

IN THE COURT OF THE SPECIAL JUDGE (CBI), COURT
NO.IV, BHUBANESWAR.

P R E S E N T : Shri S.K.Mishra, O.S.J.S.,
Special Judge (CBI),
Court No.IV, Bhubaneswar.

T.R.Case No.23/2008
(Arising out of R.C. No.27(A)/2006)

Republic of India Prosecution.

-Versus-

Ashok Kumar Sethi, aged about 53 years,
S/o.Late Kartik Sethi, permanent resident
of Vill.-Taraba, PS-Taraba, District-Sonepur,
A/P residing at Sonepur, PS-Sonepur, District-Sonepur.

.... Accused
(ON BAIL)

For the Prosecution : Sri K.L.Kar, Special P.P.,C.B.I.

For the Accused : Sri P.K.Sahu &
Associates, Advocates.

Date of argument : 24.05.2016

Date of judgment : 02.06.2016

Offence u/s.418 of I.P.C. and 13(2) read with 13(1) (d) of
P.C.Act, 1988.

J U D G M E N T

The accused above named stands charged U/s.
13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988
and U/s. 418 of Indian Penal Code on the allegation that being
a public servant working as Branch Manager of S.B.I, Mursundhi
Branch by corrupt and illegal means and by abusing his official
position as such public servant obtained for himself pecuniary

advantage to the tune of Rs.11,50,000/- and cheated the said Branch by sanctioning loans of Rs.9,45,700/- to the non-existent persons on the basis of forged and fabricated documents and disbursing Rs.8,07,600/- to the said fake loanees.

2. The facts leading to the prosecution are –

The Regional Manager, State Bank of India, Regional Business Office, Bolangir has submitted a written complaint alleging that Shri Ashok Kumar Sethi while posted and functioning as Branch Manager, SBI, Mursundhi Branch, Dist. Sonapur, processed and sanctioned agricultural Cash Credit loans amounting to Rs.11,50,000/- which may extend to 25 Lakhs in the name of fictitious and non-existing persons on the basis of forged documents and misappropriated the same. It revealed during investigation that the accused Shri Sethi was working as Branch Manager of SBI, Mursundhi Branch from October, 1999 to August, 2001 and during the said period he also sanctioned Rs.9,45,700/- in fiftyeight instances in which the above loanees were fictitious and disbursed Rs.8,07,600 in their favour. The investigation further reveals that while sanctioning the above loans, the accused had signed the sanction letters, daily transaction registers of the bank on relevant dates in the capacity of Branch Manager of SBI, Mursundhi Branch. While sanctioning the loan, he signed the payment vouchers and the disbursement of the above loans have also been reflected in the Daily Transaction Register. It further came to light that the letters sent by the bank in 2005 were received back as no such addressees were existing and the accused by favourable appraisal note with an ulterior

motive on the fake land documents had sanctioned and disbursed the loan in favour of above loanees. When the bank made enquiry, it is ascertained that the letters were received by the Bank purportedly sent by the fake loanees and all those letters were written by three persons as it appears from the handwritings. In all the letters, senders admitted to have received the sanctioned loan amount but in none of the letters, the actual amount received by the loanee and the date of receipt had been mentioned. The accused had posted the letters from Bolangir, Sonapur HPO, Sonapur Spinning Mill Post Office and Manmunda Post Office irrespective of the address of the sender. Since, during his tenure as Branch Manager in SBI Mursundi Branch, the accused by misusing his official position sanctioned the loan to the above non-existent persons on the basis of forged and fabricated documents and disbursed Rs.8,01,100/- to the above fake loanees, the bank has sustained wrongful loss. On receipt of the written complaint, Superintendent of Police, CBI, Bhubaneswar registered R.C. Case No.27/2006 and directed Shri D.K. Kabi Inspector of CBI to take up investigation of this case and after completion of investigation, charge Sheet under Sec.418 I.P.C. and under Sec. 13(2) read with Sec.13(1)(d) of Prevention of Corruption Act, 1988 against the accused to face his trial in the court of law.

3. The accused denied the charge and stated inter alia that he has been falsely implicated with the case. In his statement recorded by Court, he has stated that he was Branch Manager of Mursundi Branch, State Bank of India and during his tenure, he had sanctioned K.C.C. loan to fifty eight persons as per guideline of SBI basing on the voter identity card, issued by the

Election Commissioner of India and Ration cards. According to him, the loanees were under the poverty line and had gone outside the district to earn their livelihood.

4. The points for determination in the instant case are –

- (i) Whether accused Ashok Kumar Sethi is a public servant?
- (ii) Whether the accused during the period from 30.10.99 to 31.8.2001 while functioning as Branch Manager of SBI, Mursundi Branch cheated the said Branch by sanctioning loans of Rs.9,45,700/- to the non existent persons on the basis of forged and fabricated documents and disbursing Rs.8,07,600/- to the said fake loanees causing loss to the said Bank ?
- iii) Whether accused being a public servant, by use of corrupt and illegal means and by abusing his position as public servant obtained pecuniary advantage disbursed an amount of Rs.8,07,600/- in favour of fake loanees putting loss to the Bank?

5. To substantiate the case, prosecution has examined as many as 25 witnesses, of whom P.W.23 is the Regional Manager, SBI, Regional Office, Bolangir the informant of this case, whereas P.W.1,2, 3, 4, 6, 11, 16, 17, 20, 21, 22 are the independent witnesses. P.W.5 is the Chief Manager Credit support Cell, Regional Business Office, SBI, Bolangir, P.W.7 is the Branch Manager, Mursundi Branch from 2006 to 2008, P.W.8 is the Cashier-cum-Clerk, P.W.9 is the Branch Manager of Mursundi SBI Branch from 2003 to 2006, P.W.10 is the Clerk-cum-Cashier, P.W.12 is the Senior Clerk, Election Section in the office of Sub-collector, Sonapur, P.W.13 is an employee of Subalaya Branch post office, P.W.14 is the Messenger of SBI, Mursundhi Branch. P.W.15 is the Asst. Settlement officer-cum-

Record room in charge in Major Settlement office, Sambalpur, P.W.18 is the Tahasildar, Biramaharajpur, P.W.19 is the Revenue Officer and sub-Collector in-charge, Biramaharajpur, P.W.24 is General Manager, Network-II, SBI Local head office, Bhubaneswar wherein P.W.25 is the Investigating Officer of this case. Defence has examined none in support of his plea.

6. Before going to discuss the evidence of the P.Ws., first of all it is to be seen, whether the accused was the Branch Manager, SBI Mursundhi Branch for the period from October, 1999 to August, 2001. It is the evidence of P.W.7 Akhila Kumar Mohapatra, P.W.8 Nishakar Naik, P.W.9 Prabir Kumar Bahidar and P.W.14 Ananta Charan Mohapatra that the accused was working as Branch Manager in SBI Mursundhi Branch for the above period. The accused in his statement recorded under Sec.313 Cr.P.C. has admitted that he was working as Branch Manager in the above branch at the relevant point of time. An admitted fact is not required to be proved. Therefore, it is well established that the accused was working as Branch Manager in SBI, Mursundhi Branch for the period from October, 1999 to August, 2001.

7. At the out-set, let me examine the evidence of PW.23 the informant who was the Regional Manager, S.B.I, Regional Office, Bolangir. According to him, Mursundhi Branch was within his control in which P.K. Bohidar was the Branch Manager. P.K. Bohidar, Branch Manager reported that some borrowers were not traceable. Therefore, he (P.W.23) deputed Mr. S.K. Agrawal, Chief Manager for conducting enquiry who reported that some of the borrowers were not found as per the recorded village address. Hence, he lodged a report (Ext.12) before S.P.

CBI, Bhubaneswar. He has stated that Mr. A.K. Sethi Branch Manager had sanctioned loan against those persons whose address were not traceable as per the records of the bank. But in the cross-examination he has stated that he has not physically conducted any enquiry and he had not annexed the enquiry report of Mr. Agrawal in the F.I.R.

8. P.Ws.2, 3 and 4 who are the permanent residents of village Goudagad in their evidence have stated that no persons by name Murali Jhankar son of Sarangadhar Jhankar, Bajanangi Bag son of Hara Bag, Sarat Pradhan son of Mohan Pradhan, Mayadhar Suna son of Mahadev Suna, Harihar Bastia son of Rahas Bastia, Sita Sahoo wife of Hara Sahoo, Baladehi Sahoo wife of Eka Sahoo, Kaikei Pradhan wife of Sankar Pradhan, Kartika Pradhan son of Malia Pradhan, Debar Jagat son of Rama Jagat are residing in their village Goudagada. Kartika Pradhan son of Nata Pradhan is a resident of their village. Therefore, from the evidence of above P.Ws., it is forthcoming that the above loanees are not residing in their village.

9. P.W.11 and 20 who are the permanent residents of Village Gudguda have stated that Mohan Garia son of Halu Garia, Kartik Meher son of Rahasa Mehera, Narendra Bhoi son of Murali Bhoi, Mayadhar Mukhi son of Hari Mukhi, Rama Mallick son of Harekrushna Mallick, Narendra Bastia son of Rama Bastia, Mahanta Mallick son of Asadhu Mallick, Nimai Meher son of guhalu Meher, Charan Meher son of Kartika Meher, Guhalu Meher son of Mana Mehera, Nitei Pradhan son of Sukru Pradhan, Rama Bhoi son of Neheru Bhoi, Mohan Putta son of Lakura Putta and Harekrushna Putta son of Rahas Putta

are not residents of their village. From the evidence of the above witnesses it is also forth coming that the above loanees are not their residents of their village.

10. P.W.5 Sushil Kumar Agrawal has stated about the procedure of loan application by the farmers, procedure of sanction of loan in their favour and its repayment. According to him, he was the Chief Manager Credit Support Cell, Regional Business Office, Bolangir, State Bank of India. According to him, the agricultural cash credit is a short term production loan for cultivation of agricultural crops and it is a short term repayable loan after harvesting of crops by the loanee. A farmer which cultivating either his own land or a share cropper applies to the bank for the loan and giving particulars of land being cultivated in which the area of cultivated quantum of loan is decided. If the loan is disbursed partly in kind for agricultural imputes like fertilizer, seeds etc. And partly in case for labour payments and other incidental expenses. However, if the crop loan is upto Rs.10,000/- only full amount can be disbursed in cash and after harvesting of the crop for which the loan is given, the agriculturist is required to sell his products and repay the bank loan along with agreed upon interest within two months of harvesting of the crops. On receipt of the application, the Branch Manager or the field officer dealing with the case is required to take a pre-sanction inspection to ascertain the veracity of the land particulars the crop being cultivated and the bonafides of the cultivators as well as his capability/ capacity to undertake the activity. He has further stated that Branch Manager of Mursundi Branch of SBI reported that some of the crop loan borrowers purported to have been financed by

the bank in some of the villages under the area of operation of the branch were not existing in the village. On the instruction of the Regional Manager he visited the above branch and three villages namely Guduguda, Goudagada and Dadarpali in august 2005 and on verification, he came to know that the borrowers from the villages financed by the branch manager were not existent. Accordingly, he submitted a report to the Regional Manager to make further inquiry in the matter. In his cross-examination P.W.5 has stated that it is not compulsory for a person to give collateral security for the purpose of taking agricultural loan up to Rs.25,000/- from their bank during the relevant period.

11. P.W.6 Sarangadhar Sahoo has stated that he is a permanent resident of village Amarpali and in the year 2006, he was the Post master of amarpali Sub-Post Office and there are 24 villages within the said sub-post office. According to him, he used to deliver postal letters to the villagers. As the post master of amarpali, he received 65 registered letters for distribution among villagers, but he made service only on two addressees and returned the rest 63 letters without service as those addressee were not available.

12. P.W.7 Akhila Kumar Mohapatra who was the Branch Manager from 10.6.2006 to 2008 and P.W.8 Nishakar Naik, who was working as Cashier-cum-Clerk in Mursundhi Branch of SBI from January 1998 to September 2001 have stated that A.K. Sethi was Branch Manager of SBI, Mursundhi Branch and accused was working as Branch Manager upto August 2001. According to P.W.7, on his production, CBI Officer D.K. Kabi seized crop loan documents, sanction register and

some letters from his branch and prepared the seizure list Ext.1 . He proved the seized 65 loan applications vide Ext.2 and three letters vide Ext.4. He has stated that on 30.11.2006 Sri D.K. Kabi also seized four numbers of daily transaction register for the period from 08.12.1999 to 27.11.2002 and prepared the seizure list Ext.5. Similarly P.W.8 has stated that the Branch Manager is to sanction the loan basing on documents prepared in his presence and the Branch Manager is also required to sign the documents and payment vouchers.

13. P.W.9 Prabir Kumar Bahidar has stated that he was working as Branch Manager, SBI, Mursundhi Branch, Subarnapur and accused was working as Branch Manager of that Branch from 31st October, 1999. According to him during his incumbency he found most of the KCC laonee were defaulter, so he enquired and found that no such loanee were available as per the address in village Goudagad, Gudguda, Badmahal, Bhaludanguri and Dadarpali. Then he reported to his Regional Manager. Thereafter, Chief Manager S.K. Agrawal came and enquired along with him. As per advice of Chief Manager, he issued registered notice to all the defaulters which were returned without service. He also made inquiry in Tahasil Office and found that the fake ROR was submitted by those loanee. According to him accused Ashok Kumar Sethi has sanctioned those loans.

14. P.W.10 Dasarathi Mohapatra has stated that on 14.9.2001 he joined as Clerk –cum-cashier in SBI Mursundhi Branch and at that time, accused was the Branch Manager. He proved the loan documents Ext.2 to Ext.2/8, Ext.2/10, Ext.2/11 and Ext.2/18 in which K.C.C. loans were sanctioned by the

accused. According to him, the accused was prepared the payment vouchers Ext.6 to 6/11 passed and disbursed the same in cash.

15. It is the evidence of P.W.12 Suresh Kumar sharma that in the year 2007 he was working as Senior Clerk attached to Election Section of the office of Sub-Collector, Sonapur and as asked by the CBI and on the direction of the Sub-Collector, he verified the name of some persons in the voter list of sonapur Assembly Constituency and submitted the copy of those voter lists of some village and wards.

16. P.W.13, Baldev Sethi in his evidence has stated that he was working as Extra Departmental delivery agent from 18.07.1969 till date in subalaya Branch Post Office. Since he belongs to that area, he knew most of the residents of that locality. According to him the postal envelop (Ext.7) had given to him for delivery and he returned back the said envelop with endorsement “ no such addressee at Subalaya village” and he proved his endorsement Ext.7/1. According to him, he gave the said endorsement after making local enquiry on 9.3.2007, 10.3.2007 and 12.3.2007 vide Ext. 7/2.

17. P.W.14, Ananta Charan Mohapatra in his evidence has stated that he has been working as messenger of SBI Mursundhi Branch since the year 1996 and he know all the branch managers who had served in the said branch. According to him, Sri A.K. Sethi was the branch manager of said branch from the year 1999 to 2001. He proved certain loan documents in which accused has put his signature. He also proved the signature of the accused in the ledger sheet, loan application form and sanction letter respectively.

18. P.W.15 in his evidence has stated that he was Asst. Settlement Officer-cum-Record Room in-charge in Major Settlement Office, Sambalpur from the year 2006 to 2008. He has stated that on the requisition of the CBI Inspector Mr. Kabi of Rourkela office, he had gone to the said office along with Inspector of settlement office, Sambalpur and they had produced all the village statutory file (Nathi) and safei Nathi of the concerned villages before Mr. Kabi and he along with Inspector of settlement verified the documents and found that the signatures and the seal given in the RORs, shown to them by the CBI Inspector did not tally with the signatures and the seal in the statutory file (Nathi) and Safei Nathi. According to him, the signatures and seals given in the ROR were fake.

19. It reveals from the evidence of P.W.18 that he was working as Tahasildar, Biramajarpur from March 2004 to March 2009. He has received one requisition vide letter No.391/3/27(A)-06 dtd.12.11.2006 from CBI Office, Bhubaneswar regarding status of some lands in respect of 65 persons. Accordingly, the said facts were verified from the record of right of their record room by Amin Hrusikesh Panda of their office and he also checked the said facts and submitted his report along with his letter No.129 dtd.5.2.2007 vide Ext.8. According to him, as per the report vide Ext.10, the land under holding No.2 vide sl.No.6 stood recorded in the name of Kartika Pradhan son of Nata Pradhan and land under holding No.6 vide sl. No.62 stood recorded in the name of Khedu Baghar son of Phagun Baghar and as per the report vide Ext.10, no land was found to have been recorded in the names of other 63 persons.

20. P.W.19 in his evidence has stated that as per requisition of CBI, he has submitted his reply dtd. 26.5.2007 (Ext.10) furnishing the voter list of eight villages in question enclosing seventy-eight pages duly attested by him in all the pages and according to him Ext.11 is the attested copy of voter list published in the year 2001 of the said eight villages and he proved his signature vide Ext.11/1. He has stated that no person named Bana Khura, Murali Jhankar, Bajrangi Bag, Sarat Pradhan, Mayadhar Suna, Harihar Basti, Sita Sahu, Baidehi Sahu, Kaikei Pradhan, Kartika Pradhan, Purundar Mahakud, Banmali Pradhan, Sukuru Bastia, Radhe Pradhan, Ram Chandra Sethi, Sarat Bastia, Narendra Bhoi, Tiketchandra Bastia, Kartika Pradhan, Baisakhu Bhoi, Gobardhan Manhira, Benu Sethi, Kailash Behera, Mohan Mukhi, Mahadev Bhoi, Mohan Garia, Murali Bhoi, Sarat Bhoi, Narayan Bhoi, Nitei Pradhan, Shyam Bhoi, Amulya Sagar, Upendra Bhoi, Gobinda Bhoi, Tikechan Bag, Himansu Mahar, Balaram Bhoi, Mohan Ray, Raja Bastia, Nepal Bhoi, Mohan Mallick, Kartika Rana, Purundar Rana, Sahadev Bhoi, Ekadasia Bagh, Kartika Meher, Harekrushan Mallick, Mohan Mallick, Charan Meher, Guhalu Meher of alleged villages Bisalpali, Goudagada, Badmal, Dadarpali, Bhaludunguri and Gudguda find place in the voter list vide Ext.11.

21. P.W.25 was the Inspector of Police, CBI Unit Office Rourkela, Investigating officer of this case has stated that this case was registered on the basis of written complaint (Ext.12) submitted by Complainant Sri Amarendra Mishra, Regional Manager, State Bank of India, Bolangir by the then S.P.CBI, Bhubaneswar Sri Pranab Mohanty on 31.7.08 on direction of SP CBI, Bhubaneswar this case was transferred to him from D.K.

Kabi, Inspector for investigation. According to him, he took over the charge of investigation of this case along with CD, statement of witnesses, documents and seizure memos and during investigation, he found that the accused A.K. Sethi was working as Branch Manager, SBI, Mursundhi Branch, Subarnapur from 30.10.1999 to 31.8.2001. According to him, this case was registered on the basis of written complaint (Ext.12) submitted by Complainant Sri Amarendra Mishra, Regional Manager, State Bank of India, Bolangir by the then S.P.CBI, Bhubaneswar Sri Pranab Mohanty on 31.8.2006. He has stated that on 24.10.2006 his predecessor D.K. Kabi (since dead) made seizure of loan documents along with some registers on production by Sri A.K. Mohapatra, the then Branch Manager, SBI, Mursundhi Branch as per seizure list Ext.1. On 30.11.2006 also seized the transaction register for the period from 8.12.1999 to 27.11.2002 (four registers) on production by said A.K. Mohapatra vide seizure list Ext.5. According to him, his investigation revealed that the accused during his tenure as Branch Manager, SBI, Mursundhi Branch, has sanctioned loan to the following persons :

Murali Jhankar, Bajarangi Bagh, Sarat Pradhan, Mayadhar Suna, Harihar Bastia, Sita Sahoo, Baldhei Sahoo, Kaikei Pradhan, Kartika Pradhan, Narendra Bhoi, Tkechan Bastia, Kartika Pradhan, Baisakhu Bhoi, Gobardhan Manhira, Kartika Mahar, Benu Sethi, Kailash Behera, Mohan Mukhi, Mahadev Bhoi, Mohan Garia, Murali Bhoi, Sarat Bhoi, Nitei Pradhan, Shyama Bhoi, Purandar Mahakud and others are loanees totalling 58 persons. All the loan documents in question were seized by him vide Ext.2 to 2/58. According to

him, the accused had sanctioned Rs.9,45,700/- to the non-existent loanees and a total sum of Rs.8,01,100/- was disbursed to the non-existent loanees. After completion of investigation, on 31.7.2008 he has submitted charge sheet against the accused.

22. It is the prosecution allegation that the accused while discharging his duty as public servant in the capacity of Branch Manager has sanctioned and disbursed the loan in favour of 58 persons on different dates.

Therefore, now it is to be seen that whether the above named persons are not the permanent residents of the village as mentioned above and whether accused has sanctioned and disbursed the above amount in favour of the above persons beyond his capacity and whether the above mentioned persons are not the proper person to receive the loan amount and whether the loan was sanctioned by submitting forged and fabricated documents and whether the accused by corrupt and illegal means by abusing his official position as such public servant had obtained for himself pecuniary advantage to the tune of Rs.8,07,600/- .

23. From the evidence of P.Ws.2, 3 and 4 who are the permanent residents of village Goudagad it is forthcoming that the loanee Murali Jhankar son of Sarangadhar Jhankar, Bajanangi Bag son of Hara Bag, Sarat Pradhan son of Mohan Pradhan, Mayadhar Suna son of Mahadev Suna, Harihar Bastia son of Rahas Bastia, Sita Sahoo wife of Hara Sahoo, Baladehi Sahoo wife of Eka Sahoo, Kaikei Pradhan wife of Sankar Pradhan, Kartika Pradhan son of Malia Pradhan, Debar Jagat son of Rama Jagat are residing in their village Goudagada.

Kartika Pradhan son of Nata Pradhan are not residing in their village and it is also forthcoming from the evidence of P.W.11 and 20 who are the permanent residents of Village Gudguda it is forth coming that the loanee Mohan Garia son of Halu Garia, Kartik Meher son of Rahasa Mehera, Narendra Bhoi son of Murali Bhoi, Mayadhar Mukhi son of Hari Mukhi, Rama Mallick son of Harekrushna Mallick, Narendra Bastia son of Rama Bastia, Mahanta Mallick son of Asadhu Mallick, Nimai Meher sonof guhalu Meher, Charan Meher sonof Kartika Meher, Guhalu Meher son of Mana Mehera, Nitei Pradhan son of Sukru Pradhan, Rama Bhoi son of Neheru Bhoi, Mohan Putta son of Lakura Putta and Harekrushna Putta son of Rahas Putta are not their residents of their village.

24. Learned Special PP, CBI inter-alia submitted that the accused as a Branch Manager, while making sanction of loan, had to ensure repayment of loan by enquiring the genuineness of the loanee from his village, since public money is involved in it and that the bank entrusted its fund to its officer, who have domain over the same, who holds the money in trust which inter-alia denotes relationship of master and servant.

He further submitted that Section-13(1)(d) (i) of P.C.Act, 1988 provides a public servant is said to commit the offence of criminal misconduct, if he by corrupt or illegal means, obtains for himself or for any other persons any valuable thing or pecuniary advantage.

Section-43 of IPC defines the term "Illegal" or legally bound to do in the following terms: - "Illegal", "legally bound to do" is applicable to everything which is an offence or

which is prohibited by law or which furnishes ground for a civil action; and a person is said to be legally bound to do. It carries a very wide meaning, if any ground for civil action can be founded or the basis of any act of omission or commission on the part of a person, his act may be held to be illegal or it may be held that he was legally bound to do an act which he had omitted to do.

Learned Special PP, CBI also submitted that in the instant case, since the accused as a Branch manager, by his act of omission or commission, in sanctioning and disbursing loan, has failed to secure the identity of the persons by making spot visit to their respective villages to ascertain their genuineness, which he was duty bound to do, has committed illegality for which he is liable as a public servant, to the loss caused to the bank, as contemplated u/s.13(1)(d)(i) of P.C.Act, 1988.

25. It is in the evidence of PW-23 that Sri P.K.Bohidar reported that some borrowers were not traceable. PW-23 deputed Mr. S.K.Agrawal, Chief Manager, for conducting enquiry and Sri Agrawal reported that some of the borrowers were not found as per the recorded village address. Hence, PW-23 lodged FIR vide Ext.12. It is also in the evidence of PW-23 that the accused had sanctioned loan against concerned persons, whose addresses were not traceable, as per the record of the bank.

During cross-examination, PW-23 has admitted that he has not given any reference relating to the direction given by him to Mr. Agrawal for enquiry. He has also admitted that he has not physically conducted any enquiry. PW-23 has

further admitted that he had not annexed the enquiry report of Mr. Agrawal in the FIR.

26. Sri S.K.Agrawal is examined as PW-5. He has admitted that except his report seized by CBI, no other document is there in this case record to show that he had visited the village in question to ascertain about the concerned borrowers. He could not say the names of the persons from whom he ascertained about non-existence of the said borrowers. He has also stated that his report has not been personally seized from him by the CBI. In fact, no such report regarding spot visit or enquiry by PW-5 has been proved by the prosecution. No order passed by PW-23 directing PW-5 to make such enquiry, has also been proved in this regard. PW-5 has not named the concerned villagers from whom he ascertained about the matter, although he has given a general statement deposing that he talked extensively to a number of villagers and came to conclusion that all the borrowers from the villages financed by the Branch Manager in the year 1999-2001 were non-existent. Although he has stated that he had instructed the branch to make further enquiry in the matter, no such written instruction has been filed in this regard.

27. Although PW-4 has stated that no such persons by the name Murali Jhankar, S/o.Sarangadhar Jhankar, Bajanangi Bag, S/o.Hara Bag, Sarat Pradhan, S/o.Mohan Pradhan, Mayadhar Suna, S/o.Mahadev Suna, Harihar Bastia, S/o.Rahas Bastia, Sita Sahoo, W/o.Hara Sahoo, Baladehi Sahoo, W/o.Eka Sahoo, Kaikeya Pradhan, W/o.Sankar Pradhan, Kartika Pradhan, S/o.Malia Pradhan, Debar Jagat, S/o.Rama Jagat and Kartika Pradhan, S/o.Ramenkar Pradhan are residing in their village, he

has not stated that that the said persons do not belong to his village. May be, those persons were not residing in that village at the particular time or during the particular year. It is also in the evidence of PW-4 that one Kartika Pradhan, S/o. Nata Pradhan is the resident of his village.

28. Although, Pws-11 and 20 have stated that Mohan Garia, S/o. Halu Garia, Kartik Meher, S/o.Rahasa Mehera, Narendra Bhoi, S/o.Murali Bhoi, Mayadhar Mukhi, S/o. Hari Mukhi, Rama Mallick, S/o.Harekrushna Mallick, Narendra Bastia, S/o. Rama Bastia, Mahanta Mallick, S/o. Asadhu Mallick, Nimai Mehera, S/o. Guhalu Meher, Charan Meher, S/o.Kartik Meher, Guhalu Meher, S/o.Mana Meher, Nitei Padhan, S/o.Sukuru Padhan, Rama Bhoi, S/o. Neheru Bhoi, Mohan Putta, S/o. Lakura Putta and Harekrushna Putta, S/o.Rahas Putta are not residents of their village, no document has been proved in this case record to show that in fact, Pws-11 and 20 belong to that village.

29. Similarly, although, PWs-2 and 3 have stated that Murali Jhankar, S/o.Sarangadhar Jhankar, Bajanangi Bagh, S/o.Hara Bagh, Sarat Pradhan, S/o.Mohan Pradhan, Mayadhar Suna, S/o.Mahadev Suna, Harihar Bastia, S/o.Rahas Bastia, Sita Sahoo, W/o.Hara Sahoo, Baldehi Sahoo, W/o.Eka Sahoo, Kaikeya Pradhan, W/o.Sankar Pradhan, Kartika Pradhan, S/o.Malia Pradhan, Debar Jagat, S/o.Rama Jagat and Kartika Pradhan, S/o.Ramenkar Pradhan do not belong to their village, no document has been proved in this case record to show that in fact, Pws-2 and 3 belong to that village.

30. The statement given by PW-6 that out of 65 registered letters, he could serve letters only on two persons

and returned rest 63 letters without service, as those addressees were not available, does not prove beyond reasonable doubt that the concerned persons were not residents of the villages in question. 63 letters which were returned by PW-6 without service have not been proved in this case.

31. Although PW-9 has stated that during his incumbency, he found most of the KCC loanees were defaulters and he found, upon enquiry that no such loanees were available as per the address in the villages- Goudgard, Gudguda, Badmahal, Bhaldunguri and Dadarpali and then he reported about it to the Regional Manager, no such enquiry or report of PW-9 has been proved in this case. His statement that he also made enquiry in Tahasil Office and found that the fake RORs were submitted by those loanees, is not supported by any report to that effect prepared by PW-9. He has admitted that there was no office order entrusting him to enquire about it. He could not remember the exact dates on which he had enquired. His evidence discloses that photographs of all the loanees were available in the loan documents and voter IDs of those loanees, were also available except in Exts.2/61, 2/62, 2/63 and 2/64. Although he has claimed that during enquiry by him, he recorded the statements of some villagers and some Sarpanchas about the existence of such loanees, he could not say the name of those persons whose statements he had recorded during the enquiry. No such statement of villagers or Sarpanchas, said to have been recorded by PW-9, has been proved in this regard. In fact, PW-9 has not named the villagers or Sarpanchas whose statements were recorded by him.

32. No document has been proved to show that PW-11 actually belongs to the village in question. He has admitted that he had not gone from house to house to ascertain about non-existence or existence of the concerned persons. He could not say about total numbers of males and females in their village and total number of persons belonging to different castes and tribes in that village.

No voter list of the concerned village or area has been proved through PW-12 and there is no endorsement in the voter list (Ext.11) to show that PW-12 had verified the same. PW-12 has also admitted that he has not given any written direction in respect of voter list in connection with this case.

One postal envelope (Ext.7) was returned back by PW-13 who was working as Extra Departmental Delivery Agent, Postal Department, mentioning that "no such addressee at Subalaya village". He has admitted that he has not taken signature of any person on Ext.7 as witness and the concerned Post Master has also not given any signature or endorsement on Ext.7.

33. PW-15 one Assistant Settlement Officer-cum-Record Room In-charge in Major Settlement Office, Sambalpur, has stated that he along with Inspector of Settlement verified the documents and found that the signatures and seals given in the RORs, shown to them by CBI Inspector Sri Kabi, did not tally with the signatures and seals of the concerned statutory file (Nathi) and Safei Nathi. He has also stated that the signatures and seals given in the RORs in question were fake, but no report of PW-15 or Inspector of Settlement has been proved in this

case through PW-15. He has not stated regarding any particular RORs which were produced before him and the Inspector of Settlement by Inspector Sri Kabi and if any letter or direction was given to both of them to examine the matter.

34. On the other hand, PW-18 who was working as Tahasildar, Biramaharajpur, has stated that the status of some lands in respect of 65 persons were verified from the Record of Right in the Record Room by PW-15, on the requisition of the CBI. PW-18 checked the said facts and submitted the report vide Ext.8 of PW-15 along with letter vide Ext.10.

During cross-examination PW-18 has admitted that although a separate list of 65 persons was enclosed along with the requisition of CBI, but the said list sent by the CBI, has not been submitted by him along with Exts.9 and 10 and the said list along with the requisition of CBI have not been seized by the IO. He has further stated that no document of their office has been seized by CBI. He has also admitted that he has not made any endorsement on Ext.10 that he had verified the original records before signing on it and there is no endorsement by Amin Sri Panda in Ext.10 to show that he had prepared the same and that he had verified any particular record for that purpose.

35. On appreciation of the evidence and materials on record, this Court finds that the prosecution has failed to prove that the accused while working as Branch Manager, State Bank of India, Mursundhi Branch, had sanctioned and disbursed loan to fake persons without verifying the documents submitted by them.

36. In the result, I hold that the accused is found not guilty of the offences Under Section 418 of I.P.C. and Sec.13(1)(d) read with Sec.13(2) of the Prevention of Corruption Act, 1988 and he is acquitted from the said charge under Sec.248(1) Cr.P.C. He is discharged of his bail bonds forthwith and set at liberty.

Special Judge (CBI),
Court No.IV, Bhubaneswar.

The judgment having been typed to my dictation and corrected by me and being sealed and signed by me is pronounced in the open court today this the 2nd day of June, 2016.

Special Judge (CBI),
Court No.IV, Bhubaneswar.

List of witnesses examined for the prosecution:

PW-1	Santosh Pradhan.
PW-2	Sarat Chandra Bastia.
PW-3	Siba Dehury.
PW-4	Debaraj Pradhan.
PW-5	Sushil Kumar Agrawal.
PW-6	Sarangadhar Sahu.
PW-7	Akhila Kumar Mohapatra.
PW-8	Nishakar Naik.
PW-9	Prabir Kumar Bohidar.
PW-10	Dasarathi Mohapatra.
PW-11	Dukhishyam Bhoi.
PW-12	Suresh Kumar Sharma.
PW-13	Baladev Sethi.
PW-14	Ananta Charan Mohapatra.
PW-15	Prafulla Kumar Panda.
PW-16	Tripurari Pradhan.
PW-17	Arjun Pradhan.
PW-18	Pradeep Kumar Nayak.

PW-19	Naresh Singh Bariha.
PW-20	Surendra Bhoi.
PW-21	Chatrubhuja Sahu.
PW-22	Karunakar Sahu.
PW-23	Amarendra Mishra.
PW-24	Deepak Umakant Nawalkar.
PW-25	Subhransu Bhusan Mishra.

List of witnesses examined for the defence:-

Nil.

List of exhibits marked for the prosecution:-

Ext.1	Seizure list.
Ext.1/1	Signature of PW-7 in Ext.1 on the last page.
Ext.1/2	Signature of SBI Officer in Ext.1 on the last page.
Exts.2 to 2/64	– Seized 65 loan applications.
Exts.3 to 3/2	– Loan Sanction Registers.
Exts.4 to 4/2	– Seized 3 letters.
Ext.5	Seizure list.
Ext.5/1	Signature of PW-7 in Ext.5.
Ext.5/2	Signature of D.K.Kabi in Ext.5.
Exts.6 to 6/11	– Payment vouchers prepared, passed and disbursed by A.K.Samantaray in Exts.2 to 2/8, 2/10 and 2/11.
Ext.7	Postal envelope.
Ext.7/1	Signature of PW-13 in Ext.7.
Ext.7/2	Endorsement given by PW-13 in Ext.7.
Exts.2 to 2/58	- Loan documents.
Exts.2/65 to 2/67	- Signature of PW-14 on Ext.2.
Exts.2/68 to 2/70	- Signatures of PW-14 on Ext.2/1.
Exts.2/71 to 2/73	- Signatures of PW-14 on Ext.2/2.
Exts.2/74 to 2/76	- Signatures of PW-14 on Ext.2/3.
Exts.2/77 to 2/79	- Signatures of PW-14 on Ext.2/4.
Exts.2/80 to 2/82	- Signatures of PW-14 on Ext.2/5.
Exts.2/83 to 2/85	- Signatures of PW-14 on Ext.2/6.
Exts.2/86 to 2/88	- Signatures of PW-14 on Ext.2/7.
Exts.2/89 to 2/91	- Signatures of PW-14 on Ext.2/8.
Exts.2/92 to 2/94	- Signatures of PW-14 on Ext.2/9.
Exts.2/95 to 2/97	- Signatures of PW-14 on Ext.2/10.
Exts.2/98 to 2/100	- Signatures of PW-14 on Ext.2/11.
Exts.2/101 to 2/103	- Signatures of PW-14 on Ext.2/12.
Exts.2/104 to 2/106	- Signatures of PW-14 on Ext.2/13.
Exts.2/107 to 2/109	- Signatures of PW-14 on Ext.2/14.
Exts.2/110 to 2/112	- Signatures of PW-14 on Ext.2/15.

Exts.2/113 to 2/115- Signatures of PW-14 on Ext.2/16.
Exts.2/116 to 2/118- Signatures of PW-14 on Ext.2/17.
Exts.2/119 to 2/121- Signatures of PW-14 on Ext.2/18.
Exts.2/122 to 2/124- Signatures of PW-14 on Ext.2/19.
Exts.2/125 to 2/127- Signatures of PW-14 on Ext.2/20.
Exts.2/128 to 2/130- Signatures of PW-14 on Ext.2/21.
Exts.2/131 to 2/133- Signatures of PW-14 on Ext.2/22.
Exts.2/134 to 2/136- Signatures of PW-14 on Ext.2/23.
Exts.2/137 to 2/139- Signatures of PW-14 on Ext.2/24.
Exts.2/140 to 2/142- Signatures of PW-14 on Ext.2/25.
Exts.2/143 to 2/145- Signatures of PW-14 on Ext.2/26.
Exts.2/146 to 2/148- Signatures of PW-14 on Ext.2/27.
Exts.2/149 to 2/151- Signatures of PW-14 on Ext.2/28.
Exts.2/152 to 2/154- Signatures of PW-14 on Ext.2/29.
Exts.2/155 to 2/157- Signatures of PW-14 on Ext.2/30.
Exts.2/158 to 2/160- Signatures of PW-14 on Ext.2/31.
Exts.2/161 to 2/163- Signatures of PW-14 on Ext.2/32.
Exts.2/164 to 2/166- Signatures of PW-14 on Ext.2/33.
Exts.2/167 to 2/169- Signatures of PW-14 on Ext.2/34.
Exts.2/170 to 2/172- Signatures of PW-14 on Ext.2/35.
Exts.2/173 to 2/175- Signatures of PW-14 on Ext.2/36.
Exts.2/176 to 2/178- Signatures of PW-14 on Ext.2/37.
Exts.2/179 to 2/181- Signatures of PW-14 on Ext.2/38.
Exts.2/182 to 2/184- Signatures of PW-14 on Ext.2/39.
Exts.2/185 to 2/187- Signatures of PW-14 on Ext.2/40.
Exts.2/188 to 2/190- Signatures of PW-14 on Ext.2/41.
Exts.2/191 to 2/193- Signatures of PW-14 on Ext.2/42.
Exts.2/194 to 2/196- Signatures of PW-14 on Ext.2/43.
Exts.2/197 to 2/199- Signatures of PW-14 on Ext.2/44.
Exts.2/200 to 2/202- Signatures of PW-14 on Ext.2/45.
Exts.2/203 to 2/205- Signatures of PW-14 on Ext.2/46.
Exts.2/206 to 2/208- Signatures of PW-14 on Ext.2/47.
Exts.2/209 to 2/211- Signatures of PW-14 on Ext.2/48.
Exts.2/212 to 2/214- Signatures of PW-14 on Ext.2/49.
Exts.2/215 to 2/217- Signatures of PW-14 on Ext.2/50.
Exts.2/218 to 2/220- Signatures of PW-14 on Ext.2/51.
Exts.2/221 to 2/223- Signatures of PW-14 on Ext.2/52.
Exts.2/224 to 2/226- Signatures of PW-14 on Ext.2/53.
Exts.2/227 to 2/229- Signatures of PW-14 on Ext.2/54.
Exts.2/230 to 2/232- Signatures of PW-14 on Ext.2/55.
Exts.2/233 to 2/235- Signatures of PW-14 on Ext.2/56.
Exts.2/236 to 2/238- Signatures of PW-14 on Ext.2/57.
Exts.2/239 to 2/241- Signatures of PW-14 on Ext.2/58.
Exts.2/242 to 2/244- Signatures of PW-14 on Ext.2/59.

Ext.8	Letter No.129 dated 5.2.2007.
Ext.8/1	Signatures of PW-18 in Ext.8.
Ext.9	Report submitted by Amin Sri Panda (comprising of 25 sheets).
9/1	Signature of Sri Panda in Ext.9 in the last page.
9/2	Signature of PW-18 in Ext.9.
Ext.10	Reply dated 26.5.2007.
Ext.10/1	Signature of PW-18 in Ext.10.
Ext.11	Attested copy of voter list.
Ext.11/1	Signature of PW-19 on the last page of Ext.11.
Ext.12	Report.
Ext.12/1	Signature of PW-23 in Ext.12.
Ext.13	Sanction order.
Ext.13/1	Signature of PW-24 in Ext.13.
Ext.14	Daily transaction register for the period from 8.12.1999 to 27.8.2000.
Ext.15	Daily Transaction Register for the period from 28.8.2000 to 14.6.2001.
Ext.16	Daily Transaction Register for the period from 15.6.2001 to 30.3.2002.

List of exhibits marked for the defence :-

Nil.

List of M.Os. marked for the prosecution :-

Nil.

List of M.Os. marked for the defence :-

Nil.

Special Judge (CBI),
Court No.IV, Bhubaneswar.