

2

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.1,16,175/- and cheated the said Branch by sanctioning loans of Rs.1,12,000/- to the non-existent persons on the basis of forged and fabricated documents and disbursing Rs.1,16,175/- to the said fake loanees.

2. The facts leading to the prosecution are -

The Regional Manager, State Bank of India, Regional Business Office, Bolangir submitted a written complaint alleging that Shri Ashok Kumar Sethi while posted and functioning as Branch Manager, SBI, Mursundhi Branch, Dist. Sonepur, processed and sanctioned agricultural Cash Credit loans amounting to Rs.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, who succeeded Shri Sethi as Branch Manager of SBI, Mursundhi Branch was posted there from 01.09.2001 to 23.08.2002. During said period he also sanctioned Rs.1,12,000/- in favour of Debar Jagat, Mohan Putta, Kartik Pradhan, Harekrushna Putta and Tulsi Kumbhar and disbursed

3

Rs.1,16,175 in favour of the said fictitious persons. The investigation further revealed 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. 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 the year 2005 were received back as no such addressees were existing. The accused by favourable appraisal note, with an ulterior motive, on the basis of fake land documents had sanctioned and disbursed the loan in favour of above loanees. When the bank made enquiry, it was 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 were 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

4

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.1,16,175/- 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(A)/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 Sections 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988 against the accused to face his trial in the court of law. Charge for the said offences was framed against the accused.

3. The accused denied the charge and stated inter alia he took the plea that he has been falsely implicated with the case. In his statement u/s.313 Cr.P.C. 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 six persons as per guideline of SBI and 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.

5

4. The points for determination in this case are as to :-

- (i) Whether accused Arun Kumar Samantaray was a public servant during the relevant period?
- (ii) Whether the accused during the period from 1.9.2001 to 23.8.2002 while functioning as Branch Manager of SBI, Mursundi Branch cheated the said Branch by sanctioning loans of Rs.1,12,000/- to non existent persons, on the basis of forged and fabricated documents and disbursing Rs.1,16,175/- to the said fake loanees, causing wrongful 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.1,16,175/- in favour of fake loanees causing wrongful loss to the Bank ?

5. In order to prove its case, prosecution has examined as many as 20 witnesses, of whom P.W.1 who was the Regional Manager, SBI, Regional Office, Bolangir the informant of this case, whereas P.Ws.2 to 4, P.Ws.6 to 8 and P.W.13 are the independent witnesses. P.W.5 is the Chief Manager Credit support Cell, Regional Business Office, SBI, Bolangir, P.W.9 is the Branch Manager, P.W.10 is the Cashier-cum-Clerk, P.W.11 is the Branch Manager, P.W.12 is the Clerk-cum-Cashier, P.W.16 is

6

the Messenger of SBI, Mursundhi Branch. P.W.14 is Sr. Clerk attached to Election Section of the office of sub-collector, sonapur, P.W.15 is an employee of Subalaya Branch Post Office, P.W.17 is the Asst. Settlement Officer-cum-Record Room in-charge of 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.20 is the Investigating Officer of this case. Defence has not adduced any oral or documentary evidence in its favour. Two persons have been examined as Court Witnesses.

6. At the outset, it is to be seen, whether the accused was the Branch Manager, SBI Mursundhi Branch for the period from September 2001 to September 2003. It is the evidence of P.W.9 Akhila Kumar Mohapatra, P.W.10 Nishakar Naik, P.W.11 Prabir Kumar Bahidar and P.W.16 Ananta Charan Mohapatra that the accused was working as Branch Manager in SBI Mursundhi Branch for the above mentioned period. The said aspect has gone unchallenged during cross-examination of the prosecution witnesses. 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. Therefore, it is proved that the accused was working as Branch Manager in SBI, Mursundhi

Branch for the period from September 2001 to September 2003.

7. PW.1 the informant was the Regional Manager, S.B.I., Regional Office, Bolangir. According to him, Mursundhi Branch was within his control and Sri P.K. Bohidar was its Branch Manager. P.K. Bohidar, Branch Manager reported that some borrowers were not traceable. Therefore, he (P.W.1) 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, he lodged a report (Ext.1) before S.P. CBI, Bhubaneswar. He has stated that Mr. A.K. Sethi Branch Manager had sanctioned loan against those persons whose addresses were not traceable as per the records of the bank.

8. P.W.2, 6 and 7 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, Kaikeya Pradhan wife of Sankar Pradhan, Kartika Pradhan son of Malia Pradhan and Debar Jagat son of Rama Jagat and Kartika Pradhan son of

8

Ramankar Pradhan are residing in their village Goudagaon. 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 loanee Kartika Pradhan son of Ramankar Pradhan and Debar Jagat son of Rama Jagat are not residing in their village.

9. P.W.3, 4 and 13 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 forthcoming that the loanee Mohan Putta and Harekrushna Putta 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 loan is a short term production loan for agricultural crops and it is a short term loan repayable after harvesting of crops by the loanee. A farmer who cultivates in either his own land or as a share cropper, applies to the bank for the loan, giving particulars of land being cultivated. If the loan is disbursed partly in kind for agricultural imputes like fertilizer, seeds etc. and partly in cash for payment to labourers 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

10

the area of operation of the branch, were not existing in the villages. 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. During 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.8 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 addressees were not available.

12. P.W.9 Akhila Kumar Mohapatra who was the Branch Manager from 10.6.2006 to 2008 and P.W.10 Nishakar Naik, who was working as Cashier-

cum-Clerk in Mursundhi Branch of SBI from January 1998 to September 2001 have stated that Sri A.K. Sethi was Branch Manager of SBI, Mursundhi Branch and the accused was working as Branch Manager upto September 2001 to September 2003. According to P.W.9, on his production, CBI Officer D.K. Kabi (since dead) seized crop loan documents, sanction register and some letters from his branch and prepared the seizure list Ext.2 . He proved the seized 65 loan applications vide Ext.3 and three letters vide Ext.5. He has stated that on 30.11.2006 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.6. Similarly P.W.10 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.11 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 1st September 2001. According to him during his incumbency he found most of the KCC loanees were defaulters. Hence, he enquired and found that no such loanees were available as per the addresses in village Goudagad, Gudguda,

12

Badmahal, Bhaludanguri and Dadarpali. Then he reported about it 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 Arun Kumar samantray has sanctioned those loans.

14. P.W.12 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 and prior to him, Sri A.K. Sethi was the Branch Manager. He proved the loan documents Ext.3/59 to Ext.3/64 in which K.C.C. loans were sanctioned by the accused. According to him, the accused has prepared the payment vouchers Ext.7 and 8, passed and disbursed the same in cash. He proved the signature of accused Ext.7/1 and Ext.8/1. Similarly the accused has prepared the payment vouchers Ext.9 and 10 relating to loan documents Ext.3/60, payment vouchers Ext.11 and 12, payment vouchers Ext.13 and 14 and passed and disbursed the said amount. According to him in Ext.3/63 the loan was disbursed through cheques. He proved cheques vide Ext.15 and 16 and in Ext.3/64 the accused has

13

prepared the payment vouchers and passed and disbursed the amount. He proved the payment vouchers Ext.17 and 18. He also proved the signatures of accused Exts.7/1, 8/1, 9/1, 10/1, 11/1, 12/1, 13/1, 14/1, 15/1, 16/1, 17/1 and 18/1.

15. It is the evidence of P.W.14 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 being 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 villages and wards.

16. P.W.15 in his evidence has stated that he has been 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 vide Ext.19 was 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.19/1. According to him, he gave the said endorsement after making local enquiry on 9.3.2007, 10.3.2007 and 12.3.2007.

17. P.W.16 in his evidence has stated that he has been working as messenger of SBI Mursundhi Branch, since the year 1996 and he knows 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 and he was succeeded by the accused from the year 2001 to 2002. He proved certain loan documents in which accused has put his signature. He also proved the signatures of the accused in the ledger sheet, loan application form and sanction letter respectively.

18. P.W.17 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. They had produced all the village statutory file Nathi and safei Nathi of the concerned villages before Mr. Kabi. 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 on the RORs 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.21. According to him, as per the report vide Ext.22, 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.22, no land was found to have been recorded in the names of other 62 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.23) furnishing the voter list of eight villages in question enclosing seventy-eight pages duly attested by him. According to him, Ext.24 is the attested copy of voter list published in the year 2001 of the said eight villages and he proved his signature vide Ext.24/1. He has stated that no person named Tulasi Kumbhar of village

Hatilimunda, Debar Jagat son of Rama Jagat and Kartik Pradhan son of Ramenkar Pradhan of village Goudagada and Mohan Putta, son of Lakuru Putta and Harekrushna Putta, son of Rahas Putta of alleged village Gudguda find place in the voter list vide Ext.24.

21. P.W.20 was the Inspector of Police, CBI Unit Office Rourkela and is the Investigating officer of this case. He has stated that this case was registered on the basis of written complaint (Ext.1) submitted by Complainant Sri Amarendra Mishra, Regional Manager, State Bank of India, Bolangir by the then S.P.CBI, Bhubaneswar Sri Pranab Mohanty on 31.7.2006 and on the same day, on direction of SP CBI, Bhubaneswar this case was transferred to him from D.K. Kabi, Inspector for investigation. PW-20 found that the accused, who succeeded Sri A.K. Sethi was working as Branch Manager, SBI, Mursundhi Branch, Subarnapur from 1.9.2001 to 23.8.2002. 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.2. On 30.11.2006 he also seized the transaction register for the period from 8.11.1999 to 27.11.2002 (four registers) on production by said A.K. Mohapatra vide seizure list Ext.6.

17

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:

Debar Jagat vide loan account No.KCC- 24/12 vide Ext.3/59, Mohan Putta vide loan account No.KCC-24/14 vide Ext.3/60, Kartik Pradhan vide loan Account No.KCC-24/15 vide Ext.3/61, Khedu Baghar vide loan account No.KCC-24/16 vide Ext.3/62, Harekrushna Putta vide loan Account No.CC/SNF-24/1 vide Ext.3/63; and Tulasi Khamar vide loan account No.KCC-22/1 vide Ext.3/64. According to him, the accused had sanctioned Rs.1,12,000/- to the non-existent loanees and a total sum of Rs.1,16,175/- was disbursed to the non-existent loanees. After completion of investigation, PW-20 submitted charge sheet against the accused on 31.7.2008.

22. It is the allegation of the prosecution that the accused while discharging his duty as public servant, in the capacity of Branch Manager of the bank, has sanctioned and disbursed the loan in favour of the following persons on the dates noted against each of them.

Sl.No	Name of the loanee	Sanctioned loan amount	Disbursed amount.
1.	Debar Jagat, S/o.Ram	Rs. 25,000/-	Rs.25,000/-

	Jagat of Vill. Goudagada		
2.	Mohan Putta, s/o. Lakuru Putta, Vill. Goudagada	Rs.25,000/-	Rs. 24,375/-
3.	Kartik Pradhan, S/o. Ramankar Pradhan of Vill. Goudagada	Rs.18,000/-	Rs. 23,400/-
4.	Harekrushna Putta, s/o. Rahas Putta of Vill.Guduguda	Rs.20,000/-	Rs.20,000/-
5.	Tulasi Kumbhar, d/o. Govinda Kumbhar of Hatilimunda	Rs.24,000/-	Rs.23,400/-
	TOTAL	1,12,000/-	1,16,175/-

Therefore, now it is to be seen as to whether the above named persons are not the permanent residents of the village as mentioned above and were non-existent persons and whether accused has sanctioned and disbursed the above amount in favour of the above persons beyond his capacity. It is to be further seen as to whether the above mentioned persons were not the proper person to receive the loan amount and whether the loan was sanctioned by submitting forged and fabricated documents. It is also to be seen as to 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.1,16,175/- .

23. So far as the person named Tulasi Kumbhar daughter of Govinda Kumbhar of village Hatilimunda is concerned, prosecution has not examined any witness of village Hatilimunda to prove that Tulasi Kumbhar is not the permanent resident of village Hatilimunda.

24. Two persons have been examined as Court Witnesses. CW-1 Tripurari Padhan has stated that he was born and brought up at Village-Badamala and he is a cultivator and he knows all his co-villagers. He has further stated that he knows Purendra Mahakud, S/o.Sri Rahasa Mahakud, Banamali Pradhan, S/o.Rama Pradhan, Sukuru Bastia, S/o.Mohan Bastia, Radha Pradhan, S/o.Nabin Pradhan, Rama Chandra Sethi, S/o. Sagar Sethi and Sarat Bastia, S/o.Rama Bastia.

25. CW-2 Arjuna Padhan has stated that he is living in Village-Badamala and he is a labourer. He does not now if any persons named Purendra Mahakud, S/o.Sri Rahasa Mahakud, Banamali Pradhan, S/o.Rama Pradhan, Sukuru Bastia, S/o.Mohan Bastia, Radha Pradhan, S/o.Nabin Pradhan, Rama Chandra Sethi, S/o. Sagar Sethi and Sarat Bastia, S/o.Rama Bastia had ever lived in village-Badamala. He has further stated that Banamali Pradhan, S/o.Rama Pradhan and Radha Pradhan, S/o.Nabin Pradhan were earlier residing in village-Badamala.

During cross-examination, CW-2 has stated that Purendra Mahakud, S/o.Sri Rahasa Mahakud, Banamali Pradhan, S/o.Rama Pradhan, Sukuru Bastia, S/o.Mohan Bastia, Radha Pradhan, S/o.Nabin Pradhan, Rama Chandra Sethi, S/o. Sagar Sethi and Sarat Bastia, S/o.Rama Bastia belong to village- Badamala, but some of them have left the village and have gone outside in order to earn their livelihood.

26. It is in the evidence of PW-1 that Sri P.K.Bohidar reported that some borrowers were not traceable. PW-1 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-1 lodged FIR vide Ext.1. It is also in the evidence of PW-1 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-1 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-1 has further admitted that he had not annexed the enquiry report of Mr. Agrawal in the FIR.

27. Sri S.K.Agrawal has been 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-1 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 2000-2001 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.

28. Although PW-2 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-2 that one Kartika Pradhan, S/o. Nata Pradhan is the resident of his village.

29. Although, PWs-3, 4 and 13 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-3, 4 and 13 belong to that village.

30. Similarly, although, PWs-6 and 7 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-6 and 7 belong to that village.

31. The statement given by PW-8 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-8 without service have not been proved in this case.

32. Although PW-11 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, Bhalbunguri and Dadarpali and then he reported

about it to the Regional Manager, no such enquiry or report of PW-11 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-11. 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 about it. 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.3/61, 3/62, 3/63 and 3/64. 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-11, have been proved in this regard. In fact, PW-11 has not named the villagers or Sarpanchas whose statements were recorded by him.

33. No document has been proved to show that PW-13 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-14 and there is no endorsement in the voter list (Ext.24) to show that PW-14 had verified the same. PW-14 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.19) was returned back by PW-15 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.19 as witness and the concerned Post Master has also not given any signature or endorsement on Ext.19.

34. PW-17 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-17 or Inspector of Settlement has been proved in this case through PW-17. 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.

35. 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-17, on the requisition of the CBI. PW-18 checked the said facts and submitted the report vide Ext.22 of PW-17 along with letter vide Ext.21.

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.21 and 22 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.22 that he had verified

the original records before signing on it and there is no endorsement by Amin Sri Panda in Ext.22 to show that he had prepared the same and that he had verified any particular record for that purpose.

36. PW-19 who was working as Revenue Officer and Sub-Collector In-charge, Biramaharajpur has stated that no person named Tulasi Kumbhar D/o.Gobinda Kumbhar finds place in Ext.24 for village-Hatilimunda. He has further stated that no persons named Debar Jagat, S.o. Rama Jagat and Kartika Pradhan, S/o.Ramenkar Pradhan find place in the voter list vide Ext.24 for village-Goudagada and no persons named Mohan Putta, S/o.Lakuru Putta and Harekrushna Putta, S/o.Rahas Putta find place in the voter list vide Ext.24 for village-Gudguda.

During cross-examination PW-19 has stated that no original document including any official file has been seized by the CBI from the Office of Sub-Collector, Biramaharajpur. He has further stated that supplementary voter list of eight villages in question has been enclosed along with Exts.23 and 24. He has also stated that although he has mentioned in Ext.23 that he had attested the said document, no separate certificate has been given by him that he had personally verified the same with the original voter list. He has further stated that he had entrusted the work

of comparing with the original voter list to one of their Dealing Assistant of Election Section, but he does not remember the name of the said Dealing Assistant and he has not given any endorsement or signature on Ext.24 to show that he had checked the same.

37. The original voter list or the certified copy of the voter list of the concerned villages have not been produced or proved in this case by the prosecution. It is seen from the evidence of PW-19 that the concerned Dealing Assistant, who as claimed by PW-19, had compared the said list along with the original, has neither been examined in this case as prosecution witness nor has given any endorsement on Ext.24 to show that he had made any such comparison with the original voter list. PW-19 had also not mentioned in the letter vide Ext.23 that he has sent the attested true copy of the voter list to the CBI. Therefore, the original document, being available in the office in question and the same being not proved in this case from the side of the prosecution, in the above circumstances, no reliance can safely be placed on Ext.24 to come to the conclusion that the concerned persons were not living in those villages.

38. Similar is the state of affairs in respect of the document vide Ext.22. The Amin named

Hrusikesh Panda, who as claimed by the prosecution, had compared the list by comparing the same from the original, has not been examined as witness from the side of the prosecution. This aspect has also not been mentioned in the letter vide Ext.21 sent by PW-18. PW-18 has also not mentioned in Ext.22 that he had endorsed or given any such certificate in Ext.22 that he or the Amin had made any comparison or verification with the original records or documents for the purpose of preparing the document vide Ext.22.

39. Besides that, there is no dispute from either side that for the purpose of sanctioning the KCC loan in question, the concerned loanee is not required to be owner of any particular land and it will be sufficient if he is in cultivating possession of any land and raised crops over the said land. Therefore, the oral and documentary evidence on record adduced from the side of the prosecution to prove that the concerned persons were not residents of that village or were not available in that village during any particular period, even if accepted for the sake of argument, still then the same do not prove that the loans have been sanctioned in favour of non-existent persons or fake persons.

That apart, in view of the discussion already made, this Court finds that proper enquiry

and investigation have not been made by the officials of the concerned bank or by the Investigating Agency to show that those persons were actually fake persons.

40. It is pertinent to mention here that there is absolutely no evidence from the side of the prosecution to show that any attempt was made to ascertain about the genuineness of the Voter ID Cards issued by the Election Commission of India in favour of some loanees, who had submitted xerox copies of the said documents along with their applications for loan. There is also no direct and specific reliable evidence to show that the copies of the RORs submitted by some of the loanees along with their loan applications, have been duly verified, cross-checked and were at all subsequently found to be false or fake documents, by making due enquiry from the concerned Revenue Office.

41. Learned Special PP, CBI had 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 loatee 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.

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, for the loss caused to the bank, as contemplated u/s.13(1)(d) of P.C.Act, 1988.

In view of the discussions already made, the above contentions raised by the learned Special PP, CBI, are devoid of merit.

42. On appreciation of the evidence and materials on record, this Court finds that the prosecution has failed to prove beyond all reasonable doubt that the accused while working as Branch Manager, State Bank of India, Mursundhi Branch, had sanctioned and disbursed loan in favour of any fake or non-existent persons on the

basis of forged and fabricated documents. The prosecution has also failed to prove beyond reasonable doubt that any persons, in whose favour the accused had sanctioned and disbursed loans in question, was not the proper person entitled to receive the same and that the accused by abusing his position as public servant, obtained any pecuniary advantage by sanctioning and disbursing the loan amount in their favour causing any loss to the said bank.

43. In the result, I hold that the accused is found not guilty of the offences punishable 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 charges under Sec.248(1) Cr.P.C. He is discharged from the 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 29th day of February, 2016.

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

List of witnesses examined for the prosecution:
PW-1 Amarendra Mishra.

PW-2	Debarchan Pradhan.
PW-3	Arun Kumar Ray.
PW-4	Surendra Bhoi.
PW-5	Sushil Kumar Agrawal.
PW-6	Sarat Chandra Bastia.
PW-7	Shiva Dehury.
PW-8	Sarangadhar Sahu.
PW-9	Akhila Kumar Mohapatra.
PW-10	Nishakar Naik.
PW-11	Prabir Kumar Bohidar.
PW-12	Dasarathi Mahapatra.
PW-13	Dukhishyam Bhoi.
PW-14	Suresh Kumar Sharma.
PW-15	Baladev Sethi.
PW-16	Anant Charan Mohapatra.
PW-17	Prafulla Kumar Panda.
PW-18	Pradeep Kumar Nayak.
PW-19	Naresh Singh Bariha.
PW-20	Subhransu Bhusan Mishra.

List of court witnesses :-

CW-1	Tripurari Padhan.
CW-2	Arjun Padhan.

List of witnesses examined for the defence:-

Nil.

List of exhibits marked for the prosecution:-

Ext.1	Report.
Ext.1/1	Signature of PW-1.
Ext.2	Seizure list consisting 31 pages.
Ext.2/1	Signature of PW-9 on the last page in Ext.2.
Ext.2/2	Signature of CBI Officer on the last page in Ext.2.
Exts.3 to 3/64	- Seized 65 loan applications.
Exts.4 & 4/1	- Loan Sanction Registers.
Exts.5 to 5/2	- Seized 3 letters.
Ext.6	Seizure list.
Ext.6/1	Signature of PW-9 in Ext.6.
Ext.6/2	Signature of D.K.Kabi in Ext.6.
Ext.7	Payment voucher related to loan document in Ext.3/59.
Ext.7/1	Signature of A.K.Samantaray in Ext.7.

34

- Ext.8 Payment voucher related to loan document in Ext.3/59.
- Ext.8/1 Signature of A.K.Samantaray in Ext.8.
- Ext.9 Payment voucher related to loan document in Ext.3/60.
- Ext.9/1 Signature of A.K.Samantaray in Ext.9.
- Ext.10 Payment voucher related to loan document in Ext.3/60.
- Ext.10/1 Signature of A.K.Samantaray in Ext.10.
- Ext.11 Payment voucher related to loan document in Ext.3/61.
- Ext.11/1 Signature of A.K.Samantaray in Ext.11.
- Ext.12 Payment voucher related to loan document in Ext.3/61.
- Ext.12/1 Signature of A.K.Samantaray in Ext.12.
- Ext.13 Payment voucher related to loan document in Ext.3/62.
- Ext.13/1 Signature of A.K.Samantaray in Ext.13.
- Ext.14 Payment voucher related to loan document in Ext.3/62.
- Ext.14/1 Signature of A.K.Samantaray in Ext.14.
- Ext.15 Payment voucher related to loan document in Ext.3/63.
- Ext.15/1 Signature of A.K.Samantaray in Ext.15.
- Ext.16 Payment voucher related to loan document in Ext.3/63.
- Ext.16/1 Signature of A.K.Samantaray in Ext.16.
- Ext.17 Payment voucher related to loan document in Ext.3/64.
- Ext.17/1 Signature of A.K.Samantaray in Ext.17.
- Ext.18 Payment voucher related to loan document in Ext.3/64.
- Ext.18/1 Signature of A.K.Samantaray in Ext.18.
- Ext.19 Postal envelope.
- Ext.19/1 Signature of PW-15 on Ext.19.
- Ext.19/2 Endorsement of PW-15 on Ext.19.
- Exts.3/59 to 3/64 - Loan documents.
- Exts.3/65 to 3/67- Signatures of A.K.Samantaray.
- Exts.3/68 to 3/70 - Signatures of A.K.Samantaray on
Ext.3/60.
- Exts.3/71 to 3/73 - Signatures of A.K.Samantaray on

35

- Ext.3/61.
Exts.3/74 to 3/76 - Signatures of A.K.Samantaray
on
- Ext.3/62.
Exts.3/77 to 3/79 - Signatures of A.K.Samantaray
on
- Ext.3/63.
Exts.3/80 to 3/83 - Signatures of
A.K.Samantaray on
- Ext.3/64.
Ext.20 Not marked.
Ext.21 Report vide letter
No.129,dt.5.2.2007 of PW-18.
Ext.21/1 Signature of PW-18 in Ext.20.
Ext.22 Report submitted by Amin (25
sheets).
Ext.22/1 Signature of Hrusikesh Panda (Amin).
Ext.22/2 Signature of PW-18 in Ext.21.
Ext.23 Reply dated 26.5.2007.
Ext.23/1 Signature of PW-19 in Ext.22.
Ext.24 Attested copy of voter list.
Ext.24/1 Signature of PW-19 in Ext.23.
Ext.1/4 Signature of SP, CBI in Ext.1.
Ext.1/5 Endorsement entrusting investigation of
the case.
Ext.1/6 Signature of SP, CBI,BBSR in Ext.1.
Ext.2/2 Signature of Sri D.K.Kabi (since dead) on
Ext.2.
Ext.6/2 Signature of Sri D.K.Kabi (since dead) on
Ext.6.
Ext.25 Daily Transaction Register for the
period from
15.6.2001 to 30.3.2002.
Ext.26 Daily Transaction Register for the
period from
31.3.2002 to 27.11.2003.

List of exhibits marked for the defence :-
Nil.

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

36

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

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