

# **Cbi vs Maha Nand Sharma Etc. (R.P.F C.G.H.S) ... on 20 December, 2024**

IN THE COURT OF SH. JAGDISH KUMAR SPECIAL  
JUDGE (PC ACT) (CBI)-16, ROUSE AVENUE DISTRICT  
COURTS, NEW DELHI.

CBI Vs. Maha Nand Sharma & Ors.  
RC-15(E)/2005/EOW-1/CBI/DLI  
CBI No. 82/2019  
CNR No. DLCT11000347-2019

Central Bureau of Investigation  
Versus

1. Maha Nand Sharma (A-1)  
S/o Late Sh. R. S. Sharma  
R/o R Z P-6 Raj Nagar-II, Palam Colony, New Delhi
2. Tapan Kumar Basu (A-2)  
(Pardoned vide order dated 04.11.2006)
3. Ashwani Sharma (A-3)  
S/o Late Sh. R.K. Sharma  
R/o 291-A, Pocket, Mayur Vihar Phase-II, New Delhi
4. Ramesh Chander (A-4)  
(Proceedings abated vide order dated 24.08.2021)
5. Narayan Diwakar (A-5)  
S/o Late Chatti Lal  
R/o G-30, Masjid Moth, New Delhi-48
6. Ashutosh Pant (A-6)  
S/o Mahesh Chand Pant  
R/o Flat No. 912, 9th Floor,  
Desire Residency, Ahinsa Khand-2,  
Indirapuram, Ghaziabad,  
U.P. 201014

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS)  
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CBI No. 82/2019  
CNR No. DLCT11000347-2019

(Page 1 of 262)

7. Jogender Pal Marwah (A-7)  
(Convicted vide order dated 20.11.2018)
8. Rajender Kumar Khurana (A-8)  
S/o Sh. Jeevan Das Khurana  
R/o 727 Outram Line Kingsway Camp, Delhi

9. Prahlad Kumar Thirwani (A-9)  
S/o Late Sh. Moti Lal Thirwani  
R/o 348-E, Pocket-2, Mayur Vihar Phase-I,  
Delhi-91
10. Mohan Chander Joshi (A-10)  
S/o Sh. Bholu Dutt Joshi,  
R/o H. No. 77, Police Colony, Hauz Khas, Near  
IIT, New Delhi.
11. Surender Singh (A-11)  
S/o Late Sh. Bhagat Ram,  
R/o K-211, Kali Wadi Marg, New Delhi.
12. Gopal Singh Bisht (A-12)  
S/o Sh. Inder Singh Bisht,  
R/o 40/15A Sadh Nagar, Part-III, Palam Colony,  
New Delhi.
13. Naveen Kaushik (A-13)  
S/o Late Sh. M.D. Sharma  
R/o 1-2/38, IInd Floor, Sector-16, Rohini, New  
Delhi.

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CBI No. 82/2019  
CNR No. DLCT11000347-2019

(Page 2 of 262)

Date of Institution : 18.09.2006  
Date of Arguments: 13.12.2024  
Date of Judgment :20.12.2024

JUDGMENT:

## CASE OF THE PROSECUTION

1. The present case was registered on 30.09.2001 in EOW-1 branch of CBI, New Delhi on the direction of the Hon'ble High Court of Delhi in reference to petition no. WP(C) No. 10066/2004. Initially a preliminary enquiry 2005-EOW-I was registered in respect of five societies including the Regional Provident Fund Employees CGHS Ltd. On the basis of the enquiries conducted, the instant case RC 15(E)/2005-EOW-I/DLI was registered against the officials of RCS and private persons.

2. It is alleged that during 2001, Narayan Diwakar, the then RCS, Delhi conspired with M.C Joshi, LDC (Liquidator), Ramesh Chander, the then Asstt. Registrar, M.N Sharma, the then Management Committee Member and T.K Basu, the then Treasurer of the Regional Provident Fund CGHS Ltd CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (hereinafter referred to as "The said Society") and others. And in pursuance to the said conspiracy the said society was fraudulently and dishonestly revived on the basis of false/ forged documents with the

sole intention to get the land allotted to the said society from the DDA at cheaper rate.

3. It is also alleged that since the DCS Act, 1972 provides for the revival of the defunct / wound up societies. The builder Mafia exploited this provision in connivance with the RCS officials with a view to obtain wrongful gain for themselves.

4. It is alleged that in order to acquire the land at the reserved price fixed by the DDA for the Cooperative Group Housing Societies, the concerned accused persons purchased the said defunct society from its Management Committee along with the entire records and got the society revived by the officials of RCS on the basis of false / forged documents.

5. It is alleged that investigation in this case has revealed that the Regional Provident Fund CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 CGHS was registered on 31.01.1984 vide Regn. No. 1427-GH with 90 original members having its registered office at No. 60, Skylark Bhawan, 7th Floor, Nehru Place, New Delhi. On 31.07.1985, Shri Ved Prakash, the then Secretary of the said society forwarded a list of 90 members to the RCS, Delhi for approval and forwarding of the freeze list to the DDA for allotment of land to the said society.

6. Investigation has further revealed that the Elections of Management Committee of the Society were not held till 1989. In this regard a Show Cause Notice was served on the President / Secretary of the Society. However, despite several reminders no response was received from the society. As a result of which Shri Ajay Kumar, the then Asstt. Registrar vide his Office Order dt. 06.12.1989 appointed Shri V. Rama Krishna, Grade.IV, as Election Officer of the society to conduct its election within a month. However, Shri V Rama Krishna submitted a report dt. 07.03.1990 that Management Committee of the society had not CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 cooperated with him and as such the election could not be conducted. Thereafter, two Show Cause Notices dt. 01.01.1991 and dt. 05.04.1991 were issued to the President / Secretary of the society by the Joint Registrar (GH). In addition, Shri P M Tanwar, Asstt. Registrar was appointed as an Administrator vide order dt. 24.09.1991 to manage the affairs of the society as per the DCS Act, 1972 and Rules framed there under with the specific directions to get the accounts audited and to conduct the elections. The Management Committee did not hand over the records of the society to the Administrator and therefore the same were taken over against a search warrant issued by SDM (South), Patiala House Court, New Delhi. Ultimately, the society was ordered to be wound up vide order dt. 10.07.1995 issued by Shri B L Sharma, the then Dy. Registrar (South). Sh Narender Kumar, Inspector Grade IV was appointed as Liquidator vide Office Order dt. 21.07.1995. However, Narender Kumar failed to submit any CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 report about the liquidation proceedings conducted by him and instead he requested the RCS to relieve him as he had been transferred to some other department. Narender Kumar handed over the records of the society to Ms. Reshma, dispatcher on 18.08.2000 without any authority under proper acknowledgment. Sh Ramesh Chander, the then Asst. Registrar, recorded a note dt. 01.02.2001 regarding the non performance on the part of Narender Kumar and appointed M.C Joshi as a Liquidator vide Office Order dt. 05.03.2001.

7. It is alleged that the investigation has further revealed that M. C Joshi, LDC & Liquidator of the society called for a Special General Body Meeting of the society on 01.04.2001 to seek opinion of the members regarding the revival / withdrawal of liquidation order of the said society. It has also been revealed that on 10.03.2001, one S.P Arora, Ex-President of the society applied for the revival of the society to AR (South). It has also been revealed that there are two persons by the name "S.P. Arora"

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 who were the original members of the said society. One of them is Shri Surya Prakash Arora (original member) and another one is Shri Suraj Prakash Arora (President of the said society). However, both of them have denied to have made any such application to the RCS for the revival of the said society. They further denied to have participated in the Special General Body Meeting held on 01.04.2001. They stated that the minutes of the meeting does not bear their signatures. Further, affidavits purported to have been sworn by Shri S.P Arora, President and Shri S.P Puri, Vice President to fulfill all the statutory liabilities of the society were also submitted to the RCS. During the course of revival proceedings, Shri Suraj Prakash Arora formerly President, T .K. Basu Treasurer and M. N. Sharma were shown as the members of the Management Committee. It has also come to light that one Shri Amit Kumar Sharma, Advocate, nephew of M.N. Sharma appeared before Narayan Diwakar the then RCS.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

8. It is alleged that the investigation has revealed that when the society did not hand over the documents to Shri P.M Tanwar, Administrator, a search warrant was issued by SDM (South), Patiala House Court, New Delhi to conduct search in the Office of Society. At that time, Shri Ved Prakash Gupta, the then Secretary of the Society and T. K. Basu handed over the records of the society to Shri P.M. Tanwar on 27.08.1992 under acknowledgment.

9. On 17.09.1992, both Shri Ved Prakash Gupta and T. K Basu informed the Administrator that the Cheque Book and Application Forms of the members enrolled had been misplaced. T.K. Basu had prepared an inventory of records and it has been mentioned in the said inventory that the membership register had been written from Sl. No. 1 to 93 with a list of 90 original members.

10. It is alleged that the Administrator neither accepted any resignation of the original/promoter members of the society nor did he enroll any new members in the society.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 It is alleged that even prior to that the Management Committee had also not accepted resignation of any of the promoter members or had enrolled any new member. However, when the records of the society were returned by M .C Joshi to T. K Basu, the membership register had been found to be written up to Sl. No. 133.

11. It is alleged that during the investigation it was revealed that Ashutosh Pant, an employee of Ashwani Sharma has made the entries in the said register from Sl. No. 94 to 133 in the year 2001. The investigation revealed that Ashwani Sharma and Ashutosh Pant were also included being added by the said Shri Ashutosh Pant.

12. It is alleged that during investigation it was revealed that M.C Joshi, the then Liquidator, took over the records of the said society from Gopal Singh Bisht the then Dealing Asstt. of South Zone for which a receipt was obtained by G.S Bist on 05.03.2001, on the appointment letter of M C Joshi. It is alleged that this was CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 done with a view to make it appear as if the documents had been obtained by M.C Joshi from Narender Kumar while the same had actually been obtained by M.C Joshi from Gopal Singh Bisht.

13. The investigation has further revealed that Sh M.C Joshi processed the liquidation proceedings in respect of 90 members up to Sl. No. 133. M C Joshi sent an Agenda notice to all the members of the society on 16.03.2001 for a Special General Body Meeting to be held on 01.04.2001. Further, the minutes of the Special General Body Meeting held on 01.04.2001 have been drafted in such a manner to show that the same was attended by 55 members. Whereas, during the course of investigation, it has been revealed that the register was handed over to Ashwani Sharma who forged the signatures of the members in token of having attended the said meeting. Shri S.S Aswal, LDC has proved to have written a part of the proceedings in his handwriting while rest of the minutes had been relating to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 entries about the members completed by Shri Ashwani Sharma. According to Shri S S Aswal only 15- 20 members attended the said Special General Body Meeting held at 60, Skylark Bhawan, Nehru Place, New Delhi. M.C Joshi submitted a report dated 01.05.2001 regarding the taking over of the records from the South Zone and also about the proceedings of the Special General Body Meeting conducted by him on 01.04.2001.

14. The investigation further revealed that the information about the RPF CGHS which had been declared defunct / liquidated and also about the availability of original records seems to have been passed on by G.S. Bisht to M.N. Sharma and Ashwani Sharma. Subsequently, M N. Sharma was introduced to Jogender Pal Marwaha and Rajender Kumar Khurana by one Shri Ashwani Viz, a mediator who had received his remuneration in lieu of the services rendered by him. Ashwani Sharma got access to the membership register and got added the names of 40 new members by CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Ashutosh Pant from Sl. No. 94 to 133. It included Ashwani Sharma, Ashutosh Pant and close relations of M.N. Sharma, J.P Marwaha and R.K Khurana. These entry were anti-dated to 1990-1991 under the directions of M.N. Sharma who handed over the records to Ashwani Sharma from the RCS Office. Some of the newly enrolled members whose applications are not available on the record

have denied their membership of the society, while others have stated that they were enrolled in the year 2000-2001 without submitting any membership application / affidavit or verification. It is alleged that Ashwani Sharma have forged the signatures of Shri Surya Prakash Arora former President and Shri S.P Puri former, Vice President on their affidavits dt. 24.05.2001 and 12.07.2001, respectively, submitted to the RCS for the revival of the society. Ashwani Sharma has further forged the signatures of Shri Surya Prakash Arora, former President and Shri Ved Prakash, former Secretary of the society on the Audit Report CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 submitted to the RCS.

15. It is alleged that GEQD opinion confirmed the writing of Ashwani Sharma on the Audit report, in the name of Sh Ved Prakash and Surya Prakash. GEQD further confirmed the writing of Ashwani Sharma on the letters and affidavits in the name of Surya Prakash Arora, as President of the society being written to RCS for the revival purpose of the society. GEQD further confirmed the writing of Ashutosh Pant on the Membership register from SI No 94 to

16. During investigation it was revealed that Narayan Diwakar held a hearing in respect of this society on 08.06.2001 which was attended by M.N. Sharma, the so-called Management Committee Member, T.K Basu, the then Treasurer and Shri Amit Sharma, Advocate. Narayan Diwakar adjourned the hearing to 05.07.2001 on the ground that President and Secretary of the Society should personally appear before him on the next date of hearing. On 05.07.2001, Narayan Diwakar marked the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 presence of Shri S.P. Arora. Ex-President who assured him that members in the General Body Meeting held on 01.04.2001 had decided to get the society revived and to approach the DDA for allotment of land. Narayan Diwakar directed the President to file an affidavit to the effect that they will comply with all the statutory duties casted on them in accordance with DCS Act / Rules and by laws of the society. Narayan Diwakar had also directed the President of the Society to submit the records before A.R (South) within 07 days and adjourned the matter on 02.08.2001. Narayan Diwakar as such recorded a false note about Shri S.P. Arora, Ex-President having attended the said hearing which has been out-rightly denied by Shri Surya Prakash Arora. In compliance to the orders passed by Narayan Diwakar, Ramesh Chander, the then AR (South) fixed the date for verification of records on 26.07.2001. On 26.07.2001 he recorded a note that Shri S.K Arora, President and Shri S P Puri, Secretary of the society CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 appeared before him while in fact neither Shri S.P. Arora nor Shri S.P Puri had appeared before him. Shri Ramesh Chander recorded the presence of Shri S. K Arora, who is not in-

existence. It has further come to light that Ashwani Sharma had forged the signatures of S.P Arora and S.P Puri on the margin of the note-sheet.

17. It is alleged that in his note dt. 05.07.2001 Narayan Diwakar had directed that "AR (South) shall verify the original records of the society and submit a verification report within 07 days. However, this was not done and Ramesh Chander did not submit the verification report. On 02.08.2001 Narayan Diwakar recorded another false note to the effect that Shri S.P. Arora, Ex-President and T. K. Basu Ex-Treasurer had appeared before him and the order had been reserved by him. Narayan Diwakar passed an order for the revival of the society on 16.08.2001 but did not ensure that his earlier order dt. 05.07.2001 had been complied with by Ramesh Chander. Not CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 only this, he did not insist for the verification of these records which points towards the fact that both of them were in hand and glove with builder mafia and ordered for the revival of the society in a clandestine manner.

18. It is alleged that vide revival order dt.

16.08.2001 passed by Narayan Diwakar, one Surender Singh had been appointed as an Election Officer. However, Surender Singh failed to conduct any election, instead the proceedings were completed by him in the RCS office only. Though, in the proceedings register he recorded a false proceedings yet the names of the members are in the handwriting of Ashwani Sharma who has also forged the signatures of these members. In this regard, the expert opinion confirmed this fact that Ashwani Sharma had forged the signatures of members shown present in the election proceeding. All these facts shows the involvement of Surender Singh in the conspiracy with Ashwani Sharma to establish the bogus election.

19. During the investigation it was also revealed CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 that Narayan Diwakar vide his order dt. 16.08.2001 directed to complete the audit of the society and P.K Thirwani was appointed as auditor of society. Investigation further revealed that no Management Committee member appeared before him for audit purpose and instead Ashwani Sharma produced all the records of the society. P.K. Thirwani re-audited the records of the society for the period 1983 to 1986 which had already been audited by Sh. Kishan Sethi & Co. However, P.K Thirwani again conducted the audit for the entire period i.e. 1983 to 2001 and on the Audit Report, Ashwani Sharma forged the signatures of Shri Surya Prakash Arora, President and Shri Ved Prakash, Secretary. Shri S.P. Arora, Ved Prakash and T.K Basu have denied their signatures on the said audit report. GEQD opinion confirmed that Ashwani Sharma had forged the signatures of Sh Ved Prakash the Ex-Secretary of the Society on the Audit report and Naveen Kaushik forged the signatures of T.K. Basu Ex treasurer of the society on the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Audit report. P.K. Thirwani submitted an Audit Report Performa, which contained the signature of Shri S.P Puri, the then Vice President of the society who had signed as Secretary of the society. These signatures have been denied by Shri S.P Puri who has stated that he was never elected as Secretary of the society while on the other hand Ashwani Sharma forged the signatures of S.P Puri as Secretary of the society. All these facts goes to prove the involvement of PK Thirwani because it was he who permitted Ashwani Sharma to forge the signatures of the President, Secretary and Treasurer.

20. It is alleged that some of the promoter members of the society had resigned during 2000-2001 on receipt of cash payment of Rs. 3,000/- to Rs. 3,400/-. Ten promoter members have stated that

they were persuaded by T.K Basu and M .N Sharma to submit their resignations on the ground that the society had become defunct and that there was no possibility of allotment of land to them. They were also persuaded to take CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 refund of their money and submit resignations. It was revealed that though the undated resignations were signed by these members during the period 2000-2001 yet the same were anti-dated way back to 1990-91. It was revealed that M.N. Sharma and T.K Basu dishonestly and fraudulently submitted a forged resignation of Late Vijay Bhasin, Membership No. 62 on 15.04.1990. It has been confirmed by Smt. Santosh Bhasin w/o Late Vijay Bhasin that he had not resigned from the society and that he had expired on 22.09.1991. She has denied his ( Vijay Bhasin ) signatures on the resignation. Similarly, the resignation in respect of Late K.L Khanna another original member who had expired on 17.11.1993 is a forged document which was furnished by Rajender Kumar Khurana and J.P Marwaha during 2001-2002. This fact has been proved by Smt. Ishwari Khanna W/o late K.L. Khanna. It shows that Ramesh Chander, the then AR (South) had recommended for the revival of the society without verifying their original records CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 as well memberships.

21. The investigation revealed that Director (RL), DDA, New Delhi vide his letter dt. 04.09.2003 requested the RCS to confirm the recommendations of 80 societies including RPF CGHS Ltd. having Regn. No. 1427 (GH). Shri J.S, Sandhu, JR (Policy) Office of RCS confirmed to the DDA vide his letter dt. 24.09.2003 their recommendation for allotment of land to the 80 societies including RPF CGHS Ltd. Man Singh the then AR (South) had certified that various societies including RPF CGHS were functional as per the inspection conducted by him.

22. It is alleged that the Audit Report prepared by PK Thirwani which contains forged signatures of the office bearers of the society, shows the resignation of 40 members of the society during 1990-91 while in fact this was done during 2000-2001. Investigation has established that all these resignations are forged. And in place of these members bogus members had been enrolled which included the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 name of Ashwani Sharma and Ashutosh Pant. Again in 2001-2002 resignation of 20 members had been shown and in its place bogus members enrolled by J.P Marwaha and Rajender Kumar Khurana. Amongst the newly enrolled members Ashwani Sharma, Ashutosh Pant also figured. Subsequently, with resignation of Ashwani Sharma and Ashutosh Pant the society changed hand and a Management Committee headed by Shri Suresh Singhal, President, Vikas Narang, Vice President, Anil Mittal, Secretary, B L Bhardwaj, Treasurer, Niraj Narang, Ms. Payal, Ms. Anjali and Suman Pruthi, all Management Committee members took over the society. However, during 2003-2004, 20 members were shown to have resigned which included 9 promoter members and 20 new members had been shown as enrolled. Investigation further revealed that 10 promoter members, out of 90 members, have confirmed their resignations in lieu of an amount of Rs. 3,000/- from M. N Sharma and T K Basu but they have denied to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 have resigned during 1990-91 and confirmed their resignations during 2000-2001. The other remaining members have completely denied their resignations from the society and their resignations were forged.

23. It is alleged that the investigation has conclusively established that the records were unauthorisedly made available by G.S Bist to M.N Sharma and Ashwani Sharma. And the membership register was manipulated by increasing the strength of the society from 94 to 133 by Ashutosh Pant. Not only this all the manipulations subsequently took place during 2000-2001 when the forged resignations of the members were submitted to the R.C.S. Some bogus members were also enrolled in its place. The officials of the RCS namely Ramesh Chander and Narayan Diwakar did not make any verifications, recorded false notes, revived the society on the basis of forged documents and recommended the same to the DDA for allotment of land.

24. It is alleged that investigation has clearly CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 established that accused person in criminal conspiracy with each other got the said society revived on the basis of fabricated records after showing the resignations of the promoter members. Thereafter got the list of 90 members recommended by the office of RCS for allotment of land to the DDA.

25. It is alleged that investigation has established that Ashwani Sharma, Naveen Kaushik, Ashutosh Pant, M.N.Sharma, Jogender Pal Marwah, Rajendra Kumar Khurana, all private persons conspired with M.C. Joshi, liquidator, Ramesh Chandra (AR) P.K Thirwani (Auditor) Narayan Diwakar (RCS), Surender Singh, Election officer, Gopal Singh Bisht, the dealing Assistant and T.K. Basu dishonestly and fraudulently got revived the society on the basis of the forged and false documents.

26. It is alleged in the charge sheet that the above mentioned facts constitute the offences punishable U/s 120-B r/w 420, 467, 468, 471 of IPC and Sec 13(2) r/w Sec. 13 (1)(d) of PC Act. 1988 against M.N. Sharma, Ashwani CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Sharma , Remesh Chander the Narayan Diwakar T.K. Basu , Gopal Singh Bisht (Public Servant), M.C. Joshi, Surender Singh, Jogender Pal Marwaha, Rajender Kumar Khurana, Ashutosh Pant and Naveen Kaushik. And substantive offences u/s 420 467, 468, 471, IPC against, accused M.N. Sharma, Ashwani Sharma, Jogender Pal Marwah, Rajender Kumar Khurana, Ashutosh Pant, Naveen Kaushik. The substantive offences u/s 13(2) r/w 13 (1) (d) of PC Act, 1988 against Ramesh Chander, Narayan Diwaker, Gopal Singh Bisht, M.C. Joshi, Surender Singh and Prahlad Kumar Thirwani.

27. It is stated that sanction for Prosecution has also been obtained against accused, M.C.Joshi the then Liquidator RCS, Gopal Singh Bisht the then dealing assistant Grade-IV Inspector RCS, N. Delhi, Surender Singh, the then Election officer, RCS New Delhi and Prahlad Kumar Thirwani, the then Auditor of the society, from the Competent Authorities.

FRAMING OF CHARGES CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

28. Subsequently, vide detailed order dated 21.02.2012, Ld. Predecessor of this Court decided the charges against the accused persons. On 27.2.2012, accused persons were charged as under:

1 Maha Nand Sharma Under section 120 B r/w 420/468/471 IPC and Sec. 13(2) r/w 13 (1) (d) of PC Act,1988 AND substantive offences u/s 420/511/468/471 IPC 2 Tapan Kumar Basu Pardon vide order dated 04.11.2006 3 Ashwani Sharma Under section 120 B r/w 420/468/471 IPC and Sec. 13(2) r/w 13 (1) (d) of PC Act,1988 AND substantive offences u/s 420/511/419/468/471 IPC 4 Ramesh Chander proceedings already stands abated vide order dated 24.08.2021.

5 Narayan Diwakar Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act,1988 6 Ashutosh Pant Under section 120 B r/w 420/468/471 IPC and Sec. 13(2) r/w 13 (1) (d) of PC Act,1988 AND substantive offences u/s 420/511/468/471 IPC CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 7 Joginder Pal Mrawah Convicted vide order dated 20.11.2018.

8 Rajender Kumar Khurana Under section 120 B r/w 420/468/471 IPC and Sec. 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences u/s 420/511/468/471 IPC 9 Prahlad Kumar Thirwani Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act,1988 10 Mohan Chander Joshi Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act,1988 11 Surender Singh Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act,1988 12 Gopal Singh Bisht Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act,1988 13 Naveen Kaushik Under section 120 B r/w 420/468/471 IPC and Sec. 13(2) r/w 13 (1) (d) of PC Act,1988 AND Substantive offences u/s 420/511/468/471 IPC CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

29. All the accused persons pleaded not guilty to the aforesaid charges so framed and claimed trial.

#### ABATEMENT OF PROCEEDINGS AS AGAINST THE ACCUSED RAMESH CHANDER (A-4)

30. Here it is pertinent to mention that during the pendency of the present case, accused Ramesh Chander (A-4) has expired and Proceedings against him were abated vide order dated 24.08.2021, of the Ld. Predecessor of this Court.

#### PROSECUTION WITNESSES.

31. In order to prove its case, the prosecution has examined 69 ( Sixty Nine ) witnesses. For the sake of convenience, the witnesses have been categorized in different groups. Although, the detailed testimonies of the prosecution witnesses shall be discussed herein after in the subsequent para's,

wherever necessary, however, it would be appropriate to discuss in brief the testimonies of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 these witnesses to have an overview of the nature and kind of evidence which has come on the record.

The witnesses who are promoter members and were falsely shown to have resigned .

32. As per the case of the prosecution, accused Ashwani Sharma, Naveen Kaushik, Ashutosh Pant, M.N.Sharma, Jogender Pal Marwah, Rajendra Kumar Khurana, all private persons conspired with M.C. Joshi, liquidator, Ramesh Chandra (AR) P.K Thirwani (Auditor) Narayan Diwakar (RCS), Surender Singh, Election officer, Gopal Singh Bisht, the dealing Assistant and T.K. Basu dishonestly and fraudulently got revived the society on the basis of the forged and false documents. Some of the members of the said society have been examined by the prosecution who have stated that they never resigned from the society; had not given any affidavit and denied their signatures on the minutes of the Managing Committee. The witnesses so examined by the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 prosecution, in this regard, are as under:

33. PW1 Ms Neena Chaturvedi, who has deposed that she became member of RPF CGHS in the year 1983 and paid Rs.110/- for obtaining its membership vide receipt dated 28.11.2001 (Ex PW1/A.) She has deposed she had never resigned from the membership of the society as she was waiting for allotment of house. She has deposed that her signatures on resignation letter dated 19.11.2001, (Ex PW1/B) appears to be her. She has identified her signatures at point A on membership register Ex PW1/C; application dated 03.05.2005, affidavit dated 03.05.2005 and verification certificate marked as Ex PW1/D ( Collectively).

34. This witness has been cross examined on behalf of the accused Joginder Pal and accused M.C Joshi, but not by rest of the accused persons despite the opportunity being given to them.

35. PW4 Sh Shiv Prasad Puri, has deposed that he became member of the society in the year 1983-1984. He has identified his signature on a form of application for registration of a cooperative CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 society in the union territory of Delhi. He has deposed that this application was moved for registration of RPF CGHS with the office of Registrar which bears his signatures at point X on the said form of application, marked as Ex PW4/A. He has deposed his name as well as his signatures appeared against serial no. 1 at point X, marked as Ex.PW4/A-1. He has further deposed that the intensive inquiry proforma placed at pages 14/C to 22/C in file D-4, his name as well as signatures appear against serial no. 1 at point X marked as Ex.PW4/A-2 (Colly). He has deposed that an affidavit dt. 28.10.1983 was executed by him and it bears his signatures at points A, marked as Ex.PW4/A-3. He has deposed that the membership register pertaining to the said Society, his name appeared at page no.1 and it also bears his signatures at point X, vide relevant entry marked Ex.PW4/A-4.

36. He has deposed that he had submitted his resignation from the membership of the society in the year 1992, which was handed over to Mr. T. K. Basu, who was the Treasurer of the society. He CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 deposed that he had submitted his resignation from the membership of the society because he was allotted a plot no.17,

Pocket B8, Sector-15, Rohini, Delhi-89 by the DDA. He has further deposed that receipt dated 27.11.2001, marked as Ex.PW4/A-5 is receipt of Rs.100/- from the society, his signatures appearing at point X are appearing to be of him, whereas the date mentioned at point X-1 and address mentioned at point X-2 are not filled up in his hand writing. And the address mentioned at point X-2 was not belonging to him as on 27.11.2001. He has deposed that he had vacated the house no. 133, Bhavishaya Nidhi Enclave, New Delhi in the year 1999. He has further deposed that resignation dated 17.11.2001, marked as Ex.PW4/A-6 is regarding resignation from the membership of the society. The signatures appearing at point X, are appearing to be of him, whereas the date mentioned at point X-1 and address mentioned at point X-2 are not filled up in his hand writing. He has deposed that the address mentioned at point X-2 was not belonging to him as on 27.11.2001.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 He had vacated the house no. 133, Bhavishaya Nidhi Enclave, New Delhi in the year 1999.

37. He has deposed that in the minutes of Special General Body Meeting dt. 01.04.2001 (Ex.PW5/E), his name and signatures appear against serial no. 3 at point X. He has never attended any such meeting. He has further deposed that the affidavits dated 12.07.2001 & 24.05.2001, Ex.PW4/A-7 & Ext.PW4/A-8, shown to have been executed by him. He has deposed that signatures appearing at points X at both the affidavits are not of him. Moreover, the address mentioned in both the affidavits was not belonging to him as on 12.07.2001 & 24.05.2001 as he had vacated the house no. 133, Bhavishaya Nidhi Enclave, New Delhi, in the year 1999.

38. This witness has been cross examined on behalf of the accused Joginder Marwah, but not by rest of the accused persons despite the opportunity being given to them.

39. PW 5 is Ms Kusum Marwah, she has deposed that she became member of R.P.F CGHS when it was formed. She had resigned from the membership CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of the society sometimes in the year 2000-2001 as she was told that the society is going in the liquidation and she may get her refund after submitting our resignation. She has deposed that resignation letter dt. 13.04.1990, Ex.PW5/A bears her signatures at point A but she did not submit her resignation to the society in the year 1990. The date mentioned at point B was not written by her. Even the address mentioned below her signatures at point C is not in her handwriting. She has further deposed that receipt dt. 22.04.1990 Ex PW5/B, bears her signatures at point A but she did not receive the refund of Rs. 100/- on 22.04.1990, whereas it was in the year 2000-2001. She has deposed that the date mentioned at point B was not written by her. Even the address mentioned below her signatures at point C is not in her handwriting. She has deposed that at the intensive inquiry proforma EX PW4/A-2, her name appears against serial no. 24 at point X but signatures appearing against her name at point X-1 are not her. She has deposed that at the bye laws of RPF CGHS ExPW4/A-1, her name as well as CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 signatures appear against serial no. 24 at point X are not her.

40. She has deposed that form of application for registration of a cooperative society marked as Ex.PW4/A was moved for registration of RPF CGHS with the office of Registrar and the signatures

appearing at point X against serial no. 24 are not of her.

41. She has further deposed that affidavit dt.

28.10.1983 (Ex. PW5/C ) was executed by her and it bears her signatures at points A. She has deposed at that membership register Ex.PW5/D her name appears against serial no. 24. The particulars mentioned against her name are correct but the signatures appearing at point X are not her.

42. She has further deposed that she did not attend any special general body meeting dt. 01.04.2001 and the minutes of meeting dt. 01.04.2001 Ex.PW5/E, her name appears at serial no. 13 but the signatures appearing at point X are not of her.

43. This witness has been cross examined on behalf of the accused Mahanand Sharma, but not by rest of the accused persons despite the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 opportunity being given to them.

44. PW7 Ms Madhu Kapoor, has deposed that she became a member of RPF CGHS about 25 years prior to the year 2012. She was working in the Employees Provident Fund Organization and took VRS in 2006. She has deposed that initially she has deposited Rs.100/- for obtaining the membership of the society and a share certificate was issued by the said society. She has deposed that she never resigned from the membership of the society. She has deposed that in the membership register of RPF CGHS, her name appeared against serial no.61 on page 13 and her particulars as well as signatures are at point X vide entry ExPW7/A. She has deposed that the affidavit dated 28.10.1983 ExPW7/B bear her signatures at points A and this affidavit was executed at the time of obtaining the membership of the said society

45. She has further deposed that in the bye-laws of the said society ExPW4/A-1, signatures shown against serial no.61 at point X are not that of her. And in the intensive inquiry proforma ExPW4/A-2, her CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 name has been shown against serial no. 61 and signatures at point A which are slightly different. She has deposed that on the resignation letter dated 13.04.2003 (ExPW7/C) signatures appearing at point X are not her signatures and she had not submitted any resignation from the membership of the society on 13.04.2003. She has deposed that the signatures at point X appearing on the receipt dated 24.04.2003, ExPW7/D, are not her signatures and she had not received Rs 100/- from the said society on 24.04.2003.

46. This witness has been cross examined on behalf of the accused Naveen Kaushik, P.K. Thirwani and Ramesh Chander (Proceedings abated vide order dated 24.08.2021) but not by rest of the accused persons despite the opportunity being given to them.

47. PW 9 is Sh Ashok Mehta, who has deposed that he remained as member of RPF CGHS twenty years ago and had resigned from the society 10-12 years ago. He has deposed that the application for registration of a cooperative society in the Union Territory of Delhi (ExPW4/A) bear his name at

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 serial no. 68 and signatures at point X against the said serial number. He has further deposed that in the Bye-laws of the society (ExPW4/A-1), his name appears against serial no.69. And signatures at point X. He has further deposed that on the intensive enquiry proforma ExPW4/A-2, his name appears against serial no.69 and signatures at point X. He has further deposed that in the register of membership marked ExPW9/A, his name and signatures appears against serial no.69 at point X. And on the resignation letter dated 14.04.1990 ExPW9/B bear his signatures at point A. He has further deposed that on the receipt dated 24.04.1990, vide which he had received Rs 100/- from the said society is ExPW9/C.

48. This witness has not been cross examined by any of the accused person, despite the opportunity being given to them.

49. PW11 Smt Ishwar Khanna, she has deposed that her husband late K.L. Khanna had become a member of RPF CGHS and her husband has expired on 17.11.1993. She after going through the receipt of Rs 100/- dated 27.11.2001 CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (ExPW11/A), which shows that her husband late K.L Khanna has received, she has deposed that the question of receiving Rs 100/- by her husband does not arise as her husband had expired in the year 1993. This witness after going through the affidavit dated 23.04.2005 being shown to have been issued under her signatures, verification certificate, copy of identity card of Gazetted Officer Sh. Surender Singh Arora and a copy of ration card attested by the Gazetted Officer, bears her signatures appear at point A on the affidavit as well as on the verification certificate, collectively ExPW11/B. She has deposed that all these documents were submitted to CBI.

50. This witness has been cross examined on behalf of the accused Jogender Pal Marwaha but not by rest of the accused persons despite the opportunity being given to them.

51. PW 12 Smt Santosh Bhasin, has deposed that her husband Vijay Kumar had expired on 22 nd September 1991 and her husband's Death certificate is ExPW12/PX. She has deposed that her husband Vijay Kumar remained the member CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of RPF CGHS. She has identified her husband's signatures/handwriting on the membership register of RPF CGHS, where name of Sh Vijay Kumar has been shown at page no.13 against serial no.62 and signatures at point A on the page ExPW7/A. She has also identified signatures of her husband late Sh Vijay Kumar on an affidavit dated 28th October 1983 (ExPW12/A) at point A. She (PW12) has also identified signatures of her husband on the bye-laws of the society ExPW4/A-1, at serial no.62 and at point X. She has also identified signatures of her husband late Sh Vijay Kumar on the Intensive Inquiry Proforma ExPW4/A-2, at serial no.62 and at point X. She has further deposed that on the resignation letter dated 15.04.1990 ExPW1/A-1 and receipt dated 24.04.1990 ( ExPW1/A-2, signatures appearing against point X are not that of her husband Late Sh Vijay Kumar.

52. This witness has been cross examined on behalf of the accused Naveen Kaushik but not by rest of the accused persons despite the opportunity being given to them.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

53. PW 13 is Vikas Narang, who has deposed that he became the member of RPF CGHS in the year 2002 through accused J.P Marwaha (A-7) and he had paid a membership fee of Rs 110/- at the time of obtaining the membership and got receipt of Rs 110/- from the said society. He has deposed that later on, he became Secretary of the Society. He has further deposed that in the membership register of Regional Provident Fund Employees Cooperative Housing Society ExPW13/PX, his name has been shown against serial no.154 at page 27 and the relevant entry encircled in red is at point X and his signatures are at point X-1 (ExPW13/PX-1). He has deposed that affidavit dated 14.01.2005 (ExPW13/A) bears his signatures at points A and photograph at point B. He has deposed that verification certificate enclosed with the affidavit ExPW13/A, bear his photograph as well as signatures at point A and B. The verification certificate alongwith copy of Ration Card is ExPW13/A-1 (colly). He has further deposed that affidavit ExPW13/A and verification certificate ExPW13/A-1 were given to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 accused Joginder Pal Marwah (A-7) who further handed over the same to Ashwani.

54. He has further deposed that in the proceedings register pertaining to RPF CGHS ExPW13/PA (Colly), proceedings staring from 20.02.2003 bear his signatures at points X on pages nos. 48,51,54,57,59,61,63,69,70,72,73, 74, 76, 77,78,79,80,82,83, 84,85,87,89 & 91. He has further deposed that in the proceedings register (D-15) ExPW13/PB, proceedings starting from 15.02.2004 bear his signatures at points X on pages 6,10. This witness has identified accused Joginder Pal Marwah (A-7). He has further deposed that documents for verification were given to accused Joginder Pal Marwah (A-7).

55. He has deposed that in the minutes of meeting dated 15.04.2003 ExPW13/PA, on page no.52, there is mention of 20 resignations received from the members of the society. He has deposed that the resignations of the persons namely Ved Prakash (PW48) (membership no.6), R. C Jain (M.No 15), Usha Monga (PW47) (M.No 21), Jagmohan Singh (M.No 25), Deep Chand (M. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 No.26), Meera Talreja (M.No.36), R.L Gujral (M.No. 37), Kiran Lata Ahuja (M.No.39), Vinod Malhotra (PW31) (□□42), T.K Basu (PW28) (M.NO 45), Kiran Jhanji (PW37) (M.No. 54), Sh.K Taneja (M. NO. 58) Madhu Kapoor (PW7) (M.No 61), Gaytri Tiwari (M.No 63), V.PS Bodhwal (M.No 66), Nathu Ram (M. No.72), Radhey Shyam (M.No 75), K. Vashanta (M.No

76), Garib Dass (M.No 79), and Raj Rani (M.No

89) were received from accused Jogender Pal Marwaha (A-7). The resignation letters are are collectively ExPW13/A-2.

56. This witness during cross examination being conducted by Ld. PP for CBI, has deposed that accused Joginder Pal Marwah, had handed over the documents i.e affidavit (ExPW13/A), verification certificate (ExPW13/A-1) alongwith photocopy of ration card bearing the photo of his mother Smt. Santosh Narang at point X (ExPW13/A-3) to accused Ashwani Sharma in his presence

at the residence of accused Joginder Pal Marwah. And affidavit and verification certificate bears his (PW13) photographs. He has also CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 identified accused Ashwani Sharma in the court.

57. This witness has been cross examined by Ld P.P. for CBI and on behalf of accused Joginder Pal Marwah and Ashwani Sharma But has not been cross examined by any other accused person, despite the opportunity being given to them.

58. PW 14 Sh Banwari Lal Chawla, has deposed that he became the member of RPF CGHS in the year 1982-83 and on the affidavit dated 28.10.1983 (ExPW14/A) bear his signatures at point A. He has also identified his signatures shown at point A against serial no.8 on the application for registration of a cooperative society ExPW4/A; on the Bye Laws of RPF CGHS ExPW4/A-1; on the intensive Enquiry Proforma ExPW4/A-2 as well as on the membership register ExPW13/PX at point X.

59. He has further deposed that one Mr. Basu, who was an office bearer of the society alongwith one other person had visited him (PW14) at his residence and told him that the society has been liquidated and returned share money Rs 3100/- to him. He has deposed that although the signatures CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 at point X-1 on resignation letter dated 14.04.1990 Ex PW14/B appears to be his signatures but he had resigned in the year 1998 and not on 14.4.1990. He has deposed that he had received Rs 100/- in the year 1998 and not on 24.4.1990 as shown at point X in the receipt Ex PW14/C and the signatures shown at point X- 1, on the resignation appear to be his signatures.

60. This witness has not been cross examined by any accused person, despite the opportunity being given to them.

61. PW15 is Sh Gulshan Kumar, who has deposed that he became member of RPF CGHS during the year 2000-01 through accused Rajender Khurana. He has identified his signatures in the membership register (ExPW13/PX), against serial no.118 at point X . He has deposed that in the minutes of meeting in the proceeding register (ExPW13/DA), his name appears against serial no.9 and signatures at point X. But he has no idea if he had attended any such meeting at 60 SkyLark Bhawan, 7th and 8th Floor, Nehru Place on 14.10.2001 or as to how his signatures are CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 appearing on the above document and who got his signature on it. He has identified accused Joginder Pal Marwaha and stated that accused Joginder Pal Marwaha met him alongwith his elder brother. He has deposed that resignation letter dated 08.06.2003 (ExPW15/A) and receipt dated 20.06.2003 (ExPW15/B) bears his signatures at point X.

62. This witness has been cross examined by Ld PP for CBI and on behalf of accused Joginder Pal Mrawah but was not cross examined by any other accused, despite the opportunity being given to them.

63. PW 16 Sh Jaipal Singh, has deposed that he had never became the member of RPF CGHS at any point of time and he has been residing at RZ 29, Saibaba Enclave, Nazafgarh, New Delhi since 1990. He has deposed that in the membership register (ExPW13/PX), his name has been shown at serial no.122 and the particulars mentioned therein are correct but the signatures shown at point X on page no.24 are not that of his. He has further deposed that in the minutes of meeting CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 dated 14.10.2001 (ExPW13/PA), his name has been shown at serial no.23 but the signatures at point X are not of him and he had never attended any such meeting. He has deposed that his signatures at point X on the resignation letter dated 09.06.2003 (Ex PW16/A) and his signature on receipt dated 21.06.2003 are not of him.

64. This witness has been cross examined on behalf of accused M.C Joshi and Surender Singh, but was not cross examined by any other accused, despite the opportunity being given to them.

65. PW 17 is Smt Padma Rani, she has deposed that she became the member of RPF CGHS in the year 1983. She has further deposed that in the membership register (ExPW13/PX) her name has been mentioned at serial no. 83 and signatures at point X are of her. She has deposed that on the affidavit dated 28.10.1983 (ExPW17/A), at points A; on application for registration of Co operative Society (ExPW4/A); on copy of bye-laws Ex PW4/A-1 and on intensive proforma Ex PW4/A-2 are of her signatures. She has further deposed that signatures at point X on the resignation letter CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 dated 14.02.2002, (Ex PW17/B) does not belongs to her as she had never resigned from the membership of the society.

66. She has further deposed that on minutes of meeting dt. 14.10.2001 (Ex.PW13/PA), her name appears against serial no. 4 and against the said serial the signatures appearing at point X, are not of her as she had never attended such meeting on 14.10.2001. She has deposed that minutes of special general body meeting dt. 01.04.2001 ( Ex PW5/E) was never attended by her. The signatures appearing against serial no. 44 at point X are not of her. She has deposed she do not know accused Sh. M.C. Joshi.

67. This witness has been cross examined on behalf of accused Surender Singh and M.C Joshi but was not cross examined by remaining accused persons, despite the opportunity being given to them.

68. PW18 Sh Subhash Chand Chakroworty, has deposed that he become member of RPF CGHS. The society was formed by the members of RPF Employees Department. He has deposed that on the membership register (Ex.PW13/PX ) his name CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 is appearing against the serial no. 31 and the signatures appearing at point X are of him. He has deposed that on affidavit dated 28.10.1983, marked Ex PW18/A, the signatures appearing at points A are of him. He has admitted his signatures at point X on the application for registration of a cooperative society Ex.PW4/A; on copy of bye-laws Ex.PW4/A-1; intensive inquiry proforma Ex PW4/A-2; on his resignation letter dated 13.04.1990 (Ex PW18/B) and on receipt dated 22.04.1990 (Ex PW18/C).

69. This witness has been cross examined by Ld PP for CBI, but was not cross examined by any other accused person, despite the opportunity being given to them.

70. PW 19 Sh Sunil Kumar, has deposed that he became member of R.P.F. Employees CGHS in the year 2000 and his father Sh. Rajender Kumar was also the Secretary of the society.

71. He has identified his signatures on the membership register Ex.PW13/PX; on the resignation letter dated 10.10.2003 marked as Ex.PW19/A; on receipt dated 30.10.2003 marked CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 as Ex.PW19/B at point X.

72. He has deposed that in the proceeding register Ex.PW13/PB, there are minutes of meeting dated 15.02.2003 regarding special general body meeting, his name and signatures are at point X. He has identified his signatures.

73. This witness has not been cross examined by any of the accused person, despite the opportunity being given to them.

74. PW 20 is Sh Dinesh Chander, has deposed that he became member of R.P.F. Employees CGHS in the year 1983. The society was formed by the employees of Regional Provident Fund and no outside person was permitted in society as a member of the society. He has identified his signatures at point X in membership register Ex.PW13/PX; on affidavit dated 28.10.1983, marked Ex.PW20/A; on the application for registration of a cooperative society Ex.PW4/A placed in file D-8, on copy of bye-laws Ex.PW4/A-1 and on intensive inquiry proforma Ex.PW4/A-2. He has deposed that resignation letter dated 15.4.1990, marked as Ex.PW20/B do CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 not belong to him as he has never resigned from the membership of the society. He has further deposed that on the receipt dated 25.4.1990, (Ex.PW20/C) his signatures appearing at point X do not belong him. He has deposed that he had not attended any meeting of the society after 2000. He has deposed that in the year 2005, he had submitted verified documents with the office of RCS.

75. This witness has not been cross examined by any of the accused person, despite the opportunity being given to them.

76. PW 21 Sh Tejram, has deposed that he became member of R.P.F Employees CGHS in the year 1983-84. The society was formed by the employees of Regional Provident Fund and no outside person was permitted in society as a member of the society.

77. He has identified his signatures at point X on the membership register Ex.PW13/PX; on the affidavit marked as Ex.PW21/A, dated 28.10.1983 at points A ; on the application for registration of a cooperative society Ex.PW4/A at point X; on copy CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of bye-laws Ex PW4/A-1 at point X; on intensive inquiry proforma Ex PW4/A-2 at point X.

78. He has further deposed that resignation letter dated 5.6.1990 marked as Ex.PW21/B and his signatures appearing at point X do not belong to him. He had never resigned from the membership of the society. He has also denied his signatures at point X on the receipt dated 16.6.1990, marked as Ex.PW21/C. He has deposed that the letter dated 27.4.2005, marked as Ex.PW21/D submitted with

the Registrar Cooperative Society bears his signatures at point A. He has deposed that the verification certificate, affidavit, copy of identity card, form-60 and an office letter dated 2.6.1998, collectively marked as Ex.PW21/E, bears his photograph at point X.

79. This witness has been cross examined on behalf of accused Rajender Kumar Khurana but not by any of the accused person, despite the opportunity being given to them.

80. PW 22 is Sh Tilak Raj, who has deposed that he became the member of R.P.F through his younger brother Rajender Kumar Khurana, ( A-8). He has CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 identified his signatures at point A on the resignation letter dated 16.07.2003 ExPW22/A and deposed that he had resigned from the society. He has deposed that signatures appearing at point A on the resignation letter dated 31.07.2003, Ex PW22/B appears to be his signatures.

81. He has deposed that on the minutes of meeting dated 15.12.2003 (ExPW13/PB), placed in the proceeding register, signatures against serial no.10 are of his signatures, as he had attended the said meeting. He has deposed that he had attended the meeting dated 15.02.2004 and his name appeared against serial no.3 and signatures at point X. He has deposed that accused Joginder Pal Marwah met him in a meeting.

82. This witness has been cross examined by Ld P.P. for CBI but not by any of the accused person, despite the opportunity being given to them.

83. PW 23 Smt Sarla Duggal, she has deposed that she became member of R.P.F. Employees CGHS after 1980. Mr. Bansal and S. S. Arora were looking after the affairs of the said society. The said Society was formed by the employees of Regional CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Provident Fund Department. She has identified her signatures at point X on the membership register Ex.PW13/PX; on an affidavit dated 28.10.1983 Ex.PW23/A at point A; on the application for registration of a cooperative society Ex.PW4/A at point X; on the bye-laws Ex.PW4/A-1 at point X; on intensive inquiry proforma at point X. She has further deposed that in the list of members duly signed under the signatures of Sh. Ved Prakash, the then Secretary of the society, collectively marked as Ex.PW23/B and her name appeared against serial no. 53.

84. She has deposed that the resignation letter dated 05.06.1990, marked as Ex.PW23/C and the signatures appearing at point X on it do not belong to her. She had never resigned from the membership of the society. She has deposed that signature on the receipt dated 16.6.1990, Ex.PW23/D at point X do not belong to her.

85. She has further deposed that she had not attended any meeting of the society after 2000. In the year 2005, she had submitted verified documents with the office of RCS. She has deposed that she had CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 written a letter dated 27.4.2005, marked as Ex.PW23/E to the Registrar Cooperative Societies under her signatures and she had enclosed copy of her affidavit, her photograph, verification certificate collectively marked as Ex.PW23/F. She has deposed that the said letter was written by her in response to the

office of RCS.

86. She has deposed that list of resigned members in the year 1990-91, Ex.PW23/G annexed with the audit report, and her name has been mentioned at serial no. 38, but she never resigned from the membership of the society.

87. This witness has been cross examined on behalf of accused Rajender Kumar Khurana, but not by any of the accused person, despite the opportunity being given to them.

88. PW 24 Smt Shashi Arya, has deposed that she became member of R.P.F. Employees CGHS, when it was formed. She has deposed that Mr. Bansal and S. S. Arora were looking after the affairs of the society. Society was formed by the employees of Regional Provident Fund Department. She has identified her signatures on CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the membership register Ex.PW13/PX, on the affidavit dated 28.10.1983 Ex.PW24/A; on the application for registration of a co-operative society Ex.PW4/A, at point X.

89. She has further deposed that in the photocopy of minutes of meeting dated 24th of October 1983, Ex.PW24/B, her name and signatures appeared against serial no.44 at point X.

90. She has identified her signatures on the copy of bye-laws Ex.PW4/A-1; on the intensive inquiry/proforma Ex.PW4/A-2, at point X respectively. She has deposed that in the list of members Ex.PW23/B, duly signed under the signatures of Sh. Ved Prakash, the then Secretary of the society, her name appears against serial no.

43. She has deposed that on the resignation letter dated 2.6.1990, marked as Ex.PW24/C the signatures appearing at point X do not belong to her as she never resigned from the membership of the society.

91. She has further deposed that receipt dated 13.6.1990, marked as Ex.PW24/D, the signatures appearing at point X do not belong to her. She has CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 deposed that she had not attended any meeting of the society after 2000. She has deposed that in the year 2005, she had submitted verified documents with the office of RCS. She has deposed that she had written letter dated 28.4.2005, marked as Ex.PW24/E to the Registrar Cooperative Societies under her signatures at point X. She has deposed that along with this letter, she had enclosed the documents placed at pages 380 to 385 including her affidavit placed at page 381 and 382 bearing her signatures at points X and her photograph at point X-1. Verification certificate placed at page 380 bearing her signatures at point X and her photograph at point X-1. The documents from page 380 to 385 are collectively marked as Ex.PW24/F. She has deposed that the above said letter was written by her in response to the office of RCS.

92. She has deposed that the list of resigned members marked as Ex.PW23/G, annexed with the audit report and her name has been mentioned at serial no. 29 in the list of resigned members during the year 1990-91. She has never resigned from the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 membership of the society.

93. This witness has been cross examined on behalf of accused Rajender Kumar Khurana, but not by any of the accused person, despite the opportunity being given to them.

94. PW-25 is Sh. Suraj Parkash Arora. He has deposed that he became member of R.P.F. Employees CGHS, when it was formed. Mr. Bansal and S. S. Arora were looking after the affairs of the society.

95. He has further deposed that in the membership register Ex.PW13/PX, his name is appearing against the serial no. 74 and signatures is appearing at point X, are of him. He has further deposed that on affidavit Ex.PW25/A, dated 28.10.1983, his signatures are appearing at points A.

96. He has identified his signatures on the registration of the cooperative society Ex.PW4/A at point X; on the photocopy of minutes of meeting dated 24th of October 1983, Ex.PW24/B at point X; on the copy of bye-laws Ex.PW4/A-1at point X and on the intensive inquiry proforma Ex.PW4/A-2 at CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 point X.

97. He has further deposed that the list of members duly signed under the signatures of Sh. Ved Prakash, the then Secretary of the society, Ex.PW23/B. In the said list, his name appeared against serial no.72. He has deposed that on the resignation letter dated 14.02.2002,marked as Ex.PW25/B, his signatures appearing at point X do not belong to him. He has deposed that he has never resigned from the membership of the said society.

98. He has deposed that the receipt dated 21.2.2002, marked as Ex.PW25/C, at point X, do not belong to him. He has deposed that he had not attended any meeting of the society after 2000. And in the year 2005, he had submitted verified documents with the office of RCS.

99. He has further deposed that in the minutes of meeting dt. 14.10.2001, (Ex PW13/PA) his name appears against serial no. 5 with membership no. 74, but, the signatures appearing at point X are not of him. He has deposed that he never attended such meeting on 14.10.2001.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

100. This witness has been cross examined on behalf of accused Naveen Kaushik, but not by any other accused person, despite the opportunity being given to them.

101. PW 26 is Ms Prem Lata Gandhi, who has also become of the member of the Society, has deposed that on the resignation letter dated 19.11.2001 marked Ex PW26/B, signatures appearing at point X do not belongs to her. As she had never resigned from the membership of the society. She has also denied her signatures on the receipt dated 28.11.2001, marked as Ex PW26/C.

102. This witness has been cross examined on behalf of accused Naveen Kaushik, but not by any other accused person, despite the opportunity being given to them.

103. PW28 is Sh Tapan Kumar Basu, ( who has been Pardoned vide order dated 04.11.2006 and has been partly examined ). He has deposed that he became member of Regional Provident Fund

Employees CGHS, when it was formed. He has deposed that office address of the society was 60, Skylark Building, 8th & 9th Floor, Nehru Place, CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 New Delhi. He has deposed that Sh. Ved Prakash was General Secretary of the society. Sh. S.P.Arora was the President and he himself was the Treasurer of the society. The membership fee was Rs. 100/- and total number of members of the society were 90. He has deposed that the society was formed by the employees of the Regional Provident Fund Department. The society remained active till 1986 and audit for only two years was conducted.

104. He has deposed that in the year 1992, the society received a notice from the office of RCS wherein it was mentioned that Sh. P.M. Tanwar had been appointed as Administrator of the society. And the society was asked to hand over all the documents of the society to the Administrator. He has deposed that in this respect, a warrant from the court was also received for the aforesaid purpose. He has deposed that he (PW28) and Sh. Ved Prakash, Secretary of the society had handed over the documents of the society in August,1992 and September,1992 to the Administrator Sh. P.M. Tanwar. After that, they could not get any CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 information.

105. He has deposed that the membership register Ex PW13/PX; the affidavit dated 28.10.1983, marked as Ex.PW28/A; the application for registration of a cooperative society Ex.PW4/A, bears his signatures at point X and A respectively. He also identify the signatures of S.P. Arora, President of the society at point A.

106. He has deposed that photocopy of minutes of meeting dated 24th of October 1983, Ex.PW24/B, in the said register bears his name and signatures at point X.

107. He has deposed that bye-laws of the society Ex.PW4/A-1; intensive inquiry proforma Ex.PW4/A-2 also bears his signatures at point X.

108. He has deposed that in list of members Ex.PW23/B, duly signed under the signatures of Sh. Ved Prakash, the then Secretary of the society, his name appeared against serial no. 45. His examination could not be completed as he has expired.

109. PW 31 is Ms Vinod Malhotra, who has deposed that she became member of the society in the year CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 1983 and paid Rs.120/- as share money for obtaining membership. She has identified her signatures on the membership register, Ex PW13/PX; on the affidavit dated 28.10.1983, marked as Ex PW31/A; on the application for registration of a Co operative Society Ex PW4/A; minutes of meeting dated 24th of October 1983 Ex PW24/B; copy of bye-laws Ex PW4/A-1; and on intensive inquiry proforma Ex PW4/A-2. She has deposed that her name appeared in the list of members duly signed by Sh Ved Prakash, the then Secretary of the society, at serial No.42 (Ex PW23/B). She has deposed that signatures appearing at point X on the resignation marked as Ex PW31/B and receipt dt 23.04.2003 Ex PW31/C do not belongs to her as she had never resigned from the membership of the society. She has deposed that she had submitted her affidavit marked Ex PW31/D alongwith documents collectively marked as Ex PW31/E in the office of Registrar of Co operative Societies.

110. This witness has not been cross examined on behalf of any accused person, despite the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 opportunity being given to them.

111. PW 32 Sh K.L. Kapoor has deposed that he became member of RPF Employees CGHS in the year 1983 and paid Rs. 120/- as share money for obtaining membership of the society. He has identified his signatures on the membership register Ex.PW13/PX; on an affidavit dated 28.10.1983 marked as Ex.PW32/A; on the application for registration of a cooperative society Ex.PW4/A; on photocopy of minutes of meeting dated 24th of October 1983 Ex.PW24/B; copy of bye-laws Ex.PW4/A-1; on intensive inquiry proforma Ex.PW4/A-2 and on the list of members Ex.PW23/B. He has further deposed that the resignation letter dated 14.04.1990, Ex.PW32/B and receipt dated 24.04.1990 Ex.PW32/C do not belong to him as he has never resigned from the membership of the society.

112. He has further deposed that affidavit dt.

25.04.2005, marked as ExPW32/D alongwith documents Ex PW32/E bearing his signatures at points X, was submitted by him in the office of Registrar Cooperative Societies.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

113. This witness has not been cross examined on behalf of any accused person, despite the opportunity being given to them.

114. PW33 is Ms Sucheta Oberai. She has deposed that she become member of the society. She has identified her signatures on the membership register Ex PW13/PX; on an affidavit Ex PW33/A; copy of bye-laws Ex PW4/A-1; intensive inquiry proforma Ex PW4/A-2; on the application for registration of the society Ex PW4/A; on the minutes of meeting dated 24th of October 1983 Ex PW24/B and list of members duly signed by Sh Ved Prakash, the then Secretary ExPW23/B.

115. She has deposed that the resignation letter dated 15.04.1990 Ex PW33/B and receipt dated 24.04.1990 Ex PW33/C do not belongs to her as she had never resigned from society.

116. She has further deposed that affidavit dt. 04.05.

2005, marked as ExPW33/D alongwith documents Ex PW33/E and verification Ex PW32/F bearing his signatures at points A respectively, which was submitted by him in the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 office of Registrar Cooperative Societies.

117. This witness has not been cross examined on behalf of any accused person, despite the opportunity being given to them.

118. PW35 is Sh Ram Chander, he has admitted his signatures on the membership register Ex PW13/PX; on an affidavit dated 28.10.1983 Ex PW35/A; on the bye-laws of the society Ex PW4/A-1; on intensive inquiry proforma Ex PW4/A-2; on the application for registration of co- operative society Ex PW4/A; on the photocopy of minutes of meeting dated 24th of October, 1983 Ex PW24/B and list of members duly signed by Sh Ved Prakash, the then Secretary ExPW23/B.

119. He has further deposed that the resignation letter marked as Ex PW35/B and receipt dated 20.02.2002 Ex PW35/C do not belongs to him as he had never resigned from society.

120. This witness has been cross examined on behalf of accused Rajender Kumar Khurana and not by remaining accused person, despite the opportunity being given to them.

121. PW36 is Ms Sudesh Kumari, she has deposed that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 she never became member of RPF CGHS at any point of time. She has deposed that signatures appearing at point X on membership register Ex PW13/PX; on resignation from membership marked Ex PW36/A; on the receipt Ex PW36/B and on the proceedings register Ex PW13/DA are not of her as she had never attended any such meetings.

122. This witness has been cross examined on behalf of accused Rajender Kumar Khurana and not by remaining accused person, despite the opportunity being given to them.

123. PW37 is Ms Kiran Jhanji, who has deposed that she become the member of the society. She has admitted her signatures on the membership register Ex PW13/PX; on the affidavit dated 28.10.1983 Ex PW37/A; on the bye laws Ex PW4/A-1; on intensive inquiry proforma Ex PW4/A-2; on the application for registration of a co operative Society Ex PW4/A; on photocopy of minutes of meeting dated 24th of October, 1983 Ex PW24/B and list of members duly signed under the signatures of Sh Ved Prakash Ex PW23/B. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

124. She has deposed that the signatures appearing at point X on the resignation letter dated 13.04.2003 and receipt dated 23.04.2003 Ex PW37/B and PW37/C are not of her. She has deposed that an affidavit dt 31.05.2005 Ex PW37/D bears her signatures at point X.

125. This witness has been cross examined on behalf of accused Rajender Kumar Khurana and not by remaining accused person, despite the opportunity being given to them.

126. PW 38 Smt Anita, who is also a member of the society she has deposed that she had taken the membership of the society vide membership register Ex PW13/PX vide entry encircled Ex PW38/A. She has deposed that she had not submitted any resignation letter and has not signed on receipt of refund of her share money Ex PW38/B as well as on the resignation letter PW38/C.

127. This witness has been cross examined on behalf of accused Mahanand Sharma and not by remaining accused person, despite the opportunity being given to them.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

128. PW39 is Sh G.R. Sharma, who has deposed that he became member of the society vide membership register Ex PW13/PX and vide entry encircled Ex PW39/A. He has deposed that he had not submitted any resignation letter and has not signed on receipt of refund of his share money Ex PW39/B as well as on the resignation letter PW39/C. He has deposed that he has signed on the affidavit Ex PW39/D, on verification certificate Ex PW39/E . He has also admitted his signatures at point A on an another affidavit Ex PW39/F( Colly).

129. This witness has been cross examined on behalf of accused Mahanand Sharma, Ramesh Chander, P.K. Thirwani, Naveen Kaushik, Surender Singh, Ashwani Sharma and not by remaining accused person, despite the opportunity being given to them.

130. PW40 Sh R.K. Jagota, has deposed that he took the membership of the society and paid a sum of Rs.120/- as membership fee, vide membership register Ex PW13/PX. He has deposed that the purported receipt of Rs.100/- dated 14.06.1990 Ex CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 PW40/A and purported resignation Ex PW40/B does not bears his signatures as he had not signed the same and has not submitted any such resignation letter.

131. He has deposed that affidavit dated 25.04.2005 and verification, Ex PW40/C and PW40/D, bears his signatures at point A.B and C. He has also identified his signatures on the affidavit dated 28.10.1983 Ex PW40/G; on the application form for registration of cooperative society Ex PW4/A-1; on the bye laws of co-operative society Ex PW4/A-1 and on intensive inquiry proforma Ex PW4/A-2 .

132. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

133. PW41 Smt Sushma Kumari, who is also one of the member of the society vide membership register Ex PW41/A. She has deposed that the purported receipt of Rs.100/- dated 14.04.2002 Ex PW41/B and purported resignation Ex PW41/C, does not CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 bears her signatures as she had not signed the same and has not submitted any such resignation letter.

134. She has deposed that affidavit dated 28.04.2005 and verification Ex PW41/D and PW41/E bears her signatures at point A,B and C. She has also identified her signatures on the affidavit dated 28.10.1983 Ex PW41/G; on the application form for registration of co-operative society Ex PW4/A-1; on the bye laws of co-operative society Ex PW4/A-1 and on intensive inquiry proforma Ex PW4/A-2 .

135. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

136. PW<sub>43</sub> is Sh Surinder Singh, who has deposed that he became member of the society in the year 1983-1984 and paid Rs.120/- as membership fee. He has identified his signatures on the membership register, Ex PW<sub>13</sub>/PX, the relevant entry is Ex PW<sub>43</sub>/A. He has deposed that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 signatures appearing at point A on the receipt and resignation Ex PW<sub>43</sub>/B and PW<sub>43</sub>/C do not belongs to him as he had never resigned from the membership of the society.

137. He has identified his signatures on the affidavit/verification certificate dated 23.04.2005 at point A,B and C Ex PW<sub>43</sub>/D and PW<sub>43</sub>/E; on an another affidavit dated 28.10.1983, Ex PW<sub>43</sub>/G; on the application for registration of a Co operative Society Ex PW<sub>4</sub>/A; on copy of bye- laws Ex PW<sub>4</sub>/A-1; and on intensive inquiry proforma Ex PW<sub>4</sub>/A-2. He has also identified his signatures at point B on the photocopy of proceedings of General Body Meeting dated 25.10.1983 Ex PW<sub>24</sub>/B.

138. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

139. PW 44 is Smt Suman Lata Narula, who has deposed that she became member of the society and paid an amount of Rs.110/- towards CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 membership fee. She has admitted her signatures on the membership register Ex PW<sub>44</sub>/A; on the affidavit dated 28.10.1983, Ex PW<sub>44</sub>/B; on the application for registration of society Ex PW<sub>4</sub>/A; on the bye-laws of the society alongwith list of membership Ex PW<sub>4</sub>/A-1; intensive inquiry proforma Ex PW<sub>4</sub>/A-2; photocopy of General Body meeting dated 25.10.1983 Ex PW<sub>24</sub>/B; on his affidavit dated 28.04.2005 Ex PW<sub>44</sub>/C; on the verification certificate qua verification of membership of the society Ex PW<sub>44</sub>/D( colly).

140. She has deposed that she had never resigned from the membership of the said society and signatures on the purported resignation Ex PW<sub>44</sub>/E, and receipt Ex PW<sub>44</sub>/F were not made by her as somebody without her authorization had signed the same and are forged.

141. This witness has been cross examined on behalf of accused Ashwani Sharma and not by remaining accused person, despite the opportunity being given to them.

142. PW 45 is Sh Surya Prakash Arora, who has deposed that he became member of the society and CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 paid an amount of Rs.100/- towards membership fee and Rs.20/- towards some other expenses of the said society. He has admitted his signatures on the membership register Ex PW<sub>45</sub>/A; on the affidavit dated 28.10.1983, Ex PW<sub>45</sub>/B; on the application for registration of society Ex PW<sub>4</sub>/A; on the bye-laws of the society alongwith list of membership Ex PW<sub>4</sub>/A-1; intensive inquiry proforma Ex PW<sub>4</sub>/A-2; photocopy of General Body meeting dated 25.10.1983 Ex PW<sub>24</sub>/B; on his affidavit dated 25.04.2005 Ex PW<sub>45</sub>/C; on the verification certificate qua verification of membership of the society Ex PW<sub>45</sub>/D( colly).

143. He has deposed that he had never resigned from the membership of the society and signatures on the purported resignation Ex PW45/E, and receipt Ex PW45/F were not made by him as somebody without his authorization had signed the same and are forged.

144. He has deposed that purported affidavit dated 12.07.2001 Ex PW27/B and affidavit dated 24.05.2001 Ex PW27/A bears his correct particulars including his name, father's name and CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 residential address. However he had not given any such affidavit and purported signatures at point C and D are forged one as he had not made said signatures.

145. He has deposed that his purported letter dated 10/03/2001, Ex. PW45/G, as Ex. President of the society, addressed to Assistant Registrar (South), Office of Registrar of Co-operative Societies, Delhi, regarding request for revival of the society had not been given by him and his signature on the same at point A are forged. He had not made the said signature. He was never the president of the society so there was no question of sending any letter as Ex. President of the society at any point of time.

146. He has further deposed that his purported letter dated 19/08/2001, Ex. PW45/H, as President/Secretary of the society, addressed to Assistant Registrar (South), office of Registrar of Co-operative Societies, Delhi, qua handing over of records of Regional Provident Fund Group Housing Society Ltd. He had not given any such letter and his signature on the same at point A is CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 forged one. He has deposed that he had not made the said signature as he was never the president or the secretary of the society. Hence, there was no question of sending any such letter as President/secretary of the society at any point of time.

147. He has deposed his purported letter dated 10/09/2001, Ex. PW45/J as President of the society, addressed to Registrar, Co- operative Societies, Delhi, regarding extension of time for verification of records of the society (page 266 of D-5). He had not given any such letter and his signature on the same at point A is forged one. He had not made the said signature. He has deposed that he was never the president of the society. Hence, there was no question of sending any such letter as President of the society at any point of time.

148. He has deposed that the original proceeding register Ex. PW13/PA containing purported proceedings dated 14.10.2001 relating to General body meeting of the society qua conducting election of the society, he had never attended any CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 such meeting. His signature on the same at point A, at serial no. 10 is forged one. He has deposed that he had not made the said signature.

149. He has deposed that his specimen signatures sheets (8 in number) Ex. PW45/K (colly), containing his sample signatures (S-103 to S-110) were obtained by the IO during investigation.

150. This witness has been cross examined on behalf of accused Ashutosh Pant and not by remaining accused person, despite the opportunity being given to them.

151. PW47 is Smt Usha Monga, who has deposed that she took membership of the society in the year 1983 and had paid Rs.120/- as membership fees. She has deposed that she never resigned from membership of this society and had refused to receive back her membership fees.

152. She has identified her signatures on the membership register of the society Ex.PW13/PX at point A vide entry marked as Ex.PW47/A; on the affidavit dated 28.10.1983 Ex. PW47/B; on the application for registration of the society Ex.PW4/A; on the bye-laws of Co-operative CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Group Housing Society along with list of members Ex.PW4/A-1; on the intensive inquiry proforma Ex.PW4/A-2; on the photocopy of proceedings of general body meeting dated 25/10/1983 Ex.PW24/B; on her affidavit dated 25/04/2005 Ex.PW47/C; on the verification certificate qua verification of her membership of the society Ex.PW47/D as well as on the annexed documents Mark PW47/E (colly).

153. She has deposed that she had never resigned from the membership of the society and no amount was refunded to her by the said society. She has deposed that signatures on purported resignation letter Ex. PW47/F and purported receipt qua refund of share money of Rs. 100/- by the society Ex. PW47/G, at point A on the same are forged. She had not made the said signature.

154. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

155. PW 48 is Sh Ved Prakash, who has deposed that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 In the year 1984, he became founding member of the society. He has deposed that he was Hony. Secretary of the society at that time and one Sh. S.P.Puri was the President. He has deposed that he never resigned from membership of this society.

156. He has identified his signature in the membership register of RPF CGHS vide entry marked Ex.PW48/A; on his affidavit dated 28.10.1983 Ex. PW48/B; on the application for registration of society Ex.PW4/A; on the bye-laws of the Society along with list of members Ex.PW4/A-1; on the intensive inquiry proforma already Ex.PW4/A-2; on the photocopy of proceedings of general body meeting dated 25/10/1983 Ex.PW24/B.

157. He has deposed that he had never resigned from the membership of the society and the signatures on his purported resignation letter dated 11.04.2003 qua resigning from the membership of the said society Ex.PW13/A-2 (colly.) and receipt dated 20.04.2003 qua refund of his share money Ex. PW48/C, are forged one.

158. He has deposed that on the Audit Report for the period 1983-1984 to 2000-2001 Ex.PW48/D CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (colly.) alongwith supporting document signatures appearing at points A on the same are not of him.

159. He has further deposed that vide handing over memo dated 27.08.1992 Ex.PW48/E, he alongwith Tapan Kumar Basu had handed over documents mentioned in the said memo from serial

no. 1 to 11 to one Mr. P.M.Tanwar, Administrator. He has identified his signature at point A and that of Tapan Kumar Basu at point B. He has deposed that he do not remember if any one had approached him for his resignation from membership.

160. This witness has been cross examined on behalf of accused Ramesh Chander and not by remaining accused person, despite the opportunity being given to them.

161. PW 49 is Smt Swantrata Sharma, she deposed that she became founding member of the society and paid Rs.100/- as membership fees. She has deposed that she never resigned from membership of this society.

162. She has identified her signature on the membership register of the society vide CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Ex.PW13/PX against entry marked Ex.PW49/A; on his affidavit dated 28.04.1983 Ex. PW49/B for applying for membership of the society; on the application for registration of the society Ex.PW4/A; on the bye-laws of Co-operative Group Housing Society along with list of members Ex.PW4/A-1 and on the intensive inquiry proforma Ex.PW4/A-2 On page no. 17, appearing at point A against her name and particulars at serial no. 57. The said entry is encircled in red today.

163. She has deposed that vide letter dated 27.05.2005 alongwith enclosures marked Ex.PW49/C (colly.) addressed to Registrar, Co-operative Group Housing Society, bears her signature at point A. She has deposed that she had forwarded verification certificate alongwith copy of her PAN Card, office I-Card and affidavit to the Registrar, CGHS. The affidavit dated 20.05.2005 bears her signatures at points A, B & C. The said affidavit contains her photograph at point D. Verification Certificate also contains her photograph at point A and also bears her signature at point B. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

164. She has deposed that she had never resigned from the membership of the society and has deposed that her signatures on the purported resignation letter dated 02.06.1990 qua resigning from the membership of the said society Ex.PW49/D was not made by her as somebody had forged his signature.

165. She has deposed that no amount was refunded to her by the society and his signatures at point A on the purported receipt dated 13.06.1990 Ex.PW49/E qua refund of her share money of Rs.100/- by the society was forged one as she had never resigned from the said society.

166. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

167. PW 50 is Sh Suresh Singhal, he has deposed that he became member of the society in the year 2003 through Joginder Pal Marwah and had paid Rs.100/- towards membership fee. He has deposed that accused Joginder Pal Marwah had given him CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 20 blank forms for membership and affidavit. He got filled

the said forms as well as affidavits and handed over the same to accused Joginder Pal Marwah.

168. He has identified his signatures on the application form dated 12.05.2002 Ex.PW50/A, for membership at point A. He has deposed that he had handed over the said form to Joginder Pal Marwah. He has also identified his signatures at point A on the membership register Ex.PW13/PX against entry marked Ex.PW50/B; on the affidavit dated 14.01.2005 Ex. PW50/C at points A & B containing his photograph at point C for membership of the society; on the verification certificate qua verification of his membership of the society alongwith annexures Ex.PW50/D (colly); On the letter dated 17.02.2005, Ex.PW50/E addressed to Assistant Registrar (South), CGHS at point A, as the President of the society; on the letter dated 17.01.2005 Ex.PW50/F addressed to Assistant Registrar (South), CGHS as the President of the society; On letter dated 26.11.2004 Ex.PW50/G addressed to the Registrar CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of CGHS at point A.

169. He has deposed that vide proceeding dated 15.02.2003 of General Body Meeting of the society Ex.PW50/H, he was elected as President of the society, which bears his signature at point A. He has deposed that vide proceedings dated 15.02.2004, Ex.PW50/I, a meeting was held under his Chairmanship and bears his signatures at point B.

170. He has deposed that in October 2005, CBI conducted search at his residence and they seized some documents related to the said society. List of the seized documents was prepared which he had also signed.

171. This witness has not been cross examined by any of the accused person, despite the opportunity being given to them.

172. PW 51 is Sh Lajpat Kumar Arora, who has deposed that in the year 1983 the society was formed in which he became member. He has deposed that he never resigned from the membership of the said society nor received a sum of Rs.100/- towards refund of share money.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

173. He has identified his signatures on membership register Ex.PW13/PX against the entry marked Ex.PW51/A; on his affidavit dated 28.10.1983 at points A & B Ex.PW51/B; application for registration of society Ex.PW4/A; on the bye- laws of Co-operative Group Housing Society along with list of members Ex.PW4/A-1 ; on the intensive inquiry proforma Ex.PW4/A-2 and on the proceeding of General Body Meeting dated 25.10.1983 Ex.PW24/B.

174. He has further deposed that vide letter dated 25.04.2005 Ex.PW51/C, addressed to Registrar of Co-operative Societies Delhi, which bears his signature at point A, he had had handed over his affidavit dated 25.04.2005 and verification certificate and other enclosures annexed thereto. The affidavit Ex.PW51/D bears his signatures at points A & B, the verification Ex.PW51/E bears his signature at point A and also contains his photograph at point B.

175. He has deposed that he had never resigned from the membership of the society. He has deposed that his purported resignation letter dated CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 15.04.1990 Ex.PW51/F qua resigning from the membership of the said society and signatures at point A on the same was not made by him and somebody has forged his signature. He has deposed that no amount was refunded to him by the society and his signatures on the purported receipt dated 25.04.1990 qua refund of his share money of Rs.100/- by the said society, Ex.PW51/G is forged one .

176. This witness has been cross examined on behalf of accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused person, despite the opportunity being given to them.

177. PW53 is Smt Vipin Wadhwa, she has deposed that in the year 1983, she became member of the society. She was allotted membership number 51. She has deposed that she never resigned from membership of this society nor received a sum of Rs.110/- towards refund of share money.

178. She has identified her signatures on the membership register Ex.PW13/PX against entry marked Ex.PW53/A; on the affidavit dated CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 28.10.1983 Ex.PW53/B at points A & B; on the application for registration of Society Ex.PW4/A; on the bye-laws of Co-operative Group Housing Society along with list of members Ex.PW4/A-1; on the intensive inquiry proforma already Ex.PW4/A-2; on the photocopy of proceeding of General Body Meeting dated 25.10.1983 Ex.PW24/B; on the affidavit dated 25.04.2005, Ex.PW53/C at points A & B and on her photograph at point C; on verification certificate Ex.PW53/D alongwith share certificate marked as Ex.PW53/E and other accompanied documents collectively marked as PW53/F (colly.)

179. She has deposed that she had never resigned from the membership of society and her purported signature on the resignation Ex.PW53/G and receipt dated 21.02.2002 Ex PW53/H qua refund of her share money of Rs.100/- and her signature at point A on the same were not made by her and somebody has forged her signature.

180. This witness has been cross examined on behalf of accused Ashwani Sharma, Ashutosh Pant and Naveen Kaushik and not by remaining accused CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 person, despite the opportunity being given to them.

181. PW 57 is Smt Rima Vidhani, she has deposed that in the year 2001, she took membership of the society through one Sh. Rajender Khurana and Sh. M.N. Sharma and had paid Rs.100/- as membership fees. She has deposed that she had resigned from membership of this society after one year. She had not attended any meeting of the Managing Committee or General Body Meeting of the society. She was not aware if she was given any post in the society.

182. She has identified her signature on the membership register of Society Ex.PW13/PX against entry marked as Ex.PW57/A; on her resignation letter dated 10.06.2003 marked as Ex.PW57/B; on the receipt of Rs.100/- dated 20.06.2003 Ex.PW57/C.

183. She has also identified her signatures on the proceedings dated 14.10.2001, 18.10.2001, 22.11.2001, 24.12.2001, 21.01.2002, 16.02.2002, 18.03.2002, 26.03.2002, 10.04.2002, 20.05.2002, 27.07.2002, 25.10.2002, 18.12.2002, 20.01.2003 CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 and 28.01.2003, at points B on all pages. She signed all these pages when she had gone to the office of the society to give her resignation. She has deposed that these signatures were obtained by Rajender Kumar Khurana.

184. She has deposed that on audit report and its annexures for the year 2001-02 appeared her signatures at point A. The brief summary of the society is marked as Mark PW57/D and its annexures are Ex.PW57/E (colly.). She has deposed that she had signed the said documents on the asking of Rajender Kumar Khurana.

185. This witness has been cross examined on behalf of accused Ramesh Chander, P.K. Thirwani , Ashwani Sharma, Ashutosh Pant, Naveen Kaushik, Mahanand Sharma and Rajender Kumar Khurana and not by remaining accused person, despite the opportunity being given to them.

186. PW 60 Smt Chandra Kanta Verma, has deposed that in the year 1983-84, she became member of the society at the instance of one Sh. T.K. Basu. She had paid membership fee of Rs.100/- or Rs.120/- of which she also got receipt and share CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 certificate.

187. She has deposed in the year 2000-2001, Sh. T.K. Basu told her that society was not getting any land allotted and that society was going to be liquidated. He offered her that she could resign and get back Rs.3300/-. As she was in need of money, she resigned from membership and got Rs.3300/- in cash.

188. She has identified her signatures in the membership register of society Ex.PW13/PX; on her affidavit dated 28.10.1983 Ex. PW60/A; on the application for registration of RPF CGHS Ltd. Ex.PW4/A; on the bye-laws of Co-operative Group Housing Society along with list of members Ex.PW4/A-1; on the intensive inquiry proforma Ex.PW4/A-2.

189. She has deposed that her resignation letter dated 12.04.1990 Ex.PW60/B qua resigning from the membership of the society was not filled by her and It only bears her signatures. She has deposed that the refund receipt dated 20.04.1990 Ex.PW60/C qua refund of her share money of Rs.100/- was not filled by her but It only bears her CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 signature.

190. This witness has not been cross examined on behalf of any of the accused person, despite the opportunity being given to them.

191. PW 62 is Sh. Raman Marwah, who has deposed that he became the member of the society in the year 2001-2002 through his father Late Sh. Joginder Pal Marwah and made a payment of Rs. 100/-. He has identified his signatures on the membership Register Ex. PW13/PX.

192. He has deposed that he do not remember the membership number of that society. He remained the member of that society for one or two years. Thereafter, he had resigned from the society. He has identified his signature on the resignation letter Ex. PW62/A. He has also identified his signatures on the receipt of Rs. 100/- at point X, Ex. PW62/B. He has further deposed that he has no knowledge about the facts of revival of society. His sister Rima was also a member of the society and Sh. Joginder Pal, who was accused in this case, was his father.

193. This witness has not been cross examined on CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 behalf of any of the accused person, despite the opportunity being given to them.

Witnesses from the office of Registrar Cooperative Society.

194. The office of RCS is the controlling and supervising Government authority over the Co-operative Group Housing Societies. It is a matter of fact that a file pertaining to each of such societies is maintained in the office of RCS from the stage of its formation and registration and all communications made with the society are placed in such a file by the office of RCS.

195. In the present case also, the allegations against the private accused persons are that they submitted a false list of members which was based upon forged and fake resignations and enrollments. The file was processed in the office of RCS. Certain officials/officers during the relevant time who had actually processed the file pertaining to the present society, were either posted as dealing assistants, or Assistant Registrar, and finally all proposals were approved by the Registrar, RCS.

196. The prosecution has examined the relevant CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 officials/officers posted in the office of RCS, during the relevant time who had dealt with the file pertaining to the present Society. These witnesses were examined to prove the proceedings, notings and certain communications between the office of the RCS and the society, as maintained in the office of RCS. In this regard, prosecution has examined following witnesses from the office of RCS.

197. PW 2 Sh J.N. Gupta is Assistant Registrar in the office of RCS New Delhi. He has identified the signatures of Joint Registrar Sh R. Raghuraman on the certificate of registration of the Society (The Regional Provident Fund Employee CGHS) at point A. The certificate is marked as Ex PW2/A. He has issued a memorandum dated 16.08.1991 marked Ex PW2/A-1 to Sh R.P. Mehra, Dealing Assistant for explaining the delay. He has also identified signatures of Joint Registrar Sh R. Raghuraman on the show cause notice dt 05.04.1991 issued to the President/ Secretary of RPF CGHS U/S 32 of DCS Act 1972 marked Ex PW2/A-2 and order dated 19.09.1991 for CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 appointing P.M. Tanwar as an Administrator of RPF (CGHS) marked Ex PW2/A-3. He has proved the note sheet starting from page 9/N to 22/N in file D-2, which bears his signatures at point A on all the note sheets which are collectively marked as Ex PW1/A-4.

198. This witness has not been cross examined by any of the accused persons, despite the opportunity being given to them.

199. PW3 is Sh Jasvir Singh, who has deposed that he remained posted in the office of RCS as Joint Registrar from August, 2003 to March, 2004 .He has deposed that a letter dt. 24.09.2003 was issued by him in reference to the letter no. F.2(27/91/GH/DDA) Part II/5542 dt. 04.09.2003 regarding confirmation of recommendations made by the RCS for allotment of land to the group housing society according to the seniority of registration number. He has deposed that in the attested copy of the said letter (Ex.PW3/A), finds mention of a certificate where the name of RPF CGHS Ltd. has been mentioned at serial no. 14 . He has identified the signature of Sh. Man Singh, CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Assistant Registrar (South) at point A on the copy of certificate, part of Ex.PW3/A (colly.).

200. This witness has been cross examined on behalf of the accused Mahanand Sharma, Ashwani Sharma, Ashutosh Pant and Naveen Kaushik, but not by rest of the accused persons despite the opportunity being given to them.

201. PW29 is Sh Satish Aswal, he has deposed that he remained posted in RCS office, Parliament Street, New Delhi w.e.f 10.06.1998 to 31.12.2002 as an LDC. He has deposed that he remained posted in South Zone, Personal Branch of Dy. Registrar (Administration), Arbitration Branch, West Zone, Delhi .

202. He has further deposed that Sh. B.M. Sethi was his Dy. Registrar. He also worked with Sh. Gopal Singh Bisht, Sh. M.C. Joshi, Sh. Ramesh Chandra, Sh. Krishan Kumar and Sh. Narayan Diwakar. He has deposed that he had dealt with the file of RPF Employees CGHS during his tenure as LDC in the South Zone Delhi. He has deposed that the noting portion of Regional Provident Fund Employees CGHS Ltd from pages P-1/N to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 P-55/N, in file Ex PW29/PX (Colly) pertain to South Zone, Delhi. He has deposed that the noting portion placed at page 42/N was put up by him on 23.01.2001 (marked as ExPW29/PX-1), regarding change of liquidator, as requested by the Ex-

Liquidator Sh. Narender Kumar. He recommended the name of Sh. Mohan Chander Joshi, Gr.IV to be appointed as a Liquidator. He identified his signatures at point A on the note and the said note was put up before the AR(South) Sh. Ramesh Chandra whose signatures he has identified at point B.

203. He has deposed that note dated 25.01.2001, marked as Ex.PW29/PX-2 was marked by Sh. Ramesh Chandra, the then AR (South) to Dy. Registrar (South) for approval. He has identified the signatures of Sh. Ramesh Chandra at point A on the note dt. 25.01.2001.He has deposed that note dt. 30.01.2001 marked Ex.PW29/PX-3 is of Sh. B.M. Sethi, the then Dy. Registrar. He has further deposed that note dt. 30.01.2001 marked ExPW29/PX-4 placed at page 43/N was marked by Sh. B.M. Sethi the then DR (South) to JR-CS CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (South). He has identified the writing and signatures at point A of Sh. Krishan Kumar, the then JR(South). He has identified the signatures of Sh. B.M Sethi at point B and that of Sh. Ramesh Chandra at point C on both notes dated 31.01.2001.

204. He has further deposed that another note dt.

02.02.2001, marked Ex PW29/PX-5, was put up by him before the AR(South) which bears his signatures at point A. He has deposed that the note dt. 01.02.2001 placed at page 43/N and 44/N, marked Ex PW29/PX-6 and marked Ex PW29/PX-7. He identified his handwriting and signatures at point A. He has deposed that the note Ex PW29/PX-8 was marked to Sh. B.M. Sethi, the then Dy. Registrar who put up a note dt. 02.02.2001. He has deposed that Note dt. 02.02.2001 was put up before Sh. Krishan Kumar the then JR(South) who put up a note dt. 15.02.2001 bearing his signatures at point A . He has identified the signatures of Narayan Diwakar at point B below the note dt. 15.02.2001.

205. He has identified the signatures of Sh. M.C. Joshi CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 at point A below the serial no. 133 on page 26 in the membership register, ExPW13/PX.

206. He has deposed that photocopy of minutes of meeting dt. 01.04.2001 placed Ex PW5/E, are written in his writing except the signatures on all the pages. But the page 240/C bears the signatures of Sh. M.C. Joshi, Liquidator at point A which he (this witness ) has identified. He has deposed that when he arrived alongwith Sh. M.C. Joshi, Liquidator at the venue, only 10-12 people were there for attending the Special General Body meeting. He has deposed that the signatures were not made on the register in his presence as he was having no concerned about it. He has deposed that he did not write the particulars mentioned from point B to B. He has deposed that it was so happened as after writing the initial portion of the proceedings, he handed it over to M.C. Joshi. He has deposed that in the corridor of the commercial place of Nehru Place, tables had been put up and M.C. Joshi took it on the other table and he got the signatures of the members there. He has deposed that he had not specifically seen as to who had CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 signed the proceedings. Those persons had been coming, signing and going at that time and the meeting had taken place for 2 to 2.30 hours.

207. This witness has been cross examined by Ld Special PP for CBI and on behalf of the accused M.C Joshi, but not by rest of the accused persons despite the opportunity being given to them.

208. PW 46 Ms Reshma O.M. has deposed that she remained posted as LDC in the Office of Registrar of Co-operative Societies w.e.f. August, 1998 to October, 2001. She has deposed that vide handing over letter dated 18.08.2000 alongwith list of documents, Ex.PW46/A (colly.) she had collected the documents from Narender Kumar, who was posted in the Office of RCS. She has identified her signature at points A and B on the said letter and the list of the documents, which she had put in as acknowledgment of receiving documents. She has deposed that the said letter was kept by Sh. Narender Kumar.

209. She has deposed that Narender Kumar had given another handwritten letter dated 18.08.2000 Ex.PW46/B which she had kept in the office. She CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 has deposed that after collecting the documents Ex.PW46/A, she had made entry in Internal Diary Register and written diary number on the letter dated 18.08.2000

kept in the office and same bears no. 1541/AR/ South/18.08.2000. The diary number is encircled in red today at point A. The said letter alongwith Dakpad were submitted before Assistant Registrar, who after receiving the same put his remark on the said letter. And same is encircled in red today at point B and marked the same to Dealing Assistant for further action in the matter.

210. This witness has not been cross examined by any of the accused persons despite the opportunity being given to them.

211. PW52 Sh P.M. Tanwar, the then Assistant Registrar of RCS, Delhi. He has deposed that he remained posted as Assistant Registrar from 1990 onwards to 1996. He has deposed that he was appointed as Administrator of the RPF CGHS Ltd. in the year 1991 by the Registrar of Co-operative Societies vide its order dated 19.09.1991 and dated 24.09.1991 (Ex.PW2/A3). He has deposed CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 that vide handing over memo Ex.PW48/E, he had received documents mentioned in the said memo from serial no.1 to 12 from office bearers of the RPF society namely Ved Prakash Gupta and T.K. Basu.

212. He has further deposed that vide seizure memo dated 04.01.2006 (Ex.PW52/A) he had handed over documents mentioned in the memo to Inspector CBI Virender Singh who had also put his signature in token of having taken over the said documents.

213. He has deposed that vide letter dated 01.01.1992, Ex.PW52/B addressed to Joint Registrar he had informed the Joint Registrar that the RPF society had not handed over records to him despite several reminders/correspondences. He had also mentioned in the letter about earlier correspondences made by him with the said society.

214. He has deposed that he had made report dated 30.03.1992, Ex.PW52/C, after visiting the office of the RPF CGHS Ltd. to inquire about the functioning of the society. He also met RPF CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Commissioner at the said office and asked them to handover the records of the society. The RPF Commissioner assured him that he would pursue the matter with regard to handing over the said records to him with the office bearers of the society.

215. He has deposed that vide letter, addressed to Deputy Registrar, dated 13.04.1992, (Ex.PW52/D,) he had informed Deputy Registrar that the society had not handed over the records to him and as such action under section 33 of the DCS Act, 1972 may be initiated against the society.

216. He has deposed that vide letter dated 01.09.1992, (Ex.PW52/E), addressed to Manager, Delhi State Co-operative Bank Ltd, he had requested the Bank Manager not to allow withdrawal of any amount of the society.

217. He has deposed that vide report dated 18.10.1994 Ex.PW52/F, he had recommended for initiation of action under section 63 (2) (b) of DCS Act, 1972. The said report was forwarded by him to Registrar of Co-operative Societies, Delhi vide forwarding CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 letter dated 18.10.1994 Ex.PW52/G.

218. He has deposed that a winding up order dated 10.07.1995, Ex.PW52/H was passed by Sh. B.L.Sharma, the then Deputy Registrar ( South). It is also mentioned in the winding up order that Sh. Narender Kumar had been appointed as Liquidator to initiate liquidation proceedings. He has deposed that thereafter, he had handed over entire record of the society to Sh. Narender Kumar, Liquidator.

219. This witness has not been cross examined by any of the accused persons, despite the opportunity being given to them.

220. PW 55 is Sh Vishaw Miter Bhagi, who has deposed that in the year 2005, he was working as Administrative Officer RCS Delhi. He has deposed that on 17.12.2005, he was present at EOW of CBI, 8th floor, Lok Nayak Bhawan, Delhi. IO Inspector Virender Singh came there and asked him to become witness for collection of signature and handwriting specimen.

221. He has deposed that when he went to cabin of IO alongwith IO, he saw 2-3 persons were already CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 present there. Name of one of them was later on revealed as Ashutosh Pant. He do not remember the the name of other persons and those persons voluntarily gave specimen of their handwriting and signatures which he has witnessed.

222. He has deposed that specimen of signatures/handwriting sheets of Ashutosh Pant collectively marked as Ex.PW55/A (colly.) The said specimen signature sheets bears his signature at point A on all the pages. He has deposed that specimen signatures/handwriting sheets of Ashutosh Pant collectively marked as Ex.PW55/B bears his signature at point A.

223. He has further deposed that specimen signatures/handwriting sheets of Ashwani Sharma collectively marked as Ex.PW55/C bears his signature at point A on all the pages.

224. He has further deposed that specimen of signatures/handwriting sheets of Ashwani Sharma collectively marked as Ex.PW55/D bears his signature at point A on all the pages.

225. He has deposed that the specimen signatures/handwriting sheets of Naveen Kaushik, CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 collectively marked as Ex.PW55/E bears his signature at point A.

226. He has further deposed that specimen of signatures/handwriting sheets of T.K.Basu, collectively marked as Ex.PW55/F also bears his signature at point A on all the pages.

227. This witness has been cross examined on behalf of the accused Ashwani Sharma, Ashutosh Pant and Naveen Kaushik but not by rest of the accused persons despite the opportunity being given to them.

Sanctioning Authority

228. In the present case, accused M.C.Joshi the then Liquidator RCS, Gopal Singh Bisht the then dealing assistant Grade-IV Inspector RCS, N. Delhi, Surender Singh, the then Election officer, RCS New Delhi and Prahlad Kumar Thirwani, the then Auditor of the society are the public servant. At the conclusion of the investigation they have also been charge-sheeted. Since they were the public servants, hence during the investigation requisite sanction u/s 19 of Prevention of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Corruption Act, 1988 was obtained by the IO. The authorities which had accorded the sanction to prosecute the above named accused persons, have been examined as prosecution witnesses, which are as under:

229. PW 56 is Sh Ramesh Narayanaswami, who has deposed that in the year 2006, he was posted as Chief Secretary, GNCT of Delhi. Accused P.K.Thirwani was working as Superintendent in the Directorate of Education, GNCT of Delhi at that time when he accorded sanction for prosecution against him.

230. He has deposed that CBI had sent its report through the Superintendent of Police for seeking sanction for prosecution in respect of accused P.K.Thirwani U/s 19 of PC Act, 1988. He has deposed that the report contained brief facts of the case, gist of statements of the witnesses and evidence, analysis of evidence amongst other documents. He has deposed that he had carefully gone through the report including the annexures. After duly applying his mind, he accorded sanction U/S 19 of PC Act, 1988 for prosecution CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of P.K. Thirwani , vide sanction order dated 10.07.2006 Ex.PW56/A which bears his signature at point A . He has deposed that he had granted sanction as he was the competent authority to remove P.K. Thirwani from office.

231. He has deposed that he had also granted sanction in respect of accused Gopal Singh Bisht in the same case relating to RPF CGHS Ltd, as Gopal Singh Bisht, at that time was LDC in the Office of RCS (South Zone). And he ( accused ) was working as UDC/Grade-III (DASS) in the Directorate of SC/ST and Other Backward Classes, Indraprastha Estate, New Delhi at the time of granting of sanction.

232. He has deposed that another report was received from CBI in respect of accused Gopal Singh Bisht which contained brief facts of the case, gist of statements of the witnesses and evidence, analysis of evidence amongst other documents. He had carefully gone through the report including the annexures and after duly applying his mind, he accorded sanction U/S 19 of PC Act, 1988 for prosecution CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of Gopal Singh Bisht, vide sanction order dated 19.07.2006 Ex.PW56/B, which bears his signature at point A on all the pages. He has further deposed that he was the competent authority to remove accused Gopal Singh Bisht from office.

233. This witness has been cross examined on behalf of the accused Ramesh Chander, P.K.Thirwani, Narayan Diwakar, Rajender Kumar Khurana and Gopal Singh Bisht but not by rest of the accused persons despite the opportunity being given to them.

234. PW58 is Smt Shakuntala Doley Gamlin, she has deposed that she was posted as GAD Secretary from 2004 to 2008 in the Government of NCT of Delhi. She has deposed that she received a request from the Directorate of Vigilance and as Secretary (GAD) she was disciplinary and appointing authority for the ministerial staff. Therefore, these cases were put up before her for seeking sanction for prosecution in respect of Mohan Chander Joshi, LDC, in the Office of RCS in the year 2001 and who was posted as LDC in SC/ST Department in the GAD in the year 2006.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 She has deposed that she had gone through the file and relevant papers received by her and found that Sh. Mohan Chander Joshi was appointed as Liquidator in respect of RPF CGHS Ltd. in the year 2001. He misconducted himself and there was sufficient material to show that he had committed various offences. She has deposed that after duly applying her mind, she accorded sanction for prosecution of Mohan Chander Joshi vide her Sanction Order Ex.PW58/A which bears her signatures on both the pages. She has clarified in her deposition that due to heavy work load, as she was holding four charges, the dispatch numbers and dates etc. used to be put by the subordinate staff but it appears that due to oversight and heavy work load, number and date could not be put on the Sanction Order. She has deposed that she had granted sanction for prosecution U/S 19 of PC Act, 1988 as she was the competent authority to grant the same in respect of Mohan Chander Joshi.

235. She has further deposed that similarly, another request was received from the Directorate of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Vigilance and as Secretary (GAD) being the disciplinary and appointing authority for the ministerial staff, therefore, the case was put up before her for seeking sanction for prosecution of Surender Singh, LDC in the Office of RCS, Delhi in the year 2001 and who was posted as LDC in GAD in the year 2006.

236. She has deposed that she had gone through the file and relevant papers received by her. It was found that Surender Singh was appointed as Election Officer in respect of RPF CGHS Ltd. in the year 2001. He misconducted himself and there was sufficient material to show that he had committed the various offences. She has deposed that after duly applying her mind, she accorded sanction for prosecution of the said Surender Singh vide Sanction Order Ex.PW58/B which bears her signatures. She has deposed that for the similar reasons as mentioned above, number and date have been left out on the Sanction Order. She has deposed that as far as she remember, she had granted sanction Ex.PW58/B in 2006. She has deposed that she had granted sanction for CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 prosecution U/S 19 of PC Act, 1988 as she was the competent authority to grant the same in respect of Surender Singh.

237. This witness has been cross examined on behalf of the accused Ramesh Chander, P.K. Thirwani Mohan Chander Joshi and Surender Singh but not by rest of the accused persons despite the opportunity being given to them.

Witness from DDA

238. The role of DDA with regard to the co-

operative group housing society comes into picture when a request is made by the society through the office of RCS for allotment of land. Once the land is allotted the last action on the part of the DDA is generally to get executed Draw of Lots in the presence of their officers. For this purpose, at the first instance, the society would send a list of freezed members to the office of RCS with the request to onward transmission of the same to the DDA for allotment of land. And subsequently, another list is sent for Draw of Lots. But in the present case, it is not the case of the prosecution that land was ever allotted to the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 society by the DDA.

239. As stated earlier, a file is maintained by the office of RCS pertaining to the society, in a similar way a file is maintained pertaining to each of such societies separately by DDA also. And all proceedings and communications pertaining to the society are placed in that file. The officer who dealt with the file of present society during relevant time in the office of DDA, has been examined as prosecution witness as follows:

240. PW8 is Sh. Paras Nath, who has deposed that he joined Co-operative Group Housing Society Branch of DDA in June, 2004 as Assistant in the office of Dy. Director, Cooperative Group Housing Society Branch, Sh. B.N Singh was the Director of the said Branch. He has deposed that the letter dated 04.09.2003 (ExPW8/A) was written to the Registrar, Cooperative Group Housing Societies, Parliament Street, New Delhi under the signatures of Director (RL), DDA. He has deposed that Sh. B.S Bhardwaj, the then Assistant Director, CGHS Branch (DDA) had certified the letter ExPW8/A alongwith a list of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 societies awaiting allotment below registration no.1430 and he (Paras Nath) had identified the signatures of Sh. B.S Bhardwaj on ExPW8/A.

241. This witness was not cross examined by any of the accused persons despite opportunity being given to them.

242. PW61 is Sh Devi Prasad Dwivedi, who has deposed that in the year 2003 he was posted as Director ( Vigilance) and for some time as Director ( Residential Lands). He has deposed that vide letter dated 04.09.2003 Ex PW8/A, alongwith enclosures, he has written to the Registrar (CS), Government of NCT of Delhi with regard to conformation of recommendation made by RCS for allotment of land to various CGHS listed in the enclosure.

243. This witness was not cross examined by any of the accused persons despite opportunity being given to them.

Expert witness.

244. During the course of investigation certain specimen and admitted writings/signatures were sent to GEQD for examination by the CBI to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 establish the case of forgery and role of accused persons who committed the forgery. Prosecution has examined PW66 as expert to prove the report Ex PW66/H.

245. PW 66 is Sh N.C. Sood, GEQD, he has deposed that documents of this case were received in laboratory from SP, CBI, EOW-I, New Delhi vide letter no. RC15(E)/2005/EOW-I/DLI-1843 dated 16.02.2006 alongwith annexures Ex. PW66/A (colly.) The letter was addressed to the Government Examiner of Questioned Documents, Government of India, Railway Board Building, Mall Road, Shimla, H.P.

246. He has further deposed that the documents of this case were also received vide letter No. RC15 (E)/2005/EOW-I/DLI-3632 dated 20.03.2006 along with annexure-I, II and III Ex. PW66/B (colly.) addressed to the Government Examiner of Questioned Documents, Government of India, Railway Board Building, Mall Road, Shimla, H.P. He has deposed that three empty hard disks for copying from original hard disks were received from Inspector, CBI, EOW-I, Delhi vide letter no.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 RC15(E)/2005/EOW-I,DLI-3725 dated 22.03.2006 Ex. PW66/C addressed to GEQD, Shimla.

247. He has further deposed that documents of this case were also received from SP, CBI, EOW-I, Delhi vide letter no. RC15(E)/2005/EOW- I,DLI-3723 dated 22.03.2006 addressed to GEQD, Shimla along with annexures I and II Ex. PW66/D (colly.).

248. He has further deposed that documents were received from SP, CBI, EOW-I, Delhi vide letter no.RC15(E)/2005/ EOW-I,DLI-5388, dated 12.05.2006 along with annexures I, II and III addressed to GEQD, Shimla Ex. PW66/E (colly.).

249. He has deposed that the documents were received from SP, CBI, EOW-I, Delhi vide letter no. RC15(E)/2005/EOW-I,DLI-6880 dated 10.07.2006 along with annexures I, II and III addressed to GEQD, Shimla, same has been placed at D-21 Ex. PW66/F (colly.). He has further deposed one more letter was received from SP, CBI, EOW-I, Delhi vide letter no. RC15(E)/2005/EOW-I,DLI-5846 dated CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 30.05.2006 addressed to GEQD, Shimla regarding collection of expert opinion and original documents vide Ex. PW66/G.

250. He has deposed that after examining the hard discs, Sh. I.S. Rao, the then Assistant GEQD (now expired) prepared the opinion/report no. CX/CFD-73/2006. The said opinion/report was prepared by Sh. I.S. Rao, which bears his signatures on three pages at points A. PW66 has identified his signatures as he had seen him ( Sh I.S Rao) writing and signing in discharge of his official duties and also as he had worked with him. The report along with the annexures of Sh. I.S. Rao are Ex. PW66/H (colly.)

251. He has deposed that the above said report along with the annexure was sent to SP, CBI, EOW-I, Delhi vide our letter no. CX/CFD73/2006-326 dated 21.06.2006, Ex. PW66/I, which bears his signatures at point 'B'.

252. He has deposed that after examining the documents, the report CX-73/2006 dated 26.05.2006 Ex. PW66/J (colly) was prepared and the opinion is signed by Sh. I.S. Rao, the then CBI Vs. Maha

Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 AGEQD (now expired) at point 'A', who was the main examiner. It bears his ( this witness) signatures also on two pages at point 'B' as he had also examined these documents in supervisory capacity. The reasons given along with the said report were also prepared by Sh. I.S. Rao which bears his signatures on all the pages . He identifies his ( I.S Rao) signatures at point 'A' as he had seen him writing and signing on said reasoning Ex. PW66/K (colly.) He has deposed that the opinion and reasons were returned to SP, CBI, EOW-I, Delhi vide letter no. CX-73/2006-240 dated 26.05.2006 Ex. PW66/L which bears his signatures at point B.

253. He has deposed that documents of this case were examined and supplementary opinion/report no. CX73/2006 dated 27.07.2006 Ex. PW66/M (colly.) was prepared by Sh. I.S. Rao and him. It bears the signature of Sh. I.S. Rao, the then AGEQD at point 'A'. It also bear his signatures at point 'B'.

254. He has deposed that the said report was returned to SP, CBI, EOW-I, Delhi vide letter no.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 CX73/2006-451 dated 26.05.2006 Ex. PW66/N and it bears his signatures at point 'B'. He has further deposed that reasons of the report dated 27.07.2006 Ex PW66/O (colly.) prepared by Sh. I.S. Rao placed which bear his signatures at points 'A' .

255. This witness was cross examined on behalf of accused Ashwani Sharma, Ashutosh Pant, Naveen Kaushik and Surender Singh and not by remaining accused persons despite opportunity being given to them.

#### Other Witnesses

256. One of the allegations against the accused persons is that some of the accused persons have forged the signatures and documents. To establish the same, during the investigation, IO has taken the specimen handwritings/ signatures of certain persons including accused persons. While taking the said specimen handwritings/signatures, some officials/officers from different departments were called to witness such proceedings by the CBI. Those persons, so summoned, by the CBI CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 have been examined as prosecution witnesses which are as under:-

257. PW 6 is Ashwani Vig, who has deposed that he has been working as property dealer since 1983-84 and earlier was running this business from his house WZ 51 A, Ratan Park, Opposite Kirti Nagar, New Delhi -15 with his father. In the year 1995, he shifted his business to G 264 B, Vishwas Park, Delhi. He has deposed that accused Mahanand Sharma was known to him and accused Mahanand Sharma was also dealing in the property matters in Palam and Dwarka. He has identified accused Mahanand Sharma in the Court.

258. PW6 was cross examined on behalf of Ld P.P for CBI as this witness turned hostile, but was not cross examined by any of the accused persons despite opportunity being given to them.

259. PW 10 is Sh Amit Kumar Sharma, who has deposed that he has been practicing as an advocate since 1997 in Delhi and he does not deal in the matters pertaining to the cooperative societies. He has deposed that accused Mahanand Sharma (A-1) is known to him and he identified accused CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Mahanand Sharma (A-1) in the court. He has deposed that he had attended one matter of society for seeking exemption on behalf of the society in the office of RCS and he can disclose the name of the society after seeing his vakalatnama. He has deposed after going through a noting dated 08.06.2001 (page 49/N D-2), that in the said note sheet, his name has been correctly shown as an advocate representing the society.

260. This witness was cross examined on behalf of Ld P.P for CBI as this witness turned hostile, but was not cross examined by any of the accused persons despite opportunity.

261. PW 27 is Sh Chander Bhan Arya, he has deposed that he was practicing as an Advocate since September, 1970 at Parliament Street, New Delhi. He remained as Notary wef 20.04.1992 to April, 2006 as per appointment made by Central Government.

262. He has deposed that on the affidavit dt.

24.04.2001, marked as ExPW27/A, in the name of Sh. S.P. Arora, S/o Sh. Radhu Ram, r/o H.No. 91, VPO Punjab Kher, Delhi-81 and the signatures CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 appearing at point A on the said affidavit are not of him. He has deposed that he never attested this affidavit. Even the seal appended at point B is not of him. He has further deposed that affidavit dt. 24.05.2001, marked as Ex PW4/A in the name of Sh. S.P. Puri, S/o Late Sh. S.N. Puri, r/o H.No. 133, Bhavisya Nidhi Enclave, New Delhi. The signatures appearing at point A on the said affidavit are not of him. He never attested this affidavit and even the seal appended at point B is not of him.

263. He has further deposed that on the affidavit dt.

12.07.2001, marked as Ex PW27/B, in the name of Sh. S.P. Arora, S/o Sh. Radhu Ram, r/o H.No. 91, VPO Punjab Kher, Delhi-81. The signatures appearing at point A on the said affidavit are not of him and he had never attested this affidavit. Even the seal appended at point B is not of him.

264. He has deposed that the affidavit dt. 12.07.2001 marked as Ex.PW4/A-7 in the name of Sh. S.P. Puri, S/o Late Sh. S.N. Puri, r/o H.No. 133, Bhavisya Nidhi Enclave, New Delhi. The signatures appearing at point A on the said CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 affidavit are not of him as he had never attested this affidavit. Even the seal appended at point B is not of him.

265. This witness was cross examined on behalf of accused Jogender Pal and accused Rajender Kumar Khurana but was not cross examined by any other accused persons despite opportunity.

266. PW42 is Dr R.N. Singh, who has deposed that he remained posted as Registrar of Birth & Death, NDMC Office, New Saint Thomas School, Mandir Marg, Delhi from May 1993 till April 1998 and thereafter from May 2005 till 2006. He has deposed that the verification report Ex PW42/A regarding death certificate of K.L. Khanna was issued by him which bears his signatures at point A. He has deposed that death certificate of K.L. Khanna was issued by him and he identified his signature at point A on death certificate is Ex. PW42/B.

267. This witness was not cross examined by the any of accused persons despite opportunity being given to them.

268. PW 59 is Sh Yashpal Singh, who has deposed that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 in the year 2006, he was posted as Tehsildar, Delhi Cantt. He has deposed that vide seizure memo dated 04.01.2006 Ex.PW52/A Sh. P.M. Tanwar had handed over documents, mentioned in the memo, to CBI Insp. Sh. Virender Singh.

269. He has deposed that vide production-cum-seizure memo dated 03.02.2006 marked as Ex.PW59/A. Smt. Ishwar Khanna, W/o Late Sh. K.L. Khanna had handed over death certificate of her husband Late Sh. K. L. Khanna to Inspecstor Sh. Virender Singh.

270. This witness was not cross examined by the any of accused persons despite opportunity being given to them.

271. PW63 is Sh Rampal, Assistant Superintendent, Central Jail Tihar. He has deposed that during the month of March, 2006, he was posted as Assistant Superintendent, Jail No. 4, Central Jail, Tihar Jail, Delhi. He has deposed that on 08.03.2006, the specimen signatures of accused Ashwani Sharma were taken in his presence. His signatures were also taken for verification as he had verified the same.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

272. He has deposed that the documents at S-176 to S-191, S-196 to S-199 and S-257 to S-260 Ex. PW63/A (colly.) bears his signatures at points 'A'. He has further deposed that the documents Ex. PW63/A (colly.) bears the signatures of accused Ashwani Sharma at points 'B'. He has also identified accused Ashwani Sharma in the court.

273. This witness was cross examined by accused Ashwani Sharma and not by any other accused persons despite opportunity being given to them.

274. PW64 is Sh Satish Kumar Gupta, who has deposed that in the month of November, 2005, he was working as a Assistant Manager, Syndicate Bank, Khan Market, New Delhi.

275. He has deposed that as per the instructions of Chief Manager, Syndicate Bank, he went to CBI office in the month of November, 2005 and had attended CBI office more than one time. He has further deposed that in the CBI office, the specimen signatures were taken of Mr. Arora, some Mr.

Puri and one more person in his presence. He had witnessed the above CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 proceedings and he had also signed as a witness on some documents.

276. He has deposed that the specimen signatures Ex.

PW45/K (colly.), S-103 to S-110, are the specimen signature of Sh. Surya Prakash Arora. He has identified his signature at points A on each page. He has deposed that specimen signatures at S-170 to S-175, Ex. PW64/A (colly.) are the specimen signature of Sh. S.P. Puri. He has identified his signature at points A on each page.

277. He has also deposed that S-160 to S-167, Ex.

PW64/B (colly.) are specimen signature of Sh. Ved Prakash. He has identified his signature at points A on each page.

278. This witness was not cross examined by any of accused persons despite opportunity being given to them.

279. PW65 is Sh Ashok Kumar Puri, Deputy Superintendent Jail Tihar, Delhi. He has deposed that on 10th March, 2006, he was posted as a Deputy Superintendent, Jail No. 4, Tihar Jail, Delhi. He has deposed that Mr. Virender Singh from CBI had come to the jail for making some CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 inquiry/investigation pertaining to the Cooperative Group Housing Society.

280. He has deposed that Mr. Virender Singh was having some sheets which were already typed at the top and rest portion was blank. Those sheets were used for taking the specimen signatures/writing of a person already lodged in the jail. The said specimen signatures/writings were taken in his presence by Virender Singh. He has deposed that specimen signatures/writings were taken, of one Ashwani Kumar or Ashwani Kumar Sharma.

281. He has deposed that the proceedings placed at dated 10.03.2006 placed from S-192 to S-195, from S-200 to S-240 and from S-253 to S-256, Ex. PW65/A ( Colly) were recorded in his presence which bears his signatures at points X on each pages. These proceedings also bear the signatures of said Ashwani Kumar on each pages at points Y. He has correctly identified accused Ashwani Sharma in the Court.

282. This witness was cross examined by accused Ashwani and not by remaining accused persons CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 despite opportunity being given to them.

283. PW 68 is Sh Ravinder Kumar Bansal, he has deposed that during the year 2005, he was posted at Canara Bank, 3F, Kamla Nagar, Delhi-07. He has deposed that he had joined investigation dated 1st August, 2005 carried out by CBI. On that day he and another officer from his bank namely Sh.

Dinesh Nijhawan had joined the proceeding under the oral direction of their Chief Manager.

284. He has deposed that the team leader of the search team was Mr. Sharma. They had gone to Mayur Vihar at the office of Mr. Ashwani Sharma which was found lock. Thereafter they went to his residence of Mr. Ashwani Sharma. They returned to office of Mr. Ashwani Sharma alongwith Mr. Aswani Sharma. He has deposed that during the search, CBI team recovered approximate 125 files and few hard disk from the office of Mr. Aswani Sharma. The proceeding of search were reduced in writing by CBI officer and CBI officer has also taken his signature on the search memo through which files and hard disk were seized.

285. He has deposed that the search List dated CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 01.08.2005 Ex. PW68/A (colly) alongwith photocopy of the annexures was prepared in his presence which bears his signature at points A on each page. He also identified the signature of Ashwani Sharma on the back page of Search List at point B.

286. He has deposed that a Hard Disk was recovered during search and which bears his signature at point N. The Hard Disk is Ex. PW68/Article-1. He has deposed that one hard disk Samsung HDD, Serial No. 0413J1FTC13248 was recovered during search and which bears his signature at point N, the Hard Disk is Ex. PW68/Article-2.

287. This witness has been cross examined on behalf of accused Maha Nand Sharma, Ashwani Sharma, Ashutosh Pant, Mohan Chander Joshi and Naveen Kaushik and not by remaining accused persons despite opportunity being given to them.

288. PW 69 is Sh. Dinesh Kumar Nijhawan, he has deposed that in the year 2015 he was posted at Canara Bank, 3F, Kamla Nagar, Delhi-07. He has deposed that he had joined investigation dated 1 st August, 2005, carried out by CBI. He has deposed CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 that on that day he and another officer from his bank namely Sh. Ravinder Kumar Bansal had joined the proceeding under the oral direction of their Chief Manager.

289. He has further deposed that in addition to them CBI team was also there. They had gone to Mayur Vihar at the office of Mr. Ashwani Sharma which was found lock. He has deposed that thereafter they went to the residence of Mr. Ashwani Sharma. Thereafter they returned to office of Ashwani Sharma alongwith Ashwani Sharma. He has identified accused Ashwani Sharma in the court.

290. He has further deposed that during the search CBI team recovered so many files and few hard disk from the office of Ashwani Sharma. The proceeding of search were reduced in writing by CBI officer and CBI officer has also taken his signature on the search memo through which files and hard disk were seized.

291. He has deposed that the search list dated 01.08.2005 Ex. PW68/A (colly) alongwith photocopy of the annexures, was prepared in his CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 presence which is photocopy of the original and same bears his signature at

points X on each page. He also identified the signature of Ashwani Sharma on the back page of Search List at point B. He has deposed that a Hard Disk was recovered during search and which bears his signature at point Z. The Hard Disk is Ex. PW68/Article-1. He has deposed that one hard disk Samsung HDD, Serial No. 0413J1FTC13248 was recovered during search and which bears his signature at point N, the Hard Disk is Ex. PW68/Article-2.

292. This witness has been cross examined on behalf of accused Maha Nand Sharma, Ashwani Sharma, Ashutosh Pant, Mohan Chander Joshi and Naveen Kaushik and not by remaining accused persons despite opportunity being given to them.

#### Witnesses from CBI

293. In the present case, the FIR was registered pursuant to the order of Hon'ble High Court dated 03.10.2005. Initially, a preliminary enquiry was conducted by the CBI officer and at the conclusion of the preliminary enquiry, a regular case was registered. During the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 investigation certain documents were received and seized from the office of RCS and also from the office of DDA. From the stage of carrying out preliminary enquiry till filing of chargesheet, the officers from CBI, who one way or another, were part of the investigation have been examined as prosecution witnesses, which are as under:

294. PW 54 is Inspector Anupam Mathur, he has deposed that in the year 2005, he was posted as Sub-Inspector in EOW branch of CBI. Sh. Piyush Aanand, was posted as Superintendent of Police at EOW branch of CBI. He has deposed that in the first week of August, 2005, a preliminary enquiry was registered and was assigned to him. He conducted the preliminary enquiry related to present society. During enquiry, he collected documents from RCS, Delhi office and also from the office bearers of the said society. During enquiry, it transpired that the society had become defunct and it was later revived on the basis of forged documents submitted in RCS office, Delhi. He has examined few original members of the said society. They were shown the resignation CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 letters purportedly given by them to the said society. Those members denied to have given any such resignation and denied their signatures thereon. He has deposed that he had also examined some office bearers of the said society who purportedly had submitted some affidavits for purpose of revival of the said society but those office bearers also denied their signatures on those affidavits. He has deposed that since various irregularities and forgeries were found out, he recommended for registration of regular case.

295. He has deposed that FIR of RC 15(E) 2005 EOW/DLI/dated 30.09.2005, Ex.PW54/A was entrusted to him for investigation but since it involved investigation against public servants, he being Sub-Inspector was not competent to conduct the investigation without obtaining orders of the Magistrate, therefore, this FIR was transferred to Inspector Virender Singh for investigation.

296. He has deposed that vide receipt memo dated 14.09.2005 Mark PW54/B, he had received documents mentioned in the said memo from S.K.Seth, Head Clerk of office of AR, Co-

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 operative Societies (South). He has deposed that vide receipt memo dated 15.09.2005 Mark PW54/C he had received documents mentioned in the said memo from Suresh Singhal, President of of the Society. And he has put his signature in token of handing over the said documents to him. ( witness)

297. This witness was cross examined on behalf of accused Ramesh Chander and P.K. Thirwani but was not cross examined by any other accused persons despite opportunity being given to them.

298. PW54 Inspector Anupam Mathur was recalled on the application U/S 311 being moved by CBI. He has deposed that receipt memo dated 11.08.2005, Ex PW54/D was prepared by him during the preliminary enquiry. He has further deposed that an undertaking dated 13.03.2006, Ex PW54/E, was given by Suresh Singal to the effect that certain documents where taken into possession by him( PW54) from him during the preliminary enquiry.

299. This witness was not cross examined by any of the accused persons despite opportunity being CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 given to them.

300. PW67 is Sh Virender Singh, IO of the case. He has deposed that in the year 2005, he was posted in EOW, Lok Nayak Bhavan, Khan Market, New Delhi. He has deposed that in pursuance of Civil Writ Petition 10066/2004 filed in the Hon'ble High Court of Delhi. The Hon'ble High Court ordered CBI to conduct an investigation of 135 numbers of group housing societies.

301. He has deposed that CBI, EOW registered a preliminary enquiry against five group housing societies including RPF CGHS. Initially, PE was conducted by the then Sub- Inspector Anupam Mathur. Sh. Anupam Mathur conducted PE and submitted the report. He has deposed that the report revealed that RCS has revived the RPF CGHS on the basis of forged and fabricated documents in connivance with the RCS staff and private persons. He has deposed that on the basis of PE, a regular case was registered with CBI, EOW-I, RC-15(E)/2005/EOW-I/DLI. Initially, the investigation of the present case was entrusted to SI Anupam Mathur and subsequently it was CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 transferred to him.

302. He has deposed that during the course of the PE, SI Anupam Mathur collected the documents from Suresh Singal and from RCS office which are on record and he had investigated the matter on the basis of the said documents.

303. He has deposed that a regular case was registered vide aforesaid FIR Ex. PW54/A and it bears the signatures of the then SP at points 'A'. He has further deposed that the file Ex. PW29/PX, containing notings pertaining to the present society maintained by the office of RCS, was seized by SI Anupam Mathur during the preliminary enquiry vide seizure memo dated 11.08.2005, Ex. PW54/D.

304. He has deposed that document/file Ex. PW67/A (colly.) containing correspondence pertaining to the said society maintained by the office of RCS, the said file was seized by SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 11.08.2005 Ex.

PW54/D.

305. He has deposed that the file PW67/B (colly.) CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 containing bye laws, affidavits of founder members, registration certificate, approved list of members, winding up order of the society and appointment of liquidator etc. pertaining to the said society maintained by the office of RCS. The said file was also seized by SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 11.08.2005 Ex PW54/D.

306. He has further deposed that the file Ex. PW67/C (colly.), containing application dated 10.03.2001 of Surya Prakash, Ex. President of RPF CGHS, affidavit of S.P. Arora and S.P. Puri for revival of the society, revival order dated 16.08.2001 passed by Narayan Diwakar, election report dated nil of Surender Singh (Election Officer), photocopies of affidavits submitted by promoter members/newly enrolled members etc. pertaining to the said society maintained by the office of RCS was seized by SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 11.08.2005, Ex. PW54/D.

307. He has further deposed that one audit file Ex.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 PW67/D (colly.) for the period 1983-1984 to 1985-1986 pertaining to the said society, maintained by the office of RCS, was seized by the SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 11.08.2005, Ex. PW54/D.

308. He has further deposed that one audit file Ex.

PW67/E (colly.) for the period 1983-1984 to 2000-2001 pertaining to the said society maintained by the office of RCS, was seized by SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 11.08.2005, Ex. PW54/D.

309. He has further deposed that an undertaking Ex.

PW54/E dated 13.03.2006 was given by Suresh Singal to the then SI Anupam Mathur.

310. He has deposed that one file Ex. PW67/F (colly.), containing the receipts of refund allegedly made to the members of the said society was seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

311. He has further deposed that one file Ex. PW67/G CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (colly.), containing resignation letters of promoter members of the said society was also seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

312. He has further deposed that one file Ex. PW67/H (colly.). containing applications of the members of the said society was seized by S.I. Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

313. He has deposed that one file Ex. PW67/I (colly.), containing 20 pages consisting correspondences took placed between the said society and DDA/RCS office was seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

314. He has further deposed that the proceeding register Ex. PW13/PA pertaining to the said society was seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

315. He has further deposed that the membership register Ex. PW13/PX pertaining to the said society was seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

316. He has deposed that the document/file Ex.

PW13/PB, the proceeding register (GBM) pertaining to the said society was seized by SI Anupam Mathur during the preliminary enquiry from Suresh Singal vide receipt memo dated 15.09.2005, Mark PW54/C.

317. He has deposed that document/file Ex. PW67/J (colly.) placed at from page no. 7 to 15, certified copy of letter bearing no.

47/1427/GH/Coop./S/494 dated 25.04.2006 addressed to Assistant Registrar Policy, Office of RCS sent by M.P. Sharma, Assistant Registrar, South, Office of RCS in five sheets, were received by him by hand from the office of DDA on 25.04.2006.

318. He has further deposed that the document/file Ex.

PW67/K addressed to the him was a forwarding letter dated 03.04.2006 of Registrar Birth and CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Death, West Zone, MCD which was received by him from the said office by post.

319. He has further deposed that document/file Ex.

PW42/B, special certificate of death bearing no. 31398 dated 25.11.1993 of Sh. K.L. Khanna was received by him from the office of Registrar, Birth and Death vide seizure memo dated 03.02.2006, Ex. PW59/A.

320. He has further deposed that the document/file Ex.

PW67/L (colly.), death certificate bearing no. 0338907 of Vijay Bhasin S/o Tara Chand along with enclosures bearing no. 131463 was received by him from the office of Registrar, Birth and Death.

321. He has deposed that the document/file Ex.

PW8/A, certified copy of letter no. F/2(27)91/GH/DDA/Part-II/5542 dated 04.09.2003 along with enclosures of four sheets regarding the list of society, awaiting allotment below resignation no. 1430 was received by him from the office of DDA.

322. He has further deposed that communications were exchanged between the GEQD and the CBI office CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 qua documents/ file GEQD opinion and the reasons.

323. He has deposed that letter dated 12.05.2006, Ex.

PW66/E (colly.); letter dated 10.07.2006, Ex. PW66/F (colly.); letter dated 16.02.2006, already exhibited as Ex. PW66/A (colly.); letter dated 20.03.2006, already exhibited as Ex. PW66/B (colly.); letter dated 30.05.2006, already exhibited as Ex. PW66/G bears the signature of SP, CBI namely Sh. D.K. Chaudhary at point 'A' and it bears his signatures also on the annexures at points 'B' respectively.

324. He has further deposed that the letter dated 22.03.2006, Ex. PW66/C, bears his signatures at point 'A'. He has deposed that the letter dated 22.03.2006, Ex. PW66/D (colly.) bears signature of the then SP, CBI namely Sh. D.K. Chaudhary at point 'A'. And it also bears his signatures on the two annexures at points 'B'.

325. He has deposed that seizure memo dated 04.01.2006 Ex. PW52/A, vide which documents were seized from Sh. P.M. Tanwar, the then Administrator of the Society, was prepared by CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 him and it bears his signatures at point 'C'. He has further deposed that vide aforesaid seizure memo dated 04.01.2006, Ex. PW52/A, the file placed at D-25 (the copy of the document placed at D-24) and the file placed at D-26 Ex. PW59/A was seized.

326. He has further deposed that vide seizure memo dated 20.03.2006 Ex. PW67/M documents were seized from Sh. Narender Kumar, LDC, RCS Office, the memo was prepared by him and it bears his signatures at point 'A'. He has deposed that vide Ex. PW46/A (colly.) handing over and taking over of documents, took place between Reshma and Narender Kumar.

327. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 16.12.2005 belongs to accused Ashwani Sharma from S-123 to S-147, Ex. PW55/C (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'X' and the signatures of accused Ashwani Sharma at points 'Y'.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

328. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 08.03.2006 belongs to the accused Ashwani Sharma from S-176 to S-191, Ex. PW63/A (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'X' and the signatures of accused Ashwani Sharma at points 'B'.

329. He has deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 08.03.2006 belongs to the accused Ashwani Sharma from S-196 to S-199 and from S-257 to S-260, part of already exhibited as Ex. PW63/A (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'X' and the signatures of accused Ashwani Sharma at points 'B'.

330. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 10.03.2006 belongs to the accused Ashwani Sharma from S-192 to S-195 Ex. PW65/A (colly.) which were obtained by him CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 during the investigation and the same bear his signatures on each of the pages at points 'S' and the signatures of accused Ashwani Sharma at points 'Y'. He has deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 10.03.2006 belongs to the accused Ashwani Sharma from S-200 to S-240, part of Ex. PW65/A (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'S' and the signatures of accused Ashwani Sharma at points 'Y'.

331. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 16.12.2005 Ex. PW67/N (colly.) belongs to the accused Ashwani Sharma from S-241 to S-252, placed at D-29 which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'A' and the signatures of accused Ashwani Sharma at points 'B' and of independent witness namely Sh. Vishwamitra Bhagi at points 'C'.

332. He has further deposed that the proceedings CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 pertaining to the taking over of specimen signatures/writings dated 28.11.2005 belongs to Surya Prakash Arora from S-103 to S-110, Ex. PW45/K (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of independent witness namely Sh. S.K. Gupta at points 'A'.

333. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings dated 24.11.2005 belongs to S.P. Puri from S-170 to S-175, placed at D-31, Ex. PW64/A (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said S.P. Puri at points 'C' and of independent witness Sh. S.K. Gupta at points 'A'.

334. He has further deposed that proceedings pertaining to the taking over of specimen signatures/writings belongs to T.K. Basu from S-111 to S-116, placed at D-32, Ex. PW55/F (colly.)

which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 and the signatures of said T.K. Basu at points 'C' and of independent witness Sh. Vismamitra Bhagi at points 'A'.

335. He has further deposed that proceedings pertaining to the taking over of specimen signatures/writings belongs to Ved Prakash from S-160 to S-167, Ex. PW64/B (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said Ved Prakash at points 'C' and of independent witness Sh. S.K. Gupta at points 'A'.

336. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings belongs to accused Naveen Kaushik from S-261 to S-284, placed at D-34, Ex. PW55/E (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said accused Naveen Kaushik at points 'C' and of independent witness Sh. Viswamitra Bhagi at points 'A'.

337. He has deposed that the proceedings pertaining to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the taking over of specimen signatures/writings belongs to accused Ashutosh Pant dated 17.12.2005 from S-1 to S-159, Ex. PW55/A (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said accused Ashutosh Pant at points 'C' and of independent witness Sh. Viswamitra Bhagi at points 'A'.

338. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings belongs to accused Ashwani Sharma dated 06.07.2006 from S-285 to S-373, placed at D-36, Ex. PW55/D (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said accused Ashwani Sharma at points 'C' and of independent witness Sh. Viswamitra Bhagi at points 'A'.

339. He has further deposed that the proceedings pertaining to the taking over of specimen signatures/writings belongs to accused Ashutosh Pant dated 08.07.2006 from S-374 to S-415 Ex.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 PW55/B (colly.) which were obtained by him during the investigation and the same bear his signatures on each of the pages at points 'B' and the signatures of said accused Ashutosh Pant at points 'C' and of independent witness Sh. Viswamitra Bhagi at points 'A'.

340. He has deposed that during the investigation, he had obtained the requisite sanctions u/s 19 of the Prevention of Corruption Act to prosecute the public servants who are the accused persons in the present case. The sanction to prosecute the accused P.K. Thirwani is Ex. PW56/A ; in respect of accused Mohan Chand Joshi Ex. PW58/A; in respect of accused Surender Singh Ex. PW58/B and in respect of accused Gopal Singh Bisht Ex. PW56/B. He has deposed that a file in two volumes, part I and part II, Ex. PW67/O (colly.) and Ex. PW67/P (colly.) respectively of RPF CGHS containing

fresh affidavits, verification certificates etc was seized by SI Anupam Mathur during the preliminary enquiry from the office of RCS vide seizure memo dated 14.09.2005, Mark PW54/B. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

341. He has deposed that during the investigation, he had recorded the statement of witnesses and after conclusion of the investigation, he had filed the charge-sheet before the court.

342. This witness has been cross examined by all the accused persons.

343. Thereafter, vide order dated 03.06.2024, prosecution evidence was closed on the submission of Ld Sr PP for CBI.

#### STATEMENTS OF ACCUSED PERSONS UNDER SECTION 313 Cr PC

344. Statements of accused persons u/s 313 Cr.PC were recorded on 08.02.2023, by this Court.

345. During the statement recorded u/s 313 CrPC, to most of the questions put to accused Mahanand Sharma, the answers given by him were either " I do not know " however he answers differently to few questions. Out of the questions whose answers were given differently by the accused Mahanand Sharma , basically pertain to the evidence which has come on record during the deposition of PW6 Ashwani Vij and the same were answered as: " it CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 is correct that PW-6 known to me as PW 6 and I are in the similar type of trade."

346. When the accused Mahanand Sharma was asked as to why this case is against him (Q.624), he replied that "He has been falsely roped in the present case by the investigating officer without any evidence or linkage with the society". Accused Mahanand Sharma opted not to lead any evidence in his defence .

347. Similarly, the answers given by accused Ashwani Sharma , during the statement recorded u/s 313 Cr PC, to most of the questions put to him were either " I do not know " or " it is incorrect. However he has answers to few questions.

348. To answer the questions regarding taking of his specimen signatures in the presence of PW63 Rajpal, he has replied that " It is incorrect. No alleged specimen handwriting and signatures Ex.PW63/A (colly) from S-176 to S-191, S-196 to S-199 and S-257 to S-260 were ever taken from him in this case during investigation at Tihar Jail and there is no court permission on record which shows that IO had ever visited in Tihar Jail to obtain the alleged specimen handwriting/signatures."

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

349. To the questions regarding identifying him by PW 63 , he replied " It is incorrect. I was already shown to this witness in the court premises by the CBI officers/officials, hence the witness was able to identify me."

350. When the accused Ashwani Sharma was asked as to why this case is against him, he replied that "

This is a false case filed by the IO against me with malafide intention. He has not conducted fair and proper investigation. Further, he has made me scapegoat in this case with vested interest. The investigation conducted by IO (PW-67) was arbitrary, unfair and was not in accordance with law. It is evident from his testimony that the investigation done by him is a sham exercise. Accused Ashwani Sharma opted to lead evidence in his defence and has examined Akash Bhardwaj as DW2.

351. In reply to the question whether he wants to say anything else , he replied:

" I am innocent. Investigation conducted by the investigation officer in this case is perfunctory, partial, improper and shabby. Further, the investigating officer has not taken any specimen handwriting/signatures, nor I have given any specimen handwriting/signatures in this case."

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

352. Similarly, the answers given by accused Narayan Diwakar, during the statement recorded u/s 313 CrPC, to most of the questions put to him were either " I do not know or I have no personal knowledge about the same and hence he cannot comment as to its veracity" or " The investigation was faulty and biased. He answers differently to few questions.

353. In respect of the question regarding revival order dated 16.08.2001 on the basis of forged document, accused Narayan Diwakar replied that " The investigation was biased and faulty"

354. When the accused Narayan Diwakar was asked as to why this case is against him ,he replied that "

This is a false and baseless case against me. The investigation was faulty and was done with a biased mind."

355. In reply to the question whether he wants to say anything else , he replied:

"I was falsely implicated in the present case. The present case is registered against me because of the misinterpretation of the provisions as contained in the Delhi Cooperative Societies Act, 1972 r/w Delhi Cooperative Societies Rules 1973. The present case has been registered and investigated by the CBI with a malicious attitude against me. I do not know the reason(s) why the CBI has done so. The CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 prosecution has not fairly assisted this Hon'ble Court. No case is made out against me. None of the PWs has deposed against me. As per the DCS Act, 1972 it is the responsibility of the Managing Committee to furnish the correct & true particulars, while approaching the

RCS Office. I had reasonable belief that the documents / papers placed before me were in order. The act(s) performed by me were done in absolute good faith, taking all the necessary steps as provided under the law. There is no circumstance appearing against me. Therefore, I may kindly be acquitted.

In the present case the Liquidation proceedings were never finalized. By the operation of law (Rule 105 DCS Rules) the winding-up proceedings stood automatically terminated by after three years (maximum period). As per Rule 105 of the Delhi Cooperative Rules 1973 there is a provision for the deemed termination of the winding- up proceedings (maximum 3 years after the passing of the winding-up order) after which the Registrar is bound to cancel the winding-up orders by passing an order to this effect in view of the Judgment of the Division Bench of the Hon'ble Delhi High Court (VIKAS CGHS v. RCS etc.). I complied with the said orders of the Hon'ble Delhi High Court.

I was appointed as the Registrar Cooperative Societies (RCS) Delhi under S.3 of the Delhi Cooperative Societies Act, 1972. At the time of the passing of the order(s) of cancelling the winding-up I was aware of the judgment delivered by the Double Bench of the Hon'ble Delhi Court in the Civil Writ Petition No. 1767 / 1986 case CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 entitled "VIKAS CO-OPERTIVE GROUP HOUSING SOCIETY LTD. V. RCS "(decided on 21st Nov. 1986).

Secondly it is submitted that cancelling the winding-up order of the society had nothing to do with the availability or the verification of the records. The only aspect that was to be taken into account was the provision of Rule 105 of the Delhi Cooperative Societies Rule, 1973. Therefore the act(s) performed by me were done in absolute good faith taking all the necessary steps as provided under the law.

The copy of the judgment in "VIKAS CGHS v. RCS" is enclosed here-with. There is no circumstance appearing against me. Therefore I may kindly be acquitted.

It is also pertinent to mention that the CBI has neither obtained sanction to prosecute under section 197 Cr.P.C. nor under section 19 of the PC Act. The said two sanctions operate in distinct mechanism and were mandatory even for a retired public servant. I am innocent. I pray to this Hon'ble Court to acquit me.

It is also pertinent to mention that the CBI has neither obtained sanction to prosecute under s.197 Cr.P.C. nor under S.19 of the PC Act. The said two sanctions operate in distinct mechanism and were mandatory even for a retired public servant. As per the newly amended law i.e. Prevention of Corruption Act, (amended till 2018) applicable even to the present case (pending trial) the sanction under S.19 of the PC Act is now mandatory even for the retired public servants. Needless to mention that the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 provision of

S.13(1)(d) of the old PC Act, 1988 has now been repealed. The present case is devoid of merits and also suffers the discrepancy due to the later amendments of 2018 which are applicable to the present pending case. Furthermore, it will be relevant to add that Dr. Kamini Lau the Ld. Spl. Judge: CBI had referred by way of reference under S.395 Cr.P.C. raising the question of scope & applicability vis-à-vis S.19 of the P.C. Act in respect of retired servants in the pending cases where the sanction under S.19 of the PC Act has not been taken in respect of the retired public servants. Thus the reference of the matter relating to the applicability of the newly amended PC Act (2018 amendment) is still pending before the Division Bench of Hon'ble Delhi High Court.

As regards sanction under S.19 of the amended PC 2018, CBI has already conceded before the Hon'ble Court that since sanction deals with procedure it will have retrospective effect. On this admission of CBI the Hon'ble Madras High Court in M. Soundararajan vs State Crl.A. (MD)No.488 of 2018 held that by amending paragraph 8 in Part A of the Schedule to the Prevention of Money laundering Act, 2002 certain offences under the prevention of corruption Act, 1988 are included to the PMLA, 2002. Since, offence analogous is already in statute prior to the amendment, Chapter IV A and section 19 of the Prevention of Corruption (Amendment) Act, 2018 alone will fall away from protection given under Article 20 (1) of the Constitution and therefore will have application to the pending cases either under CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 investigation or pending trial after investigation.

Same view has been held by the Hon'ble Delhi High Court in SHAPOORJI PALLONJI AND CO. PVT. LTD. v.

JINDAL INDIA THERMAL POWER LIMITED (O.M.P.(MISC.) (COMM.) 512/2019 decided on 23.01.2020.) wherein the court was of the view that that amended Sections 23(4) and 29A(1) of the Arbitration and Conciliation Act, being procedural law, would apply to the pending arbitrations as on the date of the amendment.

Charges of conspiracy levelled under section 120(B) IPC are not sustainable against me. During my tenure as RCS, Delhi from 2001 to 2004 the entire RCS office was fully computerised by launching its own website on which about 10 lakh data was uploaded to cover to various information pertaining to about 5000 Cooperative Societies including the group housing societies with details of management committee of all societies, particulars of individual members, its election and audit position were given for the information to all concerned and the effected citizens of Delhi. A wide publication was also given this website through local newspapers and electronic media. There was facility for any type of enquiry complaint from the effected / interested persons of the public in order to speedy redressal of their complaints and grievances. The RCS office was given the distinction of completing the gigantic task of computerization in a fixed time schedule. For this achievement, a letter of appreciation was given by the Chief CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Secretary of the Govt. of NCT of Delhi. It is therefore emphasized that in the face of such a transparency in the working of the department there cannot be any scope for ant conspiracy of any kind either with any official of the department or the persons

outside. It is established factor that transparency and conspiracy cannot go together.

I have been falsely implicated in the present case. "

356. He has opted to lead evidence in his defence.

357. Similarly, the answers given by accused Ashutosh Pant, during the statement recorded u/s 313 CrPC, were "I do not know" however he answers differently to few questions.

358. To the questions, with regard to the report of Ex PW66/M, Ex PW66/N and reasoning Ex PW66/O ( Colly) given by PW66 GEQD, he replied that " It is improper as they are contrary to settled proposition of law as laid down by the Supreme Court of India as to how a report has to be prepared and what has to be basis of the same"

359. When accused Ashutosh Pant was asked as to why this case is against him , he replied that " This is a false case filed by the IO against me with malafide CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 intention. He has not conducted fair and proper investigation. Further, he has made me scapegoat in this case with vested interest. The investigation conducted by IO (PW-67) was arbitrary, unfair and was not in accordance with law. It is evident from his testimony that the investigation done by him is a sham exercise.

360. In reply to the question whether he wants to say anything else , he replied:

"I am innocent. Investigation conducted by the investigating officer in this case is perfunctory, partial, improper and shoddy. Further, the investigating officer has not taken my specimen handwriting / signatures, nor I have given any specimen handwriting / signatures in this case. I will file my written submission u/s 313(5) Cr.P.C."

361. Accused Ashutosh Pant has produced DW2 in his defence evidence..

362. The accused Rajender Kumar Khurana, during the statement recorded u/s 313 CrPC, stated to the questions put to him that either " I do not know " or " the witness had not deposed anything as against me" He answers differently to few questions.

363. When the accused Rajender Kumar Khurana was asked as to why this case is against him , he replied that " This is a false and baseless case against me. The investigation was faulty and was done with a CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 biased mind.

364. In reply to the question whether he wants to say anything else , he replied that :

"Mr. Joginder Pal Marwaha was a senior person and was a man of standing in society. He used to visit my shop of Tractor parts in Kashmiri Gate, Delhi and as such I got in touch with him. On his asking in good faith, I gave consent to become

member of the society. He also told that if some of my known or relatives are willing to join the society, they can become the member. As such few of the members joined the society. But they did so out of their free will and volition. The affairs of the society used to be looked after and managed by Sh. Joginder Pal Marwaha. I am a 10th fail from a Hindi medium village Govt. school in Rohtak, Haryana and having no understanding of the English language nor having any knowledge as to the functioning of the cooperative societies. I have not done anything wrong. I am not accused in any other CGHS case (or in any other case). I was falsely implicated in the present case. I am innocent"

365. Accused Rajender Kumar Khurana has not led evidence in his defence.

366. The answers given by accused P.K. Thirwani, during the statement recorded u/s 313 CrPC, to most of the questions put to him were either " I have no knowledge or "It is a matter of record. I had conducted the Audit of the Society in good faith, as per the documents/ records produced by the society" he answers given differently to few questions.

367. When the accused accused P.K. Thirwani was CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 asked as to why this case is against him , he replied that " This is a false case. I have not committed any crime under the IPC or PC Act. In addition to the bald allegation, there is nothing incriminating against me which connects me to the case. I have been wrongly prosecuted without being an iota of evidence against me."

368. In reply to the question whether he wants to say anything else , he replied:

"I had been working as departmental auditor in the audit branch of the RCS office since 13th May 2000 to 29th September 2004 as auditor and my duty was to conduct the audit of various societies like CGHS. Thrift and Credit society, Transport society and Store (Co- operative) etc. The audit of present society was assigned to me by the then AR (Audit) Sh. J S Sharma after he obtained the approval of RCS for the period from 1983-1984 to 2000- 2001 & 2001-2002. I conducted the audit for the above said period in good faith on the basis of records produced by the society. I as an auditor was responsible for conducting the audit of the society and as per my knowledge and wisdom if any deficiency was found in the audit report. I used to mention the same in my Audit report. It was the duty of the concern zone to take necessary steps for getting necessary compliance from the society or to get the objections raised in the audit report removed, before sending the list to Policy Branch of the office of Registrar co-operative Society for onward transmission to DDA. In the present case also, I had raised serious objections in my Audit Report pertaining to RPF CGHS. It shows that I was not in collusion with any person of the society and question of any conspiracy didn't arise.

This is a false case based on wrong interpretation of laws/ evidences amounting to abuse of process of law by the prosecution. There is no complaint of any CBI Vs.

Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 aggrieved person nor there is any loss to any individuals or the Government. There is no violation of DCS Act / Rules /Directives by which any favour has been shown to any person or corporate body. Auditor has no role in the revival of the society, nor the list was sent to the DDA for land offer on the basis of Audit Report.

I was not in picture till revival of the society as the Audit of the society was conducted after the Revival of the society and forwarding of the approved freezed list of members to DDA and had not dealt with the file at all during this process and as such there was no question of my being part of criminal conspiracy for revival of the society, in any, on the basis of false/forged documents. It is the admitted case of CBI that I did not have any role till revival of the society and sending of the approved freezed list of members to DDA for allotment of land. As such my audit report had no effect at all on the revival of the society by RCS. In this case no land was allotted to the society and therefore no loss has occurred to the government any person.

There is no evidence against me for having cheated any person or that I had used any forged documents for the purpose or cheating or that I had knowledge of any forgery. There is no evidence for PC Act offences against me as there is no evidence of demand / obtainment of any pecuniary advantage. Nothing was recovered from me or from my house search by CBI. Nothing was found from my bank A/c. The allegation against me in the charge sheet were wild and unsubstantiated. That there is no Provision in the DCS Act/Rules to make investigation by the Auditor from the bank of the society.

I did my duties in good faith and while performing my official duties audit was conducted by me as per records produced by the society after revival, in this way, no offence committed by me in the present case. I acted bona- fide. I committed no wrong. There is absolutely no incriminating and admissible evidence against me. None of the prosecution witnesses has CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 deposed against incriminating against me. I have been falsely implicated in the charge-sheet without there being any incriminating evidence against me. The sanction for my prosecution was granted mechanically without application of mind by an incompetent authority. No sanction for my prosecution has been obtained u/s 197 Cr. P.C. for the IPC offence. I am innocent."

369. Accused P.K. Thirwani has produced DW3 Sh Yatin Thapor in his defence evidence.

370. The answers given by accused Mohan Chander Joshi, during the statement recorded u/s 313 CrPC, to most of the questions put to him were either " I do not know or "It is a matter of record" He answers differently to few questions.

371. In respect of the questions regarding handing over letter dated 18.08.2000 alongwith list of documents, Ex.PW46/A (colly.) vide which PW46 Ms Reshma had collected documents from Narender Kumar, who was posted in the Office of RCS. He has replied that " This question does not pertain to me and PW has not deposed anything against me"

372. When the accused accused Mohan Chander Joshi was asked as to why this case is against him , he replied that " This is a false case against me and I have been falsely implicated in this case"

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

373. In reply to the question whether he wants to say anything else , he replied:

" I am innocent. This is the only case against me. I have been falsely implicated in this case. I acted bona-fide and in good faith. There is no evidence on records to show that I have committed alleged offence or had gained any pecuniary benefit in any form or that myself or for any of my family members / relatives, none of my family member/relative were members of any CGHS. No incriminating material has been recovered from me during investigation. My sanction for prosecution u/s 19 of P.C. Act, 1988 Ex.PW58/A is invalid as the same was granted by an Incompetent Authority in mechanically manner as well as without application of her independent mind. Sanction for my prosecution for IPC offences was also not obtained u/s 197 Cr P.C. thus vitiating the trial against me ab-initio"

374. Accused Mohan Chander Joshi has not led evidence in his defence.

375. The answers given by accused Surender Singh, during the statement recorded u/s 313 CrPC, to most of the questions put to him were either " I do not know " However he answers differently to few questions.

376. To the questions with regard to election proceedings dated 14.10.2001 Ex PW13/PA , name of PW 25 Suraj Prakash at serial No. 5 but the signatures shown at point X are not of PW 25 Suraj Prakash, he replied that " I do not know. The register was kept outside the room on a table for people to sign and come inside the room. I was sitting inside the room while the register was kept outside so that members CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 could sign the same before entering the room. Members were signing the said register before entering the room where the elections took place. After all the members present there signed the register the same was brought inside the room and thereafter election proceedings were carried out. Since the said proceeding were carried out in the year 2001 which was around 22 years back. Further the persons who attended the meeting were not personally known to me and I had only seen them once on 14.10.2001 which was around 22 years back and thus I am unable to recollect their names and identity. Thus, I am not in a position to recollect the names and identity of the persons who had attended the meeting on 14.10.2001. Further the witness has stated that he had given specimen signature to the CBI, however no specimen sign of the said witness have been sent to GEQD for comparison. It is because, had the same been sent to GEQD, they would've matched with

the questioned handwriting."

377. When accused Surender Singh was asked as to why this case is against him, he replied that " I have been falsely implicated in the present case; I am a victim of circumstances. I am innocent and I have not committed any offence in relation to the present case."

378. In reply to the question whether he wants to say anything else , he replied:

"I have been falsely implicated in the present case, I am a victim of circumstances. I was not part of any conspiracy and I did not help anyone to gain any undue pecuniary advantage nor did I make any attempt to cause pecuniary loss to anyone the present case is relating to alleged fraudulent revival of RPF society. The society was alleged CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 revived on 16/08/2001. On the said date I was not even in the picture and was not connected in any manner with the affairs or functioning of the society. I was appointed as an election officer on 16/08/2001, which was after the alleged revival of the society and the said elections were for the appointment of the managing committee of the society and thus had no impact on the revival of the society as the said election was subsequent to the alleged fraudulent revival of the society. I or my family member have not gained any pecuniary benefit directly or indirectly in relation to the present case. I have suffered a long trial for a period of 17 years which has affected me personally, professionally and financially. My professional benefits, promotions etc. have also been stopped due to the pendency of the present case due to which me and my family have suffered immensely. I am innocent and have not done anything illegal or wrong. I request this Hon'ble Court to acquit me from the charges of the present case."

379. Accused Surender Singh has not led evidence in his defence.

380. Accused Gopal Singh Bisht, during the statement recorded u/s 313 CrPC answer to most of the questions put to him were " I do not know "

However answers he differently to few questions.

381. To the questions with regard to letter Ex PW46/B alongwith Dakpad were submitted before CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Assistant Registrar, who after receiving the same put his remark on the said letter, which is encircled in red at point B, and marked the same to Dealing Assistant for further action in the matter, he replied that " I do not know. The witness had not deposed anything as against me"

382. When accused Gopal Singh Bisht was asked as to why this case is against him , he replied that " This is a false and baseless case against me. The investigation was faulty and was done with a biased mind "

383. In reply to the question whether he wants to say anything else , he replied:

" I was falsely implicated in the present case. I am innocent "

384. Accused Gopal Singh Bisht has not led evidence in his defence.

385. Answers given by accused Naveen Kaushik , during the statement recorded u/s 313 CrPC, to most of the questions put to him were " I do not know " He has answers differently to few questions.

386. To the questions with regard to his signatures/handwriting from S-261 to S-284 ExPW55/E, he replied that " It is incorrect. No CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 alleged specimen handwriting and signatures Ex.PW55/E (colly) from S-261 to S-284 ever taken from him in this case during investigation."

387. When accused Naveen Kaushik was asked about the GEQD report Ex PW66/J ( Colly) and reasoning Ex PW66/K ( Colly), he replied :

" It is incorrect. He (PW66) has not given his reason in the present case he has examined the documents in the supervisory capacity. There are no documents which ascertain that he has examined these documents in the present case, as no rough notes, worksheets and chart which he stated to be prepared during examination are enclosed with report, rather he has deposed to have destroyed the same in contravention of the law. He has also not seen the rough notes, work sheets or the chart, might have prepared by the Late Sh. I.S. Rao. He had stated that he has gone through the reasons given by Late Sh. I.S. Rao but, it is not possible to him to tell by seeing the reasons of Late Sh. I.S. Rao as to which specific questioned document has been compared with to which specific specimen document. In the reasoning Ex.PW66/K (colly) Late Sh. I.S. Rao has not mentioned as to what was the general characteristic like slant/ alignment/ spacing/ speed/ movement/ pen pressure / pen lift/ retouching / ink deposit etc in the questioned documents and what were the finding in respect of the same in the standard writings. As far as individual characteristic are concerns there is no mention as to what are the individual characteristic mentioned in the question writing & which specimen signature/ handwriting contain the same characteristic features. It is also not mentioned as to what was the magnitude and what were instrument used by the expert during examination. There is nothing on record to demonstrate/ illustrate in support of the reasoning given by Late Sh. I.S. Rao are correct. The reasoning given by the Late Sh. I.S. Rao is incomplete / inadequate to enable the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 court to analysis the opinion. While examination of the so called questioned as well as specimen signature/handwriting they have not taken enlarge photographs. They have not prepared any comparative charts and any juxtapose chart to justify that the opinion given by them are correct. In the absence of the above features the reason Ex.PW66/K(colly) of the expert does not inspire any confidence to be relied upon as the same does not come within the

purview of section 45 and section 51 of the Indian Evidence Act. Reason Ex PW66/K ( Colly) in the report are improper as they are contrary to the settle preposition of law as laid down by the Supreme Court of India as to how is report has to be prepared and what has to be the basis of the same."

388. When he was asked as to why this case is against him , he replied:

" This is a false case filed by the IO against me with malafide intention. He has not conducted fair and proper investigation. Further, he has made me scapegoat in this case with vested interest. The investigation conducted by IO (PW-67) was arbitrary, unfair and was not in accordance with law. It is evident from his testimony that the investigation done by him is a sham exercise."

389. In reply to the question whether he wants to say anything else , he replied:

" I am innocent. Investigation conducted by the investigating officer in this case is perfunctory, partial, improper and shoddy. Further, the investigating officer has not taken my specimen handwriting / signatures, nor I have given any specimen handwriting / signatures in this case. I will file my written submission u/s 313(5) Cr.P.C."

390. Accused Naveen Kaushik opted not to lead any evidence in his defence.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Defence on behalf of accused Narayan Diwakar.

391. DW1 Saroj Chandra Pradha, through this witness the accused Narayan Diwakar wants to prove on record that he has work to streamline the functioning of Co operative Group Housing Society and to maintain the record. Defence on behalf of accused Ashwani Sharma and Ashutosh Pant.

392. DW2 Sh Akash Bhardwaj, Ahlmad of the Court of Sh Amitabh Rawat, Ld Special Judge, R.A.D.C N Delhi. By this DW both the accused has brought on record that they have moved an application U/S 167 (2) Cr P.C dated 13.02.2006 and 10.02.2006, Ex DW2/A and DW2/C. As per record both the applications were disposed off vide order dated 16.02.2006, Ex DW2/B and DW2/D. Defence on behalf of accused P.K. Thirwani.

393. DW 3 Sh Yatin Thapar, Assistant Section Officer, office of Directorate of Vigilance, GNCT Delhi who has produced file/record Ex DW3/A ( Colly) pertaining to the sanction which was granted to prosecute accused P.K.Thirwani.

394. I have heard Ld Counsel for the accused persons CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 as well as Ld Senior PP for CBI and have gone through the file also. I also considered the same.

395. Ld Senior PP for CBI has argued that the case of the prosecution is mostly relied upon the statement of T.K. Basu being recorded U/S 164 Cr P C ( who has been partly examined-in-chief as PW28) , though his examination in chief could not be completed as he has expired during trial. But his statement recorded U/S 164 is admissible in evidence in view of Section 80 of Indian Evidence Act. It is further argued that statement of T.K. Basu being recorded U/S 164 Cr P.C is also admissible in evidence U/S 32(3) of Indian Evidence Act. It is further argued that as the statement was recorded before the Judicial Magistrate hence it must be considered as being proved. It is further argued by Ld Senior PP for CBI that one of the accused Jogender Pal Marwah has pleaded guilty. In that circumstances the statement of T.K. Basu became more relevant to prove the facts as has been recorded in the statement of T.K. Basu, being recorded U/S 164 Cr P.C. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

396. Qua GEQD report, Ld Senior PP for CBI has vehemently argued that the GEQD has proved forgery being committed by the accused persons. And so far as proving the Hard Discs (Ex PW68/Article-1and Ex PW68/Article -2) is concerned, the discs were produced in the Court and the accused persons have not objected to the same and have not questioned the same. It is submitted that at this stage they could not questioned the admissibility of the evidence qua opinion of the expert being given on Ex PW68/Article-1 and Ex PW68/Article-2.

397. Ld Senior PP for CBI has argued that the sanction in the present case has been accorded by the competent authority against the accused persons qua offences under Prevention of Corruption Act. And so far as sanction U/S 197 Cr P C is concerned. There is no need to obtain the same as the Act being done by the accused persons was not within the ambit of being done by the accused persons in discharge of their official duty.

398. Learned Senior PP for CBI has relied upon the following case law:

I) Hema Vs State of Madrass Crl. Appeal CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 No.31 of 2013 State of Appeal.

ii) Murari Lal Vs State of MP AIR 531

iii) K. Satwant Singh Vs The State of Punjab, 1960 AIR 266, 1960 SCR (2)89

iv)Rakesh Kumar & Ors. Vs State Crl. Appeal No.19/2007.

v) L. Narayan Swami Vs State of Karnataka

vi) Harihar Prasad etc Vs State of Bihar 1972 CRIL J707, (1972) 3 SCC 89

vii) Sahabuddin & Anr Vs State of Assam (Criminal Appeal)

viii) Munna Lal Vs State of Uttar Pradesh criminal Appeal no-490 of 2017

ix)Shambhoo Nath Mishra Vs State of UP AIR 1997 Supreme Court

x) Yash Pal Mittal Vs State of Punjab 1978 SCR

xi)Umesh Kumar Vs State of A.P. decided on 06/09/2013, criminal Appeal No-1305 of 2013.

xii) Darshan Lal Vs State decided on 31/07/2009, criminal Appeal No-73/2001.

xiii) State of Maharastra Tr. CBI Vs Mahesh G Jain 28/05/2013, criminal Appeal No-2345/2009

xiv) Jayawant Dattatray Suryarao Vs State of Maharastra decided on 5th of November, 2001

xv) Pyare Lal Bhargava Vs State of Rajasthan decided on 22 October, 1962.

399. On the other hand, Ld Counsel for accused persons have vehemently argued that prosecution has failed to prove charges being framed against the accused persons. The statement of the T.K. Basu cannot be read in evidence as witness has not been examined in court . The report of the GEQD CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 is also not proved on record. And plead guilty by accused J.P. Marwah is also not having bearing against co-accused persons. Prayer has been made on behalf of all the accused persons to acquit them.

400. Having considered the argument of the Ld Counsel for CBI and accused persons. I would like to mention here certain facts which are not in dispute or agitated during the course of arguments.

401. This is an admitted fact that the said society was registered on 31.01.1984 vide Regn. No. 1427-GH with 90 original members having its registered office at No. 60, Skylark Bhawan, 7th Floor, Nehru Place, New Delhi.

402. It is also an admitted fact that since elections of the said Society were not held till 1989 a Show Cause Notice was served on the President / Secretary of said Society. However, despite several reminders no response was received from the society. As a result of which Shri Ajay Kumar, the then Asstt. Registrar vide his Office Order dt. 06.12.1989 appointed Shri V. Rama Krishna, Grade.IV, as Election Officer of the society to CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 conduct its election within a month. However, Shri V Rama Krishna submitted a report dt. 07.03.1990 that Management Committee of the society had not cooperated with him and as such the election could not be conducted. Thereafter, two Show Cause Notices dt. 01.01.1991 and dt. 05.04.1991 were issued to the President / Secretary of the society by the Joint Registrar (GH). In addition, Shri P M Tanwar, Asstt. Registrar was appointed as an Administrator vide order dt. 24.09.1991 to manage the affairs of the society as per the DCS Act, 1972 and Rules framed there under with the specific directions to get the accounts audited and to conduct the elections. The Management Committee did not hand over the records of the society to the

Administrator and therefore the same were taken over against a search warrant issued by SDM (South), Patiala House Court, New Delhi. The society was ordered to be wound up vide order dt. 10.07.1995 issued by Shri B L Sharma, the then Dy. Registrar (South).

403. Since in the charge sheet there are allegations that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the said society was allegedly revived on 16.08.2001 after making forgery in the documents of the said society by hatching a conspiracy. During the course of argument this fact has not even argued by any of the counsel appearing on behalf of accused who have been charge-sheeted on this aspect.

404. The mute question before this Court is whether any forgery has been committed in the documents to get revive said society, if yes by whom. Even otherwise the witnesses PW 4, PW 5, PW6, PW 7, PW9, PW10, PW18, PW20, PW21, PW23, PW24, PW25, PW26, PW30, PW31, PW32, PW33, PW34, PW35, PW37, PW38, PW39, PW40, PW47, PW48, PW49, PW50, PW51, PW52 and PW52 have deposed that they have not resigned from the said society. But it has been shown that they have resigned.

405. The witness PW4 has stated that he has resigned from the said society in the year 1992 but his resignation has been shown as on 17.12.2001. Similarly, PW5 has deposed that he resigned in the year 2000-2001 but her resignation has been CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 shown as in the year 1990. PW14 has deposed that he has resigned in the year 1998 but his resignation has been shown as on 14.04.1990. So the testimony of witnesses being adduced by the prosecution has proved a fact beyond reasonable doubt that the forgery was made in the record of the said society for revival of the said society. And this fact has not been disputed by the accused persons either in their defence or arguments. Their defence is that they have not committed any offence.

406. Now the question which has to be answered by the Court is as to whether accused persons have committed forgery in the record of the said society for getting revival of the said society.

407. Before giving any observation whether the accused persons who have committed the offence. I would like to discuss, firstly the evidence of GEQD and Forensic Expert qua disputed handwriting and hard discs. And whether the prosecution has able to prove the opinion of handwriting expert and that of forensic expert qua retrieve of documents from the hard discs being CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 recovered from accused Ashwani Sharma.

408. So far as the GEQD reports being given by the hand writing expert is concerned. I would like to mention here certain judgments being rendered by the Hon'ble High Courts as well as by the Hon'ble Supreme Court with respect to evidential value of hand writing expert.

409. The Hon'ble Supreme Court of India in Ramesh Chandra Aggarwal Vs Regency Hospital Ltd (2009) 9 SCC 709 has held that " Relevancy of Expert's Opinion rest on the facts on which it is based and his competency for forming a reliable opinion. The validity of the process by which the

conclusion is reached by the expert is also relevant".

410. The Hon'ble Supreme Court in case titled State of H.P. Vs Jai Lal & Ors (1999) 7 SCC 280 has observed that "credibility of expert witness depends on the reasons stated in support of his conclusions and the data and materials furnished which form the basis of his conclusions. The report submitted by an expert does not go in evidence automatically. He is to be examined as a CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 witness in Court and has to face cross examination".

411. The Hon'ble High Court of Delhi in case titled Sandeep Dixit Vs State Crl Rev 260/2011 decided on 27th April 2012 has observed " that the opinion of an expert under section 45 of the Indian Evidence Act is merely an opinion and not a conclusive proof of the validity of the handwriting in question and the learned ASJ exceeded its jurisdiction by ordering the framing of charge against the petitioner merely on the report of the GEQD without corroboration."

412. Hon'ble Supreme Court of India in case titled as Murari Lal S/O Ram Singh Vs. State of Madhya Pradesh 1980 AIR 531 has observed that "We are firmly of the opinion that there is no rule of law, nor any rule of prudence which has crystallized into a rule of law, that opinion evidence of a handwriting expert must never be acted upon, unless substantially corroborated. But, having due regard to the imperfect nature of the science of identification of handwriting, the approach, as we indicated earlier, should be one of caution.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Reasons for the opinion must be carefully probed and examined. All other relevant evidence must be considered. In appropriate cases, corroboration may be sought. In cases where the 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. There cannot be any inflexible rule on a matter which, in the ultimate analysis, is more than a question of testimonial weight. We have said so much because this is an argument frequently met with in subordinate courts and sentences torn out of context from the judgments of this Court are often flaunted."

413. The Hon'ble Supreme Court in case titled State of Maharashtra Vs Damu S/O Gopinath Shinde & Others (2000) 6 SCC 269 has observed that "

without examining the expert as a witness in court, no reliance can be placed".

414. I would also like to mention here certain basic principle to be considered before relying upon the report/opinion of hand writing expert. The entire process of examination of documents by an expert CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 can be looked at three stages i.e i) taking over of specimen signatures/handwriting pertaining to the accused persons (ii) sending the same to the GEQD alongwith questioned documents and

(iii) the report of the GEQD given after examination, on the basis of material sent to them.

415. In order to bring home the guilt against the accused persons, prosecution was under obligation to establish beyond all doubt that all the above mentioned processes at different stages were done and executed in accordance with law and there is no doubt in either of the said processes. In case it is found that there is a serious doubt in the story of the prosecution at any stage of the process, then obviously benefit would go to the accused persons.

416. So in view of the discussion above firstly I will consider whether taking of specimen signatures of accused persons, to get compare with the questionnaire document, is free from all encumbrances.

417. PW55 is the witness in whose presence specimen signature of accused person namely Ashutosh CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Pant, Ashwani Sharma, Naveen Kaushik and T.K. Basu ( PW28) were taken. The testimony of PW55 Vishwa Mitter Bhagi reveals in his examination in chief that he was present on 17.12.2005 in CBI office and IO Virender Singh came there and asked him ( witness) to become a witness for collection of specimen signatures and hand writing of accused persons. This version of PW55 shows that he was present by chance in the office of CBI. But in his cross examination he has deposed that he was deputed by his office in the office of CBI office for liaison work regarding societies. But no such order deputing him in the CBI office is there on record. Even it shows from the cross examination that this witness has visited CBI office from August 2005 to October 2005. This witness has witnessed taking of specimen handwriting and signature on different dates. But as per his examination in chief he was present there in the CBI office by chance on 17.12.2005. It contradicts his own version regarding obtaining of specimen writing whether it was obtained on 17.12.2005 or on different dates. His cross CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 examination also shows that on S-293 ( Ex PW55/D) qua signatures sheet of Ashwani Sharma there is no signature of investigating officer on this specimen handwriting . This witness has further admitted that there is application of fluid on the name of society on various pages ie S-123 to S-146( Ex PW55/C) colly. But this witness states that he does not know whether it was put in his presence or not. The witness has further deposed in his cross examination that accused persons whose specimen signatures were to be obtained used to be also present in the cabin of IO and they never called in his presence. The witness has further admitted in the cross examination that he did not recollect in how many cases he witnessed the obtaining of specimen signatures and handwriting being investigated by CBI.

418. Moreover, this witness has unable to prove on record any evidence or document vide which he was deputed to join the investigation of this case by his department. There is no order being placed on record vide which he was directed by his department to join investigation. Prosecution has CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 also failed to produce on record any document which shows that he (PW55) has visited CBI office. On the other hand, accused persons have denied of obtaining their handwriting and specimen signatures by the CBI. So obtaining the specimen hand writing and signatures of accused in the presence of PW55 is suspicious one.

419. So far as testimony of PW63 Sh Rampal, Assistant Superintendent, Central Jail Tihar is concerned. He is stated to be a witness of the specimen signatures of accused Ashwani Sharma on sheets S-176 to S-191, S-196 to S-199 and S-257 to S-260, Ex. PW63/A (colly.).

420. In the cross examination of this witness ( PW63) he has deposed that whosoever wishes to enter the Tihar Jail, he has to make an entry through Public Relation Office. Thereafter, he can go to a particular jail as permitted after proper searching. He has stated that IO has not shown him any permission issued by any court of law prior to taking the specimen signatures of accused Ashwani Sharma. Today also, ( the date of deposition of this witness) he has not been shown CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 any such permission. He was the in-charge, AS of under trial prisoners in Jail No. 4. He had not been given direction by any of his senior officers to be a witness to the proceedings of taking over of specimen signatures of accused Ashwani Sharma. IO had directly came to him. He being the in-charge of under trial prisoners, agreed to join the proceedings. He do not know if at that time IO had shown him the FIR pertaining to the present case or not. Specimen signatures of accused Ashwani Sharma were taken on around 4 to 5 sheets but he do not remember the exact number of sheets. Aforesaid sheets were brought by the IO himself. He do not remember the exact time but it was during the day the IO had come. The entire proceedings took around half an hour. He was doing his other works also parallely like checking of warrants etc. The aforesaid sheets were blank but at the top name was written and it was typed.

421. The another witness examined by prosecution is PW65 Ashok Kumar Puri in those presence specimen signatures/handwriting of accused CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Ashwani Kumar Sharma was obtained on sheets numbered from S-192 to S-195, from S-200 to S-240 and from S-253 to S-256. The proceeding has been exhibited by the witness as Ex PW65/A. The proceeding obtaining specimen signatures/handwriting of accused Ashwani Kumar Sharma was taken on 10.03.2006. But while PW 65 was cross examined. He has deposed that on 10.03.2006 he was present in the main office in his room. But he do not remember at what time IO Virender Singh had come to the Jail. He states that he cannot say whether any entry was made by IO Virender Singh or not. But generally entry is made in this regard. At first instance, the IO Virender Singh went to the Superintendent thereafter he come to him. No person was accompanying IO. He further deposed that he was not shown any permission given by the Court or Senior Officer of the CBI. But he volunteered that same could have been shown to Superintendent but he has no knowledge about that. He has further deposed that he does not remember who had written the date as 10.03.2006 on the proceedings.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 He has admitted that his name on S-253 just adjacent to his signature was not written by him. He has deposed that the same may have been written by IO Virender Singh.

422. On perusal of the testimony of PW 63 and PW65 it shows that no attendance register of these witness, being maintained in Tihar Jail, has been proved on record to show their presence on the relevant time in Jail. No permission from the competent Court to visit the Jail for obtaining specimen signatures and handwriting of accused has been placed on record by the concerned IO and proved on record. No record of jail authority duly verified and signed by Superintendent of Jail has been produced to show that IO has visited Tihar Jail, Delhi. There is no document showing that IO has visited the jail has been proved on record, as no person can visit to the Jail without making his entry in the visitor register. So all these facts creates suspicion on the version of prosecution

regarding obtaining specimen signatures of accused Ashwani Sharma in the presence of PW63 and PW65.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

423. Even otherwise, the prosecution has also failed to prove the fact that the report of handwriting expert and forensic expert qua hard disc is free from doubts qua opinion thereon.

424. Here in the present case, the prosecution has examined Sh N.C Sood (PW66) as expert to prove the report of expert Ex PW66/H (colly.), opinion Ex PW66/J, reasons Ex PW66/K, supplementary opinion/report, Ex. PW66/M (colly.) and reasons Ex PW66/O (colly.)

425. In his cross examination PW66 has deposed that he had independently examined the documents in the present case. In this case, Sh. I.S. Rao, the then Assistant Government Examiner, now expired, was the main examiner and who had prepared the reasons to come to a conclusion. He (PW66) also examined these documents independently in the supervisory capacity and had gone through the reasons prepared by Sh. I.S. Rao. It is a matter of practice that the main examiner submits the reasons in the court of law. He has admitted that in his communication or opinion, he had not specifically mentioned that he had examined CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 document in supervisory capacity. He has further deposed that it is not possible to tell by seeing the reasons of Late Sh. I.S. Rao as to which specific questioned document has been compared with to which specific specimen document. He has deposed that reasons have the reference of the comparison of the questioned documents with the specimen documents collectively. PW66 deposed that he himself had not prepared the reasons in support of my (his) opinions in the present case. It is correct that Sh. I.S. Rao had not submitted his rough notes, work sheets and chart along with his report. Vol. Because he had incorporated those facts in his reasons.

426. He has further deposed in his cross examination that they have examined the original documents with the help of various scientific instruments and magnifier but have not used the photographs for forming the opinion. We had not taken the enlarged photographs of the specimen as well as the questioned documents for comparison. It is correct that in the reasoning given by Sh. I.S.Rao it has not been specifically mentioned as to which CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 scientific instrument was used by him for examination of documents. He has admitted that in the reasoning given by Sh. 1.S. Rao, it has not been specifically mentioned as to what extent the documents were magnified during examination.

427. He has admitted that certain questioned documents as mentioned in annexure -I sent by CBI alongwith the communication dated 10.07.2006, Ex PW66/F( Colly) had no reference in the abstract sent by the GEQD alongwith communication Ex PW66/M ( Colly). He has admitted that said Sh. I.S. Rao had examined the handwriting both in respect of general characteristics and individual characteristics. He has admitted that characteristics of the writing change with the movement and it depends upon person to person. He has admitted that Sh. I.S. Rao in his reasoning had not given what was the type of movement, whether it is finger or wrist or forearm or whole arm

or inscriptive or cursive movement. He has also admitted that Sh. I.S. Rao had not mentioned about pen pressure whether it was light, medium, heavy and graduated in his CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 reasoning. He has also admitted that late Sh. I.S. Rao has not described whether slant is forehand, backhand or vertical or he has also not described the relative size and proportion of letter i.e. big, medium or small or that he has also not mentioned that the alignment is horizontal, ascending, descending, straight, curve or irregular or that he has also not mentioned that the use of unusual pen lift, pen pause, re-touching, unnatural tremor, hesitation or restricted nature of speed in his reasoning. He has admitted that he is not an expert in the cyber forensic.

428. In the cross examination he has deposed that at the time when the document were examined by the GEQD, Shimla, it was not notified u/s 79A of Information and Technology Act, 2000. But at that time their laboratory was having NABL Accreditation.

429. In the cross examination a question was put to PW66 "Would it be correct that if authorship of specimen handwritings had been wrongly identified by the forwarding authorities, your report would co-relate to those incorrectly CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 identified handwritings? To which he has answer that "The specimen writings bears the endorsement of the IO and signed by witnesses which shows that this writing pertains to a particular writer."

430. He has admitted that bear reading of his report no one can assess 'subjectively or qualitatively', the kind of shape, size, slope, slant, alignment, base line, movement, pen pressure, form and formation of characters etc. Vol. He has stated that all these characteristics are general writing habits which may be found common in a group of persons at their collective consideration helps in identification of handwriting.

431. He has admitted that in his report, it has not been mentioned specifically as to which specific questioned document was compared with which specific specimen writings signature. Vol. The documents were compared collectively.

432. He (PW66) was confronted with the proceeding register placed at D-13, Ex. PW13/PA, particularly the page no. 1 of that register and the he was asked whether he had examined the all 12 CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 entries in three columns given as Q-255 or any of the such specific entries for the purpose of examination. To which he has answer that all the 12 entries were examined and it has been specifically mentioned in the reasoning.

433. On perusal of examination of PW66, it reveals that he (PW66) has admitted that he has not prepared his reasons though he has examined questioned documents. In the absence of any reasons being given by PW66 in support of his opinion, his opinion have not much weightage and cannot be accepted in evidence. Moreover the reasons being furnished by I.S Rao have no evidential importance because this witness was not examined in Court and have not gone through the test of cross examination. In the absence of cross examination of I.S Rao, accused persons may suffer as

they have been deprived from putting question to I.S Rao qua arriving on the conclusion by I.S Rao on the questioned document.

434. Even otherwise, the GEQD report is also questionable as in the opinion report Ex PW66/J in paragraph No.6 on page 4 the GEQD expert while CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 giving his opinion has mentioned certain names such as Ved Parkash, V.K. Sardana, Ganga, Shivoji Prasad, Shanti, Neena Chatdurvedi and based the words of these names to compare the disputed/questioned signatures. As per report these names are mentioned in Q-255( ie 12 names) But on perusal these names are not find mention in Q-255 ( ie proceedings date 14.10.2001). It is questionable how the questioned signatures were matched with making base of above said names as these names were not find mentioned in Q-255. Juxta chart qua questioned signature and the words /name particularly/specifically with which the expert has come to the conclusion/opinion, has not been prepared.

435. PW68 Sh Ravinder Kumar Bansal is the witness in whose presence the hard dices Ex PW68/Article -1 and Ex PW68/Article-2 were recovered from the office of accused Ashwani Kumar vide a search list Ex PW68/A ( Colly) which is a photocopy of the original. In the cross examination this witness (PW68) has admitted that he had identified the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 signatures of Ashwani Sharma since his name was written below the signatures at point B of Ex PW68/A. He has admitted that Ex.

PW68/Article-1 and Ex. PW68/Article-2 were not played or run before him. And the copy of search list Ex. PW68/A(colly) were not photocopied before him. He do not know who had prepared the copy of the Ex. PW68/A(colly).

436. So far as question whether document PW68/A ( Colly) is proved on record or not I would like to discuss certain case laws of the Hon'ble Supreme Court of India with regard to the admissibility of secondary evidence.

437. The Hon'ble Supreme Court in J.Yashoda Vs K.Shobha Rani (2007) 5 Supreme Court Cases 730 has held that:

"6. In order to consider rival submissions it is necessary to take note of Sections 63 and 65(a). Sections 63 and 65(a) read as follows:

"63. Secondary evidence- Secondary evidence means and includes-

(1) certified copies given under the provisions hereinafter contained;

(2) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies;

(3) copies made from or compared with the original;

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (4) counterparts of documents as against the parties who did not execute them;

(5) oral accounts of the contents of a document given by some person who has himself seen it.

65. Cases in which secondary evidence relating to documents may be given.- Secondary evidence may be given of the existence, condition or contents of a document in the following cases-

(a) when the original is shown or appears to be in the possession or power- of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the court, or of any person legally bound to produce it, and when, after the notice mentioned in Section 66, such person does not produce it;"

7. Secondary evidence, as a general rule is admissible only in the absence of primary evidence. If the original itself is found to be inadmissible through failure of the party, who files it to prove it to be valid, the same party is not entitled to introduce secondary evidence of its contents.

8. Essentially, secondary evidence is an evidence which may be given in the absence of that better evidence which law requires to be given first, when a proper explanation of its absence is given. The definition in Section 63 is exhaustive as the section declares that secondary evidence "means and includes" and then follow the five kinds of secondary evidence.

9. The rule which is the most universal, namely, that the best evidence the nature of the case will admit shall be produced, decides this objection. That rule only means that, so long as the higher or superior evidence is within your CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 possession or may be reached by you, you shall give no inferior proof in relation to it. Section 65 deals with the proof of the contents of the documents tendered in evidence. In order to enable a party to produce secondary evidence it is necessary for the party to prove existence and execution of the original document. Under Section 64, documents are to be provided (sic proved) by primary evidence. Section 65, however permits secondary evidence to be given of the existence, condition or contents of documents under the circumstances mentioned. The conditions laid down in the said section must be fulfilled before secondary evidence can be admitted. Secondary evidence of the contents of a document cannot be admitted without non-production of the original being first accounted for in such a manner as to bring it within one or other of the cases provided for in the section.

In Ashok Dulichand v. Madahavlal Dube it was inter alia held as follows: (SCC pp. 666- 67, para 7) "7. After hearing the learned counsel for the parties, we are of the opinion that the order of the High Court in this respect calls for no interference. According to clause (a) of Section 65 of Evidence Act, secondary evidence may be

given of the existence, condition or contents of a document when the original is shown or appears to be in the a possession or power of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the court, or of any person legally bound to produce it, and when, after the notice mentioned in Section 66, such person does not produce it. Clauses (b) to (g) of Section 65 specify some other contingencies wherein secondary evidence relating to a document may be given, but we are not concerned with those CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 clauses as it is the common case of the parties that the present case is not covered by those clauses. In order to bring his case within the purview of clause (a) of Section 65, the appellant filed applications on 04.07.1973, before Respondent No.1 was examined as a witness, praying that the said respondent be ordered to produce the original manuscript of which, according to the appellant, he had filed photostat copy. Prayer was also made by the appellant that in case Respondent No. 1 denied that the said manuscript had been written by him, the photostat copy might be got examined from a handwriting expert. The appellant also filed affidavit in support of his applications. It was however, nowhere stated in the affidavit that the original document of which the photostat copy had been filed by the appellant was in the possession of Respondent No.1. There was also no other material on the record to indicate that the original document was in the possession of Respondent No. 1. The appellant further failed to explain as to what were the circumstances under which the photostat copy was prepared and who was in possession of the original document at the time its photograph was taken. Respondent 1 in his affidavit denied being in possession of or having anything to do with such a document. The photostat copy appeared to the High Court to be not above suspicion. In view of all the circumstances, the High Court came to the conclusion that no foundation had been laid by the appellant for leading secondary evidence in the shape of the photostat copy. We find no infirmity in the above order of the High Court as might justify interference by this Court."

438. The Hon'ble Supreme Court in H.Siddiqui Vs A Ramalingam (2011) 4 SCC 240 has held while CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 dealing with Section 65 of the Evidence Act, as follows:

"12.... In a case where the original documents are not produced at any time, nor has any factual foundation been laid for giving secondary evidence, it is not permissible for the court to allow a party to adduced secondary evidence. Thus, secondary evidence relating to the contents of a document is inadmissible, until the non-production of the original is accounted for, so as to bring it within one or other of the cases provided for in the section. The secondary evidence must be authenticated foundational evidence that the alleged copy is in fact a true copy of the original."

It has been further held that mere admission of a document in evidence not amount to its proof. Therefore, it is the obligation of the court to decide the question of admissibility of a document in

secondary evidence before making endorsement thereon."

439. Here in the present case the prosecution has not produced the seizure memo in original through which Ex. PW68/Article-1 and Ex.

PW68/Article-2 were seized. No permission taken from the Court to prove the secondary evidence. The prosecution has not complied with the requirement of Section 65 of Indian Evidence Act. So in view the above discussion the alleged seizure of Ex. PW68/Article-1 and Ex. PW68/Article-2 is not proved. In that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 circumstances, the opinion of an Expert on these articles Ex. PW68/Article-1 and Ex. PW68/Article-2 became unreliable.

440. Secondly, here in the present case the prosecution has also relied upon the document which were extracted from Hard Disc Ex PW68/Article-1 and Ex PW68/Article-2. But it has been an admitted fact that there is no certificate U/S 65-B of Indian Evidence Act which contemplates the law regarding proving of electronic evidence. There is no certificate that document retrieved from Ex PW68/Article-1 and Ex. PW68/Article-2 are authenticated retrieve. It is not supported with the certificate U/S 65-B of Indian Evidence Act. In the absence of certificate U/S 65-B of Indian Evidence Act, the document retrieved from the Hard discs cannot be relied upon.

Settled proposition of law while considering sanctions for prosecution against the public servants.

441. One another issue in this case is whether the sanction accorded U/S 19 of the P.C Act against the public servants, who are charged in the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 present case for the offences U/S 15 r/w 13(2) r/w 13 (1) (d) of PC Act, 1988 and substantive offences u/s 13(1)(d) punishable u/s 13 (2) r/w sec. 15 of Prevention of Corruption Act 1988, is accorded by the competent authority after considering the necessary material before them. There are law being interpreted by the Hon'ble Superior Courts on the issues how the sanctioning authority has to considered the material placed before it, before according sanction against the public servant.

442. The sanction for prosecution of a public servant for the offence under P.C. Act is required U/S 19 (1) of P.C Act . Before further proceeding I would like to reproduce Sub Section (1) of Section 19 of the PC Act.

"19. Previous sanction necessary for prosecution.-- (1) No court shall take cognizance of an offence punishable under Sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction, save as otherwise provided in CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the Lokpal and Lokayuktas Act, 2013--

a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office."

443. On bare perusal of language of the section 19 (1) of P.C Act, the court is precluded from taking cognizance of an offence under certain sections mentioned in this provision if prosecution wants to prosecute a public servant. The sanction must be from competent Government, it may be Central Government or State Government, as the case may be. Even otherwise, if the cognizance is taken, this CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 issue can be raised subsequently and prosecution/ proceeding can be dropped if there is no valid sanction on record. The provision deals the intention of the legislature to protect a public servant against harassment and malicious prosecution.

444. The Hon'ble Apex Court in the case of Mohd.

Iqbal Ahmed v. State of Andhra Pradesh (1979 Cai LJ 633) has observed as under:

"The grant of sanction is not an idle formality or an acrimonious exercise but a solemn and sacrosanct act which affords protection to Government servants against frivolous prosecutions and must therefore be strictly complied with before any prosecution can be launched against the public servant concerned."

445. The Privy Council in the case of Gokul-chand Dwarkadas Momrka v. The King (AIR 1948 PC

82) has observed as under:

"The sanction to prosecute is an important matter, it constitutes a condition precedent to the Institution of the prosecution and the Government has an absolute discretion to grant or withhold their sanction. They are not, as the High Court seem to have thought, concerned merely to see that the evidence discloses a prima facie case against the person sought to be prosecuted. They can refuse sanction on any ground which commends itself to them, for example, that on political or economic grounds they regard a prosecution as inexpedient."

446. In the case of Bhagwan Mahadeo Sathe Versus State and Another, 2010 SCC OnLine Bom 2350, it was held that:-

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 "12. In the present case, the record indicates that the draft sanction letter was forwarded to the sanctioning authority along with the other papers. The actual sanction which is granted is verbatim reproduction of the draft sanction. This also clearly discloses that

there was a non-application of mind while granting sanction to prosecute. Under all these circumstances, in my view, the prosecution has failed to establish its case beyond reasonable doubt. The judgment and order passed by the Sessions Court is set aside and the Appellant is acquitted for the offences of which he is charged. The Appellant is on bail. His bail bond shall stand cancelled. Appeal is, accordingly, allowed and disposed of."

447. In the case of CBI v. Ashok Kumar Aggarwal, Crl.

Appeal No. 1838/2013 date of decision 22.11.2013. it was held that:

13. The prosecution has to satisfy the court that at the time of sending the matter for grant of sanction by the competent authority, adequate material for such grant was made available to the said authority. This may also be evident from the sanction order, in case it is extremely comprehensive, as all the facts and circumstances of the case may be spelt out in the sanction order. However, In every Individual case, the court has to find out whether there has been an application of mind on the part of the sanctioning authority concerned on the material placed before it. It is so necessary for the reason that there is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge of the material facts of the case. Grant of sanction is not a mere formality. Therefore, the provisions in regard to the sanction must be observed with complete strictness keeping in mind the public interest and the protection available to the accused against whom the sanction is sought. 14. It is to be kept in mind that sanction lifts the bar for prosecution. Therefore, it is not an acrimonious exercise but a solemn and sacrosanct act which affords protection to the government servant against frivolous prosecution. Further, it is a weapon to discourage vexatious prosecution and is a safeguard for the innocent, though not a shield for the guilty.

15. Consideration of the material implies application of mind. Therefore, the order of sanction must ex facie CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 disclose that the sanctioning authority had considered the evidence and other material placed before it. In every individual case, the prosecution has to establish and satisfy the court by leading evidence that those facts were placed before the sanctioning authority and the authority had applied its mind on the same. If the sanction order on its face indicates that all relevant material i.e. FIR, disclosure statements, recovery memos, draft charge-sheet and other materials on record were placed before the sanctioning authority and if it is further discernible from the recital of the sanction order that the sanctioning authority perused all the material, an inference may be drawn that the sanction had been granted in accordance with law. This becomes necessary in case the court is to examine the validity of the order of sanction inter alia on the ground that the order suffers from the vice of total non-application of mind.

16. In view of the above, the legal propositions can be summarised as under:

16.1. The prosecution must send the entire relevant record to the sanctioning authority including the FIR, disclosure statements, statements of witnesses, recovery memos, draft charge-sheet and all other relevant material. The record so sent should also contain the material/document, if any, which may tilt the balance in favour of the accused and on the basis of which, the competent authority may refuse sanction.

16.2. The authority itself has to do complete and conscious scrutiny of the whole record so produced by the prosecution independently applying its mind and taking into consideration all the relevant facts before grant of sanction while discharging its duty to give or withhold the sanction.

16.3. The power to grant sanction is to be exercised strictly keeping in mind the public interest and the protection available to the accused against whom the sanction is sought.

16.4. The order of sanction should make it evident that the authority had been aware of all relevant facts/materials and had applied its mind to all the relevant material.

16.5. In every individual case, the prosecution has to establish and satisfy the court by leading evidence that the entire relevant facts had been placed before the sanctioning authority and the authority had applied its mind on the same and that the sanction had been granted in accordance with law."

448. In the case of the State of T.N. v. M.M. Rajendran, CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 (1998) 9 SCC 268, Hon'ble Supreme Court dealt with a case under the provisions of the 1988 Act, wherein the prosecuting agency had submitted a very detailed report before the sanctioning authority and on consideration of the same, the competent authority had accorded the sanction.

Hon'ble Supreme Court found that though the report was a detailed one, however, such report could not be held to be the complete records required to be considered for sanction on application of mind to the relevant material on record and thereby quashed the sanction. Admissibility of evidence of accomplice/ Approver.

449. Ld Sr PP for CBI has submitted that the approver T.K. Basu has become approver in the present case on 04.11.2006. The statement of approver was recorded by the Judicial Magistrate vide proceedings dated 01.08.2006. It is further submitted that statement recorded U/S 164 Cr. P.C proves the role of each and every accused persons in the present case. The statement can be considered as the evidence to bring home the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 culpability of accused persons.

450. On the other hand, Ld Counsel for accused persons submits that statement of T.K. Basu cannot be construed as evidence. It is submitted that the confession cannot be treated as evidence against the co-accused. It is further submitted that accused T.K. Basu was not jointly tried in the present case as he was not charge sheeted and no charge was framed against the accused T.K.Basu. In that circumstances, the statement of T.K. Basu cannot be permitted to be read against other co-accused. It is further argued by Ld Counsel for accused persons that the statement recorded U/S 164 Cr P. C of a approver does not fall within the ambit of evidence as defined U/S 3 of Indian Evidence Act until unless the witness is not examined before the Court. It is submitted that T.K. Basu was partly examined in chief before the Court and before his examination-in-chief could have been completed he has expired. Hence his statement cannot be considered as evidence against co-accused.

451. Ld Counsel for the accused person has relied upon the judgment of Hon'ble Supreme Court of India CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 in case titled as Haricharan Kurmi Vs State of Bihar AIR 1964 SC 1184.

452. I have considered the submissions being made by Ld Senior PP for CBI and Ld Counsel for accused persons. Before giving any observations on the evidential value of the statement of T.K. Basu being recorded U/S 164 Cr P C as approver. I would like to mention the observation given by Hon'ble Supreme Court in case Haricharan Kurmi ( Supra) as under:

"11. The question about the part which a confession made by a co- accused person can play in a criminal trial, has to be determined in the light of the provisions of Section 30 of the Act. Section 30 provides that when more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. The basis on which this provision is found is that if a person makes a confession implicating himself, that may suggest that the maker of the confession is speaking the truth. Normally, If a statement made by an accused person is found to be voluntary and it amounts a confession in the sense that it implicates the maker, It is not likely that the maker would implicate himself untruly, and so Section 30 provides that such a confession may be taken into consideration even against a co-accused who is being tried along with the maker of the confession. There is no doubt that a confession CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 made, voluntarily by an accused person can be used against the maker of the confession, though as a matter of prudence criminal courts generally require some corroboration to the said confession particularly if it has been retracted. With that aspect of the problem, however, we are not concerned in the present appeals. When Section 30 provides that the confession of a co-accused may be taken into consideration, what exactly is the scope and effect of such taking into consideration, is precisely the problem which has been raised in the present appeals. It is clear that the confession mentioned in Section 30 is not evidence under Section 3 of the Act. Section 3 defines "evidence"

as meaning and including-

"(1) all statements which the court permits or requires to be made before it by witnesses, In relation to matters of fact under Inquiry; such statements are called oral evidence; (2) all documents produced for the inspection of the court; such documents are called documents are called documentary evidence."

12. Technically construed, this definition will not apply to a confession. Part (1) of the definition refers to oral statements which the court permits or requires to be made before it; and clearly, a confession made by an accused person is not such a statement; it is not made or permitted to be made before the court that tries the criminal case. Part (2) of the definition refers to documents produced for the Inspection of the court; and a confession cannot be said to fall even under this part. Even so, Section 30 provides that a confession may not be evidence as strictly defined by Section 3 of the Act, it is an element which may be taken into consideration by the criminal court and in that sense, it may be described as evidence in a non- technical way. But it is significant that like other evidence which Is produced before the court, it is not obligatory on the court to take the confession into account. When evidence as defined by the Act CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 is produced before the court, It is the duty of the court to consider that evidence. What weight should be attached to such evidence, is a matter in the discretion of the court. But a court cannot say in respect of such evidence that it will just not take that evidence into account. Such an approach can, however, be adopted by the court in dealing with a confession, because Section 30 merely enables the court to take the confession into account.

13. As we have already Indicated, this question has been considered on several occasions by judicial decisions and it has been consistently held that a confession cannot be treated as evidence which is substantive evidence against a co-accused person. In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right. As was observed by Sir Lawrence Jenkins in Emperor v. Lallt Mohan Chuckerburty a confession can only be used to "lend assurance to other evidence against a co-accused". In re Periyaswami Moopan Reilly. J., observed that the provision of Section 30 goes not further than this:"where there is evidence against the co- accused sufficient, if believed, to support his conviction, then the kind of confession described in Section 30 may be thrown into the scale as an additional reason for believing that evidence". In Bhuboni Sahu v. King the Privy Council has expressed the same view. Sir John Beaumont who spoke for the Board, observed that "a confession of a co-accused is obviously evidence of a very weak type. It does not indeed come within the definition CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 of "evidence" contained in Section 3 of the Evidence Act. It is not required to be given on oath, nor in the presence of the accused, and it cannot be tested by cross-examination. It is a much weaker type of evidence than the evidence of an approver, which Is not subject to any of those Infirmities. Section 30, however, provides that the court may take the confession Into consideration and thereby, no doubt, makes it

evidence on which the court may act; but the section does not say that the confession is to amount to proof. Clearly there must be other evidence. The confession is only one element in the consideration of all the facts proved the case; it can be put into the scale and weighed with the other evidence". It would be noticed that as a result of the provisions contained in Section 30, the confession has no doubt to be regarded as amounting to evidence in a general way, because whatever is considered by the court is evidence; circumstances which are considered by the court as well as probabilities do amount to evidence in that generic sense. Thus, though confession may be regarded as evidence in that generic sense because of the provisions of Section 30, the fact remains that it is not evidence as defined by Section 3 of the Act. The result, therefore, is that in dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after It has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence. That, briefly stated, Is the effect of the provisions contained in Section 30. The same view has been expressed by this Court in Kashmira Singh v. State of Madhya Pradesh where the decision of the Privy Council In Bhuboni Sahu case has been cited with approval.

14. In appreciating the full effect of the provisions CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 contained In Section 30, It may be useful to refer to the position of the evidence given by an accomplice under Section 133 of the Act. Section 133 provides that an accomplice shall be a competent witness against an accused person; and that a conviction is not Illegal merely because It proceeds upon the uncorroborated testimony of an accomplice. Illustration (b) to Section 114 of the Act brings out the legal position that an accomplice is unworthy of credit, unless he is corroborated in material particulars. Reading these two provisions together, it follows that though an accomplice is a competent witness, prudence requires that his evidence should not be acted upon unless it is materially corroborated; and that is the effect of judicial decisions dealing with this point. The point of significance is that when the court deals with the evidence by an accomplice, the court may treat the said evidence as substantive evidence and enquire whether it is materially corroborated or not. The testimony of the accomplice is evidence under Section 3 of the Act and has to be dealt with as such. It is no doubt evidence of a tainted character and as such, is very weak; but, nevertheless, it is evidence and may be acted upon, subject to the requirement which has now become virtually a part of the law that it is corroborated in material particulars."

453. The law envisages that an accomplice/approver is competent witness but prudence requires that evidence should not be acted upon unless it is materially corroborated. Here in the present case PW28 T.K. Basu, an approver/accomplice was partly examined-in-chief and his examination could not be completed as he has expired.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Secondly, he was not tried jointly to fulfill the requirement of Section 30 of Indian Evidence Act. The incomplete testimony of PW28 cannot be considered. One of the main reason for not accepting the statement U/S 164 Cr P C as evidence is that witness had not gone through the cross examination. Without cross examination, the Court cannot reach to the conclusion that his statement recorded U/S 164 Cr P C was free from all encumbrances to meet the truthfulness of his version as stated in the statement

U/S 164 Cr P.C. The statement is without oath. The principle of natural justice that an accused must be given an opportunity to defend himself, will fail, if statement of T.K. Basu is accepted.

454. So far as the submission of Ld Sr PP for CBI is concerned qua argument that statement of T.K. Basu is to be considered as prove in view of Section 32(3) of Indian Evidence Act is concerned. Firstly, the statement of accomplice/ approver against co-accused is not a substantial evidence it has only corroborative and its admissibility will be depend upon other substantial evidence on record.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 The Section 80 of Indian Evidence Act only authenticate the fact that statement of a witness was recorded. But it does not contemplates that the contents of statement recorded U/S 164 Cr P.C is to be considered as proved.

455. In the backdrop of consideration of law as discussed above and my observations on the admissibility on the report of handwriting expert and forensic expert as well as observation on the admissibility of evidence of approver. I will discuss the case against each accused separately hereinafter to give findings whether prosecution has been able to prove charges against the accused persons charged with beyond reasonable doubt or not.

Finding qua accused Narayan Diwakar .

456. The allegations against accused Narayan Diwakar are that while he was working as Registrar of Co-operative, he held the hearing in respect of said society on 08.06.2001 which was attended by Mahanand Sharma so called M.C Member, T.K. Basu the then treasurer and Amit Sharma Advocate. Accused Narayan Diwakar adjourned CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the matter for 05.07.2001 on the ground that President and Secretary of the society should personally appear before him on next date. On 05.07.2001, accused Narayan Diwakar marked the presence of Sh. S.P. Arora, Ex-President, which fact was denied by Sh. S.P. Arora being appeared before RCS. Vide note dated 05.07.2001, accused Narayan Diwakar had directed Ramesh Chandra, A.R ( South ) to verify original record of the society and submit a verification report within seven days. However, no report to this effect was submitted by Ramesh Chander. On 2.8.2001, Narayan Diwakar recorded another false note to the effect that S. P. Arora, Ex-President and T. K. Basu, Ex- Treasurer had appeared before him and accused Naryan Diwakar reserved the matter for order. He passed order of revival on 16.8.2001, without ensuring his earlier order dated 5.7.2001, wherein Ramesh Chandra was directed to submit verification report. He even did not insist for verification of records.

457. Ld Counsel for Narayan Diwakar has vehemently argued that, firstly there is no sanction U/S 197 Cr CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 P.C against accused Narayan Diwakar (A-5) and consequent upon that the accused (A-5) cannot be prosecuted for the offence Under section 120 B r/w 420/468/471 IPC.

458. It is further argued by Ld Counsel for accused Narayan Diwakar that sanction for the offences charged against accused under Prevention of Corruption Act have also not been taken by the

prosecuting agency. It is submitted that the amendment has been made in Section 19 of Prevention of Corruption Act in the year 2018. By amendment sanction for prosecution has been made necessary for retired public servant also. And no Court can take cognizance against a public servant for the offences under Prevention of Corruption Act without sanction. It is vehemently argued that this amendment should be considered retrospective. In this way sanction was necessary against accused Narayan Diwakar to prosecute him for the offence under Prevention of Corruption Act.

459. On the other hand, Ld Senior PP for CBI has argued that the prosecution has successfully CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 proved the allegations against the Narayan Diwakar (A-5) by leading cogent evidence.

460. It is further argued by the Ld Senior PP for CBI that since the act done by accused Narayan Diwakar was not a part of his official duty rather he was indulged in conspiracy with other public servants and private persons who have been charged in the present case. In that way no sanction is required against accused Narayan Diwakar U/S 197 of Cr.P.C.

461. It is further argued that since the accused Narayan Diwakar has retired from his services prior to amendment of Section 19 of P.C Act. Hence no sanction is required for prosecution of him for the offence under Prevention of Corruption Act. If it could have been the intention of the legislature then this could have been mentioned in the amendment itself that this provision is applicable with retrospective. It is submitted that section is clear and no sanction U/S 19 of P.C Act is required in case of accused Narayan Diwakar.

462. After considering the arguments of Ld Counsel for the Narayan Diwakar (A-5) and Ld Senior PP for CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 CBI. As Narayan Diwakar (A-5) has been charged for the offence Under section 120 B r/w 420/468/471 IPC and Sec. 15 r/w 13(2) r/w 13 (1)

(d) of PC Act, 1988 and substantive offences u/s 13(1)(d) punishable u/s 13 (2) r/w sec. 15 of Prevention of Corruption Act 1988.

463. On perusal, it is admitted position of the prosecution that there is no sanction being obtained U/S 197 of Cr.P.C to prosecute accused Narayan Diwakar and same is also not there on record.

464. Before advertng to the facts of the case and whether sanction U/S 197 Cr P C is required or not, I would like to reproduce Section 197 Cr. P.C.

465. Section 197 of the CrPC reads as under:

"197. Prosecution of Judges and public servants.

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to

act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)--

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted.

Explanation.--For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB or section 509 of the Penal Code, 1860. (2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(3A) Notwithstanding anything contained in sub-

section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 (43 of 1991), receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 for the court to take cognizance thereon. (4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held."

466. On perusal of Section 197 of the Cr PC, it provides that when any person who is or was a public servant, not removable from his office save by or with the sanction of the Central Government or State Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties, no Court shall take cognizance of such offence, except with the previous sanction of the appropriate Government. The law pertaining to the grant of sanction under Section 197 is no longer res integra. The essential requirements of Section 197 Cr. P.C. is that an accused should be alleged of having committed an offence while acting or purporting to act in discharge of his official duty. There must be a reasonable connection between the act and the discharge of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 official duty. The act must bear such relation to the duty that the accused could lay a reasonable, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty.

467. The Hon'ble Supreme Court Rakesh Bhatnagar Vs Central Bureau of Investigation , 2023 SCC OnLine Del 7440 has held that :-

"62. According to the ratio laid down in A. Srinivasa Reddy (supra), the individual against whom the allegations are made, ought to be a 'Public Servant' whose appointing authority is the Central Government or the State Government to entitle him to the protection under section 197 Cr.P.C. and not to every public servant. In the present case, undoubtedly, the petitioner is a DANICS officer and his appointing authority is the Central/State Government. There is equally no doubt in the mind of this Court that the allegations against the petitioner are of offences in the discharge of his official duties and as such the rigors of N.K Ganguly (supra) shall apply on all fours and it would be imperative for the prosecution to have obtained the sanction under section 197 Cr. P.C. As such, it is apparent that the prosecution of the petitioner for the aforesaid offences in the absence of the appropriate sanction under section 197 Cr.P.C. would be untenable.

63. Mr. Goel did not dispute the fact that there is no sanction under section 197 Cr. P.C. obtained from the Competent Authority against the petitioner. Having regard

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 to the said admission, and also considering the ratio laid down by the aforesaid authoritative judgments of the Supreme Court, this Court quashes the charges framed against the petitioner under sections 420, 468 and 471 read with 120B IPC."

468. In the case of A. Sreenivasa Reddy v. Rakesh Sharma, (2023) 8 SCC 711 , it was held by Hon'ble Supreme Court that:-

"41. Sub-section (1) of Section 197CrPC shows that sanction for prosecution is required where any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in discharge of his official duty. Article 311 of the Constitution lays down that no person, who is a member of a civil service of the Union or State or holds a civil post under the Union or State, shall be removed by an authority subordinate to that by which he was appointed. It, therefore, follows that protection of sub-section (1) of Section 197CrPC is available only to such public servants whose appointing authority is the Central Government or the State Government and not to every public servant.

59. From the aforesaid, it can be said that there can be no thumb rule that in a prosecution before the court of Special Judge, the previous sanction under Section 19 of the PC Act, 1988 would invariably be the only pre- requisite. If the offences on the charge of which, the public servant is expected to be put on trial include the offences other than those punishable CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 under the PC Act, 1988 that is to say under the general law (i.e. IPC), the court is bound to examine, at the time of cognizance and also, if necessary, at subsequent stages (as the case progresses) as to whether there is a necessity of sanction under Section 197 of the CrPC. There is a material difference between the statutory requirements of Section 19 of the PC Act, 1988 on one hand, and Section 197 of the CrPC, on the other. In the prosecution for the offences exclusively under the PC Act, 1988, sanction is mandatory qua the public servant. In cases under the general penal law against the public servant, the necessity (or otherwise) of sanction under Section 197 of the CrPC depends on the factual aspects. The test in the latter case is of the "nexus" between the act of commission or omission and the official duty of the public servant. To commit an offence punishable under law can never be a part of the official duty of a public servant. It is too simplistic an approach to adopt and to reject the necessity of sanction under Section 197 of the Cr PC on such reasoning. The "safe and sure test", is to ascertain if the omission or neglect to commit the act complained of would have made the public servant answerable for the charge of dereliction of his official duty. He may have acted "in excess of his duty", but if there is a "reasonable connection" between the impugned act and the performance of the official duty, the protective umbrella of Section 197 of the CrPC cannot be denied, so long as the discharge of official duty is not used as a

cloak for illicit acts."

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

469. On perusal of above referred judgments of Hon'ble Superior Courts, it is clear that to commit an offence punishable under law can never be a part of the official duty of a public servant. It is too simplistic an approach to adopt and to reject the necessity of sanction under Section 197 of the Cr PC on such reasoning. The safe and sure test is to ascertain if the omission or neglect to commit the act complained of would have made the public servant answerable for the charge of dereliction of his official duty.

470. Here in the present case, the allegations against accused Narayan Diwakar are that he had revived the said society on the basis of forged documents. The act of revival of the said society is official duty and if he could have not done act to revive the said Society then it could have been considered as dereliction of his official duty.

471. The fact whether he was indulge in conspiracy is a matter of trial which has to be considered by the Court on the basis of material being produced before Court.

472. Admittedly accused Narayan Diwakar (A-5) was CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 an I.A.S and his appointing authority was either Central Government or State Government, therefore, the protection as available U/S 197 Cr P C is to be granted to him for the prosecution U/S Under section 120 B r/w 420/468/471 IPC.

473. So far as the allegations of conspiracy against accused Narayan Diwakar in reviving of the society is concerned. There is no direct evidence being brought by the investigating agency on record. There is also no evidence that he was hand in glove with any of the accused persons. There is no evidence at all that he has got any monetary benefit from any of the co-accused in the process of revival of the said society. The alleged proceedings qua completion of formalities for revival of the society could have been completed at various stages subsequently. But there is no evidence on record qua mens rea on the part of accused Narayan Diwakar. The revival may be wrong decision or it may be over looking of some facts or due to negligence. But in the absence of mens rea it may be difficult to hold him culpable. For the sake of argument, if some persons had CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 appeared before accused Narayan Diwakar as S.P Arora and and S.P. Puri as members of Management Committee of said society and he had marked their attendance as functionary of the society. It is not sufficient to hold accused Narayan Diwakar as guilty of conspiracy. It may be negligence, but it does not qualify the principle of criminal jurisprudence that charge have been proved beyond reasonable doubt. There is no evidence on record that accused Narayan Diwakar was knowing the actual functionaries of said society or the persons appared before him were not the actual functionary of said society. Then how it can be said that he had hatched conspiracy with other accused persons. So the prosecution has failed to prove charges against accused Narayan Diwakar for offences charged with. Finding qua accused P.K. Thirwani

474. The allegations against accused P.K. Thirwani is that in pursuance of revival order dated 16.08.2001 of the said society he has conducted the audit of the said society. There are allegations against accused P.K. Thirwani that audit of the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 said society was already conducted for the period from 1983 to 1986 by Sh. Kishan Sethi & Co. But despite that accused P.K Thirwani again conducted the audit for the entire period from 1983 to 2001. The allegations are also that he has got signatures of Shri Surya Prakash Arora, President and Shri Ved Prakash, Secretary. He has also permitted Ashwani Sharma to forge the signatures of the President, Secretary and Treasurer. He has also permitted accused Naveen Kaushik to forged the signatures of Sh T.K. Basu on the Audit report.

475. In the backdrop of these allegations as accused P.K. Thirwani has admitted the filing of Audit Report Ex 48/D. But it is argued on behalf of accused P.K. Thirwani that Audit papers are used to be deposited in the office of RCS and it is not required that any person have to appear in person before the Auditor in the RCS office and put his signatures. It is argued that he has filed Audit report on the basis of documents only which were deposited in RCS office qua the audit of the said society and he was not involved in any criminal CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 act.

476. On the other hand, it is vehemently argued on behalf of Ld Sr PP for CBI that the acts of accused P.K. Thirwani in itself proves his involvement to the extent that he was involved in conspiracy with other co-accused. It is further argued by Ld Sr P.P for CBI that PW 48 Ved Parkash, Secretary of the said society has denied his signatures on the Audit report.

477. On considering the rival arguments and perusing the record. It is evident that P.K. Thirwani has conducted the Audit of the said society in pursuance of the order of R.C.S dated 16.08.2001( revival order of the said society)

478. Section 53 of The Delhi Co-operative Societies Act 1972 prescribes the Audit of a Co-operative society and also describes the powers of the Auditor. The sub Section (4) of Section 53 of The Delhi Co-operative Societies Act 1972 prescribes that " The directors, managers, administrators and other officers of the society shall furnish to the person auditing the accounts of a co-operative society all such information as to its transactions CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 and working of such person may require."

479. On perusal of sub Section (4) of Section 53 of The Delhi Co-operative Societies Act 1972, it reveals that it is not mandatory for the managing committee to appear in person before the Auditor. Which is required, as per Section 53 of The Delhi Co-operative Societies Act 1972, is the record has to be submitted to the Auditor and audit has to be conducted qua the financial status of the Co-operative society as describes in Sub Section 3 of Section 53 of the Act. If that was the mandate of law and accused P.K. Thirwani has took a defence that record was submitted by the management committee and no person in his presence has put signatures. Then this explanation of accused P.K. Thirwani may be accepted in the absence of any other evidence on record. As there is no allegations against accused P.K. Thirwani that he has manipulated in the accounts of the society to hide the irregularities in the accounts of the said society. The prosecution has unable to brought to the notice

of this Court that conducting of audit twice of a society may invite the criminal CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 culpability. It is also not the case of the prosecution that audit report from the year 1983 to 1986 was presented or produced before accused P.K.Thirwani by the M.C of said society and he ( P.K. Thirwani) overlooked the same with the malafide intention. The mens rea is one of the essential ingredient for proving the guilty of the a person. Here in the present case mens rea is missing.

480. There is no direct evidence at all on record that Shri Surya Prakash Arora, and Shri Ved Prakash or T.K. Basu has signed in front of accused P.K. Thirwani. Moreover I have given the observation on the report of GEQD which is discarded.

481. So the evidence adduced by the prosecution against accused P.K. Thirwani is not sufficient to prove his guilt beyond reasonable doubt for the offence Under section 120 B r/w 420/468/471 IPC

482. So far as the allegation against accused P.K.Thirwani for the offence U/S Sec. 15 r/w 13 (1) (d) r/w 13 (2) of PC Act, 1988 is concerned. In this regard Section 19 of the P.C Act, 1988 prescribes that no court shall take cognizance of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 an offence punishable under Prevention of Corruption Act. The issue of cognizance can be raised at any stage. And if the cognizance is against the law then to built up a case against the accused for the offences under Prevention of Corruption Act also not triable.

483. Ld Counsel for P.K. Thirwani has vehemently argued that the prosecution has failed to prove the sanction U/S 19 of P.C Act 1988. It is submitted that even for the sake of argument if it is assume that sanction U/S 19 of the P.C. Act 1988 is presumed to be proved on record but the same was not a valid sanction being accorded without application of mind by the sanctioning authority.

484. On the other hand, Ld Senior PP for CBI has argued that the prosecution has successfully proved the allegations against the P.K. Thiwani by leading cogent evidence.

485. In order to prove sanction for prosecution against P.K. Thirwani the prosecution has examined PW 56 Sh Ramesh Narayanaswami. He has deposed that he received a report from CBI through the Superintendent of Police containing brief facts of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the case, gist of statements of the witnesses and evidences, analysis of evidence amongst other document. He had carefully gone through the report including annexures and after applying his mind, he has accorded sanction order Ex PW56/A for prosecution of P.K. Thirwani.

486. However, PW 56 in the cross examination has deposed as to how he has accorded sanction against accused P.K.Thirwani. The relevant portion of his cross examination is as follows:

"I have not seen any report of the SP of CBI referred to in my examination-in-chief today. I do not remember exactly what documents I had perused at the time of granting sanction. It is mentioned in the sanction order itself. It is wrong to suggest that I had granted sanction without going through any document. I do not remember

if Audit Report (D-7) was shown to me before I granted sanction. It is wrong to suggest that I merely signed draft sanction order given by the CBI. It is wrong to suggest that I granted sanction without application of mind.

I do not remember if the documents received from CBI were returned to it or not. I do not remember how many days I took to grant sanction against Sh. P.K. Thirwani. It is wrong to suggest that I granted sanction in a mechanical manner and without application of mind or at instance of CBI.

I do not remember if Noting File (D2) and correspondence File (D-4) of RPF CGHS Ltd maintained CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 at RCS Office was shown to me before I granted sanction"

487. The witness is unable to disclose clearly the material which he has perused before granting sanction for prosecution against accused P.K. Thirwani. The testimony of PW 56 is dubious regarding perusing the material /evidence by him for according sanction. The witness is unable to apprise the Court what material was perused by him while according sanction. DE So in view of the law as discussed in the preceding paragraph coupled with the testimonies of PW56, the prosecution has failed to prove the sanction order against accused P.K.Thirwani being accorded by applying the mind by the sanctioning authority. Finding qua accused Mohan Chander Joshi.

488. The allegation against accused Mohan Chander Joshi are that he was appointed as liquidator of the said society. But instead of doing the work of liquidator he has called GBM and got passed a resolution to get revive of the said society. This misconduct on the part of Mohan Chander Joshi was in conspiracy with other co-accused persons.

489. The prosecution has relied upon document Ex CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 PW5/E which is the proceedings vide which GBM was conducted. Ex PW5/E is the photocopy and an objection has been taken by the defence counsel qua proving of this document being photocopy.

490. The law relating to prove secondary evidence I have discussed in previous paragraphs while discussing the admissibility of evidence of expert.

491. In view of law to prove secondary evidence. The prosecution has to establish firstly the parameters/legal requirements to prove the secondary evidence. The prosecution has not proved that legal aspect before making Ex PW5/E as a part of evidence. On legal aspect the prosecution has failed to prove the document ExPW5/E. Even otherwise, the proceedings register containing the proceedings Ex PW5/E has not been placed or traced by the investigating agency. Merely, saying that investigating officer has seized only photocopy of Ex PW5/E is not sufficient to remove the clouds from the document Ex PW5/E. Particularly, there is no proceeding register being searched or seized during CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 investigation by the investigating agency in which proceedings qua enrollment of new members and proceedings qua resignation of old members could have been conducted. That part of evidence is

missing. But since the accused has not disputed that proceedings dated 14.10.2001 being conducted by him. Now it has to be seen whether proceedings dated 14.10.2001 was conducted with malafide intention.

492. One aspect is also there qua this accused being Liquidator. The Delhi Cooperative Societies Rules, 1972, are the rules which are framed for proper implementation and to meet out the requirement of implementation of Delhi Cooperative Societies Act, 1972. Rule 22 of The Delhi Cooperative Societies Rules, 1972 prescribes the Reconstruction of a Society. Sub section 1 or Rule 22 of The Delhi Cooperative Societies Rules 1972, prescribes as under:

1. Where in the case of defunct societies or a co-

operative society which is being wound up, a proposal for compromise or arrangement -

(a) between a co-operative society and its creditors:

(b) between the co-operative society and its members, is received, the Registrar may on the application of the co operative society or any member or of any creditor of the co-operative society or of the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 liquidator, order reconstruction of the co-operative society in the manner hereinafter given.

493. So in view of the rule, let us take an example a liquidator calls the meeting of members of the co operative society to discuss the liquidation proceeding and members of the society chooses to continue /reconstruct/revive the society then it is not prescribed that the liquidator will honour the wishes of the member of the society. In document Ex PW5/E the resolution No.1 found mention that member of the society unanimously resolved to get revive of the society. Then it is not prohibited for the liquidator, in the rule, that he will not permit to pass that resolution.

494. It is worth to mention that the liquidator has not written any letter to the Registrar of Co operative Societies for any revival. Rather alleged revival was written by other person. So all these circumstances, as brought on record against accused Mohan Chander Joshi, does not fulfill his mens rea that he was acting with malafide intention. To convict a person the prosecution must have prove its case beyond reasonable doubt.

495. So far as sanction order U/S 19 of P.C Act against CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Mohan Chander Joshi, the prosecution has examined PW 58 Smt Shakuntala Doley Gamlin. She has deposed that she received request from the Directorate of Vigilance for seeking sanction for prosecution in respect of accused Mohan Chander Joshi.

496. She has deposed that she had gone through the file and relevant papers received by her she found that there was sufficient material to show that Mohan Chander Joshi had committed various offences. After duly applying her mind she accorded sanction for prosecution of accused Mohan Chander Joshi vide sanction order Ex PW58/A.

497. However, PW 58 in the cross examination has deposed as to how she has accorded sanction against accused Mohan Chander Joshi. The relevant portion of his cross examination is as follows:

"It is correct that in 2001, I was not the competent authority to grant sanction in respect of Mohan Chander Joshi. As far as I recollect, in the year 2001, Mr. Diwakar, Registrar of Co- operative Societies, Delhi was the competent authority to grant sanction in respect of Mohan Chander Joshi. As on today, I cannot recollect what exact documents I had perused before granting sanction. I do not recollect if I had also seen any report of CBI before granting sanction..... It might have taken about 2-3 days for granting sanction..... I did not obtain any legal opinion whether these sections were made out CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 or not. It is correct that FIR No. of CBI is not mentioned in the sanction order. .... It is difficult to tell in how many documents, date and number were left out after putting my signatures..... It is correct that the sanction order is more or less the same as the draft sanction order"

498. So in view of the law as discussed in the preceding paragraph coupled with the testimonies of PW58, the prosecution has failed to prove the sanction order for prosecution against accused Mohan Chander Joshi U/S 19 of P.C Act being accorded by applying mind by the competent authority.

Finding qua accused Surender Singh.

499. The allegations against accused Surender Singh is that he has got conducted election of the society vide proceedings dated 14.10.2001 and facilitated the forgery in the proceedings.

500. At the outset, I would like to mention here that I have already discarded the evidence of handwriting expert. The case of the prosecution, against accused Surender Singh was lying on the basis of evidence of handwriting expert and forensic expert. If the prosecution has failed to prove that forgery was committed by permitting false signatures on the proceedings dated 14.10.2001 then case does not survive against CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 accused Surender Singh. It is also worth to mention here that as per the proceedings dated 14.10.2001, it reveals that the said proceedings was attended by 24 members. The investigating agency has failed to apprise the Court whether any of the person out of 24 except those whose signature are forged, have joined the proceedings dated 14.10.2001. If yes then that persons could have the best witness to depose the circumstances under which the said proceedings were conducted and who have signed on that proceedings. The prosecution has also not clarify the fact why the signatures of all the 24 members who have joined the proceedings dated 14.10.2001 were not got opined from the handwriting expert, it also creates doubt. The prosecution has failed to collect evidence in that regard. Thus the prosecution has failed to prove its case beyond reasonable doubt against accused Surender Singh.

501. So far as sanction for prosecution U/S 19 of P.C Act against accused Surender Singh is concerned. I have discussed the cross examination of PW58 Smt Shakuntla Doley Gamlin while dealing with CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

sanction accorded by her against accused Mohan Chander Joshi. The same observation are relevant to arrive at a conclusion whether the sanction is accorded after pursuing the material before the sanctioning authority and applying it mind. The same is not reiterated here for the sake of brevity. Additionally, I would like to mentioned here the facts and circumstances under which sanction was accorded by the sanctioning authority. The PW58 has deposed in her cross examination that she had taken 2-3 days for granting prosecution sanction. But the document Ex PW58/DX shows that sanction was accorded on 14.07.2006. The file was moved on the same day before Dy Secretary, Joint Secretary then reached to the Secretary (Sanctioning Authority) It also revealed that sanction was accorded for accused M.C Joshi and Surender Singh. It creates doubt how the sanctioning authority has perused about 400 pages of material sent to her alongwith request for according sanction on a single day. It was in addition to deal with 200 file additionally of her own department by the sanctioning authority. It CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 creates doubt that the sanctioning authority had perused the entire material herself. Even otherwise the document Ex PW58/DX, the file sent to sanctioning authority by CBI for according sanction, does not find attached the statement of material witnesses and record. I hold that sanction has been accorded by PW58 on the insufficient document and without applying judicious mind. I discard the sanction granted U/S 19 of P.C Act against accused Surender Singh.

Finding qua accused Goapl Singh Bisht.

502. The allegations against accused Gopal Singh Bisht are that he was in custody of the record of the said society. He had handed over the record to accused Mahanand Sharma in conspiracy of other co- accused.

503. Ld Senior P.P. for CBI has argued that PW46/A and PW46/B are the documents which proved the facts that the record of the said society was with accused Gopal Singh who handed over the same to Mahanand Sharma and co-accused T.K.Basu ( Now expired)

504. I have gone through the document Ex PW46/A CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 placed at D-28 it reveals that it is the letter being written by Narender Kumar to A.R qua handing over the record of Regional Provident Fund CGHS Ltd and same has been received by Reshma, who has identified her signatures on Ex PW46/A at point 'A'. This document does not proved the fact that record of the said society was handed over to accused Gopal Singh Bisht.

505. The other document relied upon by the prosecution is Ex PW46/B. The language of document Ex PW46/A and Ex PW46/B is similar. But there are two different notes on document Ex PW46/B. One is at point A and another is point B. The noting at point A, as per the deposition of PW46 Reshma, is dairy number as 1541/AR/South/18.8.2000 . The another noting at point B reads as "is there any request from the Ex-management if not appointment of another liquidator is recommended. Put up. DA." This noting is purported to have been made by A.R. This document also does not specify that record of the said society was entrusted to accused Gopal Singh Bisht. There is no record or evidence being CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 adduced on record that the record of the said society was entrusted to accused

Gopal Singh Bisht. Merely mentioning the word DA, which is synonymous to Dealing Assistant, does not impart the fact that it was related to accused Gopal Singh Bisht.

506. The submission, being made by Senior PP, that as per PW 46 the file of the said society was handed over to DA Gopal Singh Bisht minus the evidence of Reshma. There is no such evidence on record. So in the absence of any record or evidence on record it cannot be opined beyond reasonable doubt that the record of the said society was handed over to accused Gopal Singh Bisht. Who handover the same to any person.

507. Moreover, as per the prosecution, record of the said society was lying in the office of RCS but a document dated 05.03.2001 is placed on D-4 ( page No. 239/C ), vide which M.C Joshi has obtained the record of the said society from Narender Kumar. If Narender Kumar has already deposited the record with the office of RCS on 18.08.2000 then there was no circumstances that CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 he could have in possession of the record of said society which was handed over by him to M.C Joshi. This fact creates doubt that the record of said society was handed over to Gopal Singh Bisht by PW Reshma. The prosecution has failed to prove charge against the accused or his complicity.

508. So far as sanction for prosecution U/S 19 of P.C Act against accused Gopal Singh Bisht is concerned. I have discussed the cross examination of PW56 in detail while dealing the issue of granting sanction against accused P.K. Thirwani. The same cross examination, as has been deposed by PW56, is relevant to arrive at a conclusion whether sanction against accused Gopal Singh Bisht was bad for non-application of mind. The facts as revealed in the cross examination of PW56 and Ex DW3/A ( Colly ) that entire material including statements of material witnesses were not sent to the sanctioning authority for its perusal. I hold that sanctioning authority has according sanction for prosecution against accused Gopal Singh Bisht. That sanction against accused Gopal CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Singh Bisht is not a proper sanction on application of mind, the same is discarded.

Finding qua accused Ashwani Sharma, Ashutosh Pant and Naveen Kaushik.

509. The case of the prosecution against aforesaid accused are based on the report of handwriting and forensic expert. Since this Court has discarded the evidence of handwriting and forensic expert. There is no other direct evidence is there on record against these accused persons who could have deposed that they seen these accused persons to forged the signatures of any of the persons. Merely deposition of PW 13 Vikas Narang that document were handed over to accused Ashwani Sharma is not sufficient to prove the guilty of forgery being committed by Ashwani Sharma. Because witness (PW13) has not seen putting any signatures on any document. So in view of the above, the prosecution has failed to prove its case beyond reasonable doubt against accused Ashwani Sharma, Ashutosh Pant and Naveen Kaushik. Finding qua accused Rajender Kumar Khurana

510. Since this Court, while giving CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 observations/finding on the evidence of handwriting and Forensic Expert have discarded the reports Ex expert Ex PW66/H (colly.), opinion Ex PW66/J, reasons Ex PW66/K,

supplementary opinion/report, Ex. PW66/M (colly.) and reasons Ex PW66/O (colly.) Now it has to be seen whether there is any other direct evidences against accused Rajender Kumar Khurana to establish his culpability, beyond reasonable doubt.

511. To prove the direct evidence against accused Rajender Kumar Khurana. The prosecution has examined PW 15 Gulshan Kumar, PW 19 Sunil Kumar and PW22 Tilak Raj. These witnesses have stated in their deposition that they have become members of the said society through Rajender Kumar Khurana. To ascertain whether above said witnesses have become member of the said society and made applications/request for enrollment as member of the society has to be considered. If the prosecution has able to prove this fact then Court has to consider whether it was used for the revival of the said society or not. Because the allegations/charge against the accused are that the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 said society was got revived on the basis of forged documents in conspiracy between accused persons as has been charged in the present case. Though the prosecution has not exhibited any particular application form being furnished by these witnesses, for becoming member in the said society through Rajender Kumar Khurana.

512. But I have gone through the document Ex PW67/H ( Colly), placed at D-11. There are number of applications running from page number 154 to 243. These applications are of 90 persons. All these applications forms are request of becoming member of the said society. None of the application pertaining before 16.08.2001, the date on which the said society was ordered to be revived. It means PW15, PW19 and PW22 were made members in the said society after revival of the said society. If these persons became member after 16.08.2001 then their becoming member of the said society has no effect on the revival of the society. One fact which has to be considered is that name of Gulshan Kumar find at page 187 of Ex PW66/H and his father's name is Sada Nand CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Wadhwa. I found one another application of Sunil Kumar Verma S/O J.P. Verma. One another application by the name of Sunil Kumar also find at page No.234 of Ex PW66/H ( Colly) whose father name is Raj Pal Anand. The application of Tilak Raj Chawla S/O Cheetal Dass. Whereas the name of the father of PW 15 Gulshan Kumar is late Sh Jeevan Dass. The name of father of PW 19 Sunil Kumar is Rajender Kumar. Name of the father of PW22 Tilak Raj is Jeevan Das. The names of the father's of witnesses which are contrary to the names of father of persons whose application forms for becoming member has been placed in Ex PW66/H. The story of the prosecution qua making members by Rajender Kumar Khurana is not substantiated. In the given circumstances, I found no substantial evidence against accused Rajender Kumar Khurana. Finding qua accused Mahanand Sharma .

513. There are allegations against accused Mahanand Sharma that he is the mastermind behind getting revival of the said society in connivance with other co-accused persons. As per the charge sheet CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 T.K.Basu was also equally involved alongwith accused Mahanand Sharma to get revive on the basis of forged documents, but he has turned as an approver. It is also the case of the prosecution that accsued J.P. Marwaha and Rajender Kumar Khurana were also involved alongwith other accused persons and official of RCS were also involved in this act.

514. In view of the charge against accused Mananand Sharma and evidence adduce on record, the main direct evidence against accused Mahanand Sharma is the testimony of PW6, PW10, PW18, PW57 and PW60.

515. Since PW6 Ashwani Wig, PW10 Amit Sharma and PW18 Subhash Chand Chakroborthy who were the direct witnesses against accused Mahanand Sharma have not supported the case of the prosecution to some extent in their examination-in-chief. So they were cross examined by the Sr PP for CBI.- Now it has to be considered whether the evidence, either in examination-in-chief of these witnesses or in their cross examination, can be relied upon. Before CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 analyzing their evidence I would like to mention here certain proposition of law propounded by the Hon'ble Superior Courts in cases of witnesses call by the party but they have deposed differently, resiling from their previous statements.

516. In cases, even if witnesses go hostile and are cross-examined by the Public Prosecutor then it is for the court to consider in each case whether on account of such cross-examination and contradictions, the credibility of the witness stands shattered or if his testimony or part of it can still be believed. If on cross-examination of the witness, it has lost the confidence of the court and his credit has not been completely shaken and if his testimony when read as a whole with care and caution and corroborated by other evidence on those material points satisfies the conscience of the court to act upon his testimony then no embargo can be placed to disbelieve such witness merely on account of the fact that he has been declared hostile. Reliance is placed upon judgment titled as Mohinder Singh Vs State of Punjab, 2007 CR-LJ 2478.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

517. Section 145 applies also to a hostile witness examined by the party who calls him under section

154. One of the modes in which, according to the Evidence Act, the credit of a witness may be impeached, is by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted; and section 145 gives the right to cross-examine a witness on previous statements made by him and reduced to writing, when these previous statements are relevant to the matter in issue.

518. The utility of cross-examination under section 154 is supposed to be that it is a means whereby the court can more readily get the truth out of the witness, as the party's own witness unexpectedly makes statements adverse to the party calling him. Reliance is placed upon judgment titled as Krutibas Sahu Vs Madbab Dass AIR 1961 ORI

519. Hostile witnesses are those who are trying to defeat the prosecution by suppressing the truth. A witness who is unfavourable is not necessarily hostile, because a hostile witness is one who from CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 the way which he gives evidence would show that he is not desirous of telling the truth to the court. Reliance is placed upon judgment titled as Yusuf Vs State of Uttar Pradesh 1973 Crl L J 1220.

520. So in the light of law to consider the testimony of witness who is not supporting the party who has summoned him has to be inferred on the settled proposition of law as stated above.

521. On perusal of testimony of PW6 Ashwani Vig it has been proved on record beyond reasonable doubt that he was knowing accused Mahanand Sharma and accused Mahanand Sharma was used to deal in property. But since this witness has not deposed before the Court as per the version being given to the investigating agency U/S 161 Cr P.C. Hence Ld Sr PP for CBI has cross examined this witness. The witness in his cross examination has admitted that he was enquired by the IO Virender Singh. In the cross examination this witness has admitted as " it is incorrect to suggest that all the averments noted in Ex PW16/PA ( statement of this witness being recorded U/S 161 Cr P.C.) were recorded by the IO as told by me.". The witness CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 has further deposed that he stood witness in 3-4 cases in which his statement was not correct upto 90%. Now question arises whether the witness deposing in the Court qua his statement recorded U/S 161 Cr P.C is correct or not. It is admitted position of PW6 that he has not made any complaint to higher authority qua 90% of his statement which he said that it is incorrect. The witness has not brought to the notice of this Court after seeing his statement being recorded U/S 161 Cr P C which 10% of his statement is correct and which 90% of his statement Ex PW6/PA is incorrect. This witness has been confronted from portion A to A and B to B of his statement Ex PW6/PA where he has stated that M.N. Sharma approached him to sell the membership of the society or dealing in sale of society RPF CGHS in between M.N. Sharma and Raman Marwah. And he got commission of Rs.12,000/-. He has further stated in portion B to B that Mahanand Sharma proposed about the dealing of the society members at the rate of Rs.1500/- per member as commission and agreed to sale/purchase of the CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 society of 90 members to be called RPF CGHS.

522. The next direct evidence against accused Mahanand Sharma is the testimony of PW 10 Sh Amit Kumar Sharma. This witness has also not supported the version of the prosecution as recorded in his statement U/S 161 Cr P C. However he has identified accused Mahanand Sharma in the Court and also admitted that he has appeared before the R.C.S in a society case. But in his cross examination by Ld Sr PP for CBI he has admitted that his statement Ex PW10/PA was recorded by the IO. The statement Ex PW10/PA is the statement being recorded U/S 161 Cr P C. So it is proved on record that PW10 has given statement Ex PW10/PA to the I.O. On confrontation of Ex PW10/PA it is found mention in the statement that he has appeared ad advocate at the instance of accused Mahanand Sharma despite the fact that he does not used to appear in society cases. So a fact has also been brought on record that PW 10 Amit Sharma has appeared before the RCS at the instance of accused Mahanand Sharma for the revival proceeding of CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 said society.

523. Another direct evidence against accused Mahanand Sharma is testimony of PW18 Subhash Chand Chakrowoty. This witness in his examination in chief has admitted and identified the document Ex PW18/A, the affidavit furnished by him. He has also identified a document Ex PW4/A ie application for registration of Co operative Society. He has also identified his signatures on the bye laws of the said society Ex PW4/A-1. He has also identified his signatures on document Ex PW18/B, the resignation dt 13.04.1990. He has also identified his signatures on Ex PW18/C ie

receipt of receiving membership money. But he has not recollect when he has signed Ex PW18/B and Ex PW18/C. These are the document which were purportedly got in the year 2001 by accused Mahanand Sharma and T.K. Basu from PW 18. PW18 is the founding member of the said society. This witness has been cross examined by the Ld Sr PP for CBI. He has admitted that his memory was intact when he had made a statement before CBI and the facts CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 mentioned in the statement being recorded by the Investigating Agency were correct facts. The statement being got recorded by the witness PW18 has been proved as Ex PW18/DA. This is a statement being recorded U/S 161 Cr P C.

524. On perusal of testimony of PW18 it reveals that he was having intact memory while deposing before the Court qua becoming member of the society but while the situation come to identify accused Mahanand Sharma he has deposed the fact that he do not recollect who has got signed his resignation letter. The act of PW 18 seems highly doubtful when he depose that he is not in a position to identify accused Mahanand Sharma. The move not to identify accused Mahanand Sharma is deliberate one. Moreover the witness has identified his statement Ex PW18/DA which is admitted to be correct. The statement has been confronted to this witness. So the testimony of PW18 also proves the circumstances against accused Mahanand Sharma that he was indulged in revival of the said society on forged documents.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

525. The next direct witness against accused Mahanand Sharma is the testimony of PW 57 Smt Rima Vidhani. She has admitted in her examination that she knew Rajender Kumar Khurana and Mahanand Sharma through whom she has become member in the said society. This witness has further deposed that her signatures on the proceedings dated 14.10.2001, 18.10.2001, 22.11.2001, 24.12.2001, 21.01.2002, 16.02.2002, 18.03.2002, 26.03.2002, 10.04.2002, 20.05.2002, 27.07.2002, 25.10.2002, 18.12.2002, 20.01.2003 and 28.01.2003 were obtained by Rajender Kumar Khurana. Though the witness has denied that she had not attended any such meetings as revealed in Ex PW13/PA ( D-13). This testimony also proves the fact that accused Mahanand Sharma was playing active role in the said society.

526. PW60 Chandra Kanta Verma is also an important witness. She has deposed that she had become member of the said society at the instance of T.K. Babu and T.K. Basu in the year 2000-2001 had told this witness that the society was not getting any land allotted and that society was going to be CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 liquidated and get her money back of Rs.3300/- and she had accordingly acted upon. The testimony of this witness also support the story of the prosecution that Mahanand Sharma and T.K. Basu approached old member of the society and make them agree to resign on the pretext that the said society is not getting allot any land being gone in liquidation.

527. The evidence as discussed here has gone against Mahanand Sharma. PW10 appeared before the RCS on the instruction of Mahanand Sharma and that proceedings before the RCS was qua relating to the proceedings qua reviving of the said society. It is worth to mention here that most of the witnesses who were having knowledge of the facts against accused Mahanand Sharma have turned

hostile in examination in chief. Though the evidence has come on record against accused Mahanand Sharma in the cross examination of these witnesses. It creates doubts about that these witnesses tried to mislead the court on material facts and which could have been done due to influence, it may be from accused Mahanand CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Sharma or else. Thus it has been proved on record beyond reasonable doubt that accused Mahanand Sharma was actively involved for revival of the said society. Then definitely he would have also know the facts as to how the resignation of old members were obtained and how the forgery was made in the documents. As some of the witnesses have deposed that they have resigned in particular year against the documents which shows their resignation in different year. Section 106 of Indian Evidence Act is also applicable in that circumstances which goes against accused Mahanand Sharma. A fact is also worth to be mentioned that T.K. Basu has become the approver and he had supported the version as asserted by the prosecution against accused Mahanand Sharma . It is also worth to mention here that accused J.P. Marwah pleaded guilty. The evidence as adduced on record clearly proves that this accused was in conspiracy with accused T.K. Basu ( approver ) and J.P. Marwah. It is also not in dispute that after revival of the society a letter was sent to the DDA for allotment of land on CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 concessional rates, though land was not allotted. And these facts has been proved on record by PW8 vide document Ex PW8/A and version of PW8 has been corroborated by PW61. The evidence has also come on record against this accused that he was in conspiracy with accused to make forgery and used the same for revival of the said society. The evidences brought on record against accused Mahanand Sharma proves his guilt beyond reasonable doubts. Accordingly, accused Mahanand Sharma is held guilty for the offence U/S 120-B read with Section 420/468/471 IPC. He is also held guilty for the substantial offence U/S 420/511, 468 and 471 IPC. CONCLUSION:

528. In view of the foregoing discussions, I hold accused Mahanand Sharma guilty for the offence U/S 120-B read with Section 420/468/471 IPC. He is also held guilty for the substantial offence U/S 420/511, 468 and 471 IPC.

529. Since the evidence as brought on record is not sufficient beyond reasonable doubt to hold accused persons namely Narayan Diwakar, P.K. CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019 Thirwani, Mohan Chander Joshi, Surender Singh, Gopal Singh Bhist, Ashwani Sharma, Ashutosh Pant, Naveen Kaushik and Rajender Kumar Khurana as guilty of offences charge with. The prosecution has also failed to prove on record the sanction against accused P.K. Thirwani, Mohan Chander Joshi, Surender Singh and Gopal Singh Bisht. To prosecute these four accused persons the sanction is foundation stone. Without proper sanction against accused Narayan Diwakar cognizance cannot be taken and case has to be dropped against him. So in view of the above discussion, accused persons namely Narayan Diwakar, P.K. Thirwani, Mohan Chander Joshi, Surender Singh, Gopal Singh Bisht, Ashwani Sharma, Ashutosh Pant, Naveen Kaushik and Rajender Kumar Khurana are acquitted. Bail bonds of accused Narayan Diwakar, P.K. Thirwani, Mohan Chander Joshi, Surender Singh, Gopal Singh Bisht, Ashwani Sharma, Ashutosh Pant, Naveen Kaushik and Rajender Kumar Khurana stand cancelled and their sureties also stands discharged.

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019

530. Let digitally signed copy of the judgment be uploaded on the Court's official website, JAGDISH accordingly.

by JAGDISH  
KUMAR  
KUMAR Date: 2024.12.20  
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(Jagdish Kumar )  
Special Judge (PC Act) (CBI) 16  
Rouse Avenue District Courts  
New Delhi

Announced in the Open Court  
today :20.12.2024

CBI Vs. Maha Nand Sharma & Ors. (RPF CGHS) CNR No. DLCT11000347-2019