

**IN THE COURT OF THE SPECIAL JUDGE, C.B.I. COURT NO.I,
BHUBANESWAR.**

PRESENT:

**Sri M.K.Panda,
Special Judge, C.B.I.,
Court No.I, Bhubaneswar.**

**T.R. Case No. 05 of 2007.
Arising out of R.C.No.40(A)/2003.**

Date of argument : 17.9.2014.
Date of Judgment : 22.9.2014.

REPUBLIC OF INDIA.

Versus.

Triveni Prasad Gupta, aged about 61 years,
Son of late Rajendra Prasad Gupta,
At/P.O. Bhatipada, P.S. Titilagarh, Dist. Bolangir.

... Accused.

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

For the Accused : Sri S.K.Sahu, Advocate.

J U D G M E N T

The accused Triveni Prasad Gupta stands charged U/Ss.409 of the Indian Penal Code and U/S. 13(2) read with Sec. 13(1) (c) & (d) of the Prevention of Corruption Act, 1988. He pleaded not guilty to the charges and claimed to be tried.

2. Facts material for the prosecution hold as follows:
The accused Triveni Das Gupta was working as Cashier-cum-clerk in the State Bank of India, Titilagarh Branch in the year

2003. The accused, in that capacity, had received cash of Rs.40,000/-, Rs.50,000/-, Rs.60,000/- and Rs.40,000/- from Sri Kalindi Charan Prusty, Proprietor of M/S. Prusty Pustak Bhandar on 30.7.2003, 26.8.2003, 5.9.2003 and 15.9.2003 respectively for crediting the same to his Cash Credit Account No. 01660060647 and cash of Rs.30,000/- on 21.3.2003, Rs.30,000/- on 24.9.2003 and Rs.15,000/- on 30.10.03 received from Smt. Ruby Gupta for depositing the same in her S.B. A/c No. 01190009696, cash of Rs.30,000/- on 24.9.03 and Rs.25,000/- on 30.10.03 received from Shri Ranjan Kumar Gupta for depositing the same in his S.B. A/C No.01190009612, cash of Rs.7000/- received from Shri Debendra Ray on 21.10.2003 for depositing the same in his S.B. A/c No. 01190011653 and cash of Rs.40,000/- on 11.3.03, Rs.17,000/- on 24.3.03, Rs.15,000/- on 17.5.2003, Rs.20,000/- 29.5.2003, Rs.15,000/- on 12.7.2003, Rs.10,000/- 21.7.2003 and Rs.8500/- on 25.7.03 received from Shri BedPrakash Agrawal for crediting the same amount to his S.B. Account bearing No.01190011252. No less specific is the prosecution case that though the accused, on each occasion, issued the counterfoils of the receipt vouchers acknowledging receipt of money to the above named account holders after putting his signatures/initials with the seals of the Bank on those counter foils, the accused did not deposit/ account for the received amounts of the depositors in the cash book and also did not reflect the said receipt of cash in any of the records of the Bank. Prosecution case also reveals that although use of old manual pass books were discontinued on account of branch computerization w.e.f 25.1.2003, the accused had made fake credit entries manually on 21.3.03,

24.9.03 and on 30.10.03 in old manual Savings Bank Pass Books of Smt. Ruby Gupta and Shri Ranjan Kumar Gupta vide their S.B. A/C No. 01190009696 and 01190009612. Consequently being an employee/cashier of the Bank committed criminal breach of trust, abusing his official position dishonestly misappropriated a total amount of Rs.4,52,500/- by falsifying the records and thus, caused wrongful loss to the bank and obtained for himself pecuniary advantage of the aforesaid amount. On completion of usual investigation, C.B.I submitted charge sheet against the accused resulting in the present case.

3. Defence plea is one of complete denial of complicity of the accused in the alleged offences.

4. Points for determination are:

i. Whether the accused during the period the year 2003 while working as Cashier in the State Bank of India, Titilagarh Branch, Bolangir and in such capacity of a public servant entrusted with a sum of Rs.4,52,500/- deposited by the account holders which was the property of State Bank of India or having dominion over the said property committed criminal breach of trust in respect of the said property by not crediting the amount to the account of the respective account holders of the said Bank.

ii. Whether the accused during the aforesaid period being a public servant working as Cashier in the State Bank of India, Titilagarh Branch, Bolangir dishonestly misappropriated the amount of Rs.4,

52,500/- which was entrusted to him as a public servant and converted the same to his own use by not crediting the amount to the account of the respective account holders of the said Bank.

iii. Whether the accused during the aforesaid period being a public servant working as Cashier in the State Bank of India, Titilagarh Branch, Bolangir by corrupt and illegal means or otherwise abusing his position as such public servant obtained for him pecuniary advantage to the tune of Rs.4,52,500/- which was deposited by the account holders of the said Branch by not crediting the amount to the account of the respective account holders of the said Bank.

5. Prosecution in support of its charges against the accused has examined as many as 16 (sixteen) witnesses whereas the defence has adduced no evidence in substantiation of its plea and case.

6. There could be no denying that the accused Triveni Prasad Gupta was working as Clerk-cum-Cashier in the State Bank of India, Titilagarh Branch, Bolangir. Concomitantly, the important point for determination is whether the accused received a total amount of Rs.4,52,500/- from the above named account holders for crediting the same amount to their accounts. Undeniably, one of the important witnesses for the prosecution is Dharanidhar Prusty, Proprietor of Prusty Pustak Bhandar which has been hypothecated to the S.B.I. Titilagarh Branch. This material witness appearing as P.W.2 has deposed that he has a Cash Credit Account bearing

No.01660060647 in that branch. His evidence further reveals that on 30.7.2003 he deposited Rs.40,000/- on payment of money at the counter to the accused who received the money and made entry in his pass book and issued counterfoil which has been marked Ext.4. It is the specific evidence of P.W.2 that he deposited Rs.60,000/- on 26.8.2003, Rs.60,000/- on 5.9.2003 and Rs.40,000/- on 15.9.2003 in the Bank by handing over the money to the accused at the counter who received the same and issued the counterfoils. According to P.W.2, those counterfoils have been marked Ext.5, Ext.6 and Ext.7. It is the specific evidence of P.W.2 that the deposits made by him have not been noted in his statement of account contained in Ext.8. P.W.2 admitted in his cross-examination that the counterfoils as contained in Ext.5 to Ext.7 and Ext.9 have not been written by him and the statement of account as contained in Ext.8 has not been seized from his possession. It is also the admission of P.W.2 that he has no knowledge about the contents of Ext.4 to Ext.7 and at times his uncle handles the Ex.4 to Ext.9. He has denied a defence suggestion that since he does not operate the documents, he cannot say who has tampered with the documents. The admissions relied on by the defence are too trivial to affect the essential credibility of the prosecution case. Another material witness P.W.4 has testified that he has an account bearing No.01190011252 in the State Bank of India, Titilagarh Branch and as such he knows the accused Triveni Prasad Gupta who was working as cashier in that Branch. He has claimed in his evidence that he personally goes to the Bank to operate his account and gives the form duly filled in with money to the accused who receives the money and gives

him counterfoil with official seal and his signature. It is the specific evidence of P.W.4 that he had paid Rs.40,000/-, Rs.17,000/- Rs.15,000/-, Rs.20,000/- Rs.10,000/-, Rs.8,500/- and Rs.15,000/- to the accused for depositing and the accused had given him counterfoils acknowledging the receipt of money. He has proved the counterfoils contained in Ext.1/5, Ext.1/6, Ext.1/7, Ext.1/8, Ext.1/9, Ext.10 and Ext.13 respectively. No less specific is the evidence of P.W.4 that he subsequently found that all the amounts which he had deposited have not been credited to his account. It is the admission of P.W.4 that the entries in counterfoils contained in Ext.1/5 to Ext.1/10 have been made by him and by his son and C.B.I. has not seized those counterfoils from his possession. He has denied a defence suggestion that he has fabricated Ext.1/5 to Ext.1/10 for illegal monetary benefit. This is too innocuous an admission to affect the credibility of P.W.4. In fact, both the witnesses have successfully stood the test of cross-examination. Nothing substantial has been brought out in their cross-examination to discredit their evidence on material aspects of the case. Their evidence appear to be quite clear, consistent, convincing, credible and above reproach. I, therefore, find no cogent reason or ground to doubt the veracity of P.W.2 and p.W.4

7. P.W.1 Chandra Sekhar Bhure Accounts Officer, P.W.3 Deba Bhoi Clerk, P.W.5 Special Assistant of Account Section, P.W.6 Sibasankar Behera Special Aisstant, P.W.8 Sarat Chandra Prusty Messenger, P.W.9 Manmohan Pattanaik Clerk, P.W.10 Satyanarayan Purohit Special Assistant , P.W.11 Suryanarayan Mishra Special Assistant and P.W.12 Prasanta Kumar Bohidar Special Assistant, all are the employees of

S.B.I. Titilagarh Branch have clearly stated in their evidence about the procedure of deposit of cash by customers with the cashier and have claimed that are acquainted with the signatures/initials and handwritings of the accused in regular course of official business. P.W.1 has further proved that the voucher dated 21.3.2003 as Ext.1, voucher dated 30.10.2003 as Ext.1/1, voucher dated 24.10.2003 as Ext.1/2, voucher dated 30.10.2003 as Ext.1/3 and voucher dated 21.10.2003 as Ext.1/4 relating to A/C No.4849 of R.K.Gupta. He has also proved the vouchers dated 11.3.2003, 24.3.2003, 17.5.2003, 29.5.2003, 21.7.2003 and 25.7.2003 of Bedprakash Agrawal which have been marked as Ext.1/5, Ext.1/6, Ext.1/7, Ext.1/8, Ext.1/9 and Ext.1/10 respectively. He has specifically testified that the amounts mentioned in the above vouchers have been received by the accused and also signed. He has also proved the scroll registers of the above dates as Ext.2 to Ext.2/17. According to P.W.1, the amounts received by the accused on the above dates have not been entered in the scroll register (Ext.2) and in the day book contained in Ext.3 as the vouchers were not sent to cashier.

8. Similarly P.W.3 has deposed that the accused has granted counterfoil dated 3.7.03 for Rs.40,000/- under Ext.4, voucher dated 26.8.03 for Rs.50,000/- under Ext.9, voucher dated 5.9.03 for Rs.60,000/- under Ext.6, voucher dated 15.9.03 for Rs.40,000/- under Ext.7, voucher dated 21.3.03 for Rs.30,000/- under ext.1, voucher dated 30.10.03 for Rs.15,000/-, voucher dated 24.9.03 for Rs.30,000/- under Ext.1/2, voucher dated 30.10.03 for Rs.25,000/- under ext.1/3, voucher dated 21.10.03 for Rs.7000/- under Ext.1/4, voucher dated 11.3.03 for Rs.40,000/- under Ext.1/5, voucher

dated 24.3.03 for Rs.17,000/- under Ext.1/6, voucher dated 17.5.03 for Rs.15,000/- under Ext.1/7, voucher dated 29.5.03 for Rs.20,000/- under Ext.1/8, voucher dated 21.7.03 for Rs.10,000/- under Ext.1/9 and voucher dated 25.7.03 for Rs.8500/- under Ext.1/10. P.W.3 has proved the signatures of the accused appearing in the above counterfoils/vouchers as Ext.4/1, Ext.9/1, Ext.6/1, Ext.7/1, Ext.1/1, Ext.1/12, Ext.1/13, Ext.1/14, Ext.1/15, Ext.1/16, Ext.1/17, Ext.1/18, Ext.1/19, Ext.1/20 and Ext.1/21 respectively. He has deposed that Ext.2 to Ext.2/17 are the cashier scroll of S.B.I. Titilagarh Branch of different dates. According to P.W.3, after receipt of the amount, cashier has to reflect the same in scroll register and teller register. P.W.3 has explained in his evidence that register, scroll and cash are to be handed over to Cash Officer by the Cashier at the end of the transaction of that day and Cash officer is to verify the entry and give initial against each entry after verification. He has also proved that Ext.2 to Ext.2/17 which are the signatures of the accused. His evidence further reveals that Chandra Sekhar Bhure, cash officer has put his initial against entries in the cash receipt scroll and he is acquainted with the signature of Chandra Sekhar Bhure. It is the specific evidence of P.W.3 that Ext.10 series are the ledger sheets starting from 23.1.2003 to 28.2.2006 and Ext.8 series are another ledger sheets from 25.1.2003 to 6.11.2006 and those documents have been maintained in regular course of official business in their Bank. He has alleged in his evidence that no such entry has been made in the Day Book or Cash Scroll or Ledgers of the relevant dates in respect of the above exhibited vouchers and after receipt of the amount accused should have reflected the same in the above registers. He has

further testified that the vouchers indicate that the amount mentioned against it, have been deposited on those dates by the concerned persons in the Bank.

9. P.W.5 has claimed in his evidence that Ext.1/12 to Ext.1/21 are the signatures of the accused as cashier in the vouchers and Ext.2, 2/2 to Ext.2/15 and Ext.2/17 bear the signatures of the accused in cashier receipt scroll and the entries in the particular column have been written by the cashier-accused. P.W.6 has testified that Ext.4, Ext.6, Ext.7 and Ext.9 are the counterfoils of the pay-in-slips and Ext.4/1, Ext.6/1, Ext.7/1 & Ext.9/1 are the initials of the accused and all the exhibits bear the cash receipt seal of the Bank. He has further deposed that Ext.1 to Ext.1/10 are the counterfoils of pay-in-slips which bear the cash receipt seal of the Bank. He has claimed in his evidence that Ext.1/12 to Ext.1/21 are the signatures of the accused and Ext.2/18 to Ext.2/133 are the initials of the accused in the cashier receipt scroll under Ext.2/1 to Ext.2/17. It is the specific evidence of P.W.8 that the counterfoils bear the signatures of the accused and there was departmental inquiry into the allegation of misappropriation of amount of the depositors by the accused. P.W.9 has specifically stated in his evidence that if the amount is not entered in the cashier scroll, then it will not be reflected in the Bank books of account and the depositor is to get the pass book updated basing on the scroll and the ledger. P.W.10 and P.W.11 who were working as Special Assistants in the S.B.I. Titilagarh Branch, have testified that Ext.1 to Ext.1/11 are the counterfoils of pay-in-slips which were given to the customers after receipt of cash or after transfer of transaction. They have proved the signatures of the accused contained in

Ext.1/11 to Ext.1/21. Their evidence further reveals that Ext.2 to Ext.2/17 are the cashier receipt scrolls and Ext.2/18 to Ext.2/34 are the signatures of the accused. According to them, the entire transaction of the day is mentioned in Ext.2 series and everyday's transaction is entered in jotting book or day book and the entries made in the cashier receipt scroll are entered in the day book. It is their specific evidence that Ext.3 series are computer generated daybooks for the period from 21.3.03 to 15.9.03. P.W.12 has deposed that Ext.4, Ext.6, Ext.7 and Ext.9 are the counterfoils which bear the cash receipt seal of the Bank and the signatures of the accused. He has specifically alleged in his evidence that the amounts received by the cashier under Ext.4, Ext.6, Ext.7 and Ext.9 have not been entered in the cashier receipt scroll as contained in Ext.2/9, Ext.2/11, Ext.2/12, Ext.2/13 and Ext.2/10 respectively. He has also alleged in his evidence that the amounts reflected in the counterfoils contained in Ext.1/5 to Ext.1/14 and Ext.13 have not been entered in the cashier receipt scroll under Ext.2 series and Ext.16 to Ext.21 as well as Ext.13/1 are the signatures of the accused. P.W.12 has specifically testified that the counterfoil of pay-in-slip dated 24.9.2003 for Rs.30,000/- in respect of account of Smt. Ruby Gupta contained in Ext.15 bears the receipt cash seal of the bank and signature of the accused. The signature of the accused has been proved Ext.15/1. P.W.12 has also complained in his evidence that the amount reflected under Ext.1/2, Ext.1/3, Ext.1/4, Ext.1/5, Ext.1/6, Ext.1/7, Ext.1/1 and Ext.15 have not been entered in the cashier receipt scroll on the corresponding dates. P.W.13 the then Deputy Manager (personal) of the S.B.I. Titilagarh Branch has deposed that

C.B.I. police has obtained the specimen signatures of the accused in 12 papers in his presence and Ext.16 to Ext.16/11 are the papers containing the specimen signatures of the accused and Ext.16/12 to Ext.16/23 are his signatures. Thus the signature of the accused stands wholly proved by P.W.13 in whose presence the accused put his signature. To say the least there could be no better evidence to prove the signature of the accused. On the face of this unimpeachable oral as well as documentary evidence the defence contention that the accused has not put his initials in Ext.1 to Ext.1/10 and Ext.4 to Ext.7 are not only legally untenable but also factually misconceived. All the witnesses for the prosecution who were working with the accused in the S.B.I. Titilagarh Branch at the relevant time have consistently and categorically stated in their evidence that no scroll number has been given in counterfoils, though the amount has been received by cashier-accused from the customers. They have also explained in their evidence about non-posting of the same in cashier scroll register vide Ext.2 series and the day book vide Ext.3. This is a circumstance of real consequence which shows in no uncertain terms the commission of misappropriation of Rs.4,52,500/- by the accused. Nothing substantial has been brought out in the cross-examination of the prosecution witnesses to discredit their evidence on material aspects. They have successfully stood the test of cross-examination. Much less elicited, nothing has been suggested to the prosecution witnesses who are colleagues of the accused that they are in any way inimically disposed towards the accused so as to depose falsely against him. Their evidence appears to be quite clear, consistent, convincing, credible and above reproach.

Their evidence does not suffer from any inherent infirmity or improbability. P.W.7 who is the then Regional Manager of S.B.I. Regional Business Office, Bolangir has deposed that he is competent to remove the accused/clerk-cum-cashier from service. He has further deposed that he received the requisition from the S.P.C.B.I. to accord sanction for prosecution against the accused and he went through the relevant documents produced before him by the C.B.I. Officer and after due application of mind , he accorded sanction for prosecution against the accused as the accused misappropriated an amount of Rs.4,52,500/-. He has proved the sanction order as contained in Ext.14 and Ext.14/1 is his signature.

10. It is as much disquieting as perplexing that the accused with the transparent motive of misappropriation has deliberately omitted to mention the scrolling number in counterfoils of pay-in-slips contained in Ext.1 to Ext.1/10 and Ext.4 to Ext.7 and Ext.9. Similarly, he has also not mentioned in Ext.2 cash receipt book and Ext.3 day book. Importantly, the accused in his own wisdom perhaps found it as a convenient ruse to strain the credibility of counterfoils. But quite understandably, the very fact that the accused chose not to mention the scrolling number in the alleged counterfoils, far from being a discrediting factor lends sufficient assurance to the prosecution case. P.W.3, P.W.5, P.W.6 and P.W.11 have claimed in their evidence that they are acquainted with hand writing and signatures of the accused. It, therefore, follows a natural corollary that official prosecution witnesses are well acquainted with the hand writing and signature/initial of the accused in usual and regular course of official business. The

prosecution has proved the signature of the accused through P.W.3, PW.5, P.W.6, P.W.11 and P.W.13 which have been marked Ext.1/12 to Ext.1/21. It is common knowledge that a Bank officer who wants to misappropriate money from the Bank this way, will never make the mistake of mentioning the scrolling number in counter foils of pay-in-slips, little knowing that it is all at his own peril.

11. The learned defence counsel in course of his submissions contends that the seizure lists contained in Ext.17, Ext.18 and Ext.26 which are not relied on by the prosecution in their list of documents of the charge sheet, have been subsequently interpolated to patch up lacuna for which those seizure lists are not admissible. P.W.14 Prabin Kumar Mohapatra, the then Branch Manager in SBI Titilagarh Branch has deposed that on 23.11.2006 the C.B.I. Officer seized nine documents from their Bank and prepared seizure list in his presence. His specific evidence is that the relevant seizure list has been marked Ext.17 and his signature has been marked Ext.17/1. His further evidence is that he has put his signatures in the seizure lists contained in Ext.17/1 and Ext.18/1 respectively. His evidence also reveals that he has proved his signature in the statement of account of Prusty Pustak Bhandar as Ext.8/1, in the statement of account of Bedprakash Agarwalla as Ext.12/1, in the statement of account of Ruby Gupta as Ext.19/1, in the statement of account of Ext.20/1, in the statement of account of Ranjan Kumar Gupta as Ext.21/1. He has also proved the attendance registers of the Bank as contained in Ext.22. His further testimony is that on 22.11.2006 the C.B.I. officer had also seized cashier receipt scroll, computer generated statement of

accounts of five account holders and attendance register of S.B.I. from 2.4.2003 to 31.12.2003 and prepared seizure list in his presence. According to P.W.14, the relevant seizure list has been marked Ext.18 and his signature has been marked Ext.18/1. Much less elicited, nothing has been suggested to P.W.14 to show that Ext.17 and Ext.18 have been subsequently interpolated by the prosecution to fill up the lacuna. A careful perusal of the seizure lists clearly indicate that the seizure was effected at the time of detection of the case. It is significant to note that seizure of cashier receipt scroll, computer generated statement of accounts of five account holders and attendance registers of S.B.I. has not been challenged in the cross- examination of P.W.14. The very fact that the seizure has been effected almost at the time of detection of the case unequivocally shows that there could not have been any interpolation in this regard. The evidence of p.W.14 has virtually remained unchallenged and unimpeached. Nothing substantial has been brought out in the cross-examination of P.W.14 to discredit his evidence on material aspects of the case. His evidence appears to be quite clear, consistent, convincing, credible and above reproach. I, therefore, find no cogent reason or ground to doubt the veracity of seizure lists Ext.17, Ext.18 and Ext.26. P.W.9 Manmohan Pattanaik, the then Clerk in S.B.I. Bhubaneswar Branch has deposed about the procedure of deposit of any amount by any account holder. It is categorical evidence of P.W.9 that if the amount is not entered in the cashier scroll, then it will not be reflected in the bank books of account and the depositor is to get the pass book updated basing on the scroll and the ledger. This is undoubtedly an important piece

of evidence which has virtually gone unchallenged and remained unimpeached in the cross-examination. The learned Special Public Prosecutor for C.B.I. argues that since the signatures of the accused appearing in the counterfoils of the deposit vouchers and in the cashier's receipt scroll have been proved beyond reasonable doubt the accused cannot escape criminal liability. The counterfoils unmistakably show deposit of amount by the depositors duly received by the accused with the receipt cash seal of the bank. The amount written by the accused in red ink and his signature prove receipt of the amount as per the counterfoils which have not been reflected in cashier's receipt scroll marked Ext.2 to Ext.2/17 and accordingly the deposits have not been reflected in the statement of accounts of the depositors as contained in Ext.8, Ext.12, Ext.19, Ext.20 and Ext.21 and in the day book of the bank which has been marked Ext.3. It has been next argued by the learned defence counsel that the offence U/S. 409 IPC and U/S.13 (1) (c) and (d) read with Sec.13 (2) of the P.C.Act are not attracted in as much as the accused was working not as a passing officer in a counter during the period of question but was working as Junior Cashier. This argument hardly carries any force on the face of the overwhelming, unimpeached and unchallenged evidence that the signatures of the accused appearing in the counterfoils of the deposit vouchers and in the cashier receipt scroll have been proved beyond reasonable doubt. The essential credibility of the prosecution case cannot be put at stake merely because internal audit has not been made every day in the bank to find out any discrepancy. It is common knowledge that internal audit is altogether a departmental matter which is to be taken

care of by the concerned authority whereas for the alleged misappropriation law takes its own course by way of initiating criminal cases as has happened in the present case.

12. The direct evidence of the bank officers has received ample corroboration from the expert evidence of P.W.15 Locktongbam Nato Singh. P.W.15 who is the Asst. Govt.Examiner of Questioned Documents has opined in Ext.24 that the person who wrote blue enclosed writings and the signatures stamped and marked |S-1 to S-30 also wrote the signatures in red enclosed portion similarly stamped and marked Q-1, Q-2, Q-4 to Q-9 and Q-11 to Q-12. His further evidence is that S-1 to S-30 are the specimen writings of the accused collected by the I.O. The most that has been elicited in the cross- examination of P.W.15 is that he has not furnished any document in support of his educational qualification and experience. Besides, his further admission is that paper of exact size and shape like that of the questioned documents had not been supplied to him. No less clear is his admission that it is not necessarily that pen and pencil of similar kind should be used in questioned and sample documents. His further admission is that he has not considered the aging and dating of the sample of the writings as the case is concerned with fixing of authorship. On the contrary, in his admissions he has explained the reason for not considering the aging and dating of sample of the writings. Nothing substantial has been brought out in cross-examination of P.W.15 to discredit his evidence on material aspects of the case. He has successfully stood the test of cross-examination. His evidence appears to be quite clear, consistent, convincing, credible and above reproach. In fact, his evidence suffers from

no inherent, infirmity and improbability. I, therefore, find no cogent reason or ground to doubt his veracity. The contentions advanced by the learned defence counsel are not acceptable being devoid of merit. Not only that, the admissions brought out by the defence in the cross-examination of the prosecution witnesses carry no legal conviction since those are too trivial to affect their veracity. On the face of overwhelming and unimpeachable evidence that the accused had issued counterfoils of deposit slips under his signature and seal of the Bank, goes long way in reinforcing the prosecution evidence. It is common knowledge that evidence of no witness is totally free from discrepancies, inconsistencies and contradictions.

13. It has been finally argued by the learned defence counsel that the accused has neither committed any misappropriation nor financial irregularity and that this case has been foisted against him in order to cover up the lapses and latches of the cashier of the Bank P.W.1. It is the categorical evidence of P.W.1 Chandrasekhar Bhure that it was the duty of the accused who was the Jr. Cashier to receive cash, issue token to the customer and to make entry in the payment register and to main the scroll register. He has claimed in his evidence that he is acquainted with the handwriting of the accused. Much has been sought to be made of certain admissions appearing in the evidence of P.W.1. The admissions of P.W.1 that he has verified all the entries of Ext.2 series with reference to the vouchers (pay-in-slips) and he found no mistake at the time of verification should not be allowed to discredit his otherwise clear and cogent evidence that Ext.2 to Ext.2/17 are the scroll registers for the above

dates and the accused has made entry in the registers. P.W.1 has specifically alleged in his evidence that the amount received under Ext.1 series was not entered in the scroll register Ext.2 and Ext.3 which is the extract of the day book. It is the admission of P.W.11 Suryanarayan Mishra, the then Special Assistant in S.B.I. Titilagarh Branch that Ext.1/11 does not bear the signature of any cashier and Ext.1/12 to Ext.1/21 have not been made in his presence. His further admission is that there is no restriction made for keeping the office seal for safe custody and that internal audit is made everyday which is otherwise known as clear cash writing. It is also the admission of P.W.11 that there was no allegation against the accused at the initial stage. It has been pointed out by the learned defence counsel that the date seal of the bank can be manufactured in market and the similar pay-in-slip also can be prepared by some other person of the Bank with intent to show as if those had been done by the accused. The admissions relied on by the defence are of no avail in as much as the signature of the accused appearing in counterfoils of the deposit slips and in the cashier's receipt scroll has been proved to the hilt and the documentary evidence i.e. the statement of accounts of the deposits as contained in Ext.8, Ext.12, Ext.19, Ext.20 and Ext. 21 and the day book of the Bank contained in Ext.3 have virtually remained unimpeached. This is a circumstance of real consequence which reinforces the prosecution case. The preponderance of oral as well as unimpeached documentary evidence unerringly leads to the conclusion that the accused has committed criminal breach of trust and has received the amount mentioned in the counterfoils of pay-in-slips and without depositing in their

account has misappropriated the same. Therefore, the contentions of the learned defence counsel hardly carry any legal conviction.

14. In ultimate appraisal of the totality of the evidence on record I am driven to hold that prosecution has proved its case against the accused beyond all reasonable doubt. I, therefore, find the accused guilty for the offences under Sections 409 IPC and Section 13(1) (c) & (d) read with Section 13(2) of the P.C.Act, 1988 and convict him thereunder.

Special Judge, C.B.I. Court No.I,
Bhubaneswar.

Dictated & corrected by me and pronounced in the open court today i.e. on 22nd September, 2014.

Special Judge, C.B.I. Court No.I,
Bhubaneswar.

S E N T E N C E

I heard the learned defence counsel as well as the learned Special Public Prosecutor on the point of sentence. The learned defence counsel submits that the convict should be dealt with leniently as there is no a criminal antecedent or adverse complaint against him during his service career. The learned Special Public Prosecutor for C.B.I., on the other hand, urges that the convict deserves exemplary and condign punishment. Therefore, regard being had to the age of the

convict and other mitigating factors and extenuating circumstances, I am disposed to hold that the convict should be dealt with leniently. Consequently, the convict Triveni Prasad Gupta is sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.10,000/- (Rupees Ten thousand) in default to suffer rigorous imprisonment for three months for the offence Under Section 409 IPC and to undergo rigorous imprisonment for one year and to pay a fine of Rs.10,000/- (Rupees Ten thousand) in default to suffer rigorous imprisonment for three months for the offence under Section 13(2) read with Section 13(1)(c) & (d) of the Prevention of Corruption Act, 1988 with a direction that both the sentences shall run concurrently.

The seized documents be returned from whom seized and zimanama, if any, be cancelled four months after the appeal period is over, if no appeal is preferred and in the event of an appeal subject to the order of the Hon'ble Appellate court.

Special Judge, C.B.I. Court No.I,
Bhubaneswar.

Dictated and corrected by me and pronounced in the open court today i.e. on 22nd September, 2014.

Special Judge, C.B.I. Court No.I,
+ Bhubaneswar.

LIST OF WITNESSES EXAMINED FOR THE PROSECUTION.

- P.W.1. Chandra Sekhar Bhure.
P.W.2. Dharanidhar Prusty.
P.W.3. Deba Bhoi.
P.W.4. Bedprakash Agarwalla.
P.W.5. Prafulla Kumar Das.
P.W.6. Sibashankar Mishra.
P.W.7. Amarendra Mishra.
P.W.8. Sarat Chandra Prusty.
P.W.9. Manmohan Pattanaik.
P.W.10. Satyanarayan Purohit.
P.W.11. Suryanarayan Mishra.
P.W.12. Prasanta Kumar Bohidar.
P.W.13. A.Krishna Rao.
P.W.14. Prabin Kumar Mohapatra.
P.W.15. Locktobngbam Nata Singh.
P.W.16. Srikanta Kumar Behera.

LIST OF WITNESS EXAMINED FOR THE DEFENCE.

NONE.

LIST OF DOCUMENTS ADMITTED FOR THE PROSECUTION.

- Ext.1 to Vouchers.
Ext.1/10.
Ext.2 to Scroll registers.
Ext.2/17.
Ext.3. Extract of Day Book.
Ext.4,5,6,7 Counter foils.
Ext.8. Statement.
Ext.4/1 Signature of Tribeni Prasad Gupta.

Ext.9 and Vouchers.
Ext.10.

Ext.6/1, Signature of Tribeni Prasad Gupta.
7/1, 1/10
to 1/21.

Ext.11. Account opening form.

Ext.12. Statement of account.

Ext.13. Counterfoil.

Ext.2/18 Initials of the accused in the cashier receipt
to
Ext.2/33. scroll.

Ext.14. Sanction order.

Ext.14/1 Signature of P.W.7.

Ext.15. Counterfoil of payslip dated 24.9.2003
showing deposit of Rs.30,000/-.

Ext.15/1. Signature of accused on Ext.15.

Ext.16 to Specimen signature of the accused.
Ext.16/11.

Ext.16/12 Signature of P.W.13 on Ext.16f to Ext.16/11.
to
Ext.16/23.

Ext.17. Seizure list dated 23.11.06.

Ext.17/1 Signature of P.W.14 on Ext.17.

Ext.18. Seizure list.

Ext.18/1. Signature of P.W.14 on Ext.18.

Ext.8/1. Signature of P.W.14 on ext.8.

Ext.12/1. Signature of P.W.14 on Ext.12.

Ext.19. Account statement of Ruby Gupta.

Ext.19/1. Signature of P.W.14 on Ext.19.

Ext.20. Statement of account of D.Ray.

Ext.20/1. Signature of P.W.14 on Ext.20.

Ext.21. Statement of account of R.Gupta.

Ext.21/1 Signature of p.W.14 on ext.21.

- Ext.22. Attendance register.
- Ext.23 to Ext.23/16. Specimen writing of Tribeni Gupta.
- Ext.24 Opinion report of P.W.15.
- Ext.24/1. Signature of P.W.15.
- Ext.24/2. Reason in support of opinion of P.W.15.
- Ext.24/3 & Ext.24/4. Signature of P.W.15.
- Ext.25. F.I.R.
- Ext.25/1. Signature of the then S.P. P.Mohanty.
- Ext.25/2. Formal F.I.R.
- Ext.25/3. Signature of the then S.P. P.Mohanty.
- Ext.26. Seizure list.
- Ext.26/1. Signature of Iswar P.Pattanaik.
- Ext.26/2. Signature of Assistant Manager.
- Ext.18/2. Signature of P.W.16.
- Ext.17/2. Signature of P.W.16.
- Ext.27 to Ext.31. Complaint petition.

LIST OF DOCUMENTS ADMITTED FOR THE DEFENCE.

NIL.

Special Judge, C.B.I. Court No.1,
Bhubaneswar.