K. Hashim vs State Of Tamil Nadu on 17 November, 2004

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Bench: Arijit Pasayat, C.K. Thakker

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           CASE NO.:
Appeal (crl.)  185 of 2004

PETITIONER:
K. Hashim

RESPONDENT:
State of Tamil Nadu

DATE OF JUDGMENT: 17/11/2004

BENCH:
ARIJIT PASAYAT & C.K. THAKKER

JUDGMENT:
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J U D G M E N T WITH CRIMINAL APPEAL NO. 187 OF 2004 ARIJIT PASAYAT, J Strange though it may appear increasingly our country is becoming notorious for spiraling number of cases involving counterfeiting of currency notes, both of our country and foreign countries and stamp papers. It is becoming increasingly difficult for a lay man to be sure whether what he is receiving as a currency note is genuine or a counterfeited one. Similar is the position regarding stamp papers.

In these appeals the basic allegations against accused appellants were counterfeiting of US currency of 20 dollars denominations. Originally, there were 7 accused persons. The accused persons are described as A-1, A-2 and so on in terms of their position during trial. One Rajan Chettiar died during trial. Two of the accused persons turned approvers. Out of the rest four, 2 are the appellants in these appeals and they are A-2 and A-3. All the four accused filed appeals before

the High Court. They were each sentenced to RI for 7 years with a fine of Rs.5,000/- with default stipulation of two years RI. They were separately convicted under Section 489C. Both the sentences were directed to run concurrently. But the custodial sentence imposed was different. For A-1, it was 5 years; for A-2 it was 7 years, for A-3 it was 5 years and for A-4 it was 7 years. The High Court by the impugned judgment upheld their conviction for offences punishable under Section 120B read with Section 489A, 489C and 489D of the Indian Penal Code, 1860 (in short the 'IPC').

The prosecution accusations as unfolded during trial are as follows:

> On receiving secret information, the Investigating Officer (PW-
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> 19) conducted a raid at the house of Rajan Chettiar at No. 6, Palaiamman Koil Street, Villivakkam, Chennai between 1.30 PM and 3.30 PM on 3.8.1982. During his search, he recovered eight bundles of counterfeit US dollars of 20 denomination (MOs 4 to 11) under mahazar (Ext. P1) in the presence of one Thiruvengadam (PW 3).

Immediately, a complaint was lodged which was registered as FIR (Ex.P-28) in Crime No. 32 of 1982 on the file of Inspector of Police, CBCID, Madras-4. Based on the information furnished by Rajan Chettiar, PW-19 proceeded to Golden Cafi Lodge at Poonamallee High Court, Chennai and reached the Lodge at 4.30 P.M. on 3.8.1982, conducted a search at Room No. 72 in the presence of one P.S. Kumar (PW.4), the Manager of Golden Cafi Lodge and arrested A-1 and A-4 and recovered three bundles of counterfeit US dollars of 20 denomination (MO 14) under mahazar (Ex.P2) in the presence of PW-4.

On the basis of the confessional statement obtained from the A-1 (Ex.P-29), PW-19 proceeded to Canara Timber Corporation, No. 176, Sydenhams Road, Periamet, Chennai, a shop owned by Ravindran (PW 1) and recovered five bundles of counterfeit US dollars of 20 denomination (MO 1 series) from PW1, under Mahazar (Ex P30) in the presence of Thirumal and Jain.

From Canara Timber Corporation, PW-19 proceeded to Iyyappa Lodge at Hunters Road, Vepery, Chennai, and reached there at 6.30 P.M. where he recovered six bundles of counterfeit US dollars of 20 denomination from the A-2 under Ex P-31 and arrested him.

Then PW-10 proceeded to Vasantham Press at No. 96, Portuguese Church Street, Chennai, owned by A-3 and since it was late night on 3.8.1982, he could not conduct any search in the said Press and therefore, he arrested A-3 and sealed the premises of Vasantham Press.

On 4.8.1982, based on the confession of the A-1, PW-19 proceeded to RJVA Press at No.27, Balakrishna Mudali Street, Vyasarapadi, Chennai, owned by one Anjana Devi, conducted a search and recovered printing inks in green, yellow, light green and light yellow colours and printing blocks (MOs 35 to 42) under mahazar (Ext. P33) in the presence of Anjana Devi, whose signature in the Mahazar (Ex.P33) was identified by PW-6, the husband of Anjana Devi.

Rajan Chettair was arrested at 3.30 P.M. on 3.8.1992 at No.6, Palaimman Koil Street, Villivakkam, Chennai, the A-1 and A-4 were arrested at 4.30 P.M. at Room No. 72, Golden Cafi Lodge, Poonamallee High Road, Chennai, Ravindran (PW1) was arrested at Canara Timber Corporation, No. 176, Sydenhams Road, Periamet, Chennair, owned by him at 6.00 P.M. on 3.8.1982, A-2 was arrested at Room No. 13, Iyyappa Lodge, Hunters Road, Veperi, Chennai, owned by PW 7 at 6.30 P.M. on 3.8.1982 and the third accused was arrested at Vasantham Press, No. 96, Portuguese Church Street, Chennai at late night on 3.8.1982.

Rajan Chettiar, A-1 and A-4 PW.1, A-2, PW2 and A-3 were produced before the Magistrate on 4.8.1982 and remanded to judicial custody till 10.8.1982.

On 11.8.1982, PW-19 examined Chinnaiah (PW8) an artist and collected further materials, based on which PW 19 conducted another search at Vasantham Press at No. 96, Portuguese Church Street, Chennai on 12.8.1982 at about 1.20 PM and recovered printing inks (MOs 23 to

24) under mahazar (Ex.P7) in the presence of PW 12.

During investigation, PW 19 conducted a search at about 4.00 PM on 17.8.1982 in the house of A-2 at No. 23A, Bhawani Nagar, Red Hills, Chennai and recovered printing blocks etc. (MOs 43 to 54) under mahazar (Ext. P 34) in the presence of one Reddy and K.K. Arumugam.

At about 6.30 P.M. on the same day (17.8.1982), PW-19 conducted another search in the house of Rajan Chettiar at Villivakkam, Chennai and recovered spectacle pouch and certain incriminating receipts in the pouch (Mos 55 and 56 respectively) under mahazar (Ex.P35) in the presence of M.A. Kadar and Reddy.

On 20.8.1982 the confessional statements of PWs 1 and 2 (Exs. P- 20 and P-23 respectively) under Section 164 of the Code of Criminal Procedure, 1973 (in short the 'Code') were recorded by PW-17 based on which, PWs 1 and 2 were pardoned, by an order dated 5.10.1983 passed under Section 306 of the Code by PW 18.

Accordingly, FIR in Crime No. 32 of 1982 was filed against seven accused initially, namely the accused/appellants herein, Rajan Chettiar, Ravindran (PW-1) and Rajendra Menon (PW-2) but since Rajan Chettiar died even before the framing of charges, the complaint against him stood abated and Ravindran (PW-1) and Rajedara Menon (PW-2) were treated as approvers, as per Exs. P27 and P26 respectively.

Based on the evidence recorded and collected by the Investigating Officer, (PW-19)charge sheet was filed.

Accused persons faced trial. During trial prosecution examined 19 witnesses including two approvers (PWs 1 and 2) and investigating officer (PW-19). Thirty five documents were marked as exhibits and 56 material objects were produced. The accused persons pleaded innocence and false implication. The trial Court after considering the evidence on record found the accusations to have

been established and accordingly recorded conviction and imposed sentences as noted above.

Four appeals were filed before the High Court which did not yield any fruitful result to the appellants and the appeals were dismissed by the common judgment impugned in the present appeals.

The learned counsel for the appellants questioned correctness of the judgment of the High Court on several grounds. Primarily the challenge was to the reliance placed on the evidence of PWs 1 and 2, the approvers and PW-19, the investigating officer. It was submitted that for acting on the approvers' evidence corroboration on material particulars was necessary. It was further submitted that there was no recovery in fact or in law. In any event, the evidence relating to alleged recovery from A-2 is scanty and should not have been acted upon. The evidence of the approvers (PWs 1 and 2) show that they do not corroborate each other. In order to bring in application of Section 120B, it was submitted that, there should have been evidence of the conspiracy. There is no independent witness. Whatever PWs 1 and 2 said related to a period prior to the alleged commission of offence and PW- 19's evidence relates to the subsequent period. There was ample chance of tutoring PWs 1 and 2. No reason has been assigned as to why Anjana Devi from whose business premises allegedly some recoveries were made was not examined or even made an accused. It is also not indicated as to why PW-8 was not implicated as an accused. The evidence relating to recovery is also highly improbable. Even though, there was no claim made that the alleged articles were genuine, it was incumbent on the prosecution to prove that they were counterfeits. The reliance placed on expert's evidence (PW-16) is also without legal sanction because the expert was not examined to show that he had any expertise to say anything about the articles being counterfeited. Only one person was examined to prove the reports and he was not the author of the report and, therefore, his evidence was really of no assistance to the prosecution. The effect of Explanation 2 of Section 28 IPC has not been considered in the proper perspective. Even if it is accepted that an expert's evidence has to be considered the expertise of the expert witness has been clearly provided and in the case at hand, prosecution has failed to establish the expertise of the witnesses and the contents of the report. Though reference has to be made to the role played by one Gaja, he has not been examined. PW-14 has given the chemical analysts report. The ink which was allegedly used for the purpose of counterfeiting was not seized from the appellants.

In response, learned counsel for the State submitted that Explanation 2 of Section 28 is very relevant. When the possession is of an article which is likely to be used in any part of the process of counterfeiting is proved the case is covered by Section 489A. As it was difficult for an independent expert to say whether the foreign currency was counterfeited, therefore, some of the seized articles were sent to a foreign expert and it would have been practically very costly for the expert to come and depose. The effect of Section 293 of the Code has been kept in view by the trial Court while accepting the report as evidence. The charge against the accused persons was one of conspiracy and, therefore, in the background of what has been stated in Section 10 of the Indian Evidence Act, 1872 (in short the 'Evidence Act') the evidence of PW-1 is very relevant.

Both the approvers have spoken about the presence of A-2 during every transaction. He is not an innocent by-stander as was tried to be contended. A stand was taken that there was no period

indicated. Though in the examination-in-chief nothing was stated about the period but in the cross examination by A-2 this matter was brought on record. The confession recorded by PW-19 amply proves the accusations. Though much was made of the fact that some of the seized notes were not produced in Court, prosecution has explained this by bringing on record the fact that some of the seized notes were sent for the expert's view. There were two reports, one of the persons who had given the report was not available. But the authenticity of the report has been established by the other expert who was acquainted with the signature.

It would be appropriate to deal with the question of conspiracy. Section 120-B IPC is the provision which provides for punishment for criminal conspiracy. Definition of "criminal conspiracy" given in Section 120-A reads as follows :

> "120-A When two or more persons agree to do, or cause to be done, -
>
> (1) an illegal act, or (2) an act which is not illegal means, such an agreement is designated a criminal conspiracy.

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof."

The elements of a criminal conspiracy have been stated to be (a) an object to be accomplished, (b) a plan or scheme embodying means to accomplish the object, (c) an agreement or understanding between two or more of the accused persons whereby, they become definitely committed to cooperate for the accomplishment of the object by the means embodied in the agreement, or by any effectual means, and (d) in the jurisdiction where the statute required an overt act. The essence of a criminal conspiracy is the unlawful combination and ordinarily the offence is complete when the combination is framed. From this, it necessarily follows that unless the statute so requires, no overt act need be done in furtherance of the conspiracy, and that the object of the combination need not be accomplished, in order to constitute an indictable offence. Encouragement and support which co-conspirators give to one another rendering enterprises possible which, if left to individual effort, would have been impossible, furnish the ground for visiting conspirators and abettors with condign punishment. The conspiracy is held to be continued and renewed as to all its members wherever and whenever any member of the conspiracy acts in furtherance of the common design. (See: American Jurisprudence, Vol.II, Sec. 23, p.559.) For an offence punishable under Section 120-B the prosecution need not necessarily prove that the perpetrators expressly agree to do or cause to be done illegal act; the agreement may be proved by necessary implication. Offence of criminal conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act by unlawful means. So long as such a design rests in intention only, it is not indictable. When two agree to carry it into effect, the very plot is an act in itself, and an act of each of the parties, promise against promise, actus contra capable of being enforced, if lawful, punishable if for a criminal object or for use of criminal means.

In view of what has been stated in Ram Narayan Popli's v. CBI (2003 (3) SCC 641) the evidence of PWs 1 and 8 which also relates to the earlier period is clearly covered because of the conspiracy angle and the applicability of Section 10 of the Evidence Act.

Section 133 of the Evidence Act is also of significance. It relates to the evidence of an accomplice. In positive terms it provides that the conviction based on the evidence of an accomplice is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice, because the accomplice is a competent witness.

In Bhubon Sahu v. The King (AIR 1949 PC 257) it was observed that the rule requiring corroboration for acting upon the evidence of an accomplice is a rule of prudence. But the rule of prudence assumes great significance when its reliability on the touchstone of credibility is examined. If it is found credible and cogent, the Court can record a conviction even on the uncorroborated testimony of an accomplice. On the subject of the credibility of the testimony of an accomplice, the proposition that an accomplice must be corroborated does not mean that there must be cumulative or independent testimony to the same facts to which he has testified. At the same time the presumption available under Section 114 of the Evidence Act is of significance. It says that the Court may presume that an accomplice is unworthy of credit unless he is corroborated in "material particulars".

Section 133 of the Evidence Act expressly provides that an accomplice is a competent witness and the conviction is not illegal merely because it proceeds on an uncorroborated testimony of an accomplice. In other words, this section renders admissible such uncorroborated testimony. But this Section has to be read along with Section 114, illustration (b). The latter section empowers the Court to presume the existence of certain facts and the illustration elucidates what the Court may presume and makes clear by means of examples as to what facts the Court shall have regard in considering whether or not maxims illustrated apply to a given case. Illustration (b) in express terms says that accomplice is unworthy of credit unless he is corroborated in material particulars. The Statute permits the conviction of an accused on the basis of uncorroborated testimony of an accomplice but the rule of prudence embodied in illustration (b) to Section 114 of the Evidence Act strikes a note of warning cautioning the Court that an accomplice does not generally deserve to be believed unless corroborated in material particulars. In other words, the rule is that the necessity of corroboration is a matter of prudence except when it is safe to dispense with such corroboration must be clearly present in the mind of the Judge. [See Suresh Chandra Bahri v. State of Bihar (AIR 1994 SC 2420)].

Although Section 114 illustration (b) provides that the Court may presume that the evidence of an accomplice is unworthy of credit unless corroborated, "may" is not must and no decision of Court can make it must. The Court is not obliged to hold that he is unworthy of credit. It ultimately depends upon the Court's view as to the credibility of evidence tendered by an accomplice.

In Rex v. Baskerville (1916 (2) KB 658), it was observed that the corroboration need not be direct evidence that the accused committed the crime; it is sufficient if there is merely a circumstantial evidence of his connection with a crime.

G.S. Bakshi v. State (Delhi Administration) (AIR 1979 SC 569) was dealing with a converse case that if the evidence of an accomplice is inherently improbable then it cannot get strength from corroboration.

Taylor, in his treatise has observed that "accomplice who are usually interested and always infamous witnesses, and whose testimony is admitted from necessity, it being often impossible, without having recourse to such evidence, to bring the principal offenders to justice". (Taylor in "A Treatise on the Law of Evidence"(1931) Vol. 1 para 967).

The evidence of the Approver must , however, be shown to be of a reliable witness.

In Jnanendra Nath Ghose v. State of West Bengal (1960) 1 SCR 126:

> (AIR 1959 SC 1199 : 1959 Cri LJ 1492) this Court observed that there should be corroboration in material particulars of the Approver's statement, as he is considered as a self-confessed traitor. This Court in Bhiva Doulu Patil v. State of Maharashtra, AIR 1963 SC 599 : (1963 (1) Cri LJ 489) held that the combined effect of Sections 133 and 114 illustration (b)of the Evidence Act was that an accomplice is competent to give evidence but it would be unsafe to convict the accused upon his testimony alone. Though the conviction of an accused on the testimony of an accomplice cannot be said to be illegal, yet the Courts will, as a matter of practice, not accept the evidence of such a witness without corroboration in material particulars. In this regard the Court in Bhiva Doulu Patil's case (AIR 1963 SC 599 : 1963 (1) Cri LJ 489) observed (Paras 6 and 7):
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> "In coming to the above conclusion we have not unmindful of the provisions of S. 133 of the Evidence Act which reads:
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> Sec. 133."An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice."

It cannot be doubted that under that section a conviction based merely on the uncorroborated testimony of an accomplice may not be illegal, the Courts nevertheless cannot lose sight of the rule of prudence and practice which in the words of Martin B. in R. v. Boyes, (1861) 9 Cox CC 32 "has become so hallowed as to be deserving of respect and the words of Lord Abinger "It deserves to have all the reverence of the law:." This rule of guidance is to be found in illustration (b) to S. 114 of the Evidence Act which is as follows:

> "The Court may presume that an accomplice is unworthy of credit unless he is corroborated in material particulars."

The word 'corroboration' means not mere evidence tending to confirm other evidence. In DPP v. Hester(1972) 3 All ER 1056, Lord Morris said :

> "The purpose of corroboration is not to give validity or credence to evidence which is deficient or suspect or incredible but only to confirm and support that which as evidence is sufficient and satisfactory and credible; and corroborative evidence will only fill its role if it itself is completely credible ....."

In D.P.P. v. Kilbourne (1973) 1 All ER 440, it was observed thus :

> "There is nothing technical in the idea of corroboration. When in the ordinary affairs of life one is doubtful whether or not to believe a particular statement one naturally looks to see whether it fits in with other statements or circumstances relating to the particular matter; the better it fits in the more one is inclined to believe it. The doubted statement is corroborated to a greater or lesser extent by the other statements or circumstances with which it fits in."

In R. V. Baskerville(supra), which is a leading case on this aspect, Lord Reading said :

> "There is no doubt that the uncorroborated evidence of an accomplice is admissible in law ..... But it has long been a rule of practice at common law for the judge to warn the jury of the danger of convicting a prisoner on the uncorroborated testimony of an accomplice or accomplices, and, in the discretion of the judge, to advise them not to convict upon such evidence; but the judge should point out to the jury that it is within their legal province to convict upon such unconfirmed evidence ..... This rule of practice has become virtually equivalent to a rule of law, and since the Court of Criminal Appeal Act, 1907, came into operation this Court has held that, in the absence of such a warning by the judge, the conviction must be quashed ..... If after the proper caution by the judge the jury nevertheless convicts the prisoner, this Court will not quash the conviction merely upon the ground that the testimony of the accomplice was uncorroborated."

In Rameshwar v. State of Rajasthan (AIR 1952 SC 54), Bose, J., after referring to the rule laid down in Baskerville case with regard to the admissibility of the uncorroborated testimony of an accomplice, held thus :

> "That, in my opinion, is exactly the law in India so far as accomplices are concerned and it is certainly not any higher in the case of sexual offences. The only clarification necessary for purposes of this country is where this class of offence is sometimes tried by a judge without the aid of a jury. In these cases it is necessary that the judge should give some indication in his judgment that he has had this rule of caution in mind and should proceed to give reasons for considering it unnecessary to require corroboration on the facts of the particular case before him and show why he considers it safe to convict without corroboration in that particular case."

Justice Bose in the same judgment further observed thus :

"I turn next to the nature and extent of the corroboration required when it is not considered safe to dispense with it. Here, again, the rules are lucidly expounded by Lord Reading in Baskerville case at pages 664 to 669. It would be impossible, indeed it would be dangerous, to formulate the kind of evidence which should, or would, be regarded as corroboration. Its nature and extent must necessarily vary with circumstances of each case and also according to the particular the offence charged. But to this extent the rules are clear.

First, it is not necessary that there should be independent confirmation of every material circumstance in the sense that the independent evidence in the case, apart from the testimony of the complainant or the accomplice, should in itself be sufficient to sustain conviction. As Lord Readings says - 'Indeed, if it were required that the accomplice should be confirmed in every detail of the crime, his evidence would not be essential to the case, it would be merely confirmatory of other and independent testimony.' All that is required is that there must be some additional evidence rendering it probable that the story of the accomplice (or complainant) is true and that it is reasonably safe to act upon it. Secondly, the independent evidence must not only make it safe to believe that the crime was committed but must in some way reasonably connect or tend to connect the accused with it by confirming in some material particular the testimony of the accomplice or complainant that the accused committed the crime. This does not meant that the corroboration as to identify must extend to all the circumstances necessary to identify the accused with the offence. Again, all that is necessary is that there would be independent evidence which will make it reasonably safe to believe the witness's story that the accused was the one, or among those, who committed the offence. The reason for this part of the rule is that -

"a man who has been guilty of a crime himself will always be able to relate the facts of the case, and if the confirmation be only on the truth of that history, without identifying the persons, that is really no corroboration at all ..... It would not at all tend to show that the party accused participated in it."

Thirdly, the corroboration must come from independent sources and thus ordinarily the testimony of one accomplice would not be sufficient to corroborate that of another. But of course the circumstances may be such as to make it safe to dispense with the necessity of corroboration and in those special circumstances a conviction so based would not be illegal. I say this because it was contended that the mother in this case was not an independent source.

Fourthly, the corroboration need not be direct evidence that the accused committed the crime. It is sufficient if it is merely circumstantial evidence of his connection with the crime. Were it otherwise, "many crimes which are usually committed between accomplices in secret, such as incest, offences with females' (or unnatural offences) 'could never be brought to justice". [See M.O. Shamsudhin v. State of Kerala (1995 (3) SCC 351)] Judged on the background of the legal position as stated above the evidence of PWs 1 and 2 does not suffer from any infirmity to warrant rejection for their evidence is not really uncorroborated as is submitted by learned counsel for the appellants. The

evidence of PWs 8 and 19 clearly provides the materials. As noted above, even circumstantial evidence can provide the corroboration. In the instant case, the evidence of PWs 1 and 2 therefore clearly meets the requirements of Section 114 (b) in the background of Section 133 of the Evidence Act.

Further question that was raised is whether the essential ingredients of Section 489A, C and D are satisfied. The said provisions read as follows:

> "489A- Counterfeiting currency notes or bank notes:
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> Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency note or bank note shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.
>
> Explanation: For the purposes of this section and of sections 489B, 489C, 489D and 489E the expression 'bank note' means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money.
>
> 489C- Possession of forged or counterfeit currency notes or bank notes- Whoever has in his possession any forged or counterfeit currency note or bank note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both.
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> 489D- Making or possessing instruments or materials for forging or counterfeiting currency notes or bank notes- Whoever makes, or performs, any part of the process of making, or buys or sells or disposes of, or has in his possession any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency note or bank note, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
>
> The expression 'counterfeit' is defined in Section 28 IPC. The same reads as follows:
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> "28-Counterfeit: A person is said to 'counterfeit' who causes one thing to resemble another thing, intended by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practiced.

> Explanation 1: It is not essential to counterfeiting that the imitation should be exact.
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> Explanation 2: When a person causes one thing to resemble another thing, and the resemblance is that a person might be deceived thereby, it shall be presumed until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practice deception or knew it to be likely that deception would thereby be practiced."

Sections 489 A to 489 E deal with various economic offences in respect of forged or counterfeit currency notes or bank notes. The object of legislature in enacting these provisions is not only to protect the economy of the country but also to provide adequate protection to currency notes and bank notes.

Section 489A not only deals with complete act of counterfeiting but also covers the case where the accused performs any part of the process of counterfeiting. Therefore, if the material shows that the accused knowingly performed any part of the process of counterfeiting, Section 489A becomes applicable.

Similarly Section 489 B relates to using as genuine forged or counterfeited currency notes or bank notes. The object of Legislature in enacting this section is to stop the circulation of forged notes by punishing all persons who knowing or having reason to believe the same to be forged do any act which could lead to their circulation.

Section 489C deals with possession of forged or counterfeit currency notes or bank notes. It makes possession of forged and counterfeited currency notes or bank notes punishable. Possession and knowledge that the currency notes were counterfeited notes are necessary ingredients to constitute offence under Section 489 C and 489 D. As was observed by this Court in State of Kerala v. Mathai Verghese and Ors. (AIR 1987 SC 33) the expression 'currency notes' is large and wide enough in its amplitude to cover the currency notes of any country. Section 489C is not restricted to Indian currency note alone but it includes dollar also and it applies to American dollar bills.

The wording of Section 489D is very wide and would clearly cover a case where a person is found in possession of machinery, instrument or materials for the purpose of being used for counterfeiting currency notes, even though the machinery, instruments or materials so found were not all the materials particular required for the purpose of counterfeiting.

Section 28 defines the word 'counterfeiting' in very wide terms. The main ingredients of counterfeiting as laid down in Section 28 are:

> (1) causing one thing to resemble another thing; (2) intending by means of that resemblance to practise deception, or (3) knowing it to be likely that deception will thereby be practised.

Thus, if one thing is made to resemble another thing and the intention is that by such resemblance deception would be practised or even if there is no intention but it is known to be likely that the resemblance is such that deception will thereby be practised there is counterfeiting. (See The State of Uttar Pradesh v. I. Hafiz Mohd. Ismail (AIR 1960 SC 669) In the said case it was observed that there is no necessity of importing words like "colourable imitation" therein. In order to apply Section 28 what the Court has to see is whether one thing is made to resemble another thing and if that is so and if the resemblance is such that a person might be deceived by it, there will be a presumption of the necessary intention or knowledge to make the thing counterfeit, unless the contrary is proved.

"Counterfeit" in Section 28 does not connote an exact reproduction of the original counterfeited. The Explanation 2 of Section 28 is of great significance. It lays down a rebuttable presumption where resemblance is such that a person might be deceived thereby. In such a case the intention or the knowledge is presumed unless contrary is proved.

In view of the credible, cogent and reliable evidence tendered, the inevitable conclusion is that the appellants have been rightly convicted under Section 120B read with Sections 489A, 489C and 489D, IPC and separately under Section 489C of the Code. The sentences as imposed do not warrant interference, particularly in view of the object for which these provisions have been enacted.

The appeals are dismissed.