circumstances in the case have been brought forth such as the accused had palmed off such notes before, or that he was in possession of such and similar notes in such large numbers, that his possession for any other purpose was inexplicable.”

10. Finally, he also drew out attention to the judgment of this Court in *Umashanker v. State of Chhatisgarh* wherein he emphasised on paragraphs 7 and 8, which read as follows:

“7. Sections 489-A to 489-E deal with various economic offences in respect of forged or counterfeit currency notes or banknotes. The object of the legislature in enacting these provisions is not only to protect the economy of the country but also to provide adequate protection to currency notes and banknotes. The currency notes are, in spite of growing accustomedness to the credit card system, still the backbone of the commercial transactions by the multitudes in our country. But these provisions are not meant to punish unwary possessors or users.

8. A perusal of the provisions, extracted above, shows that mens rea of offences under Sections 489-B and 489-C is “knowing or having reason to believe the currency notes or banknotes are forged or counterfeit”. Without the aforementioned mens rea selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency notes or banknotes, is not enough to constitute offence under Section 489-B IPC. So also possessing or even intending to use any forged or counterfeit currency notes or banknotes is not sufficient to make out a case under Section 489-C in the absence of the mens rea, noted above. No material is brought on record by the prosecution to show that the appellant had the requisite mens rea. The High Court, however, completely missed



this aspect. The learned trial Judge on the basis of the evidence of PW 2, PW 4 and PW 7 that they were able to make out that the currency note alleged to have been given to PW 4 was fake, “presumed” such a mens rea. On the date of the incident the appellant was said to be an eighteen-year-old student. On the facts of this case the presumption drawn by the trial court is not warranted under Section 4 of the Evidence Act. Further it is also not shown that any specific question with regard to the currency notes being fake or counterfeit was put to the appellant in his examination under Section 313 of the Criminal Procedure Code. On these facts, we have no option but to hold that the charges framed under Sections 489-B and 489-C are not proved. We, therefore, set aside the conviction and sentence passed on the appellant under Sections 489-B and 489-C IPC and acquit him of the said charges (see: M. Mammutti v. State of Karnataka [(1979) 4 SCC 723 : 1980 SCC (Cri) 170 : AIR 1979 SC 1705] ).”

16. The Hon’ble Supreme Court in the matter of **Umashanker vs State of Chhattisgarh, reported in (2001) 9 SCC 642** held in paras 7,8 & 9 as under:-

“7. [Sections 489-A](#) to [489-E](#) deal with various economic offences in respect of forged or counterfeit currency-note or bank-notes. The object of Legislature in enacting these provisions is not only to protect the economy of the country but also to provide adequate protection to currency-notes and bank-notes. The currency-notes are, inspite of growing accustomedness to the credit cards system, still the backbone of the commercial transactions by multitudes in our country. But these provisions are not meant to punish unwary possessors or users.

8. A perusal of the provisions, extracted above, shows that mens rea of offences under [Sections 489B](#) and [489C](#) is, "knowing or having reason to believe the currency-notes or bank-notes are forged or counterfeit". Without the afore-mentioned mens rea selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency-notes or bank-notes, is not enough to constitute offence under [Section 489B](#) of I.P.C. So also possessing or even intending to use any forged or counterfeit currency-notes or bank-notes is not



sufficient to make out a case under [Section 489C](#) in the absence of the mens rea, noted above. No material is brought on record by the prosecution to show that the appellant had the requisite mens rea. The High Court, however, completely missed this aspect. The learned trial judge on the basis of the evidence of P.W. 2, P.W. 4 and P.W. 7 that they were able to make out that currency note alleged to have been given to P.W. 4, was fake "presumed" such a mens rea. On the date of the incident the appellant was said to be 18 years old student. On the facts of this case the presumption drawn by the trial court is not warranted under [Section 4](#) of the Evidence Act. Further it is also not shown that any specific question with regard to the currency-note being fake or counterfeit was put to the appellant in his examination under [Section 313](#) of Criminal Procedure Code. On these facts we have no option but to hold that the charges framed under Sections 489B and 489C are not proved. We, therefore, set aside the conviction and sentence passed on the appellant under [Sections 489B](#) and [489C](#) of I.P.C. and acquit him of the said charges [see: [M. Mammutti Vs. State of Karnataka](#) ].

9. Accordingly, the order under challenge of the High Court dated November 2, 1999 in Criminal Appeal No. 39 of 1992 is set aside and the appellant is acquitted of the charges framed against him."

17. In light of the above, in the present case also the prosecution has failed to prove any knowledge or mens rea on the part of the appellant but no material has been brought on record by the prosecution to show that the appellants had requisite mens rea. The statements of seizure witnesses are also contradictory to each other. Thus the prosecution has utterly failed to prove any clinching or legally admissible evidence against the appellant but the learned trial Court did not appreciate all these aspects of the matter and gave wrong finding against the appellant.
18. Consequently, the appeal is allowed. The impugned judgment of



conviction and order of sentence is hereby set aside. The appellant is acquitted of the charges under Sections 489-B and 489-C of IPC.

19. The appellant is reported to be on bail.
20. Keeping in view the provisions of section 481 of BNSS 2023, the appellant is directed to furnish a personal bond for a sum of Rs.25,000/- each before the court concerned forthwith, which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.
21. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

Rajani Dubey  
Judge

Nirala