

Presented on : 26/12/2000  
Registered on : 18/12/2000  
Decided on : 20/12/2019  
Duration : 18Y 11M 25D

**EXHIBIT-595**

**IN THE SPECIAL COURT FOR CBI AT GREATER BOMBAY**

**CBI SPECIAL CASE NO.89 OF 2000  
(C.N.R.NO.MHCC02-000013-2000)**

**Central Bureau of Investigation,  
Economic Offence Wing, Mumbai.  
(RC.3/E/1999/CBI/EOW/Mumbai)**

**...Complainant**

V/s.

**1. Devendra Chaturvedi**

S/o Ranganath Chaturvedi  
Chartered Accountant,  
Having office at 405,  
Rajshila, 597, J.S.S. Road,  
Mumbai.  
R/o D-604, Rajesh Nagar,  
Sai Baba Nagar, Borivali (W),  
Mumbai.

**2. Hoor C. Jhurani**

D/o Late Sh. Chetan Das  
Motiram Jhurani  
R/o B-3, Shiv Society,  
Kopari Colony, Thane (E).

**3. Sayaji L. Sangle**

S/o Laxman Gangaram Sangle  
R/o Jai Bharat Co-Op. Society,  
R.No.3, Kurla Kameri Sunderbaug,  
Kurla, Mumbai - 70.

**4. G. Chokkalingam**

S/o G. Gopala Krishnan  
Working at S-11,  
Winners CHS LTd., 63/67,  
Sherrif Devji Street, Mumbai - 3.  
Permanent Address : Shrivihar,  
Karapuzha, Kottayam Distt., Kerala.

- 5. Nirmal Chetandas Jhurani** .....Abated  
S/o Chetandas Motiram Jhurani  
R/o B-38, Shiv Colony,  
Kopri Colony, Thane (E).
- 6. Ajit Meghnath Chachad**  
S/o Meghnath Chachad  
R/o 91, Pandit House,  
M.G. Road, Tilak Lane,  
Kandivli Village,  
Mumbai - 67.
- 7. Ashok Patel**  
S/o Kalidas Patel  
C/o Shri Jayanti Patel,  
B-2, Varsha Apt., S.V. Road,  
Dahisar (E).  
Permanent Address :  
Vill. Kayyal, Taluka-Kadi,  
Distt. Mehsana,  
Vas Madhvapura, Gujarat.
- 8. John R. Soares**  
S/o Sh. Cerilos Soares,  
R/o 25, Kailash Puri,  
Malad (E), Mumbai-97.
- 9. Sharad Kumar Shrinivas Gambhir**  
S/o Shrinivas Rao Gambhir,  
Assistant, Working in Income Tax,  
Appellate Tribunal, Mumbai.  
3rd Old C.G.O. Bldg.,  
M.K. Road, Mumbai - 20.  
R/o 202, Sector-B,  
Income Tax Colony,  
Bhandup (E), Mumbai-400042. ...Accused

**CORAM : S.U. WADGAONKAR**  
**SPECIAL JUDGE (CBI)**  
**(C.R.No.47)**

**DATED : 20/12/2019.**

Ld. PP Mr. J.K. Sharma for CBI, EOW.  
Ld. Advocate Mr. Bhanushali for accused No.1 to 3  
Ld. Advocate Mr. Naik for accused No. 4.  
Ld. Adv Ms. Manjula Rao for accused No.6 and 9.  
Ld. Advocate Mr. Lingalod for accused No.7.  
Ld. Adv Mr. Ghag for accused No.8.

### **JUDGMENT**

Accused No.1, 2, 3, 4, 6, 7, 8 and 9 are charged and tried for the offence punishable under Section 120-B of Indian Penal Code, 1860, 420, 467, 468 and 471 r/w 120-B of Indian Penal Code, 1860 (hereinafter referred to as 'IPC' for short). Further accused No.9 is charged and tried for Section 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act' for short).

2. Brief facts of the prosecution case are as under :

Smt. Simar Singh Negi, Additional Commissioner of Income Tax (Vigilance), Mumbai placed complaint dated 12.04.1999 to Superintendent of Police, CBI, EOW, Mumbai, wherein it is alleged that accused No.1 to 8 viz. accused No.1 Devendra Ranganath Chaturvedi, accused No.2 Hoor C. Jhurani, accused No.3 Sayaji L. Sangle, accused No.4 G. Chokkalingam, accused No.5 Nirmal Chetandas Jhurani, accused No.6 Ajit Meghnath Chachad, accused No.7 Ashok Kalidas Patel and accused No.8 John R. Soares with the aid of accused No.9 Sharad Kumar Shrinivas Gambhir, public servant obtained refunds fraudulently and have thereby, caused grave loss to the Revenue Income Tax Department. A well planned income tax refund fraud has been perpetrated, wherein accused No.1 Devendra Chaturvedi, Chartered Accountant of having address at 405, Rajshila, 577, JSS road, Mumbai, his assistant Ms. Hoor Jhurani, resident of 38 B-Building, Shiv Society,

Kopari Colony, Thane (E) actively participated to the conspiracy. Accused No.1 Devendra Chaturvedi filed many of the returns of income claiming bogus income tax refunds. He gave false audit report / certificates to the assesses to facilitate the frauds. All the Tax Returns filed from the office of Shri Chaturvedi were physically handled by accused No.2 Hoor Jhurani, who helped in opening bank account in the names of accused, in which refund cheques have been deposited. The bank accounts were opened by the accused for clearing the refund orders. Further it is alleged that there is a prima facie case of forgery, cheating and criminal conspiracy involving various persons, non-departmental and departmental, which require extensive investigation from criminal angle. Accordingly, on the basis of written complaint First Information Report is came to be registered by CBI, EOW, which bears RC No. 3/E/2009/CBI/EOW/Mumbai on 12.04.1999 against 89 persons including accused No.1 to 9 and investigation was carried out.

3. The investigating officer during investigation recorded the statement of witnesses, collected documents and it is transpired that accused No.1, who is a practicing Chartered Accountant, accused No.2 Hoor Jhurani, who is Assistant of accused No.1 and accused No.3 to 9 during the period 1996 to 1998 entered into criminal conspiracy at Mumbai with the object of committing illegal acts dishonestly and fraudulently. In pursuance of the same, they submitted Income Tax Returns enclosing false and forged TDS Certificates and later on, processed by the Income Tax authorities and un-authorisedly claimed, obtained and misappropriated income tax refunds to the tune of Rs.4,25,894/- and thereby caused pecuniary loss to the Government. In pursuance of said criminal conspiracy accused No.2 Hoor Jhurani introduced Bank A/c in various banks in the name of accused and obtained cheque book of the same to utilize income tax refunds.

Accused No.9 Sharad Kumar Gambhir had criminal conspiracy with accused No.1 to 8 and by abusing his official position as a public servant, while functioning as a Tax Assistant in the office of ITO, Ward 12(5), he dishonestly accepted income tax returns of accused No.6, accused No.7 and accused No.8 directly from accused No.2 Hoor Jhurani circumventing the procedure of Income Tax Department for receipt of Income Tax Returns through Return Receipt Register, thereby dishonestly processed Income Tax Returns from accused No.6 to 9 containing forged TDS Certificates on the basis of which Income Tax Refunds worth Rs.1,50,833/- paid. Further, accused No.9 handed over the Income Tax Refund orders to accused No.2 in contravention of rules of Income Tax Department laid down for dispatch of Income Tax Refund Orders and thus facilitated the said criminal acts. Accordingly, investigating officer placed chargesheet against accused No.1 to 9. Some of the accused were not chargesheeted and against some of the accused investigation was kept open.

4. The charge for the offence punishable under Section 120-B r/w 420, 467, 468 and 471 of IPC is framed against accused No.1 to 9 and Section 13(1)(d) r/w 13(2) of PC Act was also framed against accused No.9 vide Exh.26. Same was read over and explained to all the accused in vernacular, to which they pleaded not guilty and claimed to be tried. Their defence is of total denial.

5. The prosecution examined in all 41 witnesses and placed reliance of several documents. The statement of accused persons under Section 313 of Criminal Procedure Code are recorded during the trial. Accused No.1 to 7 and 9 have not preferred to lead evidence in their defence. Accused No.8 placed evidence on defence witness DW-1 Virochan Desai. The defence of the accused is of total denial.

6. Having gone through the evidence on record and submissions made on behalf of both the parties as well as written notes of arguments placed by them, following points arose for my determination and I have recorded my findings thereon for the reasons given below :

<b>Sr. No.</b>	<b>Points</b>	<b>Finding</b>
1	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, accused No.1 to 4, 6 to 9 alongwith deceased accused No.5 agreed among themselves to do an illegal act i.e. to place Income Tax Returns to claim refund of income tax on the basis of false information, forged TDS certificates with dishonest intention to cheat the Income Tax Department, Mumbai, pursuant to it they did act to commit the offence of cheating, forgery of valuable security, forged documents used for the purpose of cheating, forged document used as a genuine documents, thereby committed offence of criminal conspiracy ?	<b>Proved Against Accused No. 1 to 4 &amp; 6 to 8</b>
2	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, accused No.1 to 4, 6 to 9 alongwith deceased accused No.5 cheated Income Tax Department by dishonestly inducing it to issue income tax refund in favour of accused No.3, 5 to 8 on the strength of forged and fabricated documents ?	<b>Proved Against Accused No. 1 to 4 &amp; 6 to 8</b>
3	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, pursuant to the criminal conspiracy accused forged TDS certificates, Balance Sheets purported to be a valuable security, thereby committed the forgery of valuable security ?	<b>Proved Against Accused No. 1 to 4 &amp; 6 to 8</b>
4	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, pursuant to the criminal conspiracy accused forged the TDS Certificates and Balance Sheets intending that it shall be used for the purpose of cheating ?	<b>Proved Against Accused No. 1 to 4 &amp; 6 to 8</b>

Sr. No.	Points	Finding
5	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, pursuant to the criminal conspiracy accused fraudulently used TDS Certificates, ITR Forms with documents as genuine, which they knew at the time when used it to be a forged document ?	<b>Proved Against Accused No. 1 to 4 &amp; 6 to 8</b>
6	Whether prosecution proves that during the period 1996 to 1998 at Mumbai, accused No.9 being the public servant while working as a Tax Assistant, Income Tax Department, Mumbai committed criminal misconduct by abusing his official position as a public servant, thereby allowed to accused No.1 to 8 pecuniary advantage by way of refund of income tax and thereby committed an offence punishable U/s 13 (1)(d) r/w 13(2) of PC Act ?	<b>No</b>
7	What order ?	<b>As per final order</b>

### REASONS

#### Point Nos. 1 to 6 :-

7. It is admitted fact that accused No.9 Sharad Kumar Gambhir was working as a Tax Assistant in the office of ITO, Ward No.12(5), Range 12, Income Tax Department, Mumbai during the period August 1996 to July 1998 and was a public servant as defined under Section 2(c) of the PC Act. In the present case the sanction is accorded by PW-41 Navin Chandra Ramnarayan Tiwari on 15.12.2000. He accorded sanction as a Commissioner of Income Tax Department, representative at Income Tax Appellate Tribunal, Mumbai. At the relevant time in the year 2000 the accused was under his administrative control. It is to be considered, whether PW-41 Navin Chandra Tiwari is the competent authority to accord sanction against accused and if 'yes', the sanction accorded by

him vide Exh. 487 is legal and valid. According to the submission made on behalf of prosecution, PW-41 is a competent authority having power to remove the public servant accused No.9 from his service. The sanction was accorded by him applying his mind perusing all material before him and he came to the conclusion that there is prima facie case, so sanction is legal and valid.

8. Ld. advocate for the accused No.9 submits that the sanction Exh. 487 is illegal and invalid. The alleged material on the basis, on which PW-41 accorded sanction is the material pertaining to the enquiry made by Income Tax Vigilance Cell and not investigating officer in the present case. On the basis of report of Vigilance Cell, PW-41 accorded sanction, which is illegal and not valid. Furthermore, he submits that PW-41 is not the competent authority having power to remove the public servant accused No.9 at the time of commission of offence. The sanction was accorded in the year 2000. At that time accused was under his control. The competent authority is not working at any point of time or during the relevant period as competent authority of the office of ITO, Ward No.12(5), Income Tax Department, Mumbai. So she claimed that the sanction is invalid and illegal one. The prosecution placed reliance on the evidence of PW-41 Navin Chandra Tiwari at Exh.485 to prove the valid sanction. He testified that in the year 2000 he was posted as a Commissioner of Income Tax Department representative as Income Tax Appellant Tribunal, Mumbai. The work was assigned to him to represent the Income Tax Department in appeal cases. The CBI had made communication to the office of Chief Commissioner of Income Tax, Mumbai regarding misuse of official position by accused No.9 Sharad Kumar Gambhir as a Tax Assistant in the Income Tax Department. Office of Chief Commissioner of Income Tax Vigilance Cell sent all concerned documents to him related to the present case. He

examined all the documents and came to the conclusion that accused No.9 Gambhir had misused the official position. Accordingly, he accorded sanction. He proved the recitals of sanction which is at Exh. 489. Further, he proved the communication letter, through which sanction was sent to CBI, EOW, Mumbai Exh. 486.

9. It is to be considered, whether PW-41 is a competent authority. It is to be noted that in his oral testimony he has not made any whisper that he is the authority having power to remove the public servant from his services at the time, when offence was alleged to have been committed. It is to be noted that his evidence itself indicates that he is a departmental representative at Income Tax Appellate Tribunal, Mumbai in the year 2000. At that time accused Gambhir was under his administrative control. In his cross examination he conceded that he was not working as a Commissioner of Income Tax Department over accused Gambhir at the time when Gambhir was working in Income Tax Department office, Ward No.12(5). It is to be noted that offence alleged to be committed by accused Gambhir in Ward No.12(5) during the year 1996-1998. Thus, this evidence is sufficient to infer that PW-41 was not competent authority to remove the public servant accused Gambhir from his service at the time the offence was alleged to have been committed while he was working Income Tax office, Ward 12(5), Mumbai. The another material aspect to be considered is that, the competent authority while according the sanction it is required to peruse the material collected during the investigation. After going through the evidence of this witness he specifically narrated that the CBI has not forwarded investigation papers to him for the purpose of according sanction. He has accorded the sanction on the basis of documents placed by Vigilance Cell of Income Tax Department, who conducted the enquiry. Further investigating officer in his evidence has

not made any whisper to indicate that he has forwarded investigation papers pertaining to the present case to the Income Tax Department to accord sanction. Furthermore, on perusal of sanction order Exh. 487 it does not make any whisper that he has received investigation papers made by CBI in the present case and on the basis of it he has accorded sanction in question. So in this scenario the clear cut admission of PW-41 that he has accorded sanction on the basis of departmental enquiry made by Income Tax Department, Vigilance Cell, he accorded sanction. So there is contravention material requirement to constitute the grant of valid sanction. According sanction to launch prosecution against accused No.9 under Section 19 of PC Act for the offence under PC Act is invalid.

10. In nutshell, it is the allegation against accused that they conspired to cheat the Income Tax Department and in collusion with each other during the relevant period accused No.1 prepared income tax returns with the assistance of accused No.2 in the name of accused No.3, 6 to 8 and one Shri Haresh Dhameja and submitted to the Income Tax office in Ward No.12(5), Income Tax Office, Mumbai. Accused No.4 prepared forged TDS certificate and he is one of the beneficiary of crime proceeds. Further, the basic claim of income tax refunds was based on TDS Certificate alleged to be issued by deductor concerned firms. In the present case, the almost all TDS certificates were alleged to be issued in the name of transport companies. It is alleged that the accused No.3, 5 to 8 shown as a fictitious proprietor of said transport firms in whose favour TDS Certificates were came to be issued. Thus, accused No.3, 5 to 8 claimed Income tax refunds, which were credited in their bank accounts. In furtherance of said conspiracy, the bank account in the name of fictitious person one Shri Haresh Dhameja is opened to credit the income tax refund.

11. It is to be noted that prosecution placed reliance on the evidence of prosecution witnesses PW-40 Shukla, Panch witness PW-7 Pravin Tambe, PW-8 Rajesh Dharpe. Their evidence indicate that during investigation investigating officer obtained specimen signature and handwriting of accused No.1, 2, 3, 4, 6 and 7. Thereafter, investigating officer has send specimen signature and handwriting alongwith disputed document to GEQD, Hyderabad for comparison.

12. Pursuant to it, the GEQD, Hyderabad made comparison of specimen signature and handwriting with dispute documents and sent opinion pertaining to it. Prosecution placed reliance on the evidence of PW-39 handwriting expert C.H. Gandhi (Exh. 385). He testified that he joined in the year 1971 as a Assistant Central Intelligence Officer. He received 3 years training in forensic documents, subsequently he was promoted as Assistant examiner thereafter Deputy Govt. Examiner and thereafter Director, GEQD. He hold 37 years experience in the said field. He received the specimen signature and handwriting alongwith disputed documents for comparison from CBI, EOW. He made careful and through examination of the questions writing, specimen writing and thereby arrived to an opinion, accordingly, he proved opinion Exh. 338 and detail reason Exh. 339. The relevant evidence would be referred at appropriate places, more particularly, while discussing the relevant evidence of each accused.

13. It is to be noted that at length cross examination is conducted on behalf of accused to the handwriting expert. However, nothing substantial circumstances are gained to wipe out these reasons and opinion pertaining to comparison in between disputed and handwriting and specimen. Ld. advocate for the respective accused submits that the evidence of handwriting expert is itself could not be sole evidence to

base conviction. It is to be noted that before acting on such evidence it is usual to see if it is corroborated either by direct evidence or circumstantial evidence. At the same time in the cases where reasons for the opinion are convincing and there is no reliable evidence throwing a doubt. The uncorroborated testimony of an handwriting expert may be accepted. However, in the present case Court is not relied solely the evidence of handwriting expert. Reliance of handwriting expert is placed for the corroboration of primary evidence. So submissions advanced on behalf of accused to disbelieve the evidence led by handwriting expert is not assist to them.

14. One of the submissions advanced on behalf of accused No. 1 to 3 is that the investigating officer during investigation cannot obtain handwriting sample or signature from a person accused was having committed an offence and pursuant to section 4 and 5 of the Identification of Prisoners Act, 1920. In support of his submission he placed reliance in the case of **Sapan Haldar & Anr., Vs. State in Cri. A 884/2001 decided by Hon'ble Delhi High Court on 25.05.2012.** There is a reference of Sec. 4, which indicates police is empower to take measurements of a person, who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards. In the present case accused are charged for the offence punishable under Section 467 which is punishable with imprisonment for life. Furthermore, there is a reference of judgment of Division Bench of Hon'ble Bombay High Court **ILR 1983 Bom. 1508 Nizammuddin Usman Vs. State of Maharashtra**, wherein it is held that the Sec. 4 of the said Act have no application, where the person is suspected of having committed an offence which is punishable with death or imprisonment for life. So in this scenario said dicta is not applicable to the present case.

15. Prosecution placed reliance on the evidence of witnesses to substantiate the fraud in question. In nutshell I would like to refer relevant documents proved by the prosecution witnesses pertaining to each accused from the submission of Income Tax Returns till the withdrawal of alleged crime proceeds from their account.

16. In regard to accused No.3 Sayaji Sangale prosecution witness PW-14 proved the factum that accused No.3 filed Income Tax Returns for the Assessment Year 1996-1997 (Exh.163) prepared by accused No.1 Chaturvedi Chartered Accountant, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.59,864/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further TDS Certificate in Form No.16A is issued in favour of M/s Mangalam Transport, 116/118, Maniyar Building, No.1, Carnak Bunder, Bombay – 400 009, to whom payment made by the deductor firm Darabshaw B. Cursetjee's Sons Bombay Pvt. Ltd., Darabshaw House, Ballard Estate, Mumbai – 400 038, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.55,400/- was deducted towards the contract price paid to the said Transport firm. It is to be noted that prosecution has placed the evidence of PW-34 Firoz Vazifdar, who is connected with the deductor firm Darabshaw B. Cursetjee's Sons Bombay Pvt. Ltd. The witness specifically narrated that the deductor firm has not issued the TDS Certificate Exh-163 (colly.). The signature purportedly did by the connected persons of the said firm is not of himself or any connected person of the firm. On the strength of TDS Certificates the ITR form was submitted and refund is claimed by accused No.3. Further prosecution placed reliance on the evidence of PW-9, who is the employee of Canara Bank. It is to be noted that he proved the statement of account of accused No.3 for the period

01.03.1997 to 02.09.1999, which indicates that the refund cheque for Rs.59,864/- arising out of ITR Exh.163 (Colly.) is credited in the account of accused No.3.

17. Further PW-14 proved the factum that accused No.3 filed Income Tax Returns for the Assessment Year 1997-1998 (Exh.162) prepared by accused No.1 Chaturvedi Chartered Account, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.53,846/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further TDS Certificate in Form No.16A is issued in favour of M/s Mangalam Transport, to whom payment made by the deductor firm Speedy Transport, Ballard Estate, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.2,300/- was deducted. Another 3 TDS Certificates are issued in favour of Mota Transport Carriers, Mumbai, to whom payment made by the deductor firm M/s Link International, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.4,000/-, Rs.20,000/- and Rs.28,446/- respectively was deducted. It is to be noted that those TDS Certificates issued by M/s Link International were prepared by accused No.4 Chokkalingam. The evidence of PW-39 handwriting expert indicates that he compared specimen signature, handwriting S-413 to S-436 and S-482 to S-494 (which is of accused No.4) is compared with disputed writing Q-148, Q-150 and Q-152 on 3 TDS Certificates issued by M/s Link International (Exh.260). He opined that the disputed handwriting on TDS Certificates and specimen handwriting is of same person (i.e. accused No.4). It is to be noted that prosecution has placed the evidence of PW-28 Krishnashankar Trivedi, who is connected with the deductor firm M/s Speedy Transport Pvt. Ltd. Further PW-15 Shubhangi Salkar, who is connected with the

deductor firm M/s Link International. Both of them testified that TDS Certificate (relied by accused No.3) is not issued by their respective firms. On the strength of it the ITR form was submitted and refund is claimed by accused No.3. Further prosecution placed reliance on the evidence of PW-9, who is the employee of Canara Bank. It is to be noted that he proved the statement of account of accused No.3 for the period 01.03.1997 to 02.09.1999, which indicates that the refund cheque issued by Income Tax office for Rs.59,864/- and Rs.53,846/- is credited in the account of accused No.3. Further Statement as well cheques proved by the witness indicates that out of the account maintained by accused No.3 and amount of Rs.44,000/- is transferred in the account of accused No.2 Hoor Jhurani on 19.08.1997 and Rs.1000/- in the account of accused No.1 Devendra Chaturvedi on 05.11.1997.

18. In regard to accused No.8 John Soares, prosecution witness PW-33 proved the factum that accused No.8 filed Income Tax Returns for the Assessment Year 1997-1998 (Exh.331) prepared by accused No.1 Chaturvedi Chartered Accountant, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.38,518/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further 3 TDS Certificates in Form No.16A is issued in favour of M/s Premier Transport Co., Mumbai, to whom payment made by the deductor firm Speedy Transport, Ballard Estate, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.12,406/-, Rs.7,139/-, Rs.17,014/- respectively was deducted. It is to be noted that prosecution has placed the evidence of PW-28 Krishnashankar Trivedi, who is connected with the deductor firm Speedy Transport. The witness specifically narrated that the deductor firm has not issued the TDS Certificate Exh-163 (colly.). The signature

purportedly did by the connected persons of the said firm is not of himself or any connected person of the firm. On the strength of TDS certificate the ITR form was submitted and refund is claimed by accused No.3. Further prosecution placed reliance on the evidence of PW-10, who is the employee of Saraswati Co-Operative Bank, who proved the Account opening Form of accused Soares R. John on which his photograph is affixed. Apparently, the photograph at the relevant time is similar to the features of accused No.8 at present. Income Tax Refund amount of Rs.38,518/- is credited in his account (deposit slip Exh. 147). Further out of that amount an amount of Rs.37,000/- is credited to the account of PW-30 Rajen.

19. In regard to accused No.6 Ajit Chachad, prosecution witness PW-33 proved the factum that accused No.6 filed Income Tax Returns for the Assessment Year 1996-1997 (Exh.332 Colly.) prepared by accused No.1 Chaturvedi Chartered Accountant, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.47,517/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further TDS Certificate in Form No.16A is issued in favour of M/s Harbour Lords, Maniyar Building, Carnak Bunder, Mumbai, to whom payment made by the deductor firm Darabshaw B. Cursetjee's Sons Bombay Pvt. Ltd., Darabshaw House, Ballard Estate, Mumbai – 400 038, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.42,166/- was deducted towards the contract price paid to the said Transport firm. It is to be noted that prosecution has placed the evidence of PW-2 Viraf Irani who is connected with the deductor firm. The witness specifically narrated that the deductor firm has not issued the TDS Certificate Exh-332 (colly.). The signature purportedly did by the connected persons of the said firm is not of himself or any

connected person of the firm. On the strength of TDS certificate the ITR form was submitted and refund is claimed by accused No.6. Further prosecution placed reliance on the evidence of PW-19, who is the employee of UCO Bank, who proved Statement of Account of accused No.6 Ajit Chachad. Same indicates his address as Pandit House, Kandivali West, wherein Income Tax refund amount is credited and Rs.46,000/- is withdrawn by accused No.6 by self cheque (Exh.179). Further the handwriting expert PW-39 Gandhi proved the disputed signature of accused No.6 on self cheque (Exh.179) to be of accused No.6 by comparison with his specimen signature S-437 to S-446, which is supported by Para No.11 of his opinion Exh.388.

20. In regard to accused No.7 Ashok Patel, prosecution witness PW-33 proved the factum that accused No.7 filed Income Tax Returns for the Assessment Year 1997-1998 (Exh.330 Colly.) prepared by accused No.1 Chaturvedi Chartered Accountant, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.64,798/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further TDS Certificate (Exh.188) in Form No.16A is issued in favour of Bhanu Container Carrier, Mumbai, to whom payment made by the deductor firm Bhadra Brothers, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.5,559/- was deducted towards the contract price paid to the said Transport firm. Further TDS Certificate (Exh. 192) in Form No.16A is issued in favour of Bhanu Container Carrier, Mumbai, to whom payment made by the deductor firm Shivji Kanji & Co., Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.30,792/- was deducted towards the contract price paid to the said Transport firm. Further 3 TDS Certificates (Exh.199 Colly.) in Form No.16A is

issued in favour of M/s MTC Transport Co., Mumbai, to whom payment made by the deductor firm Transworld Shipping Services, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.6,726/-, Rs.7,209/- and Rs.6,994/- was deducted towards the contract price paid to the said Transport firm. Further TDS Certificate (Exh.54) in Form No.16A is issued in favour of Premier Transport Co., Mumbai, to whom payment made by the deductor firm Lupin Agro Chemicals, Mumbai, which was responsible for the deduction of tax. Thus, certificate indicates that TDS of Rs.3,380/- was deducted towards the contract price paid to the said Transport firm.

21. It is to be noted that the alleged balance sheet as well as statement attached to ITR form indicate that accused No.7 is the proprietor of these 4 firms cited in TDS Certificates. It is to be noted that prosecution has placed the evidence of PW-21 Anil Bhadra, who is connected with firm Bhadra Brothers, PW-22 Premji Bhadra, who is connected with Shivji Kanji and Co., PW-24 Indrajit Ray, who is connected with Transworld Shipping Services and PW-3 Deepak Gangan, who is connected with Lupin Agro Chemicals India Ltd. These witnesses specifically narrated that the deductor firms have not issued the TDS Certificates, (those certificates are attached with the ITR form of accused No.7). The signature purportedly did by the connected persons of the said firm is not of themselves or any connected person of the firm. On the strength of TDS certificate the ITR form was submitted and refund is claimed by accused No.7.

22. Further prosecution placed reliance on the evidence of PW-11 Nitin Atre, who is the employee of Jana Seva Sahakari Bank. It is to be noted that he proved the statement of account of accused No.7 for the

period 27.02.1998 to 01.09.1998, which indicates that the refund cheque for Rs.67,798/- arising out of ITR Exh.330 (Colly.) is credited in the account of accused No.7. Further he proved Account opening Form of accused No.7 Ashok Patel on which his photograph is affixed. Apparently, the photograph at the relevant time is similar to the features of accused No.7. Witness proved Pay-in-slip (Exh.154) through which the refund cheque is deposited in the account of accused No.7. The evidence of PW-39 handwriting expert indicates that he compared specimen signature, handwriting S-1 to S-119 (which is of accused No.1) is compared with disputed writing on pay-in-slip as well as two cheque Exh.156, 157, which were in favour of accused No.4 of Rs.30,000/- each drawn by accused No.7. He opined that the disputed handwriting on cheque as well as pay-in-slip and specimen handwriting is of same person (i.e. accused No.1). Further he proved the factum that the specimen signature S-508 to S-511 (related to accused No.7) are compared with signature on cheque drawn by accused No.7 (Exh.155). Those signatures are written by same person (accused No.7).

23. In regard to assessee Haresh Dhameja, prosecution witness PW-24 Indrajit Rey proved the factum that Haresh Dhameja filed Income Tax Returns for the Assessment Year 1997-1998 (Exh.198 Colly.) prepared by accused No.1 Chaturvedi Chartered Accountant, wherein refund is claimed, thereby Income Tax Department allowed the refund of Rs.35,937/- and same was paid by cheque. Alongwith this ITR the Statement of Income, Balance Sheet, Income and Expenditure Account was attached. Further with ITR form 4 TDS Certificates were attached. It is to be noted that the alleged balance sheet indicate that assessee Dharmeja is the proprietor of Nishant Transport Corporation. Further prosecution placed reliance on the evidence of PW-4 S. Ramlingam, who is the employee of Andhra Bank. It is to be noted that he proved

the statement of account of Dhameja for the period 01.01.1998 to 31.03.1998, which indicates that the refund cheque for Rs.35,937/- arising out of ITR Exh.198 (Colly.) is credited in the account of Haresh Dhameja on 07.01.1998. Further he proved Account Opening Form of Haresh Dhameja (Exh.63B). Witness proved Pay-in-slip (Exh.63A) through which the refund cheque is deposited in the account of Haresh Dhameja. Further two cheques are drawn in favour of accused No.2 for a sum of Rs.2,500/- and Rs.33,000/- (Exh.63/B & 63C). Accordingly, same was credited to the account of accused No.2. The evidence of PW-39 handwriting expert indicates that he compared specimen signature, handwriting S-120 to S-283 & S-472 to S-481 (which is of accused No.2) is compared with disputed writing on pay-in-slip as well as cheque Exh.63B. He opined that the disputed handwriting on cheque as well as pay-in-slip and specimen handwriting is of same person (i.e. accused No.2).

24. Ld. PP for the CBI submits that from the purport of the testimonies of prosecution witnesses it is established that the accused No.1 in pursuance of criminal conspiracy alongwith accused No.2 at the behest of accused No.3 to 8 and alongwith public servant accused No.9 availed income tax refund amount and siphoned off the same resulting into causing loss to the Income Tax Department. Further from the conduct of accused persons in series of instances is sufficient to infer that it is established that they have committed the offence with criminal intention resulting in the financial loss to the government ex-chequer. Furthermore, he also made submission pertaining to the ingredients of criminal conspiracy, cheating and forgery. He referred handwriting expert's evidence, referred documentary evidence.

25. Ld. advocate for the accused No.4 submits that accused No.4 was

working in Motor Transport in the year 1997 as a Clerk. At the relevant time he was just of 25 year old. He has no knowledge about the Income Tax Returns, TDS transactions etc. While preparation of TDS certificate and Income Tax Certificate he just followed the instructions of superiors without dishonest intention at the behest of accused No.1, 2 and 8. He has hold the account in Andhra Bank (Exh. 300). Accused No.4 was asked to open bank account in his name, to assist Motor Transport by accused No.2 Ms. Hoor Jhurani. She was the introducer of him while opening the account. At the behest of accused No.2 he signed the blank cheques, which were misused by accused No.2 Hoor Jhurani. He is not the beneficiary of amount. There is no role of accused No.4 in criminal conspiracy in regard to obtain income tax returns fraudulently through him.

26. It is to be noted that the import of arguments advanced on behalf of accused No.4 indicates that he prepared the TDS certificates but at the behest of accused No.1 and 2. It is to be noted that the prosecution has independently proved the factum that the TDS certificates, which were relied and attached to the Income Tax Return form of accused No.3 pertaining to the certificate issued by deductor M/s Link International was prepared by accused No.4 Chokkalingam. This factum is proved through the evidence of handwriting expert Exh. 9. Same was referred by this Court in Para No.17 of the judgment. Furthermore, two cheques Exh. 156 and 157 worth Rs.30,000/- each were drawn on accused No.7 in favour of accused No.4 and same were credited in the account of accused No.4. This satisfactory evidence does not wipe up by the accused by leading probable circumstance. So this factum proves that the accused No.4 has requisite knowledge of the main object to cheat Income Tax Office by claiming refund certificate and on the basis of forged TDS certificates is proved.

27. Ld. advocate for the accused No.7 submits that accused No.7 has never filed any Income Tax Returns by himself or through Chartered Accountant in his whole life, nor he claimed any refund from Income Tax Department. There is no evidence on record either oral or documentary to prove that accused put his signature on the ITR form or connected documents relating to it, whereby refund of income tax is obtained by him. Further he submits that pertaining to the Account Opening Form and alleged transaction made by accused No.7 in the Jana Seva Sahakari Bank that accused has not did any transaction in the said bank. No evidence is forthcoming to show that signature of alleged transaction belongs to the accused No.7. Handwriting expert also not given definite opinion. The alleged ITR Exh. 330 with document is not filed by him. There is no signature of accused on it. The prosecution has not brought on record any particulars of the firm that the accused No.1 and 2 are the main culprits behind the fraud in question. Further he submits that the evidence led by PW-11 Branch Manager of Jana Seva Sahakari Bank, who proved the statement of Account, Account Opening Form and alleged transaction in the name of accused No.7 is not did by him as at the relevant time when transaction took place. The handwriting, signature on cheque were not proved through the evidence of handwriting expert.

28. The import of the arguments advanced on behalf of accused No.7 is that he neither filed Income Tax Returns nor income tax refund is credited to his account. He has not made any transaction in the account maintained by him in the Jana Seva Sahakari Bank. The handwriting expert has not given opinion to prove that the signatures on Income Tax Returns are done by himself. It is to be noted that for the sake of arguments though we assume that the Income Tax Return is forged by accused No.1 and accused No.2 has filed the same, but the evidence

placed by prosecution on record satisfactorily proved the factum that the accused maintained the account with Jana Seva Sahakari Bank, which is also admitted by the accused. The income tax refund amount of Rs.46,000/- is credited to his account and he by self cheque withdrew it. The signature on cheque of himself Exh. 179 is proved by the evidence of handwriting expert. So, there is no explanation pertaining to this factum. Bear omnibus statement that he has not made bank transaction is not sufficient. So this factum proves that the he is having necessary requisite knowledge of the criminal conspiracy of the main object for the purpose of cheating the Income Tax office by availing income tax refund amount on the basis of forged documents.

29. On behalf of accused No.8, it is submitted that his date of birth is 25th October, 1978. In the year 1997 just he completed age of 18 years. Due to the financial crises of family, he compelled to do service. Accordingly, he was doing service with DW-1 Virochan Bapu Prabhudesai. According to him, the evidence of DW-1 satisfactorily proved that accused No.1 Devendra Chaturvedi was frequently visiting to his office, wherein accused was working. At the instance of Devendra Chaturvedi and claiming there are future benefits if the income tax returns were filed. So he signed blank income tax returns and handed over to Devendra Chaturvedi. Devendra Chaturvedi took handloan from PW-30 Rajan Desai of Rs.40,000/- through DW-1 Virochan Bapu Prabhudesai. In December 1997 accused No.1 made phone call to Rajan Desai and asked him to send person to collect the amount, which was to repay to Rajan Desai. Accordingly, accused was deputed. The blank cheque was issued, which was drawn in the name of accused No.8, which was deposited in the bank and it was cleared. The amount of Rs.37,000/- out of the said refund amount, which paid to Rajan Desai in lieu of hand loan amount.

30. According to Ld. advocate for accused No.8, investigating officer also recorded statement of DW-1. On the same footing he deposed before Court. Furthermore, the evidence of PW-30 Rajan Desai, which is relied by the prosecution is supported to the factum that he received amount of Rs.37,000/- towards loan, which was given as hand loan through cheque Exh. 147. Thus, Ld. advocate for the accused No.8 submits that no active role or there is any dishonest intention of accused No.8 in the transaction in question. He only did the acts at the behest of his employer DW-1 and accused No.1 Devendra Chaturvedi. He is not the beneficiary of crime proceeds, which is ultimately proved by the evidence of prosecution itself as the cheque amount was transferred in the account of PW-30 Rajan Desai. Thus, there is no satisfactory evidence on record to prove charges leveled against him.

31. The import of arguments advanced on behalf of accused No.8 indicates that on the behest of DW-1 Virochan and accused No.1, accused No.8 has simply put his signature on blank ITR Form. Later on it is forged by accused No.1. Furthermore, DW-1 asked him to bring the loan amount, which is taken by accused No.1 from DW-1 Virochan through Rajan Desai. It is to be noted that the evidence of Virochan as well as accused No.8 indicates that when accused No.8 went to the office of accused No.1, accused No.1 handed over blank cheque, which was used for the repayment of loan amount to PW-30 Rajan Desai. The prosecution also placed reliance on the evidence of PW-30 Rajan Desai, whose evidence indicates that toward the hand loan from Virochan he received amount of Rs.37,000/- through cheque Exh.147, which is pertaining to the account of accused No.8. The contention as well as the evidence of DW-1, who is Chartered Accountant is not probable, simply for the reason that the evidence on record indicates that the tax refund amount by cheque is credited in the account of accused No.8 and

out of it by another cheque the amount of Rs.37,000/- is paid to PW-30. So simplicitor explanation that accused no.1 handed over blank cheque and which is used for the payment of loan amount is highly improbable. It is to be noted that DW-1 being the expert, no explanation is forthcoming, how the income tax refund was credited to the account of accused No.8 and by what mode the cheque of accused No.8 was in the possession of accused No.1, through which the amount of Rs.37,000/- was paid to Rajan Desai. So this factum clear cut indicates that the contention and evidence led on behalf of accused No.8 are not wholly reliable.

32. Ld. advocate for the accused No.6 submits that there is no evidence on record to prove that accused No.6 was acquainted with accused No.1, 2 and 9. Accused was not residing in the jurisdiction of Ward No.12 (5) of Income Tax Department, Mumbai. PW-2 Viraf Irani, who proved the alleged TDS Certificate Exh. 332 alleged to have been used by accused No.6. According to him the evidence of the witness does not prove the involvement of accused No.6. Furthermore, she submits that there is no satisfactory evidence on record to show that alleged transaction took place pertaining to the saving account of accused maintained in UCO Bank and cheques, pay-slip, the prosecution has not proved the signatures of those documents are of accused No.6. The accused has not submitted Income Tax Returns to the Income Tax Department or availed refund. Furthermore, address cited in ITR of himself is incorrect one. He is the resident of Kandivali. Furthermore, Income Tax Ready Reckoner for the year 1997-1998 indicates the taxable income of assessee should be over Rs.40,000/- . The Income Tax Returns Exh. 332 filed on behalf of accused No.6 shows that M/s Harbar Lords Company of which accused No.6 is the Proprietor but same fact is not proved by prosecution. No signature of accused No.6

bears on any of the documents relied by the prosecution against him. So, he claimed that there is no iota of evidence to prove the charges against accused. Hence, claimed acquittal of him.

33. The import of argument of accused No.6 is that the handwriting expert has not given opinion to prove the fact that the signature of accused No.6 does not bears on income tax returns. He has not did any bank transaction, so he has no connection with transaction in question. It is admitted by accused No.6 that he has maintained account in UCO Bank, Kandivali West Branch. The prosecution satisfactorily led evidence to show that income tax refund amount of Rs.46,000/- is credited to the account of accused No.6 and he by way of self cheque Exh. 179 withdrew it. The handwriting expert PW-39 Gandhi proved the disputed signature of accused No.6 on self cheque is made by accused No.6. So withdrawal amount of Rs.46,000/- by accused No.6 is proved by the prosecution. So same factum is sufficient to infer that he is party to the conspiracy in the instant case.

34. It is to be noted that Ld. advocate for the respective accused assailed the prosecution evidence on the ground that the prosecution witnesses, who proved the ITR forms, Bank transactions have no personal knowledge. At the relevant time they were not working either in Income Tax office or bank. They are not the author of documents, or in presence of them those documents were not proved. So consequently, alleged proving the contents of documents and giving exhibit to it during the process of trial, is not valid one. Consequently, their evidence is unreliable one. Ld. PP submits that the documents, which were proved by the witnesses are came in the domain of public documents. Furthermore, those documents are kept by Income Tax office or bank in their regular course of business, so the officers of bank

of Income Tax officer are competent witnesses to prove those documents. It is to be noted that income tax returns and connected document filed with it came within the purview of public documents, as under Section 143 of Income Tax Act, the concerned Income tax officer process it and pass order on it. Furthermore, the bank transaction documents regularly kept in the course of business and those are maintained in the bank are relevant documents. Consequently, the in-charge of those offices, though they were not working at the relevant time, but they were working when evidence is came to be recorded. So they are the competent witnesses, to prove the contents of documents. Accordingly, they have proved the respective documents.

35. Ld. advocate for accused No. 1 to 3 Shri Bhanushali placed reliance in the case of **Madholal Sindhu Vs. Asian Assurance Co. Ltd. and Ors.**, AIR 1954 BOMBAY 305 (Vol.41, C.N. 87) ; **Mr. D & Mr. S. in M.P. No.7 of 1961** ; **Sait Tarajee Khimchand and Ors. Vs. Yelamarti Satyam @ Satteyya and Ors.**, (1972) 4 SCC 562 ; **Om Prakash Berlia and Anr., Vs. Unit Trust of India and Ors.**, AIR 1983 BOMBAY 1 ; **Geeta Marine Services Pvt. Ltd. Vs. The State & Anr. decided by Hon'ble Bombay High Court in Criminal Application No.2633 of 2008 on 19<sup>th</sup> & 22.09.2008.** The contents of documents should be proved that calling the executor of document as a witness. It is not enough to merely prove the signature or the handwriting of a person. Proof of signature does not amount to proof of contents. The contents of the document have to be proved. What it states can be so established. The contents of documents must primarily be proved by the production of the document itself for the inspection of Court. The mere marking of an exhibit does not dispense with the proof of the document. Exhibiting a document has nothing to do with the proof, though as a matter of convenience only the proved documents are

exhibited. I have gone through the parameters laid down in the above case. Those case are distinguishable from the facts of the present case, as in the present case the documents are the public documents or documents maintained in regular course of business. So, same is not assist to the accused.

36. Another submission advanced on behalf of the accused is that the witnesses, who are connected with the deductor firm, who issued TDS certificates testified that the TDS certificates are fabricate and forged one and those are not issued by their firm or does not bear the signatures of their authorized signatory. So, it can't be said that those persons have proved the fabrication of TDS certificates. More particularly, Ld. advocate for accused No. 1 to 3 placed reliance on the TDS certificate Art.1 and 2 which is marked in the evidence of PW-2 Viraf Irani. It is to be noted that when the TDS certificates are purportedly issued by concerned firms including the Darabshaw B. Cursetjee's Sons (Bombay) Pvt. Ltd., so the connected persons with the said firm, who were at the relevant time were the in-charge of issuance of TDS certificate or authorized signatory. They are competent persons who testified about the genuineness of TDS certificates alleged to be issued by their firms. Accordingly, their evidence is reliable one to prove the fact that the TDS certificate on the strength of which accused No. 3, 5, 6, 7 and 8 obtained refund amount from Income Tax Department are forged and fabricated.

37. It is to be noted that when accused No.3 is claiming to be a proprietor of transport firm and the deductor firm issued TDS certificate out of the contract price pertaining to the transportation. The TDS certificates itself indicates that actual payment was made to the said firm in lacs of rupees by way of cheque. So in these circumstances, if it

is really accused No.3 is the proprietor of said firm, then he ought to have place the Bank Account of the transport firm, as according to the TDS certificate amount in lacs is credited in the account of said firm towards contract price of transport. Further when transport firm is running by the proprietor he has to obtain the permit and licenses from the public authority. If really he was running the said firm, then he ought to have place the same certificates e.g. certificates issued under Bombay Shops and Establishments Act. The burden to prove the said factum is upon accused No.3, as Sec. 106 of Evidence Act contemplates that if a fact is specifically within the knowledge of any person, the burden of proving that fact is upon him. On the contrary, the statement of bank of accused No.3 indicates that for the sole purpose of encashment of cheque, he used the account maintained by him in the bank. This circumstance itself is sufficient to clear cut to the factum that the TDS certificates and ITR forms of accused No.3 being the proprietor of the firm, is forged and fabricated one.

38. It is to be noted that accused No.6, 7 and 8 claim that they were not the proprietor of the firms, of which the alleged ITR forms through them were submitted to Income Tax Department and on the strength of it refund amount is claimed. The accused No.1 and 2 prepared forged documents and behind back of them filed Income Tax Returns in the Income Tax office. They have no idea about it. So they claimed that accused No.1 and 2 are only responsible for the fraud in question.

39. Ld. advocate for the accused No.1 and 2 submits that accused No.1 is the Chartered Accountant and was required to file thousands of Income tax return on behalf of individual, companies, firms and other association. As per the practice the assessee was required to sign at the end of form and on verification. The statements regarding the income

and expenditure was to be prepared on the basis of material provided by the respective assessee including TDS certificates. The Chartered Accountant while submitted the Income Tax Returns would not know about the authenticity of the documents submitted by the assessee alongwith the Income Tax Returns. In the present case accused No.1 Chartered Accountant prepared income tax IT Forms and statements, balance sheet attached to it on the instructions of accused No.3, 5, 6, 7 and 8. Accordingly, they put their signatures on IT forms. Accused No.2 is the assistant of him, filled the Income Tax forms pertaining to those accused. So there are no misdeeds or illegal intentions of accused No.1 and 2 in the present case.

40. It is to be noted that the accused No.1 being the expert and professional as a Chartered Accountant, he ought to have satisfied that in ordinary course of business and with bonafide intention that requisite documents are obtained by him and on verification on the face of record those documents are genuine one, thereby he prepared the ITR forms with statements attached to it. It is to be noted that while preparing the statement or balance sheets pertaining to the persons dealing with transport business i.e. accused in present case, on behalf of whom Income Tax Returns prepared and submitted by accused No.1 with the assistance of accused No.2. It is obligatory on him to obtain invoice, cash book, bank account, vouchers, driver's salary details from accused persons being assessee. No evidence is forthcoming on behalf of him because same is within his exclusive knowledge that he had verified these documents. In reality, if he has verified those documents and on the basis of it he prepared the ITR form alongwith balance sheet and statement, then atleast one of the accused's bank statement would come on record to show that they have received contract price towards transportation from their deductor, which is in lacs. Furthermore, no

documents are forthcoming on record, which is required to be verified by accused No.1 Chartered Accountant while preparation of balance sheet. The false information in Income Tax Returns and documents attached to with it can be inferred from one of the circumstances that the address of the accused, of whom accused No.1 and 2 filed Income Tax Returns is cited as 39, Maniyar Building, P. D'mello Road, Mumbai. According to the accused No.1 to 3 the said address is of the business of Maharashtra Vehicle and Transport Association and persons were doing their business as per their office address. It is to be noted that it is not digestible all the transport firms used the address of their association for correspondence. On the contrary, this factum indicates that being the assessee are the fictitious persons, so common address is cited in TDS certificates as well as ITR forms. Furthermore, PW-18 K.S. Padmanaman testified that address cited by alleged fictitious person Haresh Dhameja, Room No.39, Maniyar Building, Carnak Bunder, Mumbai is not the resident of the same address, as the said address is of association. Further he testified that no member of association was allowed to use the office address of association to receive their letter of correspondence.

41. It is to be noted that the accused No.1 and 2 are claiming Haresh Dhameja was the existing person. On the other hand, it is the case of prosecution that alleged Dhameja was fictitious and non existing person. On behalf of accused the Death Certificate of Haresh Dhameja is placed on record, which indicates that he was died on 05.10.2006. The Death Certificate is placed on record on 21.09.2019. For the sake of argument though we assumed that he is existed person at the relevant time, but no evidence is forthcoming on behalf of accused No.1 and 2 to show that in fact they have verified the requisite documents for the preparation of ITR form for accused Haresh Dhameja. On the contrary,

the prosecution placed evidence on record to show that the address cited in transaction in question of Haresh Dhameja, he was not residing on those addresses. On the contrary, the death certificate indicates that he was the resident within the jurisdiction of Ulhas Nagar Municipal Corporation.

42. Ld. advocate for the accused No.1 to 3 placed reliance in the case of **Digamber Vaishnav & Anr., Vs. State of Chattisgarh, 2019 ALL MR (Cri.) 2583 (S.C.)**, wherein it is held that – Standard of proof, there can be no conviction on basis of suspicion howsoever grave it may be. Strong suspicion, strong coincidences and grave doubt cannot take place of legal proof. While evaluating the evidence I have considered this dicta.

43. One of the submissions placed on behalf of accused, more particularly, accused No. 1 to 3 that Income Tax itself is a self contained Act, if there is any irregularity pertaining to the refund of Income Tax, there is a provision to recover it. The said proceedings amounts to judicial proceedings, so prosecution is not empower to prosecute under the provisions of Indian Penal Code, when the provision of Income Tax itself provided relief for such irregularities. In support of his submission he placed reliance in the case of **Lalji Haridas Vs. State of Maharashtra and Anr. 1964 AIR 1154**, wherein it is held that – Proceedings before Income Tax officer for the purpose of Sec. 195(1)(b) of Cr.P.C. are judicial proceedings. It is to be noted that the authorities provided under Income Tax are in the nature of quasi judicial authority. Furthermore, when ingredients of offence punishable under the provision of Indian Penal Code are made out, then there is no bar to try the concerned persons separately without invoking remedies provided under Income Tax Act, so the penal offences and the remedies provided

under Income Tax Act are distinct one. So the submission is not assist to him.

44. Ld. advocate for the accused No.1 to 3 submits that this Court in Spl. Case No.106/2004 in the case of CBI, EOW, Mumbai Vs. Dharmesh Bhavsar and Anr. acquitted the accused on 28.04.2010. The said case is arising out of same First Information Report, so accused are entitled for acquittal. It is to be noted that though the said case is arising out of same FIR, but the facts in the present case and the facts in the said case are distinct one, so each case depends upon its own facts. So, facts of the present case would be decided independently. Further Ld. advocate for the accused placed reliance in the case of **Rajendra Prasad Vs. C. Sadashiva Reddy, 2004-(110)-CRLJ-0242-AP**. It is to be noted that the said case is arising out of fraud on the strength of bogus income tax returns, wherein accused are acquitted. On facts the cited case is distinguishable so same is not assist to the accused. Accordingly, accused could not get the assistance of said judgment to get the acquittal of them.

45. The submissions advanced on behalf of accused No.1 to 4 and 6 to 8 that prosecution has not established any circumstances to show that accused entered into the criminal conspiracy to commit the offence of cheating to the Income Tax Department. In support of their submission they placed reliance in the case of **State of Tamilnadu through Superintendent of Police CBI/SIT Vs. Nalini and Ors., AIR 1999 SC 2640 ; Kehar Singh and Ors. Vs. State (Delhi Administration) (1988) 3 SCC 609 ; Prabhakar N. Shetty Vs. State of Maharashtra in Criminal Application No.2769 of 1989 decided by Hon'ble Bombay High Court on 19.12.1989 ; State of Bihar Vs. Ram Kishore Singh @ Rama Singh, 2016 Cri.L.J. 1228**, the sum and

substance of the dicta is that -The meeting of minds or the element of agreement is of the essence of the offence punishable under Section 120-B of the IPC.

46. In reaching the stage of meeting of minds, two or more persons share information about doing an illegal act or a legal act by illegal means. This is the first stage where each is said to have knowledge of a plan for committing an illegal act or a legal act by illegal means. Among those sharing the information some or all may form an intention to do an illegal act or a legal act by illegal means. Those who do form the requisite intention would be parties to the agreement and would be conspirators but those who drop out cannot be roped in as collaborators on the basis of mere knowledge unless they commit acts or omissions from which a guilty common intention can be inferred. It is not necessary that all the conspirators should participate from inception to the end of the conspiracy ; some may join the conspiracy after the time when such intention was first entertained by any one of them and some others may quit from the conspiracy. All of them cannot but be treated as conspirators. Where in pursuance of the agreement the conspirators commit offences individually or adopt illegal means to do a legal act which has a nexus to the object of conspiracy, all of them will be liable for such offences even if some of them have not actively participated in the commission of those offences.

47. Ld. PP for the CBI submits that conspiracy can't be proved by direct evidence and it can be inferred from the proved circumstances. There is ample evidence on record to prove that accused was involved in conspiracy to cheat Income Tax office.

48. In regard to proof of the conspiracy, this Court is guided by the principles laid down in the case of **Ram Narain Popli Vs. Central**

**Bureau of Investigation, MANU/SC/0017/ 2003, [Full Bench],** wherein Hon'ble Apex Court observed as under;

"378. As noted above, the essential ingredient of the offence of criminal conspiracy is the agreement to commit an offence. In a case where the agreement is for accomplishment of an act which by itself constitutes an offence, then in that event no overt act is necessary to be proved by the prosecute on because in such a situation, criminal conspiracy is established by proving such an agreement. Where the conspiracy alleged is with regard to commission of a serious crime of the nature as contemplated in Section 120-B read with the provision to Sub-section (2) of Section 120-A, then in that event mere proof of an agreement between the accused for commission of such a crime alone is enough to bring about a conviction under Section 120-B and the proof of any overt act by the accused or by any one of them would not be necessary. The provisions, in such a situation, do not require that each and every person who is a party to the conspiracy must do some overt act towards the fulfillment of the object of conspiracy, the essential ingredient being an agreement between the conspirators to commit the crime and if these requirements and ingredients are established, the act would fall within the trapping of the provisions contained in Section 120-B."

49. The dicta indicates that for the purpose of establishing for proving the charge of conspiracy, it is not necessary that there should be knowledge of who are the other conspirators and of the detail stages of conspiracy. The necessary requisite is knowledge of the main object and

purpose of conspiracy. It is to be noted that the prosecution has proved the role played by accused No.3, 4, 6, 7 and 8 alongwith principal conspirator accused No.1 and 2. Here, I would like to point out that evidence on record forthcoming pertaining to the accused No.3, 4, 6, 7 and 8 in some parts of the conspiracy. So considering the principles, it is not necessary that there should be knowledge of, who are the other conspirators and details stages of conspiracy. Through their proved acts the necessary requisite knowledge of main object and purpose of conspiracy is proved.

50. One of the submissions advanced on behalf of respective accused is that prosecution without arraying Tiwari, Income Tax officer, who processed the income tax returns and passed refund order, is a main culprit behind the fraud. But he was cited as a witness. Further accused No.1 to 3 submit that PW-38 Manoj Bhanushali and PW-31 Kantilal Bhanushali also named in the FIR but chargesheet was not filed. It is true that Tiwari, Income Tax officer who knowingly or unknowingly passed refund order, no explanation is forthcoming about his role by the prosecution. In spite of that accused are not entitled for exoneration due to the lapses committed by investigating officer, otherwise offences are proved by the prosecution against accused.

51. It is to be noted that on behalf of accused No.6, 7 and 8 it is submitted that the statement attached to the ITR form i.e. balance sheet and Profit and Loss Statement required the signature of assessee, but same does not reflect in the present case. Ld. advocate for the accused No.1 submits that it is not requisite to obtain the signature of assessee on balance sheet. According to him in ITR form when assessee put his signature in verification which includes verification of documents attached to it. After going through the minute provisions of Income Tax

that too, in the year 1997 it is required to obtain the signature of assessee on audited accounts. This factum supports to the factum that accused No.1 prepared false documents, however though accused No.6, 7 and 8 succeeded to this factum but they cannot be exonerated as they deal with crime proceeds through their bank accounts.

52. It is to be noted that the prosecution satisfactorily proved that out of tax refund amount substantial amount is credited to the account of accused No.2. The amount of Rs.44,000/- is transferred from the account of accused No.3 on 19.08.1997. Further from the account of one Shri Haresh Dhameja almost all income tax refund amount i.e. Rs.33,000/- and Rs.2,500/- respectively credited to the account of accused No.2. Not only this the handwriting expert proved the handwriting of accused No.2 on cheques and pay-in-slip. So this factum indicates that accused No.2 is the beneficiary of crime proceeds. Ld. advocate for the accused No.2 submits that accused No.3 as well as Haresh Dhameja are the friends of deceased accused No.5. Accused No.3 and Haresh Dhameja might have taken the loan amount from accused No.5. Accused No.3 and 5 returned the said loan in the account of accused No.2. Further when genuinely TDS amount is credited to the account of accused No.3 and Haresh Dhameja then no question arose to whom they transferred the amount. It is to be noted that some general reference that brother of accused No.2 might have given loan amount and in lieu of that they returned to accused No.2 is not sufficient. There must be some probable circumstance should be on record to support this factum. Same is not forthcoming. On the contrary, the evidence indicates that pursuant to the criminal conspiracy said amount is credited to the account of accused No.2.

53. It is to be noted that the prosecution has led evidence pertaining

to the ITR forms and refund pertaining to one Tajpal Bhanushali to be forged by accused No.1 and 2 and crime proceed is availed by accused No.2. Ld. advocate for accused No.1 and 2 assailed the same evidence claiming that PW-31 Kantilal Bhanushali and PW-38 Manoj Bhanushali, who are the grandson of Tejpal Bhanushali were the FIR named persons in the present case. The investigating officer conceded that he doesn't know whether investigation against them is going on or whether they are chargesheeted. So he claimed that they are not competent witnesses and they are accomplished. Therefore, no weightage to their evidence. Considering this aspect being the evidence is led by FIR named accused and after going through their evidence it is not fully reliable, so the evidence pertaining to the ITR form and refund amount of Tejpal Bhanushali is kept aside for consideration.

54. It is to be noted that as I have already held that the sanction accorded against accused No.9 under Section 19 of Prevention of Corruption Act is not valid, so accused is to be acquitted for the offence punishable under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act. It is to be clarified that acquittal under the provisions of PC Act for want of valid sanction is not a embargo to proceed for the offences enumerated under Indian Penal Code, either against public servant or other accused. It is to be considered whether there is a satisfactory evidence on record to prove the offence leveled against accused No.9 under the Indian Penal Code, to prove this factum the prosecution placed reliance on the evidence of PW-36 Subhash Jadhav, who was working in the Income Tax Department. He in his examination-in-chief has not supported to the prosecution, so prosecution is permitted to do cross examination. In cross examination he testified that accused No.9 calculated the tax. Furthermore, income tax returns of accused no.6, 7 and 8, which is alleged by prosecution

that accused No.9 processed the same are not inwarded in the authentic register of Income Tax Office. Accused No.2 used to submit returns directly to accused No.9. Further prosecution placed reliance on the evidence of PW-33 Vasant Mhatre, who proved the factum that the income tax returns filed pertaining to the accused were not entered in the authentic register of Income Tax office. The numbers which were cited on the ITR forms in question were already taken to another assessee. He further testified that accused No.9 used to process the income tax returns. Accused No.2 Hoor Jhurani used to visit the table of accused No.9 to handover the income tax returns and accused No.9 used to keep it with him. Before evolution of evidence of these witnesses, I would like to refer the evidence of PW-5, which is relied by the prosecution.

55. PW-5 Alexander Chandy, who was working in the Income Tax Department testified procedure of process of Income Tax Returns filed by the assessee. According to him, on the receipt of Income Tax Return in the department the return was processed under Section 143(1)(a) of the Income Tax Act by the concerned Income Tax officer, which bears the signature of himself on it. After processing the return it was given to calculation clerk, who used to work out the tax payable or refund payable. Then it is again put up before Income Tax officer for a signature thereby intimation was issued to assessee. In the case of refund, four copies are prepared. One of it is dispatched to the assessee. When assessee filed ITR for refund, the assessee has to file copies of self assessment, advance tax, TDS certificate alongwith Return of Income in original. The TDS certificate issued by the deductor certified that cited amount of tax has been deducted from the amounts payable to the assessee.

56. After going through the evidence of PW-5 basic process of verification of income tax returns is required to be done in the present case by Income Tax officer, same was did by income tax officer Mr. Tiwari. After verification and process it was sent to clerk for calculation of tax amount. If we taken the evidence of prosecution witnesses is to be true, then accused No.9 only made verification of calculations, which was already verified by the Income Tax officer. Furthermore, if we see the evidence of prosecution witnesses that accused No.2 handed over returns to accused No.9 as it is, then the crucial link, how it was came in the possession of Income Tax officer Mr. Tiwari, who processed and verified Income Tax Returns, is not forthcoming. Furthermore, if this is so, then prosecution ought to have place evidence on record pertaining to the process or marking the numbers by accused No.9 on Income Tax Returns by availing his specimen signature and obtaining opinion from handwriting expert as it is done by sending number of documents to the handwriting expert. So crucial evidence to show involvement of accused No.9 through documentary evidence is not forthcoming. The evidence of two prosecution witnesses out of one is hostile, is not wholly reliable to prove the guilt against accused No.9 to connect him that he obtained income tax returns from accused No.2 directly. As the crucial link is missing then how the income tax officer, who is responsible for verification and process of Income tax returns came in the possession of those unauthenticate accepted Income tax returns. When the assignment of acceptance of income tax returns was not with accused No.9. So in these circumstances, there is no satisfactory evidence on record to prove the charges against accused No.9 for the offence punishable under Section 120-B, 420, 467, 468 and 471 r/w 120-B of IPC.

57. In the light of above discussion the prosecution has satisfactorily

proved the circumstances by satisfactory evidence that the TDS certificates on the basis of which ITR forms and documents were prepared by accused No.1 are forged one. Further though we assume that TDS certificates are genuine one but the proprietor of firms cited in the TDS Certificates are the fictitious persons. The role played by accused No.1 is that accused No.1 has prepared forged balance sheet and documents and cited false information thereto. The substantial amount of crime proceeds is credited to the account of accused No.2, who is the assistant of accused No.1. Furthermore, an amount of Rs.1,000/- is credited to the account of accused No.1 from the account of accused No.3. Further one circumstance is forthcoming on record that accused No.3 has credited Rs.50,000/- in the bank account of accused No.1 and his wife on 04.11.1997. Ld. prosecutor submits that the handwriting on the pay-in-slip Exh.196 is in the handwriting of accused No.3. So the crime proceeds which is credited in account of accused No.3 is diverted in the bank account of accused No.1. According to the Ld. advocate for accused No.1 the said amount might have given by accused No.1 to accused No.3 to deposit in their account. It does not mean that same amount is out of crime proceeds. But considering the instances on record the probability of deposit of amount of crime proceeds is existed. Furthermore, clinching circumstance is forthcoming on record that an amount of Rs.67,778/- is credited in the account of accused No.7 Ashok Patel by pay-in-slip, which is the handwriting of accused No.1. Furthermore, his handwriting is appeared on cheque, which is drawn on the account of accused No.7 in favour of accused No.4 for Rs.30,000/- each. This factum is proved by the evidence of handwriting expert. This circumstance indicates that the accused No.1 by illegal means used to obtain refund cheques. He used to deposit the same. Thus, these circumstances are sufficient to infer

that accused No.1 hatched up the entire plan and pursuant to the conspiracy.

58. Accused placed written arguments which is running in number of pages, wherein they claimed that there are discrepancies, infirmities in the evidence led by the prosecution. It is to be noted that the material contentions are already considered and evaluated by this Court. The minor discrepancies on trivial matters not touching to the core of the case. Technical errors committed by the investigating officer not going to the root of the matter, would not permit rejection of the evidence as a whole. So pointed out so called infirmities are came within the purview of minor discrepancies on trivial matters, so same are not assist to the accused. Furthermore, while appreciating the evidence of the witnesses reasoning of this Court is based on documentary evidence. So, on material aspect documentary evidence as well as oral evidence when we read as a whole appears to have a ring of truth.

59. On perusal of the ingredients of offence punishable under Section 420, the prosecution has proved that the Income Tax Department complainant parted with his property i.e. refund amount acting on a representation, which was false to the knowledge of accused. The accused had dishonest intention from the outset that the refund amount in the hands of Income Tax office must have passed on them. Thus, there is a satisfactory evidence on record to prove that accused No.1 to 4 and 6 to 8 cheated Income Tax Department by dishonestly inducing the said department to deliver the refund orders to the tune of Rs.3,00,000/-.

60. Furthermore, the evidence on record clear cut indicates that the TDS certificates attached to the ITR are forged by the accused with dishonest intention to cheat the Income Tax Department. The evidence

further indicates that accused No.1, 2 and 4 did the act of forgery in respect of TDS Certificates as well as Income Statement, Balance Sheet attached to the ITR Forms. The Income Tax Returns were prepared and submitted in the name of accused No.3, 6 to 8 and Haresh Dhameja. The income tax refund amount is credited in the account of accused. TDS Certificates and documents attached to Income Tax Returns are forged one, used for the purpose of cheating and used those documents as a genuine, which they knew that at the time when used by them to be a forged documents. Further forged TDS certificates and balance sheets purported to be a valuable security, so accused committed forgery of valuable security. Thus, ingredients to constitute offence punishable under Section 120-B of IPC, 420, 467, 468, 471 r/w 120-B of IPC are made out against accused No.1 to 4 and 6 to 8.

61. Thus, in the light of above discussion the evidence led on behalf of prosecution is consistent and sufficient to prove the ingredients of offence punishable under Section 120-B of IPC, 420, 467, 498 and 471 r/w 120-B of IPC against accused No.1 to 4 and 6 to 8. So they are liable to be convicted for the said offences. The prosecution failed to prove the guilt of the accused No.9, so he is liable to be acquitted. At this stage, it is required to take pause and proposed to give hearing against accused on the point of sentence.

**20.12.2019**

**(S.U. WADGAONKAR)  
Special Judge(CBI)  
Gr.Bombay**

62. Ld. advocate for the accused No.7 as well as accused in person submits that accused is the sole earner of his family, the small daughter is depend upon him. He is not the beneficiary of crime proceeds. So he

prayed for leniency.

63. Accused No.8 submits that at the time of commission of offence he was at the age of 18 years, he is not the beneficiary of crime proceeds. He is bachelor, his old mother is depend upon him. So he prayed for leniency.

64. Ld. advocate Mr. Naik on behalf of accused No.4 submits that accused No.4 is not the beneficiary of crime proceeds, he acted on the instructions of accused No.1 and 2. He was not having the knowledge of interpretation of the legal terms pertaining to the income tax. So he prayed for leniency.

65. Accused No.2 submits that she was working as a clerk with accused no.1. Her two elders sisters aged 75 years are depend upon her. She only did the work of submission of Income Tax Returns to Income Tax office being the assistant of accused No.1. So she prayed for leniency.

66. Accused No.1 submits that he is the 60 year old. Whatever acts did by him are came within the framework of the work of chartered accountant. He lost his wife as well as sole son in near past. His mother is depend upon him. So he prayed for leniency.

67. Ld. advocate Mr. Bhanushali on behalf of accused No.3 submits that accused No.3 is the sole earning member of his family. His son and wife are depend upon him. Accused No.3 is not the beneficiary of crime proceeds. Ld. advocate for accused No.1 to 3 submits that there is no positive evidence for the quantum of loss as sanction order indicates that there is a loss of Rs.1.50 lacs. It is to be noted that the allegations against accused No.9, against whom sanction was accorded is pertaining only against accused no.6, 7 and 9 so this submission is not

assist to him. In all there is loss of approximately Rs.3 lacs to the Income Tax. The value of it as on today is more than Rs.20 lacs.

68. Ld. PP for CBI submits that it should be a decisive reflection of social consciousness of the society. The justice demands that the Court should impose sentence befitting the crime so that Courts reflect public abhorrence of the crime. The Court must not only consider the right of accused but also should consider the right of society at large. The accused are convicted for the economic offence which detrimental to the financial health of the country having adverse bearing to the development of the country, so he claimed imposition of maximum sentence as prescribed by the law.

69. In the instant case, accused No.1 being the chartered accountant with the aid and assistance of accused No.2 committed the offence in league with accused No.3, 4, 6 to 8 as an instrumental and thereby cheated to the Income Tax Department. It is also to be mentioned that accused No.3, 4, and 6 to 8 having minimal beneficiary of the fraud amount, but the fact remains that the entire conspiracy hatched by accused No.1 and accused No.2 and they are the ultimate beneficiary of crime proceeds. Considering the facts and circumstances of the case and submission of accused the following sentence would be appropriate to meet the ends of justice. In the result, I proceed to pass following order :

### ORDER

1) Accused No.1 **Devendra Chaturvedi**, accused No.2 **Hoor C. Jhurani**, accused No.3 **Sayaji L. Sangle**, accused No.4 **G. Chokkalingam**, accused No.6 **Ajit Meghnath Chachad**, accused No.7 **Ashok Patel** and accused No.8 **John R. Soares** are hereby convicted for

the offences punishable under Section 120-B of Indian Penal Code, 420, 467, 468, 471 r/w 120-B of Indian Penal Code.

(i) Accused No.1 **Devendra Chaturvedi** is sentenced to suffer rigorous imprisonment for three (3) years for each offence and pay fine of Rs.1,50,000/- (rupees One Lac Fifty Thousand) for each offence, in default to suffer simple imprisonment for six (6) months for each offence, for the offence punishable under Section 120-B of Indian Penal Code, 420, 467, 468, 471 r/w 120-B of Indian Penal Code.

(ii) Accused No.2 **Hoor C. Jhurani** is sentenced to suffer rigorous imprisonment for two (2) years for each offence and pay fine of Rs.40,000/- (rupees Forty Thousand) for each offence, in default to suffer simple imprisonment for four (4) months for each offence, for the offence punishable under Section 120-B of Indian Penal Code, 420, 467, 468, 471 r/w 120-B of Indian Penal Code.

(iii) Accused No.3 **Sayaji L. Sangle**, accused No.4 **G. Chokkalingam**, accused No.6 **Ajit Meghnath Chachad**, accused No.7 **Ashok Patel** and accused 8 **John R. Soares** are sentenced to suffer rigorous imprisonment for six (6) months for each offence for each accused and pay fine of Rs.8,000/- (rupees Eight Thousand) for each offence for each accused and in default to suffer simple imprisonment for one (1) month for each offence for each accused, for the offence punishable under Section 120-B of Indian Penal Code, 420, 467, 468, 471 r/w 120-B of Indian Penal Code.

2) **Accused No.9 Sharad Kumar Shrinivas Gambhir** is hereby acquitted for the offence punishable under Section 13(1) (d)

r/w 13(2) of Prevention of Corruption Act, 1888 and for the offence punishable under Section 120-B of Indian Penal Code, 420, 467, 468, 471 r/w 120-B of Indian Penal Code.

3) The substantive sentences of accused be run concurrently.

4) The period of detention undergone by accused No.1 and 2 i.e. from 15.03.2000 to 22.03.2000 be set off against the sentence of imprisonment as per section 428 of Cr.P.C.

5) Personal Bond of accused No.1 to 4 and 6 to 8 are stand cancelled. Surety bond pertaining to accused No.3, 6 and 8 stand cancelled.

6) Cash surety deposited by accused No.1, 2, 4, 7 and 9 be refunded to them.

7) Accused No.9 to make compliance as contemplated under Section 437-A of Cr.P.C, thereby to furnish personal bond of Rs.25,000/- and cash surety of Rs.25,000/-

8) Copy of this judgment be given to accused No.1, 2, 3, 4, 6, 7 and 8 free of cost.

20.12.2019



**(S.U. WADGAONKAR)**  
**Special Judge(CBI)**  
**Gr.Bombay**

Dictated on : 20.12.19 and on earlier dates.

Transcribed on : 20.12.19 and on earlier dates.

**“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”**

**UPLOAD DATE AND TIME : 21.12.2019 AT 3-00 PM**

**NAME OF STENOGRAPHER : MRS. K.S. JADHAV**

<b>NAME OF THE JUDGE</b>	<b>HHJ Shri.S.U. Wadgaonkar (C.R.No.47)</b>
<b>Date of Pronouncement of Judgment</b>	<b>20.12.2019</b>
<b>Judgment signed by the P.O. On</b>	<b>21.12.2019</b>
<b>Judgment uploaded on</b>	<b>21.12.2019</b>