

Sessions No. **113** of **2018**

**Present : Shah Syed Ahadur Rahman, AJS**

**JUDGMENT & ORDER (ORAL)**

23-12-21            The prosecution story is in brief is that the complainant namely Sri Nidul Sutradhar (ASI G.D. 23<sup>rd</sup> Bn. SSB Camp Kalajhar) lodged an ejahar stating that based on a reliable intelligence input regarding one FICN (Fake Indian Currency Notes) racketeer was moving to Milan Chowk-Bandarguri area for circulation of fake notes then the complainant led a vehicle patrol and on 05-03-2016, at around 12.35 hrs (12.35 pm) searched one Ramjan Ali at a bridge and found in his possession Rs. 29,400/- fake currency and then apprehended him and seized the said currency notes. Hence this case.

After receipt of the ejahar, police registered a case vide Udalguri P.S. Case No. 52/16 under Section 489-A/489-C of IPC. After completion of investigation, police submitted charge sheet under Section 489-A/489-C of IPC against the accused Ramjan Ali.

On 05-07-2018, the committal Magistrate after complying the provision of Section 207 Cr.P.C., committed the case record to the Court of

Sessions as charge sheeted Sections are exclusively triable by the Court of Sessions.

Thereafter, the Hon'ble Court of Sessions transferred the case record to this Court on 19-07-2018 for disposal.

After hearing both the parties, the then Asst. Sessions Judge, Udalguri vide order dated 08-08-2018, after going through the relevant materials and upon hearing both the parties found a prima facie case, framed charge under Section 489-C of IPC, to which the accused person pleaded not guilty and claimed to stand trial.

For just decision of the case, it would be appropriate to discuss the evidence on record in its entirety.

PW1 Bapukan Chodhaury has stated in evidence that on 31.03.2016, he was posted as Junior Scientific Officer, Questioned Document Division, FSL, Kahilipara, Guwahati. On that day the Director of Forensic Science Laboratory, Kahilipara Guwahati received one sealed parcel consisting of alleged fake currency notes from the S.P, Udalguri i/c with Udalguri PS Case No-54/2016 u/s-489 A/489 C IPC and handed over

the same to the Questioned Documents Division for examination. Then the In charge of the Questioned Documents Division entrusted him to examine the same and to form opinion on alleged fake currency notes. On opening the sealed Parcel, he found the parcel consisting of 7 (seven) numbers of notes of denomination of Rs-1000/-; 36 (thirty six) numbers of notes of denomination of Rs-500/- and 44 (forty four) numbers of notes of denomination of Rs-100/- with prefix and six digit numbers. These notes were carefully examined by him with the help of various scientific instruments such as Stereo-zoom microscope, Docucerter, VSC 6000.

He marked the seven bank notes of Rs-1000/- as Q 1 to Q 7 and their corresponding reverse sides as Q1/1 to Q 7/1. After examination he found those bank notes as counterfeit bank notes. He marked 36 numbers of bank notes of Rs-500/- as Q 8 to Q 43 and their corresponding reverse sides as Q 8/1 to Q 43/1. After examination, he found those bank notes as counterfeit bank notes. He marked 44 numbers of bank notes of Rs-100/- as Q 44 to Q 87 and their corresponding reverse sides as Q 44/1 to Q 87/1.

After examination he found those bank notes as counterfeit bank notes.

The reasons for holding those notes as counterfeit notes are as follows-i) Poor quality of paper and ink; ii) Defective Water mark; iii) Window Security thread was defective; iv) Intaglio printing technology was absent; v) Micro printing was defective; vi) Optically variable ink was absent & vii) Scattered florescence fibres were absent. Ext-1 is the Report and Ext-1(1) is his signature. His report was duly forwarded to the S.P, Udalguri by their Director, Directorate of Forensic Science, Kahilipara, Guwahati. Ext-2 is the forwarding letter dated 30/08/2017 and Ext-2(1) is the signature of Director, whose signature he knows as he was working with him. In his cross-examination, he has stated that the notes were in sealed condition in an envelope.

PW2 is Nidul Sutradhar, informant of this case. In his evidence he has deposed that he knew the accused. On 05.03.2016 he was posted at 23rd Bn SSB at Lalppol. On that day they got some reliable intelligence input regarding the visit of one person with Fake Indian Currency Notes at Milan Chowk- Bandarguri area for circulation.

Then they started patrolling from Kalajahr to Milan Chowk-Bandarguri village. At about 12.30 pm they found the accused on a bridge near Milan Chowk. On suspicion they searched the accused and found one bag from his possession consisting of 7 (seven) numbers of notes of denomination of Rs-1000/-; 36 (thirty six) numbers of notes of denomination of Rs-500/- and 44 (forty four) numbers of notes of denomination of Rs-100/-. They suspected those notes as fake notes. Then he handed over the accused along with the recovered bank notes to the I/C Bhairabkunda OP and lodged an ejahar. Ext-3 is the ejahar lodged by PW2 and Ext-3(1) is his signature. Material Ext-A is the envelope containing those bank notes, which have been seen by PW2 in the Court.

In his cross-examination, PW2 has stated that no police officials from any police station were with them at the time of patrolling and the recovery of the bank notes. The accused did not try to run away on seeing them. The accused told them that he was brought by a person for engaging him for work and that the said bag was given to him by that person. The accused also told them that he was ignorant about the contents of the bag. There were some shops nearby the PO.

Seizure List was prepared in the SSB Camp. Seizure memo was prepared but the Seizure Memo is not seen in the Case Record.

PW3 is Sri Amit Chandel a SSB personnel. In his deposition he has deposed that he knows the informant. He also knows the accused. On 05-03-2016, he was posted at Lalpool SSB camp. On that day, they had gone to Kalaigaon area for duty. At that time, they were instructed that someone would be crossing the area with fake currency. After that they found the accused and found alleged currency of Rs, 29,400/- from his possession near the Milanpur bridge. Then they took him to SSB Camp.

In his cross-examination, he has stated that there were no police personnel with them during the operation. There were also no civilians during the search of the accused. But later on, civilians gathered at the spot. At the time of recovery of the currency notes, they were not aware as to whether the said currency notes were fake or genuine. Police did not record any statement in connection with this case. He did not know as to where the seizure list was prepared. He was told that the seized currency were fake.

PW4 is Niranjan Kumar Singh. In his evidence he has deposed that he knows the informant as well as the accused of this case. On 05-03-2016, he was posted at Kaljar at SSB Camp. On that day, they were sent for duty at Milanpur area under Udalguri. During the checking they caught the accused Ramjan Ali with fake currency notes of Rs. 29,400/-. Then they informed police and handed over the accused to police.

In his cross-examination, he has stated that they proceeded to Milanpur from Kalaigaon camp. There was no local police with them during duty. Some local people gathered at the spot after that accused was apprehended. They were 5/7 SSB persons during duty. He did not remember the exact number of SSB jawans at the time of checking. He did not know as to whether the currency notes were genuine or fake. He did not know as to where the seizure list was prepared. He has denied the defence suggestion that no fake currency notes were recovered from the possession of the accused person.

PW5 is Rakesh Kumar, in evidence he has stated that he knows the informant of this case.

He also knows the accused. In the year 2016 he was driving the vehicle of 23rd Bn SSB personnel in the patrolling duty at Milon Chouk area at Bhairabkunda, Udalguri. During the patrolling duty, the SSB personnel caught the accused from the vicinity of a bridge and he was told that the accused was caught with fake Indian currency notes. Then the accused was brought to their Camp. He did not know anything further.

In his cross-examination, PW5 has stated that he was not shown any fake currency notes. No police officials were with them during the patrolling duty. No local people were there when the accused was caught. Around 7/10 numbers of SSB personnel were on duty at the time of apprehending the accused.

PW6 is Md. Zakir Hussain, in his evidence he has deposed that he knows the informant of this case. He also knows the accused. In the year 2016, he was posted at 23rd Bn SSB at Lalpool. One day their Commandant got some intelligence input regarding the visit of one person with Fake Indian Currency Notes at Milan Chowk area under Bhairabkunda OP. Then they started patrolling through Milan Chowk area and the accused was

apprehended with fake currency notes from the vicinity of a bridge near Milan Chowk. Then they took the apprehended person to their Camp. Police was informed. Police seized the alleged fake currency notes. Ext-4 is the Seizure List and Ext-4(1) is his signature. One SSB Constable namely, Niranjana Kr. Singh was also with them in the duty and he also put his signature in the seizure list. He knows his signature. Ext-4(2) is the signature of Niranjana Singh. Material Ext-A is the envelope containing those bank notes, which have been shown to him in the Court.

In his cross-examination, PW6 has stated that no police officials from any police station were with them at the time of patrolling but the police came after the apprehension of the accused with fake currency notes. When the accused was caught, he had no knowledge as to whether the currency notes recovered were fake or genuine. He did not know about the denomination of the notes and the total number of notes which were recovered. Since he was on duty at the time of recovery of fake notes, his signature was taken in the seizure list.

PW7 is I.O. Bileswar Kalita. In his evidence he has deposed that on 05/03/2016, he was posted at Bhairabkunda O.P as I/C as then I/C was on leave. On that day he got a telephonic information from 23 Bn SSB, Lalpool regarding apprehension of one person with alleged fake currency notes by their patrolling party. Then he made a GD entry (GD Entry No-63 dated 05/03/2016) and proceeded to Kalajahr Camp of 23rd Bn SSB, where the apprehended person was taken by the SSB. On reaching the Camp, he seized 7 (seven) numbers of notes of denomination of Rs-1000/-; 36 (thirty six) numbers of notes of denomination of Rs-500/- and 44 (forty four) numbers of notes of denomination of Rs-100/-. Total amount was Rs-29,400/-. Ext-4 is the seizure List and Ext-4(3) is his signature. He took the apprehended person to the Bhairabkunda OP. On that day evening SSB personal Sri Nidul Sutradhar lodged an FIR. After the lodging of the FIR, he recorded the statement of the witnesses from SSB personal who were on patrolling duty at the time of apprehending the accused and also recorded the statement of the accused and having found prima facie materials regarding the involvement of the accused, he

arrested the accused. He also prayed for two days police custody of the accused, which he got. He forwarded the accused to Court after completion of police custody. On the next day he visited the PO i.e Shantipur Milon Chouk, wherefrom the alleged fake currency notes were recovered. Ext-5 is the sketch Map of PO and Ext-5(1) is his signature. Material Ext-A is the envelope containing seized currency notes. He also sent the seized currency notes to the Directorate of Forensic Science, Kahilipara. After that he was transferred. Perusal of CD shows that one Ranjit Kalita (SI) completed the investigation. He collected the report of examination of the currency notes by the Forensic Office. It is seen from the CD that SI Ranjit Kalita submitted charge-sheet u/s-489 A/489 C IPC against the accused Ramjan Ali. Ext-6 is the Charge sheet and Ext-6(1) is the signature of Ranjit Kalita.

In cross-examination, PW7 has stated that they were not informed when the SSB personnel were on patrolling duty. At the time of apprehension of the accused with fake currency notes, no police personnel were with the SSB personnel. FIR was lodged on the date of apprehension of the accused. He prepared the

seizure list at Kalajhar Camp of SSB on the basis of GD entry. He seized the currency notes on being produced by informant Nidul Sutradahar (SSB). Ext-4 does not have the signature of any independent witnesses. He had gone to the PO on being led by the informant. He did not find any witness in the place of occurrence. He did not get any new information from the accused during his police custody. He recorded the statement of witnesses and made them as witness on being identified by the informant that they were on patrolling duty at the time of the apprehension of the accused.

Thus on appraisal and appreciation of evidence it appears from the evidence of PW5, Sri Rakesh Kumar nothing incriminating evidence available against the accused as he has stated that on the relevant day during the patrolling duty, the SSB personnel caught the accused from the vicinity of a bridge and PW5 was told that accused was caught with fake Indian currency notes and the accused was brought to the camp. Further PW5 was not shown any fake currency notes and apart from this he does not know anything and therefore PW5's evidence is discarded.

PW4 is Niranjan Kr. Singh, in his evidence it is specifically stated that he was part of the checking of accused Ramjan Ali and he does not know where the seizure list was prepared.

From PW3's evidence, though he has stated in evidence that on the relevant time he was on duty at Kalajan area and he was instructed that someone would be crossing the area with fake currency and he found accused and found currency of Rs 29,400/- from his possession and after that the accused was taken to SSB camp. But here how the seizure is to be made, the procedure was not followed as laid down by Cr.P.C., as PW3 has stated that he does not know how the seizure list was prepared and there was no police personnel during the operation and no civilian was present and at the time of the recovery of the currency notes he was not aware as to whether the said currency notes were fake or genuine and police also did not record his statement in connection with this case.

PW1 happens to be a Junior Scientific Officer, Questioned Document Division, FSL, Kahilipara, Guwahati. He only filed the expert opinion stating that the currency in question is

fake and he has reasoned for holding those notes as counterfeit notes by stating that the quality of paper and ink is poor, defective Water mark; window Security thread was defective; intaglio printing technology was absent; micro printing was defective; optically variable ink was absent amongst other reasons. Merely because of expert opinion holding that the notes in question is counterfeit and no prosecution witnesses have corroborated the evidence of PW1 as it appears from the evidence of other prosecution witnesses, guilt of the accused cannot be hold.

A bare reading of the evidence of PW2, PW6, PW7 nothing implicating materials comes out against the accused. According to PW7, the I/O, has deposed that the seizure was made at Kalajhar Camp of SSB, which is a fatal lapse in the investigation which would have been done in the spot (at the place of occurrence), in presence of independent local witnesses.

Above being the discussion it has been decided that prosecution has failed to bring the ingredients of offence U/S- 489-C of IPC against the accused person beyond all reasonable doubt and accordingly the accused is acquitted.

In the result, accused Ramjan Ali is found not guilty under Section 489-C of IPC and acquitted of charge from the aforesaid section, and set at liberty forthwith.

(S.S.A. Rahman)  
Asst. Sessions Judge  
Udalguri.