

**IN THE COURT OF SH. M. K. NAGPAL
SPECIAL JUDGE (PC ACT), CBI-09 (MPs/MLAs Cases)
ROUSE AVENUE DISTRICT COURT, NEW DELHI**

**CC No. (New) 184/2019 (Old Nos. 11/2015 & 90/2016)
CNR No. DLCT11-000919-2019 (Old No. DLND01-002088-2015)
RC No. RC-09(A)/2013/CBI/AC-III/NEW DELHI
U/s 120B r/w 420/511, 471/201 IPC and
Sec 15 r/w 13(1) (d) r/w 13(2) of the PC Act, 1988**

CENTRAL BUREAU OF INVESTIGATION (CBI)

Versus

1. Anil Kumar Sahani

S/o Late Sh. Mahindra Sahani

Present Address : Flat No. C-401, Swarna Jayanti Sadan,
Dr. B.D. Marg, C-Block, New Delhi.

Permanent Address : Sahid Tubba Sahani Nagar,
Brahmpura, Laxmi Chowk, Ward No. 4, Circle-Mushahari,
PO-M.I.T. Muzaffarpur, Bihar-842003.

(The then Member of Parliament, Rajya Sabha)

2. N.S. Nair

S/o Sh. Narayanan Nair

Residential Address: 26 B, DDA Flat, Katwariya Sarai,
New Delhi-110016.

Then Official Address : T-3, Commercial Department,
IGI Airport, New Delhi.

**(The then Office Superintendent (Traffic), Air India, IGI
Airport, New Delhi.)**

3. Arvind Tiwari

S/o Sh. Gyanander Tiwari

Residential Address: Village-Purainya, Post-Bangain, PS
Khargupur, District Gonda, Uttar Pradesh.

4. Anup Singh Panwar

S/o Sh. Vikram Singh

Residential Address: Flat No. 355, Sector-12, R.K. Puram, New
Delhi-110022.

(Granted pardon vide order dated 23.05.2017)

Date of institution of case : **23.10.2015**
Date of conclusion of arguments : **22.07.2022**
Date of pronouncement of judgment : **29.08.2022**

J U D G M E N T

BACKGROUND AND FACTS OF THE CASE

1. The factual matrix of this case is that the present FIR bearing no. RC-09(A)/2013/CBI/AC-III/New Delhi (**Ex.PW40/A & D-1**) was registered on 31.10.2013 by the CBI against accused no.1 Anil Kumar Sahani (A-1), a Member of Parliament (MP), Rajya Sabha at that time, accused no.4 Anup Singh Panwar (A-4) (PW39), working as Customer Executive with M/s Air Cruise Travels Private Limited (in short, M/s Air Cruise) at that time, Ms. Rubeena Akhtar (PW42), the then Customer Service Agent (CSA) of Air India SATS, Airport Services Private Limited (in short, M/s AISATS), an agency engaged by Air India for ground handling work at the IGI Airport, M/s Air Cruise and the other unknown public servants of Air India and some private persons for commission of the offences punishable U/S 120B/420/467/468/471/477A r/w Section 511 of the Indian Penal Code (IPC) and Section 13 (1) (d) r/w Section 15 of the Prevention of Corruption Act, 1988 (PC Act) on the basis of a source information received to the effect that during the year 2012, A-1 had entered into a criminal conspiracy with the above M/s Air Cruise and others, with the object to cheat the Government of India (GOI) by claiming undue reimbursement of expenses incurred upon performing purported air journeys along with other companions. It was disclosed that in furtherance of the said criminal conspiracy, A-1 submitted 7 e-air tickets and boarding passes showing the purported journey of himself as well as of his six companions, namely Sh. Ram Naresh, Sh. Atul Kumar, Sh. Arvind Kumar, Sh. Rajesh Khatri, Sh. Manjit Singh and Sh. Anil Chadha, to the office of Secretariat, Rajya Sabha, claiming reimbursement for a

total amount of Rs. 9,49,270/-.

2. It was also disclosed in the said information that A-1 got issued the above fake e-air tickets and boarding passes on the basis of PNRs generated by A-4 for the itinerary dated 13.12.2012, 14.12.2012 and 16.12.2012 and after issuance of the above boarding passes and further, after the names of all the 7 passengers were shown as checked-in the flights of Air India bearing nos. AI-022, AI-0787 and AI-9602, the above PNR booking as well as boarding passes were cancelled and the names of passengers were deleted from the Departure Control System (DCS) by the above Ms. Rubeena Akhtar by using her sign-in-code and thus, the said passengers did not actually travel or board on the above Air India flights on the above mentioned dates. It was further disclosed therein that the above e-air tickets bearing numbers 981005623501 to 981005623507 were false/fictitious and fares were also overcharged. The information also revealed that airport security stamps affixed on the above boarding passes of flight AI-022 for the sector Delhi-Kolkata (DEL/CCU) were fake. It was further revealed that the above claim for reimbursement of travel expenses submitted by A-1 was not found admissible by the Rajya Sabha Secretariat on some inquiries made from the office of Air India regarding the genuineness of the above said documents.

CHARGESHEET, COGNIZANCE AND CHARGES FRAMED AGAINST THE ACCUSED PERSONS

3. The investigation conducted into the case had revealed that A-1 was elected as an MP, Rajya Sabha for two consecutive terms from the State of Bihar and his first term was w.e.f. 01.01.2010 to 02.04.2012 and the second term was from 03.04.2012 to 02.04.2018 and the instant matter pertains to both the above terms. For the first term, he

was elected as an MP to fill a vacancy after demise of his father Sh. Mahindra Sahani, who was also an MP of Rajya Sabha. It was also revealed in investigation that during the relevant period, A-2 N.S. Nair was working as an Office Superintendent (Traffic), Air India, IGI Airport, New Delhi and his duties included passenger handling, assisting to all VIPs in boarding on Air India flights and also providing assistance to passengers in getting issued boarding passes etc. from the CSAs of AISATS working at the said airport. A-3 Arvind Tiwari was working with M/s Murgai Travels Private Limited (in short, M/s Murgai Travels), which company was dealing in issuance of tickets for domestic and international segments and A-3 left his job in July, 2012 and joined as a Personal Assistant (PA) of Sh. Binay Kumar Pandey, the then MP, Lok Sabha. Investigation also revealed that one Sh. Gunjan Kumar (PW36) was acquainted with A-1 as he used to provide computer/laptop related services to A-1 as per his requirements and this Sh. Gunjan Kumar was also acquainted with A-3.

4. It has been alleged in chargesheet that investigation of the case further revealed that an MP was entitled to 34 single air journeys per year, to be availed alone or with spouse or any number of companions or relatives and out of these 34 journeys, the spouse or companions of the MP were entitled to travel even alone on 8 journeys in a year. Besides the above, an MP was also entitled for official air journeys with spouse for attending parliamentary sessions or meetings of the committees. The above facility could be availed by the MP from any airline on cash payment basis and MP had also the option to avail air journeys by Air India on credit facility against exchange orders issued by the Rajya Sabha Secretariat.

5. The investigation of case had revealed the following two

instances when fake and forged e-air tickets and boarding passes were fraudulently and dishonestly used or submitted by A-1 for claiming his travel and other expenses:-

1) TA Bill containing 20 forged/fabricated e-tickets and 40 boarding passes of A-1 and his other 9 companions for the journey Delhi to Chennai on 23rd March 2012; Chennai to Port Blair on 24th March 2012; and Port Blair to Chennai and Chennai to Delhi on 26th March, 2012.

2) TA Bill containing 7 forged/fabricated e-tickets and 21 boarding passes of A-1 and his other 6 companions for the journey on the sector Delhi–Kolkata–Port Blair dated 13th and 14th December, 2012 and return journey of Port Blair–Delhi dated 16th December 2012.

6. Investigation of the case also revealed that in the month of December, 2012, A-1 told PW36 Sh. Gunjan Kumar that his 20 air ticket vouchers of the said year were still unutilized and he required fake air tickets and boarding passes to get them reimbursed from the Rajya Sabha Secretariat without performing the journeys. A-1 also explained the mode of payment to PW36 and said that he would give cheques in favour of the travel agent for fake air tickets and boarding passes to show that he actually made payments for the tickets and he would receive cash in return from the travel agent after encashment of the cheques issued by him. He also told PW36 that 40% of the claimed reimbursement amount would be given for preparation of the fake tickets and boarding passes and remaining 60% would be the share of the accused himself. Investigation is also alleged to have revealed that PW36 then contacted A-3 Arvind Tiwari and apprised him about the requirement of fake air tickets and boarding passes of A-1, but A-3 told him that preparing 20 air tickets in one go was not possible. A-3 further told PW36 that he would prepare fake air tickets in installments and he preferred to prepare 7 tickets in one go. A-1 is stated to have then agreed for getting arranged the fake air tickets and boarding passes in connivance with A-3 in the above said manner.

7. The investigation also revealed that A-3 further discussed the matter about issuance of e-tickets with A-2 N.S. Nair as well as A-4 Anup Singh Panwar and on 13.12.2012, A-3 contacted A-4 and requested him to book air tickets for the above journeys for A-1 and his 6 other companions for the sector Delhi-Kolkata-Port Blair-Delhi for the above said dates. A-3 also explained them the motive behind getting issued the air tickets and boarding passes and A-3 had used his mobile number 9873826036 for sending details of passengers and journeys through SMS on mobile number 9910866895 of A-4. A-3 also told A-4 that the issued tickets were to be cancelled and no journeys were to be actually performed. However, this request for issuance of tickets was turned down by A-4.

8. The investigation of case is also stated to have revealed that thereafter, A-3 again requested A-4 for simply generating PNRs in the names of A-1 and his other companions and he also offered some pecuniary advantage/benefits to A-4 after completion of the said work. He further told A-4 that boarding passes would be generated on the basis of PNRs only as he was wielding influence over an Air India officer deployed at IGI Airport i.e. A-2 and on his requests and persuasions, A-4 then generated one PNR No. YZ489 in the name of A-1 and his other 6 companions for the above sector and dates of their purported journeys. However, this PNR generated on 13.12.2012 had to be cancelled as seats of all the 7 passengers were waitlisted and no boarding passes could have been issued on this PNR. It was then decided that two separate PNRs will be generated adjusting all the above 7 passengers within these two PNRs.

9. Thereafter, as revealed during investigation, one PNR No. YZ-4PW was generated on the same day in the name of A-1 and his other

3 companions for the flight No. AI-022 (Delhi to Kolkata) of the same date and also for the flight No. AI-0787 (Kolkata to Port Blair) for date 14.12.2012. This PNR is stated to have been forwarded by A-4 from his above mobile number to A-3 on his above mobile number and it was also further forwarded by A-3 to A-2 on his mobile number 9810818307.

10. It has also been revealed during investigation that after receipt of the above PNR, A-2 got issued 8 boarding passes in the names of A-1 and his other 3 companions for the above flight No. AI-022 of date 13.12.2012 and also for the flight No. AI-0787 for date 14.12.2012, with the help of PW43 Ms. S. Punnen @ Ms. Shibi Punnen, CSA and her sign-in-code 10494 was used by Ms. S. Punnen for issuing the said boarding passes without actual ticket numbers. It is also alleged that after issuance of the above boarding passes at 3:48 pm, the above PNR No. YZ4PW was cancelled by A-4 as per instructions of A-3 and immediately on cancellation thereof, another PNR No. HZR3L for the above two flights was generated by A-4 in the name of remaining 3 passengers or companions of A-1 for the same trip itinerary. The details of this PNR are also stated to have been forwarded by him to A-3 and also forwarded further by A-3 to A-2, by use of the above mobile numbers of these three persons. A-2 then got issued boarding passes on the basis of this PNR also for the above flights with help of Ms. Rubeena Akhtar, CSA and she is stated to have issued 5 boarding passes for these two flights at different times in the names of these 3 passengers by using her sign-in-code 10679. It was also found that Ms. Rubeena Akhtar had subsequently deleted/cancelled all the above 13 boarding passes at 4:29 pm by using her above sign-in-code, on instructions of A-2. It has further been alleged that one of these boarding passes issued by Ms. Rubeena Akhtar was initially kept on

'stand by' mode before issuance and it was further accepted by A-2 by using his sign-in-code 2144 before it was actually issued. Thus, out of total 13 boarding passes issued for the above journey of A-1 and his 6 other companions for the above flights, 8 boarding passes were issued by Ms. S. Punnen, CSA and 5 boarding passes by Ms. Rubeena Akhtar, CSA and all these boarding passes were issued as per instructions of A-2, who being the senior officer of these two CSAs had wielded his influence over these two officials for issuance of the said boarding passes on the basis of PNRs only and without any actual tickets. It has further been found during the course of investigation that these two female executives, who were contractual employees of AISATS, had acted as per instructions and directions of A-2 only and they had no knowledge about the ulterior motive of A-2 or the criminal conspiracy between A-2 and the other accused for the issuance of such boarding passes.

11. The details of boarding passes and passengers etc. as per the above three PNRs i.e. YZ489, YZ4PW and HZR3L, as stated in para no. 23 of the chargesheet, are as under :-

PNR No.	Name of the Passenger	Issuance of Boarding Pass (Check-in)	PNR Generation/ Cancellation Time (by Sh. Anup Panwar of M/s Air Cruise)	Cancellation of boarding pass (De-check-in)
YZ489	i. Anil Kumar Sahani ii. Anil Chadha iii. Arvind Kumar iv. Ram Naresh v. Atul Kumar vi. Manjit Singh vii. Rajesh Khatri	No boarding pass issued	3:15 pm (generated) 3:22 pm (cancelled) 4:15 pm (Time Limit) (waitlisted)	NA
YZ4PW	i. Anil Kumar Sahani ii. Anil Chadha iii. Arvind Kumar	Issued by Ms. S. Punnen (10494) for	3:24 pm (generated) 3:53 pm	Cancelled by Ms. Rubeena Akhtar

	iv. Ram Naresh	flight No. AI022 & flight No. AI0787	(cancelled) 4:24 pm (Auto Time Limit)	(10679)
HZR3L	i. Atul Kumar ii. Manjit Singh iii. Rajesh Khatri	Issued by Rubeena Akhtar (10679) for flight No. AI022 and flight No. AI0787 Sh. N.S. Nair also accepted one passenger by using his sign in Code 2144	3:55 pm 4:10 pm 4:53 pm (Time Limit)	-do-

Check-in/De-check-in Details as per the above said PNR

PNR	Passenger	Flight, Date & Sector	Check-in Status	D-check-in Status
YZ489	Anil Chadha	AI0022/13 Dec12/DEL-KOL and AI0787/14DEC 12 (Kol-Port Blair)	B.C. not issued	NA
YZ489	Rajesh Khatri	-do-	-do-	-do-
YZ489	Manjit Singh	-do-	-do-	-do-
YZ489	Arvind Kumar	-do-	-do-	-do-
YZ489	Atul Kumar	-do-	-do-	-do-
YZ489	Ram Naresh	-do-	-do-	-do-
YZ489	Anil Kumar Sahani	-do-	-do-	-do-
YZ4PW	Anil Kumar Chadha	AI0022/13DEC 12/DEL-KOL	B.C. (SN4A & BN63) by Ms. S. Punnen (code-10494) at 03:48pm	Cancelled by Ms. Rubeena Akhtar (code-10679) at 04:03pm
		AI0787/14DEC 12/KOL-Port Blair	B.C. (SN15F & BN7) by Ms. S. Punnen (code-10494) at 03:48 pm	-do-
YZ4PW	Arvind Kumar	AI0022/13DEC 12/DEL-KOL	B.P. (SN5C & BN64) by Ms.	Cancelled by Ms. Rubeena

			S. Punnen (code-10494) at 03:48pm	Akhtar (code-10679) at 04:03pm
		AI0787/14DEC 12/KOL-Port Blair	B.P. (SN15E & BN8) by Ms. S. Punnen (code-10494) at 03:48 pm	-do-
YZ4PW	Ram Naresh	AI0022/13DEC 12/DEL-KOL	B.P. (SN5D & BN65) by Ms. S. Punnen (code-10494) at 03:48pm	Cancelled by Ms. Rubeena Akhtar (code-10679) at 04:03pm
		AI0787/14DEC 12/KOL-Port Blair	B.C. (SN15D & BN9) by Ms. S. Punnen (code-10494) at 03:48pm	-do-
YZ4PW	Anil Kumar Sahani	AI0022/13DEC 12/DEL-KOL	B.P. (SN4A & BN66) by Ms. S. Punnen (code-10494) at 03:48pm	Cancelled by Ms. Rubeena Akhtar (code-10679) at 04:03pm
		AI0787/14DEC 12/KOL-Port Blair	B.P. (SN15C & BN10) by Ms. S. Punnen (code-10494) at 03:48pm	-do-
HZR3L	Rajesh Khatri	AI0022/13DEC 12/DEL-KOL	B.P. (SN2F & BN70) by Ms. Rubeena Akhtar (code-10679) at 04:01pm	Cancelled by Ms. Rubeena Akhtar (code-10679) at 04:29pm
		AI0787/14DEC 12/KOL-Port Blair	B.C. (SN18A & BN11) by Ms. Rubeena Akhtar (code-10679) at 04:01pm	-do-
HZR3L	Atul Kumar	AI0022/13DEC	Kept on stand-	Cancelled by

		12/DEL-KOL	by with the code of Ms. Rubeena Akhtar (code-10679) at 04:02pm. It was accepted by Sh. N.S. Nair (code 2144) at 04:04 pm and B.C. (SN 5C & BN71) was issued by Ms. Rubeena Akhtar at 04:05pm.	Ms. Rubeena Akhtar (code-10679 at 04:29pm)
		AI0787/14DEC 12/KOL-Port Blair	No BC issued	N/A
HZR3L	Manjit Singh	AI0022/13DEC 12/DEL-KOL	B.P. (SN2D & BN72) by Ms. Rubeena Akhtar (code-10679) at 04:05pm	Cancelled by Ms. Rubeena Akhtar (code-10679 at 04:29pm)
		AI0787/14DEC 12/KOL-Port Blair	B.P. (SN12F & BN12) by Ms. Rubeena Akhtar (code-10679) at 04:05pm	-do-

12. Thus, investigation revealed that the above 3 PNRs were got generated by A-3 with the help of and in connivance with A-4 and it was A-2, who had mounted pressure on two female officials of AISATS i.e. PW42 & PW43 to issue the said boarding passes without any travel tickets and on the basis of PNRs only. The investigation further revealed that the above 13 boarding passes were collected by A-3 from A-2 and A-3 also arranged 8 more boarding passes for A-1 from some other source and therefore, he arranged total 21 boarding passes for

above 7 passengers showing their journey for the sector Delhi-Kolkata-Port Blair-Delhi, besides managing the above 7 fake e-air tickets. He also used one other fake PNR no. YDC80 on all the e-tickets and further mentioned a fake name and address of a travel agent i.e. M/s Sree Balaji Travels, 3, Ashok Deep Building, East Patel Nagar, New Delhi-110005 and also his own mobile no. 9873826036 on the said fake e-tickets and this name of travel agent was mentioned thereon to give impression that the same were actually issued by the aforesaid agent and were genuine and he further mentioned his own mobile number thereon to give confirmation about issuance of the said e-tickets in case of any inquiry from the Rajya Sabha Secretariat.

13. The investigation also revealed that A-3 handed over the above 21 fake boarding passes and 7 fake e-air tickets printouts to PW36 and PW36 delivered it further at the residence of A-1. Further, A-1 after pursuing the said boarding passes and e-tickets and signing the e-tickets and his TA claim form, handed over the same to PW36 with directions to get filled up the TA claim form with due particulars of his purported journey. PW36 then got filled the above TA claim form in the handwriting of A-3 and A-3 submitted the said form in the Rajya Sabha Secretariat and also annexed therewith the above boarding passes and e-tickets for claiming reimbursement of the expenses thereof.

14. It is also alleged in chargesheet that the said TA claim form was marked by the then Assistant Director Ms. Indira Chaturvedi Vaidya (PW13) to the concerned dealing assistant namely Ms. Pushpa Rani (PW14) and PW14 noted some discrepancies in some of the boarding passes which did not bear any ticket numbers and hence, she sought to verify the genuineness thereof from the office of Air India and was then informed that the above boarding passes and e-tickets for all the

above 7 passengers were fake and forged as the same were not generated or issued by the system of Air India. Investigation of the case also revealed that the above 7 passengers did not actually perform the journeys on the above flights for the given sector Delhi-Kolkata-Port Blair-Delhi. It was further revealed during investigation that even the scrutiny stamps affixed on the above boarding passes were fake as these did not conform to the stamp being used by Central Industrial Security Force (CISF) for Pre-Embarkation Security Check (PESC) as per the Bureau of Civil Aviation Security (BCAS) guidelines and these stamps also did not bear the mandatory number of the stamp affixed.

15. The major discrepancies found between the above fake e-air tickets and boarding passes, as observed and revealed during investigation of the case, are found stated in para no. 31 of the chargesheet, which reads as under :-

“Besides, the witnesses from Air India also observed numerous discrepancies on the e-tickets as well as boarding passes used for fraudulent withdrawal of TA/DA by Sh. Anil Kumar Sahani, MP, Rajya Sabha. The boarding passes issued at IGI Airport, New Delhi do not mention the ticket number as boarding passes were issued on the basis of PNRs. No ticket was issued on the basis of PNR YZ4PW and HZR3L. The boarding passes do not mention mandatory 'D' marking except in one instance for AI-022, which is an international flight. No boarding pass was issued in flight no. AI-9602 at IGI Airport New Delhi. No PNR for boarding pass of flight no. AI-9602 has been issued by Air India for boarding pass as in the case of sector Delhi-Kolkata-Kolkata-Port Blair. The boarding pass of Sh. Atul Kumar for his purported journey for Kolkata-Port Blair mentioned the flight no. AI-9602 which does not operate on this sector. The flight no. AI-9602 and AI-0787 do not have Executive class seat as shown in the boarding passes. The seat no. 5D has been reflected in two boarding passes for two different passengers for the same flight and destination on 13.12.2012. Similarly, seat no. 5C has been shown to have been issued to two different passengers for the same flight on that date, which is not possible. No stamp of Air India is affixed on the boarding pass issued to the passenger. Some of the boarding passes show stamp of Air India, which is fake and forged. Some of the boarding passes contain security stamp affixed on it without

mentioning "CISF". These discrepancies prove that the boarding passes were got issued fraudulently and dishonestly with the object to facilitate Sh. Anil Kumar Sahani, MP for reimbursement of TA/DA without performing actual journey."

16. During investigation of the case, the purported signatures and writings of A-1 appearing on the TA claim form as well as the enclosed e-tickets for the above said journey of A-1 and his other companions have been confirmed to be the signatures and writings of A-1 by the CFSL and similarly, the hand writing in which the above TA claim was filled has been confirmed to be of A-3. Thus, the investigation is alleged to have revealed that all the above 4 accused persons had entered into a criminal conspiracy and in furtherance of the said conspiracy, the above fake e-air tickets and boarding passes were arranged or got generated by A-3 through A-2 and A-4 to help A-1 in raising a false claim for reimbursement of travel expenses of Rs.9,49,270/- for the above said journey of A-1 and his 6 other companions and A-1 had thus attempted to fraudulently withdraw the above travel expenses from the office of Rajya Sabha Secretariat.

17. It was further revealed during investigation of the case that even prior to the above said journey for the sector Delhi-Kolkata-Port Blair-Delhi, A-1 had attempted to fraudulently withdraw in a similar manner another TA/DA claim for the purported journey on 23.03.2012, 24.03.2012 and 26.03.2012 for the sector Delhi-Chennai-Port Blair-Chennai-Delhi for a total of 10 passengers, including himself, and this TA claim of the MP/A-1 was submitted in the Rajya Sabha Secretariat for reimbursement by one Sh. Avinash Singh (PW38), who was working as PA to him during the period from October, 2010 to April, 2012. This TA claim also contained fake e-ticket printouts and boarding passes for 10 persons and this TA form was filled by Sh. Avinash Singh in his own handwriting and it was signed by A-1 and A-1 had also signed on the e-

ticket printouts of this sector of journey, before the said documents were submitted in the office of Rajya Sabha Secretariat.

18. It has been alleged that this TA claim of A-1 for the sector Delhi-Chennai-Port Blair-Chennai-Delhi was marked by the then Assistant Director Sh. Madho Prasad to the same dealing assistant Ms. Pushpa Rani of the said Secretariat and one TA bill no. 40/2012-13 was prepared on the basis of above claim documents and total amount of claim raised therein was for Rs. 14,22,190/-.

19. It has been revealed during investigation that A-1 even visited the office of Rajya Sabha Secretariat once on 10.04.2012 and made a written request to return the aforesaid TA claim form and the annexed e-air tickets and boarding passes for verification as he had some apprehension of the claim being detected as fake and hence, the said claim form and documents were returned back to him against acknowledgement on 10.04.2012 and thus, payment of the claimed amount could not be made to him against the said documents because of his written request for withdrawal of the claim. It has also been alleged that after taking back the TA claim form and documents, A-1 deliberately erased/deleted his signatures appended on the above 10 e-ticket printouts and he had also destroyed the TA claim form received back from the Rajya Sabha Secretariat, which contained his signatures at various places, and these e-ticket printouts having deleted/erased writing/signatures of A-1 were also recovered during the search of his residence and in CFSL examination of the above documents, the factum of erasure/deletion of his writing and signatures is also stated to have been confirmed. The CBI had also seized the above TA bill no. 40/2012-13 from the Rajya Sabha Secretariat during investigation of the case and it contained writing of PW38 Sh. Avinash Singh as well as

signatures of A-1, which were cut from the TA claim form and pasted over the TA bill as per the then prevalent procedure being followed by the said Secretariat for processing of such kind of bills. The above writing and signatures of A-1 and Sh. Avinash Singh have also been confirmed in the CFSL report.

20. Investigation was also carried out to ascertain the genuineness of 20 e-air tickets bearing nos. 0982102583511 to 0982102583530 annexed with the TA claim form of this sector of journey i.e. Delhi-Chennai-Port Blair-Chennai-Delhi and it was revealed that these ticket numbers were issued by the Mumbai office of Air India in the names of passengers other than A-1 and his above 9 companions for their purported journey for the said sector. It was also revealed that out of these 20 air tickets, only 13 tickets were actually used for the journey, 4 tickets were refunded, 1 ticket was open and 2 tickets were void and the date of issuance of these tickets was 13.01.2012.

21. The details of these 20 air tickets, including names of passengers etc., are found stated in para no. 42 of the chargesheet, which is also being reproduced herein below :-

Sl No.	Name of the Passenger	Ticket No.	Date	Sector	Flight No.
1	Murali Ganesh Pillai	0982102583511	01.03.2012	TRV-BOM	Open
2	Sheela Kanchan	0982102583512	22.01.2012	BOM-IXE	AI0679
3	Ulhas Kanchan	0982102583513	22.01.2012	BOM-IXE	AI0679
4	RM Mahale	0982102583514	Refunded	BOM-GOI-BOM	Refunded
5	MR Mahale	0982102583515	Refunded	BOM-GOI-BOM	Refunded
6	JR Mahale	0982102583516	Refunded	BOM-GOI-	Refunded

				BOM	
7	JR Mahale	0982102583517	Refunded	BOM-GOI-BOM	Refunded
8	Pradeep Subhedar	0982102583518	17.01.2012	MAA-BOM	AI0674
9	S Taskar	0982102583519	16.01.2012	BOM-NAG-BOM	AI0627, AI630
10	Dhiren Vaity	0982102583520	20.01.2012	BOM-TRV-BOM	AI0667
11	Hiren Vaity	0982102583521	21.01.2012	BOM-TRV-BOM	AI0668
12	JR Vaity	0982102583522	20.01.2012	BOM-TRV-BOM	AI0667
13	Meghana Vaity	0982102583523	20.01.2012	BOM-TRV-BOM	AI0667
14	PM Nerurkar	0982102583524	22.02.2012	BOM-NAG-BOM	AI0866, AI0805
15	PM Nerurkar	0982102583525	27.02.2012	BOM-NAG-BOM	AI0806, AI0624
16	PM Nerurkar	0982102583526	12.03.2012	BOM-NAG-BOM	AI0864, AI0810
17	Vijay Kumar Popat	0982102583527	19.01.2012	MCT-BOM-MCT	AI0985
18	AR Merchant	0982102583528	16.01.2012	BOM-DEL-BOM	AI0864, AI0624
19	Neelam Ingale	0982102583529		BOM-DEL-BOM	Void
20	Robin Lobo	0982102583530		BOM-DEL-BOM	Void

22. The particulars of e-tickets and boarding passes annexed with

the TA claim of A-1 for this sector of journey, as submitted in the office of Rajya Sabha Secretariat, are found mentioned in para no. 43 of the chargesheet, which is also being reproduced herein below :-

SI No.	Name of Passenger	Ticket No.	Date	Sector	Flight No.
1	Anil Kumar Sahani	0982102583511	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
2	Anil Kumar Sahani	0982102583512	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
3	Dilip Sharma	0982102583513	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
4	Dilip Sharma	0982102583514	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
5	Archana Sharma	0982102583515	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
6	Archana Sharma	0982102583516	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
7	Sachin Sharma	0982102583517	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
8	Sachin Sharma	0982102583518	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
9	Nisha Sharma	0982102583519	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
10	Nisha Sharma	0982102583520	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
11	Vinod Chopra	0982102583521	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
12	Vinod Chopra	0982102583522	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
13	Nitu Chopra	0982102583523	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
14	Nitu Chopra	0982102583524	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
15	Deepa Chopra	0982102583525	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
16	Deepa Chopra	0982102583526	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438
17	Anju Chopra	0982102583527	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
18	Anju Chopra	0982102583528	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438

19	Abhishek Chopra	0982102583529	23.03.2012 24.03.2012	DEL-CHENNAI- PORT BLAIR	AI801, AI549
20	Abhishek Chopra	0982102583530	26.03.2012	PORT BLAIR- CHENNAI-DELHI	AI550, AI438

23. The paragraph 44 of chargesheet showing discrepancies revealed on the basis of comparison of above two charts is also being reproduced herein below :-

“1. The date of issue of e-tickets claimed by MP is 08.03.2012 whereas; the actual date of issue is 13.01.2012.

2. The place of issuance of e-tickets claimed by MP is Delhi, Air India office whereas the actual place of issuance is Mumbai office of Air India.

3. The name of passengers mentioned in the e-tickets of TA Bill file does not match with the actual passengers furnished by Air India.

4. The fare of e-tickets of TA Bill does not match with the actual fare furnished by Air India.

5. The date of journey shown in the e-tickets of TA Bill does not match with the actual date of journey as per Air India.

6. The sector mentioned in the e-ticket of the TA Bill does not match with the actual sector for which these tickets were issued.

7. The flight number mentioned in the e-ticket of the TA Bill does not match with the actual flight as per Air India.”

24. Thus, it was established during investigation of the case that even the above e-air tickets and boarding passes used by A-1 for this sector of journey were fake and forged and no actual journey was performed by him or his other 9 companions for the given sector of Delhi-Chennai-Port Blair-Chennai-Delhi and he had attempted to fraudulently withdraw a TA/DA claim to the tune of Rs. 14,22,190/- by using the above forged e-air tickets and boarding passes as genuine.

25. Therefore, based on the above allegations and on conclusion of investigation, after recording of statements of witnesses U/S 161 of the Code of Criminal Procedure (Cr.P.C.) and also statements of some of the witnesses U/S 164 Cr.P.C. and seizure of certain incriminating documents etc., the present chargesheet had been filed by the CBI

against the above four accused persons alleging the commission of offences punishable U/S 120B IPC r/w 420 r/w 511 IPC, Section 471 IPC and Section 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act by all the accused persons and also for the commission of substantive offences U/S 201, 420 r/w 511 IPC and 471 IPC & Section 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act by A-1 in his capacity as a public servant i.e. MP of Rajya Sabha, as he fraudulently attempted to claim reimbursement of a total amount of Rs. 23,71,460/- on the basis of above two sectors of journeys for himself and his above mentioned companions, and also for the commission of substantive offence U/S 471 IPC by A-3. However, since sufficient evidence could not be found showing involvement of PW36 Sh. Gunjan Kumar, PW42 Ms. Rubeena Akhtar, PW43 Ms. S. Punnen and M/s Air Cruise, they were not chargesheeted for any of the above offences by the CBI, though the names of PW42 and M/s Air Cruise are also found to have been kept in column no.12 of the chargesheet. It is necessary to mention here that chargesheet in this case has been filed against the accused persons without arrest of any of the accused.

26. The chargesheet was filed before this court on 23.10.2015 and at that time sanctions of the competent authorities concerned for prosecution of A-1 and A-2 were still awaited. Sanctions for prosecution of these two accused were subsequently obtained by the CBI and filed before this court through an application and vide order dated 19.07.2016 passed on the said application, the same were directed to be taken on record. Further, vide the same order, the court has also permitted the CBI to add relevant witnesses in respect of the said sanction to their list and the CBI was directed to file on record an additional list of the prosecution witnesses to this effect. The said additional list of prosecution witnesses came to be filed subsequently

by the CBI on 22.10.2016.

27. Cognizance of alleged offences against all the four accused chargesheeted in this case was taken by the court vide a detailed order dated 15.03.2017 and they all were directed to be summoned for facing trial for the said offences. Copies of chargesheet as well as documents filed along with the same were supplied to all the accused on their appearance before this court, in compliance of provisions contained U/S 207 Cr.P.C. One application was also then moved by A-4 Anup Singh Panwar seeking permission of the court to be made an approver and for seeking a pardon U/S 306 Cr.P.C. The said application moved by A-4 was even supported by the CBI in its reply on ground that tender of pardon to the said accused and making him an approver in this case will strengthen their case from the evidentiary point of view and it will also be in the interests of justice. The said application was allowed by this court vide order dated 23.05.2017 and pardon was accordingly granted to the said accused on the condition that he would make a full and true disclosure of the facts and circumstances within his knowledge and the persons relating to the offences. It was further made subject to the conditions contained U/S 308 Cr.P.C. that if he concealed any material fact or gave a false statement, he could be tried for the offences for which he had been tendered a pardon.

28. After hearing extensive arguments from both the sides and vide a detailed order dated 17.09.2018, this court had subsequently observed that a *prima facie* case was made out against the remaining three accused i.e. A-1, A-2 and A-3 for commission of the above said offences and charges against the accused persons were also framed by the court on the same date.

PROSECUTION EVIDENCE

29. The prosecution in support of its case has examined on record total 44 witnesses and their names and the purpose of examination etc. is stated herein below :-

(i) **PW1 Sh. Satish Kumar** was working as a Senior Clerk in the office of Member Salary & Allowances (MS&A) Branch of Rajya Sabha, New Delhi at the relevant time and he was working as a Diarist in the said office and was also assigned the duty of preparing exchange orders for MPs, which were being given to the MPs as credit facility for issuance of air tickets from airlines. On being shown the files bearing no. 4865/13 to 4871/13 containing total 29 pages **(D-2)** of the Rajya Sabha Secretariat, he identified these files as the TA/DA bills pertaining to A-1, the then Member of Rajya Sabha. On page 1 thereof, exhibited as **Ex.PW1/A**, he identified the initials of the then Assistant Director Ms. Indira Chaturvedi Vaidya at point A, vide which the above TA bill of A-1 was marked to the dealing assistant Smt. Pushpa Rani. He also identified at point B thereon, the diary no. 26 of date 01.01.2013 written in his own handwriting. He also stated that the said diary number had also been made or entered by him in computer and he further identified the rubber stamp of his branch appearing with the above diary number and date.

Further, he had also identified signatures of the then Secretary of Rajya Sabha Sh. P.P.K. Ramacharyulu on one letter dated 16.06.2014 bearing no. RS2(ii)/4368/MSA/2013 and exhibited the said letter as **Ex.PW1/B (D-21)**. He also stated that page 10 of this document i.e. **D-21** was a printout taken by him showing the entry of receipt of a document given by A-1 on 01.01.2013 for the section diary no. 26/MS&A/2013. He further stated that this printout was certified by Sh. P.P.K. Ramacharyulu

with his signatures at point A, along with rubber stamp. This **page 10 of D-21** has been exhibited as **Ex.PW1/C** (objected to on the ground of non production of a certificate U/S 65B of the Indian Evidence Act (IEA).

(ii) **PW2 Sh. Ashwani Kumar Srivastava** is the then Dy. Manager, Air India and he had explained the procedure for booking of air tickets and other related services of Air India and other airlines through the global distribution system (GDS), and also the generation of PNR numbers and tickets etc. He had also deposed about the classes of seats/tickets in Air India at that time and stated that in flight nos. AI-0787 and AI-9602, there were only economy class seats at the relevant time and further on being shown three boarding passes of flight AI-022, AI-9602 and AI-0787 in the name of A-1 (**on pages 2 to 4 of D-2**), he stated that the said boarding passes were of executive class but he also reiterated that there was no executive class in above two flight nos. AI-0787 and AI-9602 at that time. The above boarding passes have been exhibited as **Ex.PW2/1** to **Ex.PW2/3** during his statement.

(iii) **PW3 Sh. Abhay Pathak** is the then Officiating Executive Director of Air India, IGI Airport, New Delhi and he stated that the authority competent to remove an official of the rank of Office/Traffic Superintendent in Air India was the General Manager or the Executive Director at the relevant time. He had proved on record the sanction for prosecution of A-2 as **Ex.PW3/C (on pages 3 to 11 of D-89)**, which was granted by him vide order dated 26.11.2015, and he also proved one letter of even date as **Ex.PW3/B (on page 2 of D-89)** forwarding the said sanction

order to the Chief Vigilance Officer (CVO), Air India. He further identified the signatures of the then CVO namely Ms. Shobha Ohatker on the letter dated 04.12.2015 **Ex.PW3/A** forwarding the above sanction order of A-2 to the concerned SP of CBI.

(iv) PW4 Sh. Ajin J. R. is the then Executive Officer of MS&A Branch, Rajya Sabha Secretariat and it was one of his duties to process the TA/DA bills of MPs. On being shown the file/document **D-2**, he identified it as containing the TA/DA claim of A-1 with other documents. Though, he stated that he did not know as to who had filled up the said claim form, but he identified the signatures of Smt. Indira Chaturvedi Vaidya at point A on the said bill as a token of marking of the same to Ms. Pushpa Rani on 31.12.2012 and also the diary no. 26 dated 01.01.2013 given at point B thereon and the details of the diary stamp filled up in the handwriting of Sh. Satish Kumar (PW1).

Further, on being shown the reverse side of page no. 29 of the above bill file **(D-2)**, he identified the endorsement 'Arvind 9873826036' made at point A thereof to be in his own handwriting and the same has been exhibited as **Ex.PW4/A**. He also identified the signatures of Sh. N. S. Walia, the then Director of Rajya Sabha Secretariat, on one letter dated 25.03.2015 **Ex.PW4/B (colly) (D-73)** and stated that the said letter containing information and various documents in respect to the above claim of A-1 was sent to Sh. Asif Jalal, SP, CBI, New Delhi. He also stated that pages 4 to 26 of said document i.e. **D-73** were certified by Sh. S. C. Dixit, the then Joint Director, Rajya Sabha Secretariat.

He further stated that they had first made inquiries from the Air India counter located at Parliament Street regarding the

above bill and came to know that tickets no. 0981005623501 to 981005623507 were not available in the Air India system record and then, on advise of the said office, they took up the matter with the Air India office at Safdarjung and received a reply dated 05.02.2013 **(page 5 of D-73)** from Senior Manager (Reservations), Air India to the same effect. He also identified his own signatures on the noting dated 06.02.2013 of his branch to this effect and deposed about contents of the said noting and result of inquiry conducted by him.

He further stated on record that the above file was then put up before the Secretary General, Rajya Sabha Secretariat who directed that the concerned person be notified about inadmissibility of the TA/DA claim. He also identified the signatures of Sh. S. C. Dixit and Sh. P.P.K. Ramacharyulu at points A and B respectively on one letter dated 18.02.2013 **Ex.PW4/C (page 4 of D-21)** intimating A-1 regarding inadmissibility of his claim.

(v) PW5 Sh. Surendra Kumar Tripathi was posted as Director, Legislative Section in Rajya Sabha in the year 2016 and he identified the signatures of Ms. Sasilekha Nair, Director on one office order dated 14.06.2016 **Ex.PW5/A (page 3 of D-88)** stating as to which officers of the Rajya Sabha Secretariat were competent to authenticate the sanction orders passed by the Hon'ble Chairman of Rajya Sabha on request received from different investigating agencies in this regard. He also placed on record another certified copy of the said order as **Ex.PW5/AA**, which as per him was certified by Ms. Chanderlekha Sharma, Under Secretary of their office. He also proved on record the order dated 16.06.2016 of their office as **Ex.PW5/B (page 4 of D-**

88), vide which the sanction for prosecution of A-1 was authenticated by him on behalf of the Chairman, Rajya Sabha and conveyed to the CBI. He further proved one letter of even date signed by his subordinate Sh. Vijay Kumar as **Ex.PW5/C (page 1-2 of D-88)**, forwarding the above sanction order of A-1 to the above SP of CBI, and one more letter dated 08.12.2016 **Ex.PW5/D (page 5 of D-88)** of Sh. Vijay Kumar, which was also addressed to the above SP of CBI.

(vi) PW6 Sh. Kulkarni Parveen Manohar was posted as Assistant Manager, Air Traffic Section, in Mumbai office of Air India and he was handling the computerized departure control of passengers during the period from October 2010 to 30.04.2016, when he retired. He identified the signatures of Sh. Pankaj Srivastava, Director (Commercial) of their office on one letter dated 13.05.2015 **Ex.PW6/A (page 1 of D-83)**, vide which certain documents were supplied to the above SP of CBI. He also identified the signatures of Sh. Ranjan Datta, Assistant General Manager (Commercial) on another letter **Ex.PW6/B (page 9 of D-83)** as well as the documents **Ex.PW6/C (colly) (pages 10 to 21 of D-83)** and stated that these documents were the Departure Control System (DCS) check-in history of the dates and flights mentioned therein and these documents **Ex.PW6/C (colly)** are also bearing his signatures as well. On seeing these documents **Ex.PW6/C (colly)**, he also stated that no passenger by the name(s) of A-1 and his other companions of the flights AI-0801, AI-0549, AI-0550 and AI-438 of dates 23.03.2012, 24.03.2012 and 26.03.2012, i.e. the flights pertaining to the sector Delhi-Chennai-Port Blair-Port Blair-Chennai-Delhi, ever performed the above said journeys. He was also shown the e-tickets of these

flights available in file/document **D-15** and stated that he checked the records on the basis of these ticket numbers and found that A-1 and his other companions named did not perform journeys on these tickets and it was also found that flight no. AI-438 did not even operate during the period stated in these flights.

(vii) PW7 Sh. Rajinder Singh Rawat was posted as Branch Incharge, SBI, Parliament House Branch, on 02.03.2015, when he handed over the original account opening form of account of A-1 being maintained in the said branch to the Investigating Officer (IO)/PW40 Inspector M.C.R. Mukund vide seizure memo **Ex.PW7/A (D-61)**. He also identified his signatures on one letter of even date addressed to the above SP of CBI and providing the account statement **(D-62)** of A-1 for the given period and some other documents certified as per the Bankers' Book of Evidence Act and the said letter and documents have been exhibited as **Ex.PW7/B (colly)**. On being shown the original account opening form of A-1 and the enclosed documents **Ex.PW7/C (colly) (D-52)** supplied by him to the CBI, he also identified the signatures of two officials of their bank namely Sh. S. Balasubramanian and Ms. Subhadra Gupta on the said form and further identified the signatures of A-1, not only on this form but also on one other form no. 60 **Ex.PW7/D (page 4 of D-52)** and on copy of Rajya Sabha identity card of A-1 **Ex.PW7/E (page 6 of D-52) (objected to)** attached with the above account opening form. He also identified the signatures of A-1 on one cheque dated 30.03.2012 **Ex.PW7/F (D-16)** issued by A-1 in favour of LIC on his above said account, but stated that said cheque was not reflected in the statement of above account for the relevant period.

(viii) **PW8 Sh. Ritesh Kumar** is an officer of Air India and he was posted as Manager (System/Maintenance) at IGI Airport, Air India office in the month of May 2015. On being shown the letter dated 01.05.2015 (**D-79**) purported to be written by Sh. Debashish Bose, Dy. General Manager (Vigilance) to the above SP of CBI, he could not identify the signatures of his above senior officer. However, he had stated that the certificate U/S 65B of the IEA **Ex.PW8/A (page 3 of D-79)** was issued by him and even the passenger manifests **Ex.PW8/B (colly) (pages 4 to 8 of D-79)** enclosed therewith were bearing his signatures as well as rubber stamp of his name. On seeing the above passenger manifests for the flights AI-022, AI-0787 and AI-9602 for the above journey of A-1 and his other companions on dates 13.12.2012, 14.12.2012 and 16.12.2012, he stated that all the six passengers of flight AI-022 were shown as dechecked-in the system and even for the remaining two flights, none of them had been accepted and their names were not reflected in the passenger manifests of these flights and hence, the said passengers did not perform any of the above journeys.

(ix) **PW9 Sh. Shrish Chandra Dixit (Sh. S.C. Dixit)** was the Controlling Officer/Joint Director in the office of Rajya Sabha Secretariat at the relevant time and he also deposed about the procedure for processing of TA/DA bills of MPs. On being shown the documents/files **D-9, D-5, D-8, D-10, D-7, D-11, D-6, D-12, D-3, D-13, D-14** and **D-4**, he identified these files bearing different numbers to be the paid up TA/DA claim files of A-1. These files during his statement have been marked as **Mark PW9/B, Mark PW9/D, Mark PW9/F, Mark PW9/H, Mark PW9/J, Mark PW9/L, Mark PW9/N, Mark PW9/P, Mark PW9/S, Mark PW9/W, Mark**

PW9/Z and **Mark PW9/Z3** respectively. The TA bills of the said accused available on different pages of these files and bearing the signatures of the witness, A-1 as well as one of the concerned Dealing Assistants namely either Ms. Satinder Kaur Gulati or Ms. Pushpa Rani and the then Assistant Director Sh. Madho Prasad or Ms. Indira Chaturvedi Vaidya have also been exhibited during his statement as **Ex.PW9/A, Ex.PW9/C, Ex.PW9/E, Ex.PW9/G, Ex.PW9/I, Ex.PW9/K, Ex.PW9/M, Ex.PW9/O, Ex.PW9/R, Ex.PW9/V, Ex.PW9/Y** and **Ex.PW9/Z2** respectively. The arrival departure reports/intermediate journey forms signed by A-1 in files marked as **Mark PW9/P (D-12), Mark PW9/S (D-3), Mark PW9/W (D-13), Mark PW9/Z (D-14)** and **Mark PW9/Z3 (D-4)** have also been exhibited by him as **Ex.PW9/Q, Ex.PW9/T, Ex.PW9/U, Ex.PW9/X, Ex.PW9/Z1** and **Ex.PW9/Z4** respectively.

On being shown the file **Mark PW9/Z8 (D-21)**, he also identified it to be a file pertaining to TA/DA claim of A-1. He deposed that vide his letter dated 18.02.2013 **Ex.PW4/C (page 4 of D-21)**, A-1 was informed about inadmissibility of his claim for reimbursement of ticket nos. 0981005623501 to 981005623507 as a result of enquiry conducted from the office of Air India. He also identified the signatures of A-1 on a letter dated 01.03.2013 already **Ex.PW4/D1A (page 5 of D-21 and another copy thereof is also D-17)** written to Joint Director, Rajya Sabha Secretariat in respect to the above said claim, the signatures of the then Director Sh. M.K. Khan on other letter dated 21.03.2013 **Ex.PW9/Z5 (page 6 of D-21)** written in response to the above letter of accused, the signatures of A-1 on other letter dated 13.11.2013 **Ex.PW9/Z6 (page 7 of D-21)** written to the Hon'ble Chairman, Rajya Sabha in protest of CBI raid at his residence

and the signatures of Sh. M. K. Khan on the letter dated 29.11.2013 **Ex.PW9/Z7 (page 8 of D-21)** written to A-1. He further identified the document already **Ex.PW1/C (page 10 of D-21)** as the computer generated printout of the diary maintained in the MS&A Branch of Rajya Sabha. He also identified the signatures of Sh. P.P.K. Ramacharyulu on all the above documents.

Further, this witness had also identified his own signatures on one letter dated 06.04.2015 **Ex.PW9/Z9 (Colly) (D-80)** written to the above SP of CBI in response to their letter dated 13.03.2015, providing the copies of gazette notifications regarding the election and terms of office of A-1 as MP, Rajya Sabha as well as about the persons appointed/authorized by A-1 to enter the Parliament House Complex. The letter along with its annexures has been exhibited as **Ex.PW9/Z9 (colly)**. He also identified his signatures on one other letter dated 26.03.2015 written to the above SP of CBI in response to his letter dated 17/18.03.2015 furnishing some information and documents regarding the previous term of office of A-1 as MP and the TA claim raised for reimbursement by A-1 for the journey of sector Delhi-Chennai-Port Blair-Chennai-Delhi. He further intimated in the said letter that MP even visited the branch personally and made a written request to return the said claim. The above letter with annexures has been exhibited as **Ex.PW9/Z10 (page 1-2 of D-54)**. He further identified the signatures of the dealing hand Ms. Pushpa Rani and the then Assistant Director Sh. Madho Prasad on this letter.

He also stated that along with the above letter **Ex.PW9/Z10**, the original letter dated 10.04.2012 **Ex.PW9/Z12 (page 3 of D-54)** of A-1 requesting return of his TA claim and the TA bill of A-1

prepared by the Rajya Sabha Secretariat **Ex.PW9/Z11 (pages 4, 5 & 6 of D-54)** were also given to CBI. He further identified his own signatures as well as the signatures of Sh. Madho Prasad, Ms. Pushpa Rani and of A-1 on the above TA bill. He further stated that the original TA bill deposited by A-1 was returned back to him.

Further, on being shown the file **D-15 (pages 1 to 50)**, he identified the itinerary receipts dated 08.03.2012 (total 10 in number) available on **pages 1, 6, 11, 16, 21, 26, 31, 36, 41 & 46** and stated that the same did not bear the signatures of A-1. He further stated that a thin layer of page containing the signatures of A-1 has been removed. When he was asked to compare the above itinerary receipts with the above letter **Ex.PW9/Z12** of the said accused, he stated that the air tickets mentioned in letter **Ex.PW9/Z12** were matching with the air tickets mentioned in these itinerary receipts and hence, he could say that the above itinerary receipts were deposited by A-1 with his above TA claim bill and then taken back from the Rajya Sabha Secretariat. The above itinerary receipts and boarding passes available in file **D-15** have been exhibited as **Ex.PW9/Z14 (colly)**.

On being shown **pages 1 to 3 of file D-73**, the witness identified the signatures of Sh. N. S. Walia, the then Director, on a letter dated 25.03.2015 already **Ex.PW4/B (colly)** written to the above SP of CBI informing about non availability of the above air tickets 981005623501 to 981005623507 in the system of Air India and also the signatures of Ms. Indira Chaturvedi Vaidya on one other letter dated 07.01.2013 **Ex.PW4/B (colly) (page 4 of D-73)** sent to Manager (Reservation Commercial), Air India seeking clarifications about these air tickets. He also identified the response of Air India **Ex.PW9/Z15 (page 5 of D-73)** and the

notings **Ex.PW9/Z16 (colly) (pages 6 to 15 of D-73)** prepared in the Rajya Sabha Secretariat regarding the above TA claim, the approval taken on page 11 for taking action against the above travel agent M/s Sree Balaji Travels for charging higher fare of the air tickets. He further identified the signatures of concerned dealing assistant on these notings.

(x) **PW10 Sh. Vijay Kumar** is the then Dy. Director, Legislative Section and Bill Office of Rajya Sabha Secretariat and he had forwarded the sanction already **Ex.PW5/B (page 4 of D-88)** vide his letter dated 16.06.2016 already **Ex.PW5/C (page 1-2 of D-88)** to the above SP of CBI and identified his signatures on the said letter as well as on one other letter already **Ex.PW5/D (page 5 of D-88)** dated 08.12.2016 sent to the CBI clarifying the authorities which were competent to grant the sanction. He stated that the above sanction order already **Ex.PW5/B** was authenticated by the authorised officer Sh. Surender Kumar Tripathi, Director.

(xi) **PW11 Sh. Ranjan Kumar Datta** is the Assistant General Manager (Traffic Services Section) of Air India posted at Safdarjung airport at the relevant time and he had identified the signatures of his immediate boss Sh. Sanjiv Kumar, Executive Director, Cargo & Incharge, Traffic Services on the letter dated 15.05.2015 (**page 1 of D-30**), vide which the documents relating to e-tickets check-in procedure and revised manual of passengers etc. were supplied to the CBI. The above letter along with copies of documents supplied was exhibited as **Ex.PW11/A (colly)** and the witness also identified his own signatures and seal affixed on these documents in token of certification thereof.

He also identified the signatures of Sh. Pankaj Srivastava, Director (Commercial) on a letter dated 13.05.2015 already **Ex.PW6/A (page 1 of D-83)** forwarding the documents mentioned in the said letter to CBI regarding verification of air tickets of the above journeys of A-1 for the sector Delhi-Chennai-Port Blair-Chennai-Delhi. He also exhibited the copy of one e-mail **Ex.PW11/B (pages 2 & 3 of D-83)** sent by Sh. Pankaj Srivastava to CVO, Air India and identified signatures of Sh. Sanjiv Kumar, Executive Director, Cargo on the certificate **Ex.PW11/C (page 4 of D-83)** given U/S 65B of the IEA. He further identified the signatures of Sh. A. D'souza, Executive Director, Finance, Air India on another certificate U/S 65B of the IEA **Ex.PW11/D (page 5 of D-83)** as well as one letter dated 07.04.2015 **Ex.PW11/E (page 6 of D-83)**, his own signatures on one other letter dated 09.04.2015 already **Ex.PW6/B (page 9 of D-83)** and also his signatures as well as stamp bearing on **pages 10 to 21 of D-83 already Ex.PW6/C (colly)**.

(xii) **PW12 Sh. Rahul Raj** had worked as the PA of A-1 from January 2013 to April 2018. He stated that he was preparing letters and correspondences to be sent to Rajya Sabha Secretariat on behalf of A-1, including the TA/DA claims. He was shown the purported signatures of A-1 appearing on the TA bills **Ex.PW9/A, Ex.PW9/C, Ex.PW9/E, Ex.PW9/G, Ex.PW9/I, Ex.PW9/K, Ex.PW9/M, Ex.PW9/O, Ex.PW9/R, Ex.PW9/V, Ex.PW9/Y** and **Ex.PW9/Z2** available on different pages in files **D-9, D-5, D-8, D-10, D-7, D-11, D-6, D-12, D-3, D-13** and **D-14** respectively containing the previous TA/ DA claims of A-1 and was asked to identify the same and he stated that the said signatures looked like/resembled with that of A-1, though he was

not confirmed.

(xiii) PW13 Ms. Indira Chaturvedi Vaidya is the then Dy. Director of Rajya Sabha Secretariat and she was dealing with the TA/DA bills submitted by the MPs of some States, including the State of Bihar. She was also shown the files **D-9, D-5, D-8, D-10, D-7, D-11, D-6, D-12, D-3, D-13, D-14** and **D-4** containing the previous TA/DA claims of A-1 and she identified not only the signatures of the above accused appearing on bills contained in these files, but also the signatures of the then dealing assistants Ms. Satinder Kaur Gulati, Ms. Pushpa Rani, the then Assistant Director Sh. Madho Prasad and the then D.D.O. Sh. S. C. Dixit. She further identified the signatures of Sh. P.P.K. Ramacharyulu on a letter dated 16.06.2014 already **Ex.PW1/B (page 1 of D-21)** sent to CBI and on one printout of diary already **Ex.PW1/C (page 10 of D-21)**, signatures of Sh. S. C. Dixit on letters dated 18.02.2013 and 01.03.2013 already **Ex.PW4/C (page 4 of D-21)** and **Ex.PW4/D1A (page 5 of D-21)** respectively written to A-1, signatures of Sh. M. K. Khan, Director, Rajya Sabha Secretariat on letter dated 21.03.2013 already **Ex.PW9/Z5 (page 6 of D-21)** sent to A-1 and signatures of A-1 on letter dated 13.11.2013 already **Ex.PW9/Z6 (page 7 of D-21)** sent to the Chairman, Rajya Sabha Secretariat.

Further, she also identified the signatures of A-1 on one other letter dated 10.04.2012 already **Ex.PW9/Z12 (page 3 of D-54)** withdrawing his claim and further identifies the TA bill already **Ex.PW9/Z11 (pages 4 & 5 of D-54)** prepared by the Rajya Sabha Secretariat. She further identified the e-tickets and boarding passes already **Ex.PW9/Z14 (colly) (D-15)**, which pertain to the journey of A-1 and his companions for the sector

Delhi-Chennai-Port Blair-Chennai-Delhi, to be the same tickets and boarding passes which were processed in the above TA claim of A-1 in file **D-54**. She also identified the signatures of Ms. Pushpa Rani, Sh. S. C. Dixit, Sh. Madho Prasad as well as of A-1 on the above TA bill already **Ex.PW9/Z11**. She also stated that signatures of A-1 were there even on the above e-ticket printouts at the time when these were submitted for claim.

She was also shown the file/document **D-2** containing arrival departure report/intermediate journey form, i.e. the TA claim form, and the e-ticket/trip itinerary printouts and boarding passes for the journey of A-1 and his companions for the sector Delhi-Kolkata-Port Blair-Delhi. She identified her signatures as well as signatures of Ms. Pushpa Rani and of A-1 on the claim form of this journey and also the e-tickets and boarding passes thereof, which were exhibited as **Ex.PW13/A (colly)**. She further identified the signatures of Sh. S. C. Dixit on the letter dated 06.04.2015 already **Ex.PW9/Z9 (colly) (D-80)** supplying the documents mentioned therein to CBI, signatures of Sh. N.S. Walia, Director on letter dated 25.03.2015 (**pages 1 to 3 of D-73**) sent to CBI and her own signatures on letter dated 07.01.2013 (**page 4 of D-73**) (wrongly typed as page 21 in statement of the witness) written to Manager, Reservation Commercial, Air India seeking some clarifications and this letter was already **Ex.PW4/B (colly)**, the response letter already **Ex.PW9/Z15 (page 5 of D-73)** (wrongly typed as next page to page 21) received by her from the Manager, Reservations and further her own signatures on note-sheets already **Ex.PW9/Z16 (colly)** regarding verification of the above TA claim of A-1 and e-tickets bearing nos. 981005623501 to 981005623507.

(xiv) **PW14 Ms. Pushpa Rani** is the then dealing assistant of the Rajya Sabha Secretariat who had dealt with both the above TA claims of A-1. Even she explained the procedure for processing of the TA/DA claim of the MPs. She was also shown the above files **D-9, D-5, D-8, D-10, D-7, D-11, D-6, D-12, D-3, D-13, D-14** and **D-4** containing the previous TA/DA bills of A-1 and she identified her signatures as well the signatures of Ms. Satinder Kaur Gulati, Sh. Madho Prasad, Sh. S.C. Dixit as well as of A-1 on bills **Ex.PW9/A, Ex.PW9/C, Ex.PW9/E, Ex.PW9/G, Ex.PW9/I, Ex.PW9/K, Ex.PW9/M, Ex.PW9/O, Ex.PW9/R, Ex.PW9/V, Ex.PW9/Y** and **Ex.PW9/Z2** available in these files. She also identified the signatures of Sh. P.P.K. Ramacharyulu, Sh. S.C. Dixit, A-1 and Sh. M.K. Khan on letters already **Ex.PW1/B, Ex.PW4/C, Ex.PW4/D1A, Ex.PW9/Z5 (pages 1, 4, 5 & 6 respectively of D-21)**. She further identified her signatures, the signatures of Sh. S.C. Dixit as well as of A-1 on the TA/DA bill of A-1 already **Ex.PW9/Z12 (page 6 of D-54)** and stated that the above bill was prepared by her on the basis of itinerary receipts and boarding passes already **Ex.PW9/Z14 (colly)** contained in the said file. She also stated that the above itinerary receipts were having signatures of A-1 when the same were submitted in their office. She also identified the signatures of A-1 on letter already **Ex.PW9/Z11** (it is actually Ex.PW9/Z12) **(page 3 of D-54)** withdrawing his above claim for the journey of sector Delhi-Chennai-Port Blair-Chennai-Delhi. She further identified the signatures of Sh. N. S. Walia on letter dated 25.03.2015 already **Ex.PW4/B (colly) (page 1 of D-73)**. She further stated that some numeric words written on the above itinerary receipts were in her handwriting. She was also shown the file/document **D-2** containing the TA claim form, e-tickets as well as boarding

passes for journey of A-1 and his companions for the sector Delhi-Kolkata-Port Blair-Delhi and she identified page 1 thereof as the arrival departure report/intermediate journey form/TA form for the said journey and it was already **Ex.PW1/A**. She also identified the trip itinerary/e-tickets for the said journeys already **Ex.PW13/A (colly)** and stated that the same were bearing signatures of A-1. She also deposed about the said claim of A-1 having been found inadmissible on inquiry from the Air India office.

(xv) PW15 Sh. Kuldeep Yadav and PW17 Sh. Liakat Ali were both the officials of Delhi Jal Board (DJB) and they had witnessed the taking of specimen writings/signatures of A-1 and A-3 by the IO Inspector M.C.R. Mukund on dates 24.04.2014 and 12.11.2013 and on sheets **S-1 to S-12 and S-13 to S-28** respectively, which are **Ex.PW15/A and Ex.PW17/A**.

(xvi) PW16 Ms. Archana Jha is the then Security Vigilance Manager of AISATS and she had handed over the duty allocation sheets **Ex.PW16/B (colly) (D-53)** of AISATS officials to the IO/PW40 vide seizure memo dated 07.03.2014 **Ex.PW16/A (D-25)**.

(xvii) PW18 Sh. Dipendra Kumar is also an official of DJB and he witnessed the house search of A-1 on 01.11.2013 vide search list **Ex.PW18/A (D-48)**.

(xviii) PW19 Sh. Gaurav Mittal is the then Duty Officer, AISATS at IGI Airport and he identified the signatures of Sh. R. B. Chopra, VP-Pax Services on a letter dated 17.02.2014

Ex.PW19/A (D-28) handing over the duty allocation sheets of Ms. S. Punnen and Ms. Rubeena Akhtar to CBI. He also identified the signatures of Ms. Sudesh Jain on one other letter **Ex.PW19/B (D-28)** and his own signatures on the duty allocation sheet of date 13.12.2012. He further identified the signatures of Ms. Sudesh Jain and his own signatures on duty allocation sheets dated 13.12.2012 **Ex.PW19/C** and **Ex.PW19/D**.

(xix) PW20 Sh. Vipin Sharma is the then Director of M/s Air Cruise and he stated that the said company was dealing in booking of domestic as well as international air tickets using the Galileo system for making reservations and he also explained the procedure for booking of air tickets and generation of PNRs etc. He stated that A-4 Anup Singh Panwar was one of their Customer Executives at the relevant time. He also stated that through his letter dated 07.01.2014, he had provided certain documents to the CBI and he even identified the signatures of their Executive Director Sh. Sudhir Kochar on these documents and above letter and documents have been exhibited during his statement as **Ex.PW20/A (colly) (D-42)**. He also identified **page 1** of these documents to be the appointment letter of A-4, **pages 6 to 8** of these documents to be the history of PNR numbers YZ489, YZ4PW and HZR3L generated by their office through the Galileo system for the CBI and further stated that the above PNRs were generated by A-4 for the journey of the passengers named by him i.e. A-1 and his other six companions for their journey for the sector Delhi-Kolkata-Port Blair-Delhi.

(xx) PW21 Sh. Shailander Kumar and **PW24 Sh. Sati Prasad** are the officials of FCI and DJB respectively and they had joined

the IO in proceedings pertaining to search of the house of A-4 on 01.11.2013 and witnessed the search list **Ex.PW21/A (D-49)**.

(xxi) PW22 Sh. Rajbir Singh is an official of Jal Sadan, Lajpat Nagar, New Delhi and he had also joined the CBI in proceedings pertaining to search of the house of A-3 and is a witness of the search list **Ex.PW22/A (D-46)**.

(xxii) PW23 Sh. Ashok N. Harinarayan is the then Dy. General Manager, Air India, Mumbai office and it was one of his duties to look-after the passenger service system (IT) and he identified his signatures on a letter dated 11.06.2015 **Ex.PW23/A (D-84)** supplying the documents **Ex.PW23/B (colly) (D-84)** to the CBI and he also identified his signatures on each page of these documents. He stated that these documents **Ex.PW23/B (pages 1 to 20 of D-84)** were the e-ticket history of air ticket nos. 0982102583511 to 0982102583530, **Ex.PW23/C (page 21 of D-84)** was a note written by him explaining the process of data in relation to these tickets, **Ex.PW23/D (page 22 of D-84)** was the certificate U/S 65B of the IEA given by him and **Ex.PW23/E (colly) (pages 23 to 41 of D-84)** were the passenger check-in history duly certified by him. On being shown the file **D-15** and on being asked to compare the itinerary receipts/e-tickets and boarding passes **Ex.PW9/Z14 (colly)** contained in this file with the above e-tickets history **Ex.PW23/B (colly)**, he stated that the above ticket nos. 0982102583511 to 0982102583530 of the e-ticket history **Ex.PW23/B (colly)** were issued from the office of Mumbai, whereas tickets contained in file/document **D-15** were issued from the Delhi office and he also explained various other discrepancies in these two sets of tickets.

(xxiii) PW25 Sh. Ilam Chand Sharma is also an official of DJB and he is a witness of the search of office of M/s Air Cruise on 01.11.2013 and also of the search list **Ex.PW25/A (D-50)** prepared with regard to the same.

(xxiv) PW26 Sh. Devinder Kumar is a witness to the taking of the specimen writings/signatures of Sh. Avinash Singh on 06.04.2015 on sheets **S-29 to S-40 Ex.PW26/A (colly) (D-69)**.

(xxv) PW27 Sh. Ajit Udhav Karmakar is the then AGM, Finance, Air India at Mumbai office and he had provided the sales office report **Ex.PW27/B (colly) (D-85)** of date 13.01.2012 in respect to 20 travel ticket nos. 0982102583511 to 0982102583530 issued from Mumbai, along with a certificate **Ex.PW27/C (D-85)** U/S 65B of the IEA issued by him and given to the CBI vide his letter dated 11.06.2015 **Ex.PW27/A (D-85)**. He was also shown the above file/document **D-15** containing the other set of e-tickets and boarding passes for the above journey of A-1 and his companions and likewise PW23, he also deposed about various discrepancies appearing in these two sets of air tickets. He also identified the signatures of Sh. Pankaj Srivastava on the letter already **Ex.PW6/A (D-83)** and further the signatures of Sh. A. D'souza appearing on one other letter **Ex.PW11/E (page 6 of D-83)** (It appears due to some mistake the name of Sh. A. D'souza is not found recorded in his statement) and the initials of Ms. Kalpana Rao, GM, Finance appearing on **pages 7 & 8 of D-83**.

(xxvi) PW28 Dr. Reeta R. Gupta is the then Senior Scientific

Officer-cum-Assistant Chemical Examiner to the GOI posted in CFSL, CBI, New Delhi and she had proved her report **Ex.PW28/A (colly) (D-76)** regarding the alleged erased signatures of A-1 on the above itinerary receipts/e-tickets contained in file/document **D-15**. She also identified the signatures of the then Director, CFSL on the letter forwarding the said report and part of **Ex.PW28/A (colly)**.

(xxvii) **PW29 Sh. P.P.K. Ramacharyulu** is the then Joint Secretary of the Rajya Sabha Secretariat and he had identified his signatures on the letter dated 16.06.2014 already **Ex.PW1/B (D-21)** written to CBI sending note on procedure for processing of TA/DA claims of MPs and also forwarding the documents already **Ex.PW1/C, Ex.PW4/C, Ex.PW4/D1A, Ex.PW9/Z5, Ex.PW9/Z6 and Ex.PW9/Z7** and he further identified his signatures and seal affixed on the said documents.

(xxviii) **PW30 Sh. R.B. Chopra** is the then VP-Passenger PAX Services in AISATS and he identified his signatures on the letter dated 17.02.2014 already **Ex.PW19/A (page 1 of D-28)** supplying the documents enclosed therewith, i.e. details of the sign-in-codes of Ms. Rubeena Akhtar and Ms. S. Punnen and attested copies of their duty allocation sheets already **Ex.PW19/C (page 3 of D-28)**. He also identified signatures of Ms. Sudesh Jain, Manager, Compliance on the letter already **Ex.PW19/B (page 2 of D-28)**. He further identified his signatures on one more letter dated 06.02.2014 supplying some other information and documents to CBI and the same were exhibited as **Ex.PW30/A (colly) (page 4 of D-28)**.

(xxix) PW31 Ms. Sudesh Jain is the then Manager, Compliance, AISATS and she identified her signatures on the above letter **Ex.PW19/B (page 2 of D-28)** informing the sign-in-codes of the above said two female officials of AISATS to Ms. Archana of the Vigilance Department in AISATS.

(xxx) PW32 Sh. Jeet Singh was also the Senior Scientific Officer-cum-Assistant Chemical Examiner to the GOI posted in CFSL, CBI, New Delhi at the relevant time and he had proved his report **Ex.PW32/B (D-77)** regarding examination of the questioned and admitted handwriting/signatures of Sh. Avinash Singh as well as of A-1, which were forwarded to the CBI vide letter **Ex.PW32/A (part of D-77)** of the then Director, CFSL. He identified the various questioned and admitted writings/signatures from the files shown to him, which were examined by him vide his above said report. He was also permitted to be recalled for his further examination U/S 311 Cr.P.C. on request of the CBI and on being recalled, he proved on record one other report **Ex.PW32/R (colly) (D-65)** given by him about examination of various questioned and admitted writings/signatures of A-1 & A-3, which was forwarded to the CBI vide a separate letter **(part of D-65)** of the then Director, CFSL. He was also shown various questioned and admitted writings/handwriting from files, which were examined by him for preparation of this report.

(xxxi) PW33 Sh. M.K. Khan is the then Director, Rajya Sabha Secretariat and he identified his signatures on the letter dated 21.03.2013 already **Ex.PW9/Z5 (page 6 of D-21)** informing A-1 about inadmissibility of his TA claim for the sector Delhi-Kolkata-Port Blair-Delhi, his signatures/initials appearing on letter dated

13.11.2013 already **Ex.PW9/Z6 (page 7 of D-21)** written by A-1 and addressed to the Chairman, Rajya Sabha Secretariat and also his signatures on one other letter dated 29.11.2013 already **Ex.PW9/Z7 (pages 8 & 9 of D-21)** sent to A-1. He was also shown file/document **D-15** containing itinerary receipts and boarding passes of the above journey of A-1 and his other companions for the sector Delhi-Kolkata-Port Blair-Delhi and stated that though the signatures of A-1 were there on the itinerary receipts of e-tickets when these were submitted in their office, but the same were not there now.

(xxxii) **PW34 Sh. Ashish Kumar Chandra** is the then Sub-Inspector, CISF posted at IGI Airport and he explained the procedure for issuance of boarding passes to passengers and their security check-in etc. He identified signatures of the then DIG, CISF Sh. Sudeep Kumar Sinha on a letter dated 26.03.2015 **Ex.PW34/A (D-81)** sent to CBI providing para-wise reply to certain queries raised by them with regard to the above said procedure. He was also shown one sheet already **Ex.PW34/B** and stated that the security stamp affixed thereon was the specimen security stamp being used by them for international flights. On being shown files/documents **D-2 and D-15** of the above journeys of A-1 and his other companions for the sectors Delhi-Kolkata-Port Blair-Delhi and Delhi-Chennai-Port Blair-Chennai-Delhi respectively, he stated that security stamps affixed on the boarding passes available in these files were fake as the same were not corresponding to the specifications prescribed and being followed by CISF and BCAS.

(xxxiii) **PW35 Sh. Vijay Punj** is an official of Air India

posted at IGI Airport at the relevant time and one of his duties was of handling passengers at the said airport. He explained the procedure for issuance of boarding passes and check-in of the passengers. On being shown file/document **D-51**, he identified signatures of Sh. Abhay Pathak, the then DGM, Commercial on a letter dated 07.02.2014 **Ex.PW35/A (page 1 of D-51)** sent to CBI providing the sign-in-code of A-2 N.S. Nair and also forwarding certain other documents. He identified **page 2** of these documents to be the shift chart, **page 3** of the said documents to be the duty allocation chart and **pages 4 & 5** of these documents to be the attendance sheets of A-2 and the same have been exhibited separately as **Ex.PW35/B, Ex.PW35/C and Ex.PW35/D (colly)** respectively (**parts of D-51**). He also identified the signatures and seal of Sh. Abhay Pathak affixed on these documents as a certification thereof.

He was also shown the file/document **D-18** and he identified the signatures of Sh. Abhay Pathak on one other letter dated 26.02.2014 (**pages 1 to 3 of D-18**) sent to CBI providing the check-in history of A-1 and his other 6 companions (**pages 4 to 17 of D-18**) for the journey of Delhi-Kolkata-Port Blair-Delhi sector as well as passenger manifests of the said journey (**pages 18 to 24 of D-18**) and the above letter and other documents stood already exhibited as **Ex.PW3/D2B (colly)**. He was further shown the file/document **D-2** and on seeing the check-in history in respect to the above 3 PNRs YZ489, YZ4PW and HZR3L, he explained the same and further stated that the boarding passes contained in the said file were not genuine.

(xxxiv) **PW36 Sh. Gunjan Kumar** claims to have been known to A-1 as he was dealing in supply of computers to Rajya Sabha

Secretariat as well as MPs. He stated that he had arranged the above 7 e-tickets and boarding passes for the journey of A-1 and his 6 other companions for Delhi-Kolkata-Port Blair-Delhi flights through A-3 Arvind Tiwari on request of A-1 and delivered these at the residence of A-1, though A-1 was not at home at that time. On being shown file/document **D-2**, he identified the trip itineraries/e-tickets and boarding passes contained in the said file to be the same e-tickets and boarding passes, which he had arranged on request of A-1. His testimony will be discussed and appreciated later on in detail.

(xxxv) PW37 Sh. N.S. Walia is the then Director, Rajya Sabha Secretariat and he identified his signatures on a letter dated 25.03.2015 sent to CBI providing information contained therein as well as the documents attached therewith. He identified signatures of Ms. Indira Chaturvedi Vaidya and Sh. Satish on copies of some of these documents/letters supplied to the CBI and these documents/letters as well as his own letter dated 25.03.2015 were already **Ex.PW4/B (colly) (D-73)**. He also identified signatures of Sh. P.P.K. Ramacharyulu and Sh. M.K. Khan on some other letters contained in file/document **D-21** and exhibited with different numbers, copies of which were also supplied to CBI through his above letter, which was part of **Ex. PW4/B (colly)**.

(xxxvi) PW38 Sh. Avinash Singh had worked as a part time PA of A-1 and he was working in his above capacity when the TA claim of A-1 for his journey of Delhi-Chennai-Port Blair-Chennai-Delhi sector in March, 2012 was submitted in the Rajya Sabha Secretariat. The witness claims that the said TA claim was

submitted by him. On being shown the itinerary receipts/e-tickets and boarding passes already **Ex.PW9/Z14 (colly) (available in file D-15)**, he identified the same as pertaining to the above said journey and stated that signatures of A-1 were also there on the above itinerary receipts/e-tickets when the above claim was submitted, but these were not there now. He also identified signatures of A-1 appearing on previous TA/DA claims already **Ex.PW9/A, Ex.PW9/C, Ex.PW9/E, Ex.PW9/I, Ex.PW9/K, Ex.PW9/M, Ex.PW9/O, Ex.PW9/R, Ex.PW9/V, Ex.PW9/Y and Ex.PW9/Z2** in files **D-9, D-5, D-8, D-7, D-11, D-6, D-12, D-3, D-13, D-14 and D-4** and also on the documents already **Ex.PW32/J and Ex.PW32/L (D-12)**, one cheque already **Ex.PW7/F (D-16)**, a letter already **Ex.PW9/Z11 (page 3 of D-54)** and a TA bill of A-1 already **Ex.PW9/Z12 (page 6 of D-54)**.

(xxxvii) PW39 Sh. Anup Singh Panwar of M/s Air Cruise was chargesheeted as an accused (A-4) in this case, but as already discussed, he was subsequently tendered a pardon and made an approver and was also subsequently examined as a prosecution witness during the trial. He explained the procedure of generation of PNRs and claimed that the above 3 PNRs relating to the above journey of A-1 and his 6 other companions for Delhi-Kolkata-Port Blair-Delhi sector were generated by him on request of A-3 Arvind Tiwari. He also identified signatures of his MD Sh. Vipin Sharma on a letter sent to the IO/PW40, vide which his appointment letter and history of generation of above PNRs was provided to the CBI. He further identified signatures of the above MD on the said documents and the letter alongwith documents was already **Ex.PW20/A (colly) (D-42)**.

(xxxviii) PW40 Inspector M.C.R. Mukund is IO of this case and he had deposed in detail about different aspects of investigation conducted by him, including examination of witnesses and seizure of documents etc. He also identified his own signatures as well as the signatures of the then SP Sh. Asif Jalal on various letters and other documents shown to him and further identified the documents, which they had received from different persons/ agencies during investigation of the case.

(xxxix) PW41 Sh. Vishal Gaurav is the then Nodal Officer of M/s Bharti Airtel and he proved on record his letter dated 26.03.2015 **Ex.PW41/A (D-55)** sent to the CBI, vide which he had provided the Customer Application Forms (CAFs) with supporting documents and Call Detail Records (CDRs) of three mobile numbers, i.e. 9910866895 of PW39 (A-4) and 9810534466 & 9810818307 of A-2 and also exhibited these documents, along with a certificate U/S 65 of the IEA given by him regarding authenticity thereof.

(xi) PW42 Ms. Rubeena Akhtar and PW43 Ms. Shibi Punnen @ S. Punnen are the above two female executives of AISATS working at the IGI Airport on 13.12.2012, when 13 boarding passes in the name of A-1 and his 6 other companions for their above journey of the sector Delhi-Kolkata-Port Blair-Delhi were issued. They both claimed that they had issued these boarding passes on the basis of PNRs only and these were issued on the directions and instructions of their senior officer i.e. A-2. They both had also identified their duty allocation slips/charts already **Ex.PW16/B (colly) (D-53)** and on seeing the passenger check-in history contained in file/document **D-18**, they also explained as to

how and when the said PNRs were generated and cancelled with regard to the above said journey of accused and his other companions. Their statements will also be discussed and appreciated in detail later on.

(xli) PW44 Sh. Anuj Bhatia is the then Nodal Officer of M/s Vodafone and he had supplied the CAF and CDR of one mobile no. 9873826036 of A-3 to the CBI vide his letter dated 28.11.2013 **Ex.PW44/A**. He exhibited the said documents as well as a certificate U/S 65B of the IEA given by him as **Ex.PW44/B (colly), Ex.PW44/D (colly) and PW44/C** respectively and all these documents are part of file **D-70**. He further exhibited one other letter **Ex.PW44/E** of their alternative Nodal Officer Sh. Deepak Tomar supplying the CAFs and CDRs etc. of two other mobile nos. 9999889383 and 9899068786 in the name of one Sh. Sunil Murgai and Sh. Gunjan Kumar, along with a certificate U/S 65B of the IEA, and these documents were exhibited as **Ex.PW44/F to Ex.PW44/J** and are part of file/document **D-72**.

STATEMENTS OF ACCUSED U/S 313 Cr.P.C.

30. On conclusion of prosecution evidence, all the incriminating evidence brought on record was put to the accused persons in their statements recorded U/S 313 Cr.P.C. and they were asked to admit or deny it or to make their stand clear about the same. They all had denied most of the incriminating evidence put to them either as wrong or to be not in their knowledge.

31. However, A-1 Anil Kumar Sahani in his statement had admitted that he had been a MP of Rajya Sabha for the above said two terms and being MP, he was entitled for 34 air journeys every year for himself

and his family members etc., besides the journeys permitted to be performed for attending the parliamentary sessions or meetings of the committees. He also admitted that PW38 Sh. Avinash Singh had been his PA and PW36 Sh. Gunjan Kumar was known to him as the said PW used to supply computers and he had earlier purchased air tickets through him. But he also stated that did not know from where these tickets were purchased by PW36 and further that he did not know the A-3 Arvind Tiwari. He claimed that his PA/PW38 was always in possession of 10-15 blank TA forms signed by him even before performing the journeys and it was job of his PA to submit the TA/DA claim forms in the office of Rajya Sabha Secretariat. Though, he admitted his signatures appearing on the previous TA bills **Ex.PW9/A, Ex.PW9/C, Ex.PW9/E, Ex.PW9/G, Ex.PW9/I, Ex.PW9/K, Ex.PW9/M, Ex.PW9/O, Ex.PW9/R, Ex.PW9/V, Ex.PW9/Y and Ex.PW9/Z2**, but at another place, he expressed his ignorance about the signatures appearing on TA bills **Ex.PW9/R, Ex.PW9/V and Ex.PW9/Y**. He also expressed his ignorance about the signatures appearing on TA claim forms **Ex.PW9/Q, Ex.PW9/T & Ex.PW9/U, Ex.PW9/X and Ex.PW9/Z1**.

32. Further, he also expressed his ignorance about the above two TA claims for reimbursement made in his name for the above journeys of the sectors Delhi-Chennai-Port Blair-Chennai-Delhi and Delhi-Kolkata-Port Blair-Delhi purportedly undertaken in the months of March, 2012 and December, 2012 respectively by him and his other family members or companions. He even denied having put any signatures on itinerary receipts/e-tickets of these two claims and it is his defence that these two claims for reimbursement had never been made or lodged by him or at his instance and somebody else had lodged the said claims falsely in his name. It is his case that a system of claiming fake TA/DA bills by members of both the houses of Parliament was going around at

the relevant time of commission of alleged offences and he had been targeted and falsely implicated in this case simply because he had raised his voice against the said corrupt system and even the office of CBI was being misused by corrupt MPs. He also claimed that though the CBI registered some cases against the MPs actually involved in commission of such offences and who actually got reimbursed the travel expenses on fake documents, but ultimately, the CBI had filed closure reports in those cases, whereas he was prosecuted and chargesheeted by CBI in this case even though no expenses were reimbursed or credited in his account for these two claims.

33. Further, it is also his case that when the TA claim lodged for the above journey of Delhi-Chennai-Port Blair-Chennai-Delhi sector came to his knowledge, he immediately visited the office of Rajya Sabha Secretariat and met the concerned officer and after observing the documents of claim and after briefing the said officer about it, he got payment against the said bill stopped even though it stood already approved and the officer also returned back the e-tickets and relevant documents of the said claim to him, which he himself handed over to the CBI officials later on for a fair inquiry. Regarding the second incident of the journey of sector Delhi-Kolkata-Port Blair-Delhi, it is his stand that when he received a letter from the Rajya Sabha Secretariat pointing out some discrepancies in his above claim, he visited the office again and met the concerned officer and on observing the documents, he informed the said officer in writing that he had not filed the said claim for reimbursement and somebody else had filed it along with the said documents in his name and he also immediately wrote a letter to the Chairman, Rajya Sabha with regard to the above claim.

34. Thus, it is the case of A-1 that the above two claims for

reimbursement of travel expenses of the journeys of above stated two sectors by him and his family members or companions were not submitted by him or at his instance. It is also his case that sanction for his prosecution in this case has not been granted by the Chairman of Rajya Sabha as no such sanction has been placed on record. Further, though he had admitted that his specimen signatures were taken in this case, but he expressed his ignorance regarding its examination or comparison with any other signatures or any reports given in respect to comparison thereof. He also denied any CBI raid at his residence or seizure of any documents from his residence by claiming that when the CBI officers visited his residence, he himself handed over some documents to them and they had also recorded his statement, which they never filed on record. Thus, he claimed himself to be innocent and had also chosen to lead evidence in his defence.

35. A-2 N.S. Nair in his statement had though admitted that he was on duty at IGI Airport, New Delhi on 13.12.2012 from time 1 pm to 9 pm as a Superintendent of Air India and further though, he had also admitted his shift chart **Ex.PW35/B (page 2 of D-51)** and attendance sheets **Ex.PW35/D (colly) (pages 4 & 5 of D-51)** for the said date, but he denied that he was on duty at the counter marked at Point X in the duty allocation chart **Ex.PW35/C (page 3 of D-51)**. He also denied specifically that he knew PW42 Ms. Rubeena Akhtar and PW43 Ms. S. Punnen or that he was their Superintendent at the alleged time. He also specifically denied that the boarding passes for the above journey of A-1 and his other companions for the Delhi-Kolkata-Port Blair-Delhi sector were issued or canceled on the said day by PW42 or PW43 at his instructions or directions. Further, he even denied that he knew A-1 Anil Kumar Sahani, A-3 Arvind Tiwari and A-4/PW39 Anup Singh Panwar prior to his appearance in this case as an accused.

36. It is also the defence of A-2 that he is innocent and has been falsely implicated and chargesheeted in this case by the IO/CBI and the witnesses too have deposed falsely against him. He further claimed specifically that since PW42, PW43 and A-4/PW39 Anup Singh Panwar were privy to the above crime, they all have deposed falsely against him to escape from their criminal liabilities and prosecution. He had also claimed that around 40 counters were there on the said airport to do the work of issuance of boarding passes and the entire staff, including Supervisor, CSAs and Managers etc. handling those counters belonged to AISATS and staff of Air India had nothing to do with them. He further claimed that at the relevant time of issuance of these boarding passes, he was posted as the Canteen Supervisor at the airport. He also stated that the CSAs entrusted with the task of issuance of boarding passes were required to issue and cancel it only as per the procedure prescribed in this regard and after checking the correctness of e-tickets and PNR details in the computer system. He had also chosen to lead evidence in his defence.

37. Likewise, A-1 & A-2, A-3 Arvind Tiwari had also claimed himself to be innocent and to have been falsely implicated in this case by the IO/CBI officials to save PW36 Sh. Gunjan Kumar, whom he claimed to be belonging to the same caste and nearby village of the IO/PW40. Though, he admitted that his specimen signatures were taken by the IO in this case, but he denied that the signatures examined by the CFSL Expert/PW32 were the same signatures. Again, though he admitted to have worked with M/s Murgai Travels, but he denied that he ever worked with MP Sh. Binay Kumar Pandey or provided air tickets and other related services to MPs/MLAs. He also claimed specifically that A-1 or A-3 never approached him for issuance of above

air tickets for the journeys of A-1 and his other companions for Delhi-Kolkata-Port Blair-Delhi sector and also that the payments made for previous tickets, as deposed by PW36 Sh. Gunjan Kumar, were not in his knowledge.

38. Further, he also specifically stated that he had only filled some particulars in blank TA form for the above journey of A-1 and the other companions and the same were filled by him only to guide PW36 Sh. Gunjan Kumar as PW36 had never filed up the said form and PW36 had even told this fact to the CBI during investigation, but it was not considered. Thus, though he admitted that the particulars filed in the TA form **Ex.PW1/A (part of D-2)** were in his handwriting, but he denied to have ever deposited any TA claim of A-1 in the Rajya Sabha Secretariat. He claimed that when he was framed as an accused in this case, he came to know that PW36 and PW38 Sh. Avinash Singh had filled the TA bill of A-1 which was false and fabricated and when A-1 came to know about it, A-1 took back the said claim along with all the relevant documents. He also claimed specifically that he never approached A-4/PW39 Anup Kumar Panwar for any false e-tickets or PNR numbers. He also desired to lead evidence in defence.

DEFENCE EVIDENCE

39. As stated above, all the three accused had though desired to lead evidence in their defence, but it has been observed from record that defence evidence has been led in this case only by A-1 Anil Kumar Sahani and he is found to have examined one Sh. Lal Babu Gope as a witness in his defence. The other two accused persons had subsequently stated before this court that they did not want to lead any defence evidence and hence, on the basis of their separate statements recorded by the court, their evidence was closed vide order dated

25.09.2021.

40. DW1/A1 Sh. Lal Babu Gope is a witness from the same District of Bihar to which A-1 Anil Kumar Sahani belongs and this witness claims to have worked as a representative not only for father of this accused, but even for the accused during both his tenures as MP. He claimed that he was handling all the social as well as political affairs of the said accused and in that connection, he frequently used to visit the official residence of accused in Delhi to seek his instructions as well as to report back. He claimed that on one day in the month of April, 2012, the accused entered his residence at Delhi in anger and while abusing Avinash and on being asked, accused told him that Avinash had lodged a fake TA claim for his journey after getting signed a travel voucher from him in good faith and in routine. He also claimed that after sometime, Avinash too came back and Avinash was scolded by the accused for the same and then Avinash felt sorry for his above act.

FINAL ARGUMENTS AND POINT-WISE APPRECIATION THEREOF

41. I have heard the extensive final arguments advanced by Sh. Pankaj Gupta Ld. Sr. PP for CBI as well as Sh. Mohinder Saini, Ld. Counsel for A-1, assisted by Sh. Jitender Saini, Advocate, Sh. Braham Singh, Ld. Counsel for A-2 and Sh. Abhay Kumar Pandey, Ld. Counsel for A-3. I have also carefully perused the entire record of the case, including the written submissions and case law filed on behalf of the parties.

42. Before discussing and appreciating the evidence led on record by prosecution in support of the charges framed against the accused persons, it is necessary to deal with the challenges being put to the

sanctions granted for prosecution of A-1 & A-2 in this case and the legality thereof as they both were admittedly public servants at the relevant time of commission of the alleged offences.

REQUIREMENT AND VALIDITY OF SANCTION FOR PROSECUTION OF A-1 ANIL KUMAR SAHANI

43. As stated above, A-1 was the sitting MP of Rajya Sabha from the State of Bihar at the relevant time of commission of alleged offences and in terms of provisions contained U/S 19 of the PC Act, sanction for his prosecution was required for taking cognizance of the alleged offences against him by this court and a sanction had also been obtained by the CBI for his prosecution in this case and the same has been proved during the course of evidence through the depositions of PW5 Sh. Surendra Kumar Tripathi. Another relevant witness with regard to sanction granted for prosecution of A-1 is PW10 Sh. Vijay Kumar, the then Additional Director, Rajya Sabha Secretariat.

44. PW5 Sh. Surendra Kumar Tripathi was posted as the Director (Legislative), Rajya Sabha Secretariat at the relevant time when the said sanction dated 16.06.2016 for prosecution of A-1 in this case was granted. He has stated on record that the Hon'ble Chairman of Rajya Sabha was the competent authority for granting sanction for prosecution of the MPs of Rajya Sabha and the Hon'ble Chairman had passed an office order authorizing the Director, Joint Director or Deputy Director looking after the work of legislative section to authenticate the orders passed by him on request of the investigating agencies seeking sanction for prosecution of MPs under the PC Act. On being shown **page 117 of the file/document D-88**, he identified it to be an order dated 14.06.2016 signed by Ms. Sasilekha Nair, the then Director,

Rajya Sabha Secretariat, conveying as to who were the officers competent to authenticate the orders passed by the Hon'ble Chairman of Rajya Sabha. Since this witness was also working as a Director (Legislative) in the Rajya Sabha Secretariat at the relevant time and was a contemporary of Ms. Sasilekha Nair and further since he also specifically stated on record that he had seen several communications received from administration signed by Ms. Sasilekha Nair, he was certainly in a position to identify her signatures appearing at point A on the above office order dated 14.06.2016 and hence, copy of the said order shown to him stands duly proved on record during his statement as **Ex.PW5/A (page 117 of D-88)**. Moreover, during the course of his examination, PW5 had even brought with him a certified copy of the said order and a copy thereof was also taken on record and exhibited as **Ex.PW5/AA (available in file/part B-51)**.

45. Further, during the course of his examination-in-chief, PW5 had also identified his own signatures appearing at point A on the sanction order dated 16.06.2016 passed U/S 19 (1) of the PC Act for prosecution of A-1 in this case. The sanction order is found to have been signed by him for and on behalf of the Hon'ble Chairman, Rajya Sabha and the same has been exhibited as **Ex.PW5/B (page 119 of D-88)**. He also specifically stated on record that after the Hon'ble Chairman sanctioned the prosecution, he being the Director (Legislative) conveyed sanction of the Hon'ble Chairman to the CBI. He also stated thereafter that he signed the sanction order and it was conveyed to CBI by his Deputy Director Sh. Vijay Kumar vide another letter of even date i.e. 16.06.2016 **Ex.PW5/C (page 113 of D-88)**. He further stated that since he had seen Sh. Vijay Kumar signing during the course of his employment, he was able to identify the signatures of Sh. Vijay Kumar on the above letter **Ex.PW5/C**. He further identified the

signatures of Sh. Vijay Kumar on one other letter dated 08.12.2016 sent to CBI and this letter was exhibited as **Ex.PW5/D (page 109 of D-88)** (It is observed that the letter **Ex.PW5/C** is available at internal pages 1 & 2 and letters **Ex.PW5/A, Ex.PW5/B & Ex.PW5/D** are available at internal pages 3, 4 & 5 respectively of D-88).

46. PW10 Sh. Vijay Kumar during his statement made before this court has also deposed specifically that he was posted as Deputy Director and was Incharge of the Legislative Section and Bill Office in the Rajya Sabha Secretariat at the relevant time. He was also shown the letter **Ex.PW5/C** dated 16.06.2016 sent by him to CBI and he stated that vide the above said letter, he had forwarded sanction of the Hon'ble Chairman, Rajya Sabha, as authenticated by the authorized officer Sh. Surendra Kumar Tripathi, Director, Rajya Sabha Secretariat. He also identified the sanction order of even date i.e. 16.06.2016 **Ex.PW5/B** to be the same sanction order, which he forwarded to the CBI through his above letter **Ex.PW5/C**. He also identified his signatures appearing on the other letter dated 08.12.2016 **Ex.PW5/D** and stated that the said letter was sent with regard to some clarifications sought by the CBI in pursuance of directions of this court to clarify the rule under which the sanction was issued. He also stated that it was clarified in the said letter that sanction was issued according to directions of the Hon'ble Supreme Court passed in the case of **P. V. Narasimha Rao Vs. State**, as mentioned in that letter.

47. The above depositions made by these two witnesses are to be viewed in the background that no authority had been specified or laid down under any rule or provision of law, which was competent to grant sanction for prosecution of MPs and the above question was directly in issue before the Hon'ble Supreme Court in the celebrated case of **P.V.**

Narasimha Rao Vs. State, AIR (1998) SC 2120, which has also been relied upon by Ld. Counsel representing A-1. It was held by the Hon'ble Supreme Court in the said case that since there was no authority competent to remove a MP and to grant sanction for his prosecution under the PC Act, the prosecuting agency shall obtain permission of Chairman of the Rajya Sabha or Speaker of the Lok Sabha before prosecuting the member of Rajya Sabha or Lok Sabha, as the case may be. The relevant observations made by their Lordships in the said case are being reproduced herein below:-

“On the basis of the aforesaid discussion we arrive at the following conclusion :-

1. A Member of Parliament does not enjoy immunity under Article 105(1) or under Article 105(3) of the Constitution from being prosecuted before a criminal court for an offence involving offer or acceptance of bribe for the purpose of speaking or by giving his vote in Parliament or in any committees thereof.

2. A member of Parliament is a public servant under Section 2 (c) of the Prevention of Corruption Act, 1988.

3. Since there is no authority competent to remove a Member of Parliament and to grant sanction for his prosecution under Section 19 (1) of the Prevention of Corruption Act, 1988, the court can take cognizance of the offences mentioned in Section 19 (1) in the absence of sanction but till provision is made by Parliament in that regard by suitable amendment in the law, the prosecuting agency, before filing a charge-sheet in respect of an offence punishable under Section, 7, 10, 11, 13 and 15 of the 1988 Act against a Member of Parliament in a criminal court, shall obtain the permission of the Chairman of the Rajya Sabha/Speaker of the Lok Sabha, as the case may be.”

(Emphasis supplied)

48. The sanction for prosecution of A-1 in the present case is, thus, found to have been obtained from Hon'ble Chairman of the Rajya Sabha in light of the above observations made by the Hon'ble Supreme Court and the sanction order **Ex.PW5/B** is found to have been signed or authenticated on his behalf by PW5 Sh. Surendra Kumar Tripathi in his capacity as the Director (Legislative) and the same has been

forwarded or conveyed to the CBI by PW10 Sh. Vijay Kumar in his capacity of Deputy Director and being Incharge of the said section. Hence, so far as competency of the Chairman, Rajya Sabha to grant sanction for prosecution of A-1 in the present case is concerned, it is held that the same has been granted by the competent authority.

49. However, it has been vehemently argued by the Ld. Defence Counsel representing A-1 that the above sanction order is not a valid or legal sanction order and the sanction granted for prosecution of A-1 is invalid as the said sanction order has not been signed by the Chairman, Rajya Sabha himself and even no documentary evidence has been led on record by the prosecution to show that PW5 was competent to sign or authenticate the said sanction order by virtue of any such powers delegated to him. It is also his contention that the office order **Ex.PW5/A** dated 14.06.2016 issued by Ms. Sasilekha Nair, the then Director (Administration), Rajya Sabha Secretariat, does not constitute a proper or valid delegation of powers of the Hon'ble Chairman, Rajya Sabha in favour of the designated officers mentioned therein to issue or sign such sanction orders as the evidence led on record does not even show that she was authorized by the Hon'ble Chairman, Rajya Sabha to issue such office orders.

50. In this regard, it is observed that the Hon'ble Vice President of India is the Ex-officio Chairman of the Rajya Sabha and for conduction of business of the Rajya Sabha, the Rajya Sabha Secretariat (Recruitment and Conditions of Service), Rules 1957 vide SRO No. 844 are found to have been framed by the Hon'ble President of India, after consultation with Chairman of the Rajya Sabha, in exercise of powers conferred by Clause (3) of Article 98 of the Constitution of India. Since these Rules are in the form of a legal provision or law,

judicial notice of the same can be taken by this court in view of provisions contained U/S 57 of the IEA. In terms of Rule 32 contained in 'Part VI --- Miscellaneous' of these Rules, any order passed by the Chairman under the provisions of these rules and executed in the name of the Chairman shall be authenticated in such manner as the Chairman may, from time to time, by general or special order, specify.

51. Thus, in view of the above Rule 32, the manner in which orders passed by the Hon'ble Chairman of Rajya Sabha are or were to be authenticated was to be specified by the Hon'ble Chairman himself. It thus also follows from the above that any order authorizing the Director (Legislative) Section i.e. PW5 or any other officer(s) of a different designation to authenticate the prosecution sanction order of an accused member of Rajya Sabha should also have come from the Hon'ble Chairman himself, whereas in the present case the Director of one branch of the Rajya Sabha Secretariat is found to have issued the office order dated 14.06.2016 **Ex.PW5/A** stating that the Director, Joint Director or Deputy Director looking after the work of legislative section of Rajya Sabha was to authenticate such sanction orders. Hence, it can be said that this office order **Ex.PW5/A** does not serve the desired purpose.

52. Though, Ld. Sr. PP has argued that this letter specifically states that the authority being given or delegated to the Director, Joint Director or Deputy Director for signing the sanction orders under the PC Act comes from Hon'ble Chairman, Rajya Sabha himself, as this letter says that the Hon'ble Chairman, Rajya Sabha has been pleased to authorize them to authenticate the orders passed by him on such requests of the investigation agencies, but this court is not convinced by this argument or submission being made by Ld. Sr. PP as this order

issued in name of the Hon'ble Chairman is found to be signed or authenticated by the above Director and even no general or special order signed by the Hon'ble Chairman, Rajya Sabha has been brought on record during evidence to show such delegation of powers to Ms. Sasilekha Nair or to the officer designated as Director (Admn.) to issue such kind of orders. As already stated, even no order, general or special, signed by the Hon'ble Chairman, Rajya Sabha has been brought on record to show as to which of the officers, by name or designation, were competent to sign such sanction orders. Hence, despite the above argument/submission being made by Ld. Sr. PP, a discrepancy or defect remains in case of the prosecution in the form of absence of any general or special order from the Hon'ble Chairman in the name of PW5 to sign the above sanction order **Ex.PW5/B** or in the form of lack of delegation of powers in favour of Ms. Sasilekha Nair to issue the kind of orders like the office order **Ex. PW5/A**.

53. Again, on perusal of the sanction order **Ex.PW5/B (page 4 of D-88)**, it is also observed by this court that the said order has not been passed and sanction has not been given in name of the Hon'ble Chairman, Rajya Sabha Secretariat, though the said order is found to have been signed by PW5 for and on behalf of Hon'ble Chairman, Rajya Sabha. The said order nowhere shows or states that it was the Chairman, Rajya Sabha himself who had passed the said sanction order for prosecution of A-1 and rather, this sanction order is in a narrative form saying that the application of CBI for grant of prosecution sanction against A-1 with relevant material was placed before the Hon'ble Chairman and he was satisfied on perusal of the material sent to him and had accorded the sanction, which was being conveyed by the signatory of this letter to the CBI. For proper appreciation of the above, the sanction order is also being re-produced

in verbatim herein below:-

SANCTION ORDER

WHEREAS the Superintendent of Police, AC-III, CBI/New Delhi had made an application no. 5341/3/9 (A)/2013/AC-III dated the 14th October, 2015 to the Secretary General, Rajya Sabha requesting sanction of competent authority for prosecution u/s 19(1) of the Prevention of Corruption Act, 1988 of Shri Anil Kumar Sahani, Member, Rajya Sabha in Case no. RC 9(A)/2013-AC-III dated 31.10.2013 for the offences committed by him u/s 120 B IPC r/w section 420 IPC r/w sections 511, 471 IPC and section 15 r/w section 13 (1) (d) r/w section 13 (2) of the Prevention of Corruption Act, 1988 and substantive offences of sections 201 and 420 IPC r/w 511, 471 IPC and section 15 r/w section 13 (2) r/w section 13 (1) (d) of the Prevention of Corruption Act, 1988,

AND WHEREAS the Superintendent of Police has enclosed along with the above said application, the Report of the Superintendent of Police, CBI, ACU VIII which also contains lists of witnesses and documents which have been relied upon by the CBI in connection with the proposed prosecution of Shri Anil Kumar Sahani, Member, Rajya Sabha,

AND WHEREAS the competent authority *i.e.* the Chairman, Rajya Sabha has carefully gone through the application made by the Superintendent of Police, CBI and the Report enclosed with his application,

AND WHEREAS on a perusal of the application and the material on record and after a careful consideration of facts and circumstances of the matter, the Chairman, Rajya Sabha has accorded sanction for prosecuting Shri Anil Kumar Sahani, Member, Rajya Sabha under section 19 (1) of the Prevention of Corruption Act, 1988 in Case No. RC 9(A)/2013-AC-III dated 31.10.2013,

NOW, THEREFORE, I hereby convey the sanction of the Chairman, Rajya Sabha for prosecuting Shri Anil Kumar Sahani, Member, Rajya Sabha under section 19 (1) of the Prevention of Corruption Act, 1988 in Case No. RC 9 (A)/2013-AC-III dated 31.10.2013.

For and on behalf of the Chairman, Rajya Sabha

(SURENDRA KUMAR TRIPATHI)
DIRECTOR (L)

54. However, still despite the above discrepancies or defects in the sanction order, this court is of the considered opinion that not only the authority which had granted sanction for prosecution of A-1 was an authority competent to grant it, but there was also a proper application of mind on the part of said authority before arriving at a decision to grant sanction for prosecution of A-1. It cannot be ignored that a

member of Rajya Sabha holds a Constitutional post and also a very high position in society and since, there was no authority prescribed anywhere under the law which was competent to grant sanction for his prosecution or was competent to remove him from his above post, the Hon'ble Supreme Court in the case of **P. V. Narasimha Rao (Supra)** had accorded this responsibility to the Chairman, Rajya Sabha. It was so as being Chairman of the upper house of Parliament, he was in a better position to consider all the relevant facts and circumstances of the case before taking a decision in the matter to grant or refuse the sanction and there was also no reason or ground on his part to grant the sanction in a false or malicious manner as being Chairman of the house, he was not only supposed to protect its members from false and malicious prosecutions, but also to protect and uphold the dignity of a constitutional body and post. Hence, if any sanction for prosecution of a member of the house is found to have been granted by Hon'ble Chairman of the house, then the court can even otherwise presume that the same has been granted after due application of mind to the entire facts and circumstances of the case and also after going through all the relevant material or documents on the subject.

55. Moreover, as is also clear from the plain wording of the above sanction order, the Superintendent of Police, CBI had enclosed or sent with the application seeking prosecution sanction, a report of the concerned Superintendent of Police, which further contained the lists of witnesses and documents relied upon by the CBI in connection with the proposed prosecution, and the Hon'ble Chairman had also carefully gone through the application as well as the said report enclosed with the application before granting the sanction. It is also found specially stated in the said order itself that the sanction was granted by the Hon'ble Chairman only after a careful consideration of facts and

circumstances of the case, besides perusal of contents of the application and the material sent.

56. Further, this part of the sanction order is also found to be duly corroborated from the oral depositions made by PW5 before this court as he specifically stated on record that for seeking sanction of the Hon'ble Chairman of Rajya Sabha, request received from the CBI alongwith documents, as well as the documents/material available in Rajya Sabha pertaining to the sanction, were put up before the Hon'ble Chairman and after the Hon'ble Chairman was satisfied that sanction is to be granted in this case, he granted the sanction for prosecution and also signed the file showing his approval for prosecution. He further stated on record specifically during his cross examination conducted by Ld. Counsel for A-1 that the file containing request of CBI, along with report of some CBI officer, list of witnesses, list of documents and other documents, was put up before the Hon'ble Chairman by the concerned officer, who received the request and the Hon'ble Chairman marked it to the Secretary General and the Secretary General further marked the same to Joint Secretary and thereafter, it was marked to him i.e. the witness. He also stated that he further marked the file to his Deputy Director, who referred it to the Legislative Branch, which studied the documents and prepared the file for putting up before the Hon'ble Chairman. He also stated that the Secretary General did not generally examine the requests himself and he marked the papers to one of the officers of Rajya Sabha and in the present case, papers were marked by the Secretary General to one Sh. Mukul Pandey, Joint Secretary. He further stated during his cross examination that some note was prepared by Sh. Mukul Pandey and even by the Secretary General, which were put up before the Hon'ble Chairman for consideration of the above sanction. Thus, the above depositions as well as some further

depositions made by this witness on record clearly suggest that a proper and due procedure was followed in processing the above request of CBI for grant of prosecution sanction of A-1, before approval of the Hon'ble Chairman, Rajya Sabha was received or accorded in the official file.

57. Moreover, it cannot be ignored that allegations made against A-1 in this case were in respect to setting up of false claims for reimbursement of expenses of some air journeys and these expenses were being sought to be reimbursed from the Secretariat of Rajya Sabha itself. Hence, it can also be inferred by this court that most of the facts of this case were already in knowledge of the Hon'ble Chairman, Rajya Sabha and other senior officers of the said Secretariat and thus, the scope of non-application of mind on part of the competent authority in granting the said sanction can also be negated by the above fact. Though, during the course of his cross examination, PW5 has not been able to remember or recollect as to whether one letter dated 01.03.2013 **Ex.PW4/D1A (D-21)** written by A-1 or any other letter from the Central Vigilance Commission with some documents were available or not in the said file sent to him, but it does not matter at all as far as the validity and legality of the above sanction order is concerned. Further, even though he has also stated on record that he did not incorporate the number of witnesses, their names, the number, nature or description of the documents and some other particulars in the above sanction order, but even this does not affect the validity of said order as competency of the sanctioning authority and application of mind on the part of said authority stands duly reflected and established from the evidence led on record. It cannot be ignored that all these details were not legally required to be incorporated in the sanction order as there is no format of such sanction orders.

58. It is well settled that it should not be the object of courts to find faults or defects in the sanction orders and whether a public servant has to be prosecuted or not in respect to any allegations of abuse of his office or criminal misconduct by him, it is ultimately the job of his competent authority to take the call and to arrive at a decision or conclusion to grant or refuse the sanction for his prosecution and once it has been done by the said authority, the court should not unnecessarily try to find some defects or flaws in such sanction orders. In the case of **State of Maharashtra, Through Central Bureau of Investigation Vs. Mahesh G. Jain (2013) 8 SCC 119**, the Hon'ble Supreme Court had an occasion to examine the legality of the judgment of a trial court acquitting the accused for offences under the PC Act principally on the foundation that sanction granted by the competent authority for his prosecution was defective and illegal as there was non application of mind on the part of the competent authority showing lack of satisfaction and the Hon'ble Supreme Court had also examined the legality of the judgment of the Hon'ble High Court of Judicature at Bombay in refusing to grant leave to file an appeal by the CBI against the above said judgment of the learned trial court and the following observations were made by the Hon'ble Supreme Court in the said case:-

"6. Grant of sanction is irrefragably a sacrosanct act and it is intended to provide safeguard to a public servant against frivolous and vexatious litigations. Satisfaction of the sanctioning authority is essential to validate an order granting sanction. This Court in Jaswant Singh v. State of Punjab was considering the validity and effect of the sanction given under Section 6(1) of the Prevention of Corruption Act, 1947. After referring to the decisions in Basdeo Agarwalla v. King Emperor and Gokulchand Dwarkadas Morarka v. R., the court opined as follows: (Jaswant Singh case, AIR 1958 SC 124)

'4. It should be clear from the form of the sanction that the sanctioning authority considered the evidence

before it and after a consideration of all the circumstances of the case sanctioned the prosecution, and therefore unless the matter can be proved by other evidence, in the sanction itself the facts should be referred to indicate that the sanctioning authority had applied its mind to the facts and circumstances of the case.'

In the said case, the two-Judge Bench had reproduced the order of sanction and opined that if the same, strictly construed, indicated the consideration by the sanctioning authority of the facts relating to the receiving of the illegal gratification by the accused....

7. In *Mohd. Iqbal Ahmed v. State of A.P.* this Court lucidly registered the view that (AIR 1979 SCC 677) it is incumbent on the prosecution to prove that a valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out consulting an offence and the same should be done in two ways; either (i) by producing the original sanction which itself contains the facts constituting offence and the grounds of satisfaction, and (ii) by adducing evidence aliunde to show the facts placed before the sanctioning authority and the satisfaction arrived at by it. It is well settled that any case instituted without a proper sanction must fail because this being a manifest defect in the prosecution, the entire proceedings are rendered void ab initio.

8. In *Superintendent of Police (CBI) v. Deepak Chowdhary & Others* (1995) 6 SCC 225) it has been ruled that the grant of sanction is only an administrative function, though it is true that the accused may be saddled with the liability to be prosecuted in a court of law. What is material at that time is that the necessary facts collected during investigation constituting the offence have to be placed before the sanctioning authority and it has to consider the material. Prima facie, the authority is required to reach the satisfaction that the relevant facts would constitute the offence and then either grant or refuse to grant sanction.

9. In *C.S. Krishnamurthy v. State of Karnataka* (2005) 4 SCC 81 it has been held as follows:

'9.sanction order should speak for itself and in case the facts do not so appear, it should be proved by leading evidence that all the particulars were placed before the sanctioning authority for due application of mind. In case the sanction speaks for itself then the satisfaction of the sanctioning authority is apparent by reading the order.'

10. In *R. Sundararajan v. State* (2006) 12 SCC 749, while dealing with the validity of the order of sanction, the two learned Judges have expressed thus:

'14.it may be mentioned that we cannot look into the adequacy or inadequacy of the material before the sanctioning authority and we cannot sit as a court of appeal over the sanction order. The order granting sanction shows that all the available materials were placed before the sanctioning authority who considered the same in great detail. Only because some of the said materials could not be proved, the same by itself, in our opinion, would not vitiate the order of sanction. In fact in this case there was abundant material before the sanctioning authority, and hence we do not agree that the sanction order was in any way vitiated.'

11. In *State of Karnataka v. Ameerjan* (2007) 11 SCC 273 it has been opined that:

'9.an order of sanction should not be construed in a pedantic manner. But, it is also well settled that the purpose for which an order of sanction is required to be passed should always be borne in mind. Ordinarily, the sanctioning authority is the best person to judge as to whether the public servant concerned should receive the protection under the Act by refusing to accord sanction for his prosecution or not.'

12. In *Kootha Perumal v. State* (2011) 1 SCC 491 it has been opined that the sanctioning authority when grants sanction on an examination of the statements of the witnesses as also the material on record, it can safely be concluded that the sanctioning authority has duly recorded its satisfaction and, therefore, the sanction order is valid.

13. From the aforesaid authorities the following principles can be culled out:

a). It is incumbent on the prosecution to prove that the valid sanction has been granted by the sanctioning authority after being satisfied that a case for sanction has been made out.

b). The sanction order may expressly show that the sanctioning authority has perused the material placed before it and, after consideration of circumstances, has granted sanction for prosecution.

c). The prosecution may prove by adducing the evidence that the material was placed before the sanctioning authority and its satisfaction was arrived

at upon perusal of the material placed before it.

d). Grant of sanction is only an administrative function and the sanctioning authority is required to prima facie reach the satisfaction that relevant facts would constitute the offence.

e). The adequacy of material placed before the sanctioning authority cannot be gone into by the court as it does not sit in appeal over the sanction order.

f). If the sanctioning authority has perused all the materials placed before it and some of them have not been proved that would not vitiate the order of sanction.

g). The order of sanction is a prerequisite as it is intended to provide a safeguard to a public servant against frivolous and vexatious litigants, but simultaneously an order of sanction should not be construed in a pedantic manner and there should not be a hypertechnical approach to test its validity.

14. Keeping in view the aforesaid principles it is to be seen whether the order of sanction granted by the sanctioning authority withstands scrutiny or not. For the aforesaid purpose it is necessitous to reproduce the order of sanction in entirety.....

15. Reserving our opinion on the same for the present we shall proceed to deal with the reasons for treating the said order of sanction as invalid and improper by the learned trial Judge. The learned trial Judge has referred to the sanction order, Ext. 13 and the forwarding letter, Ext. 14 and, therefore, proceeded to observe that the order of sanction is completely bereft of elementary details; that though the date is not mentioned in the FIR, the authority has mentioned the date in the sanction order; that the order of sanction is delightful vague; that the amount of bribe that finds place in the sanction order was told to him and he had no personal knowledge about it; that the minimum discussion is absent in the order of sanction; that grant of sanction being not an idle formality it was incumbent on the competent authority to ascribe proper reasons on perusal of the materials; that there is no material to show the existence of objective material to formulate the subjective satisfaction; that the authority has granted sanction in an absolute mechanical manner; and that the order of sanction does not reflect sincerity of approach. The High Court, while dealing with the said reason, has really not discussed anything except stating that a possible view

has been taken by the learned trial Judge and in appeal it cannot substitute the findings merely because any other contrary opinion can be rendered in the facts of the case.

16. Presently, we shall proceed to deal with the contents of the sanction order. The sanctioning authority has referred to the demand of the gratification for handing over TDS certificate in Form 16A of the Income-Tax Act, the acceptance of illegal gratification by the accused before the panch witnesses and how the accused was caught red handed. That apart, as the order would reveal, he has fully examined the material documents, namely, the FIR, CFSL report and other relevant documents placed in regard to the allegations and the statements of witnesses recorded under Section 161 of the Code and, thereafter, being satisfied he has passed the order of sanction. The learned trial judge, as it seems, apart from other reasons has found that the sanctioning authority has not referred to the elementary facts and there is no objective material to justify a subjective satisfaction. The reasonings, in our considered opinion, are absolutely hyper-technical and, in fact, can always be used by an accused as a magic trick to pave the escape route. The reasons ascribed by the learned trial judge appear as if he is sitting in appeal over the order of sanction. True it is, grant of sanction is a sacrosanct and sacred act and is intended to provide a safeguard to the public servant against vexatious litigation but simultaneously when there is an order of sanction by the competent authority indicating application of mind, the same should not be lightly dealt with. The filmy technicalities cannot be allowed to become tools in the hands of an accused. In the obtaining factual matrix, we must say without any iota of hesitation that the approach of the learned trial judge as well as that of the learned single judge is wholly incorrect and does not deserve acceptance”.

(Emphasis supplied)

59. In the case of **State of Bihar Vs Rajmangal Ram, 2014 Cri.L.J 2300** also the Hon'ble Supreme Court had made the following observations:-

“5. The object behind the requirement of grant of sanction to prosecute a public servant need not detain the court save and except to reiterate that the provisions in this regard either under the Code of Criminal Procedure or the Preventions of Corruption Act, 1988 are designed as a check on frivolous, mischievous and unscrupulous attempts to prosecute a honest public servant for acts arising out due discharge of duty and also to enable him to efficiently perform the wide range of duties case on him by virtue of his office. The test,

therefore, is always is – whether the act complained of has a reasonable connection with the discharge of official duties by the government or the public servant. If such connection exists and the discharge or exercise of the governmental function is, prima facie, founded on the bonafide judgment of the public servant, the requirement of sanction will be insisted upon so as to act as a filter to keep at bay any motivated, ill-founded and frivolous prosecution against the public servant. However, realising that the dividing line between an act in the discharge of official duty and an act that not, may, at times, get blurred thereby enabling certain unjustified claims to be raised also on behalf of the public servant so as to derive undue advantage of the requirement of sanction, specific provisions have been incorporated in Section 19 (3) of the Prevention of Corruption Act as well as in Section 465 of the Code of Criminal Procedure, which, inter alia, make it clear that any error, omission or irregularity in the grant of sanction will not affect any finding, sentence or order passed by a competent court unless in the opinion of the court a failure of justice has been occasioned. This how the balance is sought to be struck.

6. *****

7. In a situation where under both the enactments any error, omission or irregularity in the sanction, which would also include the competence of the authority to grant sanction, does not vitiate the eventual conclusion in the trial including the conviction and sentence, unless of course a failure of justice has occurred, it is difficult to see how at the intermediary stage a criminal prosecution can be nullified or interdicted on account of any such error, omission or irregularity in the sanction order without arriving at the satisfaction that a failure of justice has also been occasioned. This is what was decided by this Court in State by Police Inspector vs. T. Venkatesh Murthy wherein it has been inter alia observed that,

'14. Merely because there is any omission, error or irregularity in the matter of according sanction, that does not affect the validity of the proceeding unless the court records the satisfaction that such error, omission or irregularity has resulted in failure of justice.'

8. The above view also found reiteration in Prakash Singh Badal and Another vs. State of Punjab and Other wherein it was, inter alia, held that mere omission, error or irregularity in sanction is not to be considered fatal unless it has resulted in failure of justice. In Prakash Singh Badal (Supra) it was further held that Section 19 (1) of the P.C. Act is a matter of procedure and does not go to the root of jurisdiction. On the

same line is the decision of this Court in **R. Venkatkrishnan vs. Central Bureau of Investigation**. In fact, a three judge Bench in **State of Madhya Pradesh vs. Virender Kumar Tripathi** while considering an identical issue, namely, the validity of the grant of sanction by the Additional Secretary of the Department of Law and Legislative Affairs of the Government of Madhya Pradesh instead of the authority in the parent department, this Court held that in view of Section 19(3) of the P.C. Act, interdicting a criminal proceedings mid-course on ground of invalidity of the sanction order will not be appropriate unless the court can also reach the conclusion that failure of justice had been occasioned by any such error, omission or irregularity in the sanction. It was further held that failure of justice can be established not at the stage of framing of charge but only after the trial has commenced and evidence is led (para 10 of the Report).”

(Emphasis supplied)

60. Thus, despite the above deficiencies or defects regarding the absence of evidence to show delegation of powers from the Hon'ble Chairman to issue office orders like the office order **Ex.PW5/A** or to authenticate and sign the sanction orders on his behalf like the order **Ex.PW5/B**, it is held by this court that the same are only technical flaws or lacunae in the case of prosecution and these cannot be permitted to defeat the ends of justice by discarding or rejecting the above sanction order itself as the evidence led on record clearly establishes that the competent authority had accorded the said sanction after due application of mind to the facts and circumstances of the case and after perusal of all the relevant material on the issue. The judgments of the Hon'ble High Court in the cases of **Mahmood Asad Madani Vs. CBI, (2020) 266 DLT 61** and **Renubala Pradhan Vs. CBI** in CrI. M.C. No. 2251/2017 decided on 29.01.2020 being relied upon by Ld. Counsel for A-1 can be differentiated as sufficient evidence was collected by the CBI in this case and has also been brought on record during the course of trial to show involvement of A-1 in commission of the above said offences and even sanction for his prosecution has also been obtained by the CBI, which has been held to be a valid sanction by this court.

REQUIREMENT AND VALIDITY OF SANCTION FOR PROSECUTION OF A-2 N.S. NAIR

61. Likewise A-1, Ld. Counsel representing A-2 has also vehemently challenged the validity of sanction for prosecution of A-2 mainly on grounds that the authority which granted it was not competent to grant it and further that all the documents and material of the case were not placed before the said authority to enable it to take a decision on the said aspect. It is, thus, the contention of Ld. Counsel representing A-2 that not only the said authority lacked competency, but there was also no proper application of mind by the said authority in taking a decision for the grant of sanction for prosecution of A-2.

62. PW3 Sh. Abhay Pathak is the person who had granted sanction for prosecution of A-2 in this case. As per the depositions made by him, he was posted as General Manager (Commercial) for the Northern Region of Air India at the relevant time and he was also officiating as the Executive Director of the said region. He specifically stated on record that the authority competent to grant sanction for prosecution as well as removal from service for a person posted as Office/Traffic Superintendent in Air India was the General Manager or the Executive Director. As already discussed, A-2 was admittedly posted in the capacity of an Office Superintendent (Traffic) at the relevant time of commission of alleged offences. PW3 even denied the suggestions given to him during his cross examination that he was not the competent authority of A-2 for granting the said sanction and rather, he voluntarily stated that A-2's services were placed with the commercial/traffic department under the company rules and procedures and accordingly, the competent authority becomes of that

department and here, in the present case, it was the commercial department of Air India. He further denied the suggestion that the sanction was invalid. Ld. Defence Counsel has even not been able to explain as to how and on what basis the challenge to competency of this witness to grant prosecution sanction has been raised. Hence, it is held that PW3 was the competent person or authority for grant of sanction for prosecution of A-2 in this case and there is nothing on record to take any other view on this aspect.

63. This witness has duly proved on record the sanction granted by him for prosecution of A-2 vide his order dated 26.11.2015 **Ex.PW3/C (pages 3 to 11 of D-89)** by identifying his signatures on each page of the said order at point A thereon. He has also proved on record one letter of even date as **Ex.PW3/B (page 2 of D-89)** forwarding the said sanction order to the CVO, Air India and further identified signatures of the then CVO Ms. Shobha Ohatker at point A on another letter dated 04.12.2015 **Ex.PW3/A (page 1 of D-89)** sent to the then SP of CBI, vide which the above sanction granted by him for prosecution of A-2 was forwarded to the CBI. During his cross examination also, on being shown the letter dated 14.10.2015 written by the then SP of CBI to the CVO, Air India, he stated that it was the letter in response to which his letter dated 26.11.2015 **Ex.PW3/B (page 2 of D-89)** was sent by him to the CVO, Air India. This letter dated 14.10.2015 of CBI has also been exhibited as **Ex. PW3/D2A (D-86)** during his statement. Thus, it emerges out from the above that sanction granted vide order **Ex. PW3/C (page 3 of D-89)** for prosecution of A-2 was granted by him in response to this letter **Ex. PW3/D2A** of the CBI. He also stated voluntarily that all the letters from the law enforcement agencies were routed through the CVO.

64. This witness is also found to have stated specifically during his examination-in-chief itself that the entire record sent by CBI was put up before him through their Vigilance Department for considering the question for grant of sanction to prosecute A-2 and he had perused the entire record carefully and had also applied his mind to facts of the case before granting the said sanction. Even during his cross examination, he stated it specifically that at the time of grant of sanction, he had perused all the documents put up before him, though he was not able to recollect the said documents on date of his examination. Further, during his cross-examination, this witness was also shown one other letter dated 26.02.2014 sent by him to the said SP, along with the documents enclosed therewith, and this letter has been exhibited as **Ex.PW3/D2B (colly) (D-18)**. He also stated that the information given through the said letter was sent on the basis of documents available in their office.

65. It has been argued by Ld. Defence Counsel that the cross-examination of this witness clearly reflects that the witness was not able to tell the nature of documents sent by CBI to him at the time of considering the issue of grant of sanction. It is also argued that the witness was also not able to tell as to on the basis of which documents, it was stated in para no.20 of the sanction order **Ex.PW3/C** that the investigation conducted by CBI had revealed that Sh. Arvind Tiwari knew A-2 and also obtained help of A-2 and further that, on what basis, it was written in para no.22 of the said letter that CDRs of mobile number 9810818307 of A-2 were available to show that he was in touch with Arvind Tiwari on 13.12.2012. Further, it has also been argued that the witness was even not able to recollect if he had seen any draft chargesheet of the case by that point of time and he did not even produce the relevant office file pertaining to grant of sanction at

the time of his examination before this court.

66. However, in considered opinion of this court, no inference can be drawn from the above depositions made by this witness that all the relevant documents or material required for taking a decision on the issue of sanction were not placed before him by the CBI or that the same were not considered by him at that time as the witness has throughout maintained that he had seen and considered all the relevant documents and material at the relevant time of grant of sanction. Moreover, even a bare perusal of the sanction order **Ex.PW3/C (pages 3 to 11 of D-89)** will show that the same is a very detailed and reasoned order consisting of around 11 pages and it shows that all the facts and informations gathered by CBI during the course of investigation, which were relevant for enabling the said authority to take a decision on this aspect, were placed before the witness and the same were also duly considered by him before passing the above order. It has further been observed that the above sanction order contains almost all the minute details of the relevant facts and informations constituting the above criminal conspiracy and commission of substantive offences in pursuance thereof. The non production of office file of Air India pertaining to grant of sanction cannot also be held detrimental to the case of prosecution as the same was not at all required by law. Moreover, if the Ld. Counsel had any doubts or reasons to infer or believe that all such relevant documents and material were not placed before or considered by PW3 at the time of taking a decision on the issue of sanction for prosecution of A-2, then nothing prevented him from summoning the said file at the time of examination of PW3 and this having not been done, Ld. Counsel cannot now be heard of alleging any foul play or deficiency on the part of this witness or prosecution on account of non production thereof.

67. As far as depositions made by the witness that he did not seek any legal advice and he also did not consult any of his senior officers before granting the said sanction are concerned, no defect or infirmity in the process of granting of prosecution sanction or the sanction order itself can also be inferred or drawn therefrom. Similarly, the mere fact that sanction order does not bear the rubber seal of the office of witness also cannot make or turn the said order to be illegal as the witness has specifically stated that the same bears his signatures and since it was typed on his official letterhead, there was no requirement or need of affixing any rubber stamp thereon.

68. It is also the contention of Ld. Defence Counsel that an opportunity of being heard was not given by the witness to A-2 before taking a decision on the issue of grant of sanction for his prosecution and this fact having been specifically admitted by the witness, it renders the sanction order **Ex.PW3/C** to be an illegality and not sustainable in the eyes of law. However, even this argument of Ld. Defence Counsel is not tenable as it is well settled that the act of grant of sanction is only an administrative act and not a judicial or quasi judicial act and hence, an opportunity of hearing was not required to be granted to A-2 before passing the above order and what was required was only that the sanctioning authority should have applied its mind and should have gone through the entire relevant material placed before it and constituting the alleged offences before taking a decision to grant the sanction, which has been duly done in this case. Reference in this regard can be made to the following observations made by the Hon'ble Supreme Court in the case of **Superintendent Of Police (CBI) Vs. Deepak Chowdhary & Ors. 1995 (6) SCC 225:-**

“We find force in the contention. The grant of sanction is only

an administrative function, though it is true that the accused may be saddled with the liability to be prosecuted in a court of law. What is material at that time is that the necessary facts collected during investigation constituting the offence have to be placed before the sanctioning authority and it has to consider the material. Prima facie, the authority is required to reach the satisfaction that the relevant facts would constitute the offence and then either grant or refuse to grant sanction. The grant of sanction, therefore, being administrative act the need to provide an opportunity of hearing to the accused before according sanction does not arise. The High Court, therefore, was clearly in error in holding that the order of sanction is vitiated by violation of the principles of natural justice.”

(Emphasis supplied)

69. Further reliance on this issue can also be placed upon another judgment of the Hon'ble Supreme in case **State Anti Corruption Bureau, Hyderabad Vs. P. Suryaprakasam 1999 SCC (Cri) 375**, wherein their Lordships had observed as under:-

“From the impugned judgment, we next find that the High Court took exception to the fact that the respondent's explanation was not properly considered by the State Government in spite of the earlier order of the High Court as quoted above. This finding of the High Court is also against the law laid down by this Court in *State of Bihar v. P. P. Sharma, 1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192* wherein, in dealing with the question as to whether such an opportunity of giving an explanation and hearing must be granted to the accused and the non grant of the same would vitiate the order of sanction in a case under S.5(2) of the Act, this Court observed: (SCC p. 268, para 67)

'It is equally well settled that before granting sanction the authority or the appropriate Government must have before it the necessary report and the material facts which prima facie establish the commission of offence charged for and the appropriate Government would apply their mind to those facts. The order of sanction is only an administrative act and not a quasi judicial one nor is a lis involved; Therefore, the order of sanction need not contain detailed reasons in support thereof as was contended by Shri Jain. But the basic facts that constitute the offence must be apparent on the impugned order and the record must bear out the reasons in that regard. The question of giving an opportunity to the public servant at that stage as was contended for the respondents does not

arise.' ”

(Emphasis supplied)

70. One other submission of Ld. Defence Counsel in respect to legality of above sanction order and competency of this witness to grant the same is that the witness has specifically admitted during his cross examination that he had already handed over certain documents and provided some information to CBI through his letter dated 26.02.2014 **Ex.PW3/D2B (colly) (D-18)** in connection with investigation of this case and hence, he should not have given sanction for prosecution of the accused vide order dated 26.11.2015 dated **Ex.PW3/C (page 3 of D-89)**. In considered view of this court, even this argument of Ld. Defence Counsel has no legal basis and merely because some information on the basis of records available in office of the witness was furnished to CBI and some documents relevant for investigation of the case were also sent along with the above letter **Ex.PW3/D2B (colly)** by the witness earlier, he does not become a person interested in prosecution of A-2 and hence, it does not in any manner adversely affect the competency of witness to grant sanction for prosecution of A-2 subsequently.

71. Again, no reason or ground could be argued or pointed out before this court on behalf of A-2 as to why PW3 would have granted sanction for prosecution of A-2 without any basis as it has not been alleged or argued before the court that PW3 was having inimical relations with A-2 or any other personal reasons or motives to grant sanction for prosecution of A-2 without any basis and to depose against him falsely. Rather, he being a senior officer of A-2 was expected to protect A-2 from a false and malicious prosecution. Hence, from his act of granting sanction to prosecute A-2 in the present case, it can be

reasonably and legitimately inferred that grant of above sanction by him for prosecution of A-2 was fully justified on the basis of facts and circumstances of the case and documents placed before him. He also specifically denied a suggestion given to him by Ld. Defence Counsel that the sanction was granted by him in a mechanical manner or under the pressure of CBI.

72. Therefore, in view of the above factual and legal discussion, it is held that even the above sanction granted vide order **Ex.PW3/C** by this witness for prosecution of A-2 is perfectly a valid and legal sanction and it does not suffer from any defect or illegality.

73. Coming to merits of the case, as already discussed, a charge for criminal conspiracy has been framed by this court in the present case against A-1, A-2 and A-3 for commission of the offence of criminal conspiracy punishable U/S 120B IPC r/w Sections 420 r/w 511 IPC, Section 471 IPC and Section 15 of the PC Act r/w Sections 13 (1) (d) and 13 (2) of the said Act and this charge has been framed on allegations and on finding of *prima facie* evidence in the case to show that these three accused persons had conspired together or entered into a criminal conspiracy and in furtherance of the said conspiracy, A-3 Arvind Tiwari, on being asked by PW36 Sh. Gunjan Kumar who was acting at the instance of A-1 Anil Kumar Sahani, had procured the PNR Nos. YZ4PW and HZR3L for flights AI022 and AI0787 from PW39 Sh. Anup Singh Pawar of M/s Air Cruise for the journey of A-1 Anil Kumar Sahani as well as his 6 other companions for the sector Delhi-Port Blair-via-Kolkata on dates 13.12.2012, 14.12.2012 and 16.12.2012 and based on the said PNRs and other information conveyed by A-3 to A-2, A-2 N.S. Nair who was the Office Superintendent (Traffic) of Air India posted at IGI Airport, New Delhi, got issued 13 boarding passes in

connection with the above said journey by exercising his influence over PW42 Ms. Rubeena Akhtar and PW43 Ms. Shibi Punnen, the CSAs of AISATS posted at IGI Airport, without any actual e-tickets or numbers thereof and the said fake boarding passes for two flight numbers AI022 and AI0787, and also some other boarding passes arranged subsequently by A-3 for one other flight number AI9602 of the same sector, and fake e-ticket nos. 0981005623501-507 were delivered at the residence of A-1 by PW36. Further, A-3 had also filled up the TA/DA claim form in respect to the above journey of A-1 and his other companions and after getting the signatures of A-1 on this form as well as on the above fake e-tickets, he had submitted the said form as well as the fake e-tickets and boarding passes in the office of Rajya Sabha Secretariat and thus, A-1 on the basis of these fake e-tickets and boarding passes had set up a false claim for reimbursement of Rs.9,49,270/- from his office for the above journeys, which were never undertaken or performed.

74. Besides the above charge of criminal conspiracy coupled with the relevant sections of IPC and the PC Act, charges for commission of the substantive offences or attempts thereof, based on the above said documents pertaining to journey of A-1 and his other 6 companions, have also been framed against A-1 and apart from these, he has further been charged for one other attempt to claim another amount of Rs. 14,22,190/- in respect to his purported journey with 9 other companions for the sector Delhi-Port Blair-via-Chennai on dates 23.03.2012, 24.03.2012 and 26.03.2012 on the basis of fake e-tickets no. 0982102583511-530 and as is clear from the dates of these purported journeys, this claim was submitted by him even prior to his above said claim for reimbursement for the journey of sector Delhi-Port Blair-via-Kolkata. Hence, it becomes necessary to discuss and

appreciate the evidence led on record separately in respect to both the above said journeys and the charges framed in respect thereto.

CHARGE OF CRIMINAL CONSPIRACY AGAINST A-1, A-2 AND A-3 IN RESPECT TO THE JOURNEY FOR THE SECTOR DELHI TO PORT BLAIR-VIA-KOLKATA

75. As discussed above, the purported dates of journey of A-1 and his 6 other companions for this sector were 13.12.2012, 14.12.2012 and 16.12.2012. Admittedly, A-1 had been a MP of Rajya Sabha for two terms and his first term was w.e.f. 01.01.2010 to 02.04.2012 and his second term was from 03.04.2012 to 02.04.2018. His appointment during the first term was to fill up the vacancy created by death of his father Sh. Mahender Sahani. The claim for reimbursement made by A-1 in respect to the above journey between Delhi and Port Blair-via-Kolkata and the charge of criminal conspiracy framed against him, A-2 and A-3 in respect thereto admittedly pertain to his second tenure as an MP. The incriminating evidence brought on record by the prosecution to prove this charge of criminal conspiracy can be broadly considered and appreciated under the following heads:-

PROCUREMENT OF FAKE E-TICKETS AND BOARDING PASSES BY A-1 FROM A-3 THROUGH PW36 AND DELIVERY THEREOF AT THE RESIDENCE OF A-1 BY PW36

76. PW36 Sh. Gunjan Kumar is one of the star witnesses of prosecution story and he was proprietor of ACME Group at Akshardham Apartments, Dwarka, New Delhi. He claims that he was dealing in supply of computers and computer systems to the MPs of both houses of Parliament and due to this reason, he not only knew the father of A-1, but A-1 as well. He claims that he had even worked as PA to father of A-1. He also claims that he knew Arvind Tiwari (A-3) too, who was working with M/s Murgai Travels and was providing air tickets

and other services to the MPs. He further claims that the said Arvind Tiwari had later worked with Sh. Vinay Kumar Pandey, MP, Lok Sabha in the year 2012. He also claims that earlier, on request of A-1, he got purchased 2 air tickets for A-1 through Arvind Tiwari for journey of the said accused between Delhi and Patna and payment therefor i.e. of around Rs.30,000/- to Rs.32,000/- was given by A-1 to the said travel agent.

77. Though, during the course of recording of his statement U/S 313 Cr.P.C., A-1 has admitted that he knew this witness and he had also earlier got 2 tickets purchased through the witness, but he expressed his ignorance as to from where the witness had arranged these 2 tickets for him and he also denied knowing the accused Arvind Tiwari.

78. PW36 has also specifically stated on record that A-1 informed him that his 20 journeys were still unavailed and he had to take tickets for those journeys. He further claims specifically that he had arranged 7 tickets for to and fro journey of A-1 and his 6 other companions through Arvind Tiwari for this sector. He further states specifically that he had handed over these air tickets and boarding passes at the residence of A-1 and A-1 even subsequently requested him to fill up the TA form in respect thereto, which he declined. He further states that the TA form was then filled up by Arvind Tiwari in his presence and he also identified the handwriting of A-3 Arvind Tiwari in the said form **Ex.PW1/A (page 1 of D-2)** as well as signatures of A-1 thereon, when the same have been shown to him during his examination in the court. For proper appreciation of the testimony of this witness, the relevant depositions made by him on pages 2&3/5 of his examination-in-chief recorded on 18.03.2019 on these aspects are being reproduced as under:-

“A-1 Anil Kumar Sahani also informed that his twenty journeys are still un-availed and he has to take tickets for those journeys also. I do not know whether he had to perform the journeys or not. I again contacted Sh. Arvind Tiwari for the tickets. A1 Anil Kumar Sahani told that the payment to the travel agent will be made by way of cheque by him. However, Sh. Arvind Tiwari told that it is not possible to get twenty tickets in one go and advised to take seven tickets for to and fro journey. Sh. Arvind Tiwari thereafter provided seven to and fro tickets and boarding passes to me which I handed over at the residence of Sh. Anil Kumar Sahani. At that time, Sh. Anil Kumar Sahani was not at home. After sometime, I got a call from A1 Anil Kumar Sahani who told me that the name of travel agent is not mentioned on the tickets. I therefore, returned those tickets to Sh. Arvind Tiwari. Same day, Sh. Arvind Tiwari gave me air tickets showing the name of travel agent on the tickets. I handed over the tickets to Sh. Anil Kumar Sahani. Sh. Anil Kumar Sahani signed the tickets and boarding passes which were given by me to him and handed over them to me. He inquired me whether I can fill TA bill but I declined and then he requested me to get the TA bill filled up from Sh. Arvind Tiwari. Then again, I contacted Sh. Arvind Tiwari. Sh. Arvind Tiwari filled up the TA form in my presence. Sh. Arvind Tiwari also mentioned his mobile number on the back of one of the air tickets.”

79. On being shown **page 1 of D-2**, PW36 has identified it to be the TA bill (arrival departure report/intermediate journey) form filled by A-3 Arvind Tiwari in his presence and he specifically identified the handwriting appearing at encircled portion G in the said form to be the handwriting of A-3 and also the signatures appearing on the said form at points D to be of A-1. The above TA bill form has been exhibited by the witness as **Ex.PW1/A (page 1 of D-2)**. He was also shown the trip itinerary/e-tickets already **Ex.PW13/A (colly)** on pages 5 to 9 and 3 boarding passes already marked as **Mark PW2/1 to Mark PW2/3** on pages 2 to 4 of the said file/document **D-2** and he identified these to be the same e-tickets and boarding passes which were given to him by A-3 and which he had delivered at the residence of A-1. He also identified the signatures of A-1 at points D on all the above e-tickets. These e-tickets and boarding passes are found to be in respect to the above journey of A-1 and his 6 other companions for the sector Delhi-Port

Blair-via-Kolkata. It is observed that the trip itineraries/e-tickets of this journey are actually available on pages 5, 6, 10, 14, 18, 25 & 29 and rest of the documents on pages 5 to 29 of this file are the boarding passes for the said journey, but these boarding passes are found to have not been shown to the witness due to some mistake or inadvertence on the part of Ld. Sr. PP and only 3 boarding passes **Mark PW2/1 to Mark PW2/3** available on pages 2 to 4 of the file were shown to him though, as per the claim made by witness, all the above e-tickets and boarding passes were of this sector of journey of A-1 and his other companions and the same were arranged by him through A-3 on request of A-1 and were also delivered by him at residence of A-1.

80. Then, this witness is also found to have deposed regarding non clearance of above TA claim by the Rajya Sabha Secretariat; the reasons therefor and also the return of the said TA claim of A-1. For better appreciation, the relevant depositions made by PW36 on pages 4&5/5 of his examination-in-chief recorded on 18.03.2019 on these aspects are also being reproduced herein below:-

“The TA claim bill of Sh. Anil Kumar Sahani was deposited with Rajya Sabha Sectt. by Sh. Arvind Tiwari as he was having a entry pass for entering Rajya Sabha. I had informed Sh. Anil Kumar Sahani after submitting his TA claim bill with Rajya Sabha Secretariat. After sometime, I was told by A1 Anil Kumar Sahani that he has still not received the payment in his account from the Rajya Sabha Sectt. for the TA bill submitted on his behalf. I did not make any query from Rajya Sabha Secretariat. Sh. Anil Kumar Sahani asked me to request Sh. Arvind Tiwari to find out why has TA bill has not been cleared. I had told Sh. Anil Kumar Sahani that it will not be possible for Sh. Arvind Tiwari to make inquiries. Thereafter Sh. Anil Kumar Sahani inquired from the Secretariat of Rajya Sabha and was informed that there was some issue with regard to fare and some clarification has been sought. I had no conversation regarding TA bill with any other person. After sometime, Sh. Anil Kumar Sahani received a letter from Rajya Sabha Secretariat stating therein that the air tickets and boarding passes submitted on his behalf were fake and he will not be given any payment against his TA bill.

Thereafter, Sh. Anil Kumar Sahani asked me to take back the TA bill from the Sectt. of Rajya Sabha. However, I refused as I was

not the PS of the MP and therefore could not enter the Sectt. of Rajya Sabha. On the request of Sh. Anil Kumar Sahani, I requested Sh. Arvind Tiwari but he also expressed his inability to take back the TA bill submitted on behalf of Sh. Anil Kumar Sahani from Sectt of Rajya Sabha.”

81. PW36 has been cross examined only by Ld. Counsels for A-1 and A-3 and Ld. Counsel for A-2 has not thought it necessary to cross examine him. Even during his cross examination conducted by Ld. Counsel for A-1, the witness has specifically maintained that he knew the father of A-1 and he also stated that A-1 was allotted the same flat in Delhi, which was earlier allotted to his father. He further stated that he himself had told A-1 that 20 air tickets could not be arranged at one instance and he also stated that the tickets were delivered by him to some person at the residence of A-1. He also reiterated that A-1 had called him to inform subsequently that the name of travel agent was not mentioned on the tickets. He also claimed that he had seen A-1 signing earlier too when he visited A-1 to take the orders for computer hardware. He also deposed about recording of his statement by the IO of CBI as well as U/S 164 Cr.P.C. before a Magistrate at Patiala House Court, where he had gone accompanied by some CBI officials. However, this statement of the witness recorded U/S 164 Cr.P.C. was though a part of the judicial record, but the same is not found to have been put to the witness either during his chief or his cross-examination.

82. Though, Ld. Defence Counsel has pointed out that the witness has not been able to tell the dates or months of various facts and events deposed by him and as stated above, like as to when A-1 asked him to arrange 20 air tickets; when he delivered it at the residence of A-1; when he received a call from A-1 regarding the name of travel agent not being there on e-tickets and when his statement was recorded by the CBI etc., but the same do not adversely affect the veracity of

depositions or claims made by this witness as it could not have been humanly possible for him to recollect or remember the dates or months etc. of these events and rather, the same could have been told by the witness only if he was tutored to make a statement in a given manner. Similarly, even if the witness was not able to recollect or remember as to what was the percentage which A-1 was supposed to give to the travel agent; to whom the witness had delivered the above tickets at residence of A-1; what was the name or relation of that person with A-1 and in what ink and on what date etc. A-1 had signed the above TA bill form and e-tickets, these things do not prevent the court from acting upon the testimony of this witness as the veracity thereof still remains unaffected.

83. Nothing material is also found to have been extracted during the cross examination of PW36 conducted by Ld. Counsel for A-3 as even during his such cross-examination, the witness had stood to his above depositions and claims. He stated that he was providing computer hardware etc. to the MPs since 2007 being working for some other company earlier and thereafter, he started his own concern in the year 2009. He also stated that the payments for these supplies were made to him by the Parliament, but occasionally even the MPs used to make payments to him and then they used to claim reimbursement from the Parliament. Though, he admitted that he used to visit Parliament in connection with his work or business, but he denied the suggestion given to him by Ld. Defence Counsel that during his such visits, he had deposited the above false claim bill at the same counter, where he used to deposit his claims relating to computer supplies. Further, though, he was not able to tell if the ink used for writing the name of A-1 at two points marked as D on **Ex.PW1/A (page 1 of D-2)** was different from the ink used in signatures of the said accused appearing

at the same point Mark D on pages 5, 6, 10, 14, 18, 25 and 29 of **Ex.PW13/A (colly) (D-2)**, but it nowhere affects the credibility of his testimony. Again, though, he also admitted that there was some difference in writing the alphabet 'A' of signatures of the said accused appearing in green ink at two points **Mark D on Ex.PW1/A**, but even this does not matter much as some sort of variation is bound to be there in the natural course in different signatures put by the same person.

84. Further, during his cross-examination conducted by Ld. Counsel for A-3, the witness is also found to have clarified that payment by A-1 for two tickets between Delhi to Patna, which were previously got booked by him for A-1 through the accused Arvind Tiwari, was made by A-1 to him in cash only and he had handed over further the said payment to the accused Arvind Tiwari. He also denied a suggestion that the said payment could not have been made in cash or it was required to be made through cheque only, to enable the said accused to claim reimbursement for the same. No document has also been brought on record by Ld. Defence Counsel to show as to on what basis the above suggestion was given to the witness or as to under what rule or provision the said payment could not have been made by A-1 in cash only. The witness has also denied the suggestion that the words 'Arvind' and mobile number '9873826036' on **Ex.PW4/A** (reverse side of page 29 of D-23) were written in his handwriting.

85. It is found that this witness is an independent witness having no reason or motive to depose falsely against A-1 or even against A-3 and hence, there is no reason to disbelieve or discard his testimony and rather, the same is required to be given more weight and relevance as he has gone on record to depose against A-1 as well as the other

accused even though A-1 was previously known to him and was holding a very high position and status as MP. Though, few suggestions are found to have been given to the witness by Ld. Counsel for A-1 to the effect that he has deposed falsely before this court under the influence of CBI and also to save his own skin as he was the main culprit of this case, but these suggestions were duly denied by the witness as wrong. Further, the witness is also found to have been suggested by Ld. Counsel for A-1 that he connived with one Rajan, who was PA of A-1, and misused the above TA bill and also that he was in conspiracy with the above Rajan, Avinash Singh and Arvind Tiwari and in furtherance of that conspiracy, they had used the above blank TA claim form signed by A-1 in making a false claim for reimbursement on their own, but even these suggestions were specifically denied by the witness as wrong and he also denied that he even knew the above Rajan, though he stated that he knew Avinash Singh who was working as PA of A-1.

86. Ld. Defence Counsels have also submitted that the witness has not been able to tell whether A-1 had to perform the above journey or not, but even this deposition of the witness has got no relevance as he is also found to have stated on record specifically that A-1 told him that payment for the above tickets was to be made through cheque and it was to be taken back from the travel agent in cash and these depositions of the witness clearly indicate that A-1 only wanted tickets for the said journey without having any intention of undertaking the journey. Thus, this witness duly supports the case of prosecution on the aspect that on the request and at instance of A-1, he had procured and arranged the above e-tickets and boarding passes from A-3 and delivered the same at the residence of A-1. He also supports the prosecution case on aspect that the above TA bill form for the above

journey of A-1 and his other 6 companions was filled up by A-3 and A-1 had also signed the said form and the e-tickets in his presence, before the said claim was lodged and documents were deposited with the Rajya Sabha Secretariat by A-3 on request of A-1.

**GENERATION & CANCELLATION OF PNRs FOR BOARDING
PASSES FOR THE ABOVE JOURNEY BY PW39 ANUP SINGH
PANWAR AT THE INSTANCE OF A-3 ARVIND TIWARI**

87. PW39 Sh. Anup Kumar Panwar, who is a co-accused tuned as approver, is another material witness of prosecution with reference to the charge of criminal conspiracy framed against all the three accused persons facing trial herein, as well as the charge for commission of substantive offences framed against A-1 with reference to the said conspiracy pertaining to the above said procurement and use etc. of fake documents for setting up a false claim for reimbursement in respect to above journey of A-1 and his other companions for the sector Delhi-Port Blair-via-Kolkata.

88. As already discussed, this witness was an employee of M/s Air Cruise and he claims that he was working with the said company as Counter Executive since 2010 and the company was having office at Lajpat Nagar, New Delhi. He was dealing with issuance of tickets for corporate clients. He also stated that prior to this, he was working with M/s Ish Tours and Travels and the accused Arvind Tiwari was known to him as the said accused was working with M/s Murgai Travels and the said accused as well as other agents used to purchase tickets from M/s Ish Tours and Travels Pvt. Ltd. Though, he was not able to tell as to till when A-3 Arvind Tiwari had worked with M/s Murgai Travels, but he also stated that he came to know in the year 2012 that Arvind Tiwari became PA of some MP. He also identified the accused Arvind Tiwari during his statement made before this court.

89. This witness had then explained the procedure for issuance of tickets as well as generation of PNRs by the travel agents authorised by the International Air Transport Association (IATA) as well as by the unauthorized travel agents. He also then deposed about generation of above 3 PNRs by him on request of A-3 for the above journey of A-1 and his 6 other companions and further stated that he was given a sum of Rs.5,000/- by A-3 for this job of generation of PNRs without the actual travel tickets. For better appreciation of testimony of this witness also, the relevant depositions made by him on pages 3-5/10 of his examination-in-chief recorded on 25.04.2019 are being reproduced herein below:-

“Q: On 13.12.2012, who had called you ?

A: Sh. Arvind Tiwari had called me who told me to book air tickets from Delhi to Port Blair for a MP. The name of the MP was sent through message later on. The name of the MP was Anil Kumar Sahani but I do not remember the name of his companion passengers.

The request was only for one way ticket and not for return ticket. I was told to book the tickets and when I asked for the money, he said that the tickets would be later on cancelled and reimbursement for the same will be taken. However, I got apprehensive fearing that I may not be cheated as if the passengers do not pay the fare liability come on me. Therefore, I refuse the request of Sh. Arvind Tiwari for generating e-tickets. When I refused to generate e-tickets then Arvind Tiwari requested to just generate PNR in the names of Mr. Sahani and others whose details were shared by him through message. PNR generation does not create any liability at my end therefore, I agreed to creat PNR. Arvind Tiwari told me that he has connection with staff of Air India and on the basis of this PNR he would ensure boarding passes. Vol. On the basis of PNR, boarding pass cannot be generated in the absence of e-tickets. First, I tried to generate PNR for seven persons on the request of Arvind Tiwari. However the same were wait listed. These were for Delhi-Port Blair via Kolkata sector for Air India flight. Since, the PNR were wait listed, Arvind Tiwari requested me to generate two PNRs, first for four persons and then for the remaining persons. The first four were for business class and remaining for economy class. I conveyed PNR numbers to Arvind Tiwari through SMS through my mobile. I am using the same mobile number even today. I was told to cancel the PNR after sometime by Sh. Arvind Tiwari stating that 'kaam ho gaya

hai'. This may be within half an hour of generation of the PNRs without issuing tickets. He had told me that he will try to manage boarding passes on the basis of PNRs given by me in the absence of tickets. Vol. The PNR can be generated by making a call to the customer care of Air India by any passenger. For this transaction of creating PNR without tickets he had given me Rs.5000/- in January 2013.”

90. The witness was also shown the file/document **D-42** pertaining to generation of above PNRs and he identified signatures of Sh. Vipin Sharma, Managing Director of his company at point A on one letter dated 07.01.2014 appearing on top of this file. This letter was sent to the IO of CBI providing certain documents mentioned in the letter itself. The documents supplied through this letter were already **Ex. PW20/A (colly) (D-42)** and these are found available on page nos. 1 to 185 of the said file. The witness also identified a copy of his own appointment letter dated 07.06.2010 of the said company, which is available on pages 1 to 5 of the documents **Ex.PW20/A (colly)**. He further identified the signatures of Sh. Sudhir Kochar at point B on this letter, which were put thereon in token of certification of the said documents. Prior to this, the witness has also stated on record that Sh. Vipin Sharma was the Managing Director of their company and Sh. Sudhir Kochar was the Sales Executive Director.

91. The witness also stated on record that PNR history of generation of above 3 PNRs no. YZ489, YZ4PW and HZR3L was available in the said file and the same was enclosed with the above letter sent to CBI and this PNR history was generated by him. He further stated specifically that his sign-in-code and the abbreviation of his name as 'AP' were there in the above PNR history. The relevant depositions made by the witness on this aspect on pages 5&6/10 of his examination-in-chief recorded on 25.04.2019 are also being reproduced herein below:-

“This letter also encloses PNR history of system PNR No.29ZD0U, Airlines PNR is YZ489 this is wait listed PNR. The PNR of four passengers is YZ4PW. The PNR of three passengers namely HZR3L. The passengers in the PNR YZ4PW are Anil Kumar Sahani, Anil Chadha, Arvind Kumar and Sh. Ram Naresh. The passengers in PNR HZR3L are Atul Kumar, Manjeet Singh and Sh. Rajesh Khatri. These PNRs were generated by me on the request of Sh. Arvind Tiwari. My sign in ID is mentioned in this PNR is 406851 at point A on page 8 of Ex.PW20/A (Colly). 'AP' stands for my name 'Anup Panwar' at point B at page 8 on Ex.PW20/A (colly). As per the detailed chart of PNR generated by me, '1G' stands for Galileo and AI stands for Air India.”

92. This witness is found to have been cross examined only by Ld. Counsel for A-3 and during his cross examination also, the witness has maintained that he was mostly dealing with ticket booking of corporate clients and he had been issuing air tickets on request of A-3, though he qualified his depositions by saying that it may be possible that A-3 might have purchased air tickets from him in his individual capacity and might have given payment for these tickets to him in cash in the office of M/s Air Cruise. He also stated that A-3 might have been working with M/s Murgai Travels since the year 2009 and he himself was working at the same post of Counter Executive even with M/s. Ish Tours & Travels. He also stated on record that as per his knowledge and understanding, the boarding pass cannot be generated on the basis of PNR and in the absence of ticket and also that the PNR number as well as air ticket number are required to be mentioned on boarding pass. He was also shown the above three boarding passes **Mark PW2/1 to Mark PW2/3** in file/document **D-2** and he stated it to be correct that PNR numbers were not there on these boarding passes, which came to be exhibited during his cross examination as **Ex.PW39/A3 (colly) (pages 2 to 4 of D-2)**. However, he stated that e-ticket number was mentioned on one of these boarding passes. He was also shown by Ld. Defence Counsel the remaining boarding passes available on pages 7 to 9, 11 to 13, 15 to 17, 19 to 24 and 26 to 28, which were part of the documents

Ex.PW13/A (colly) (D-2) and he admitted that PNRs number were not written even on these boarding passes and the same had also not got faded. However, even in respect to these boarding passes, he stated that e-ticket numbers were mentioned in some of the boarding passes only. He also volunteered that there was no PNR number or e-ticket number on the tickets for Delhi to Port Blair flights, but e-ticket numbers were mentioned on the tickets from Port Blair to Delhi flight.

93. Ld. Defence Counsel has also asked the witness to tell the details of flight and sector thereof in respect to PNR No.YZ4PW and the witness on seeing page 8 of the PNR history **Ex.PW20/A (colly) (D-42)** stated that this PNR number was in respect of flight dated 13.12.2012 from Delhi to Kolkata, departure time 20:15 and arrival time at Kolkata 22:25 (it appears that flight no. AI-022 is not typed in reply given by the witness for this flight though the details pertain to the same and the flight no. AI-022 is also found mentioned on the above said page) and the connecting flight no. AI-0787 from Kolkata to Port Blair having departure time 5.30 and arrival time 7.35 in the morning. On being shown by the Ld. Defence Counsel the boarding pass for Delhi to Kolkata flight available on page 7 of **Ex.PW13/A (colly)**, though the witness admitted that boarding time visible on this boarding pass was 19 and something else, which was found covered with a rubber stamp impression affixed on the said boarding pass and which made the reading of boarding pass time unclear, but this is not found to be of much relevance. The witness also admitted it to be correct that the time of issuance of the boarding passes was not mentioned on these boarding passes, but even this is not relevant. The witness also admitted it to be correct that these boarding passes nowhere show that the same had been issued on the basis of PNRs generated by him on the request of Arvind Tiwari, but even this was merely a repetition of

the earlier questions as the witness had already stated on record specifically that the boarding passes appearing on different page numbers of the above file/document **D-2**, as stated above, were not bearing the PNR numbers.

94. Further, Ld. Defence Counsel is also found to have shown to the witness the boarding pass bearing no. 79 appearing on page 3 (**Mark PW2/2 of file/document D-2**) and having e-ticket number printed thereon and the witness stated that the said boarding pass was for the flight from Port Blair to Delhi. He also stated it to be correct that he had not booked or generated any PNR for the journey from Port Blair to Delhi. He was also shown the boarding passes no. 85, 85, 80, 81, 82, 83 and 84 available on pages 9, 12, 13 (wrongly typed as 30 in statement of the witness), 17, 21, 24 and 28 of the above file/document **D-2** and was again asked by Ld. Defence Counsel that the same were not generated on the basis of PNRs provided by him and the witness replied that so far as he recollected, he did not provide any PNR for these boarding passes as he had provided PNRs only for Delhi to Port Blair flights. It is necessary to mention here that except one boarding pass no. 85 appearing at **page no. 12 of D-2** for Kolkata to Port Blair flight, all these boarding passes shown to the witness were of flight from Port Blair to Delhi and hence, the answer given by the witness has to be understood in that sense only. So far as the above boarding pass no. 85 for Kolkata to Port Blair flight is concerned, it is observed that not only this, but on these other boarding passes being pointed by Ld. Defence Counsel as well, the flight number AI-9602 is found mentioned and this flight was stated to be operating from Port Blair to Delhi only and this flight number is found to have been used for only for the return journey of A-1 and his other companions from Port Blair to Delhi on 16.12.2012. The mentioning of flight no. AI-9602 even on one

boarding pass no. 85 on **page 12 of D-2** for Kolkata to Delhi flight is also required to be understood in light of the case of prosecution that all these boarding passes for the flight AI-9602 mentioned thereon were not issued from IGI Airport or Delhi or on the basis of PNRs generated by this witness. Thus, this witness, rather, supports the case of prosecution on this aspect.

95. Though, the witness has not been able to tell the designation of Arvind Tiwari in M/s Murgai Travels and also the timings of receiving and making of the calls or chats between him and Arvind Tiwari or the contents thereof, but all these details were not expected to be remembered by the witness and the omission to do also does not go against the case of prosecution when the testimony of this witness is otherwise found supporting the prosecution case on all material aspects. Thus, it clearly emerges out from the testimony of this witness that accused Arvind Tiwari (A-3) had sent him the names and other details of the above journey of A-1 and his other companions for generation of PNRs and the above three PNRs were generated by the witness at request of A-3 and the details of these PNRs were also communicated through an SMS by him to A-3 and these PNRs were also subsequently cancelled by him, when A-3 told him that purpose for which these PNRs were got generated from him by A-3 stood already accomplished. As discussed earlier, the first of these PNRs i.e. PNR No. YZ489 generated by the witness had to be cancelled since it was wait listed and the other two PNRs i.e YZ4PW and HZR3L generated by him for 4 and 3 passengers respectively were only in respect to the two flights bearing no. AI-022 and AI-0787 and even these two PNRs were subsequently cancelled by him as per instructions of A-3.

96. Some discrepancy has been pointed out by Ld. Defence

Counsels in his testimony as he is found to have stated during his cross examination at one place that he did not remember whether he had sent any SMS to A-3 Arvind Tiwari or not and immediately thereafter, he is also found to have stated that since PNRs numbers were given to him, they might have been given telephonically or through SMS. However, this discrepancy can be safely ignored in view of his specific depositions during his chief examination as well as during his cross examination that the PNR numbers were communicated by him to Arvind Tiwari through SMS and his oral depositions to this effect are further found substantiated by the documentary evidence led on record. The above discrepancy might be the result of some misunderstanding of the question by the witness or slip of tongue on his part.

97. Ld. Defence Counsels have also challenged the admissibility of testimony of this PW Sh. Anup Singh Panwar on the ground that he was an accomplice in commission of alleged offences and hence, his testimony is outrightly liable to be discarded and should not be acted upon against the other accused persons facing trial because in order to save his skin, it was very natural on his part to falsely implicate the other accused persons for commission of the above said offences. Therefore, it is their submission that testimony of PW39 should not be considered by this court at all against the other accused persons facing trial herein.

98. As already discussed, PW39 was though also made an accused (A-4) in chargesheet filed in the present case, but subsequently, on an application moved to this effect on behalf of the said accused and also on the basis of no objection to this effect given by the CBI, he was granted pardon vide order dated 23.05.2017 subject to condition that

he will make a full and true disclosure of the facts and circumstances of the case within his knowledge and also about persons relating to the said offences. It was further directed that this pardon was subject to the conditions contained U/S 308 Cr.P.C. and also that if he was found to be concealing any material fact or giving a false statement, then he could be tried for the offences for which he was tendered pardon.

99. When testimony of PW39 is analyzed and appreciated upon the touchstones of principles and provisions governing the grant or tender of pardon to an accomplice, as contained under Sections 306 to 308 Cr.P.C., this court is satisfied that PW39 has duly kept and complied with the conditions subject to which he was tendered pardon and was permitted to be made an approver in this case. It is so because during his statement made before this court, he is found to have given a true and correct statement of facts of the present case leading to commission of the alleged offences and he has also specifically deposed about not only the roles played by the other accused persons in the said offences, but also about his own involvement and role. He specifically stated before the court that he was given a sum of Rs.5,000/- by the accused Arvind Tiwari for generation of above PNRs without the actual air tickets for the above journey of A-1 and his other companions for the sector Delhi to Port Blair-via-Kolkata and he generated the above three PNRs and then communicated the details thereof from his mobile to the mobile number of accused Arvind Tiwari.

100. It is well settled that since an approver had been an accomplice or a co-accused involved in commission of a crime at one point of time, his testimony as a witness at a later stage has to be considered and accepted with utmost care and caution and it is generally not safe to rely upon his testimony alone with regard to the manner of commission

of offences unless he is corroborated by the other independent evidence on material particulars. This requirement of corroboration of an approver's testimony is a rule of prudence and hence, the court must anxiously look for some corroboration in order to ascertain the authenticity and reliability of such evidence. However, it is also well settled now that the corroboration of an approver's testimony is not required on each and every particular or minute details and it is sufficient if it gets corroboration on material aspects from the other independent evidence.

101. The legal provision or principle with regard to consideration of an approver or accomplice's testimony is found incorporated in Section 133 of the IEA, which lays down as under:-

“133. Accomplice: - An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.”

The rule of prudence or caution with regard to appreciation of an approver's testimony is also found incorporated in illustration (b) of Section 114 of the IEA, which provides as under:-

“(b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars.”

Thus, the rule of evidence or law with regard to appreciation of an approver's testimony as incorporated in the above Section 133 of IEA is that the court can act upon and even base conviction on his testimony and such a conviction shall not be illegal, but the rule of prudence contained in illustration (b) to Section 114 of the said Act is that an approver or accomplice is unworthy of credit, unless he is corroborated in material particulars.

102. In the case of **Rameshwar Vs. The State of Rajasthan, 1952**

AIR 54, the Hon'ble Supreme Court had considered the nature and extent of corroboration which is required for acting upon the testimony of an approver or accomplice and had also laid down certain principles to this effect in following words:-

“The nature and extent of the corroboration that is required when it is not considered safe to dispense with it, must necessarily vary with the circumstances of each case and also according to the particular circumstances of the offence charged. It is however clear (i) that it is not necessary that there should be independent confirmation of every material circumstance in the sense that the independent evidence in the case, apart from the testimony of the complainant or accomplice, should itself be sufficient to sustain conviction; all that is required is that there must be "some additional evidence rendering it probable that the story of the accomplice (or the complainant) is true and that it is reasonably safe to act upon it," (ii) The independent evidence must not only make it safe to believe that the crime was committed but must in some way reasonably connect the accused with it; (iii) the corroboration must come from independent sources and thus ordinarily the testimony of one accomplice would not be sufficient to corroborate that of another accomplice;(iv) the corroboration need not be direct evidence that the accused committed the crime; it is sufficient if it is merely circumstantial evidence of his connection with the crime.
”

(Emphasis supplied)

103. Another landmark case in respect to consideration of an approver's testimony is the case of **Sarwan Singh vs The State of Punjab, 1957 AIR 637**, wherein the Hon'ble Supreme Court had not only laid down the double test, which is required to be satisfied before the statement of an approver can be acted upon, but had also laid down the extent to which the testimony of approver needs corroboration. The relevant observations of their Lordship as made in the above said case are also being reproduced herein below:-

“An accomplice is undoubtedly a competent witness under the Indian Evidence Act. There can be, however, no doubt that the very fact that he has participated in the commission of the offence introduces a serious stain in his evidence and courts are naturally reluctant to act on such tainted evidence unless it is corroborated in material particulars by other independent

evidence. It would not be right to expect that such independent corroboration should cover the whole of the prosecution story -or even all the material particulars. If such a view is adopted it would render the evidence of the accomplice wholly superfluous. On the other hand, it would not be safe to act upon such evidence merely because it is corroborated in minor particulars or incidental details because, in such a case, corroboration does not afford the necessary assurance that the main story disclosed by the approver can be reasonably and safely accepted as true. But it must never be forgotten that before the court reaches the stage of considering the question of corroboration and its adequacy or otherwise, the first initial and essential question to consider is whether even as an accomplice the approver is a reliable witness. If the answer to this question is against the approver then there is an end of the matter, and no question as to whether his evidence is corroborated or not falls to be considered. In other words, the appreciation of an approver's evidence has to satisfy a double test. His evidence must show that he is a reliable witness and that is a test which is common to all witnesses. If this test is satisfied the second test which still remains to be applied is that the approver's evidence must receive sufficient corroboration. This test is special to the cases of weak or tainted evidence like that of the approver."

(Emphasis supplied)

104. Further, even in the case of **State of Rajasthan Vs. Balveer @ Balli & Anr., AIR 2014 SC 1117**, the Hon'ble Supreme Court dealt with the nature and extent of corroboration required for an approver's testimony before it could be acted upon, besides discussing the justification behind incorporation of the above provision U/S 306 Cr.P.C. relating to grant of tender of pardon to an accused, and not only the propositions of law laid down in the case of **Rameshwar (Supra)** were referred to in this judgment by their Lordships, but the propositions of law laid down in another case titled as **Suresh Chandra Bahri Vs. State of Bihar, 1995 Supp.(1) SCC 80** were also reiterated and quoted while making the following observations:-

"This Court in the case of Suresh Chandra Bahri vs State of Bihar [1995 Supp.(1) SCC 80] explained the object of Section 306 Cr.P.C. in the following words:-

'The object of Section 306 therefore is to allow pardon in cases where heinous offence is alleged to have been committed by several persons so that with the aid of the

evidence of the person granted pardon the offence may be brought home to the rest. The basis of the tender of pardon is not the extent of the culpability of the person to whom pardon is granted, but the principle is to prevent the escape of the offenders from punishment in heinous offences for lack of evidence. There can therefore be no objection against tender of pardon to an accomplice simply because in his confession, he does not implicate himself to the same extent as the other accused because all that Section 306 requires is that pardon may be tendered to any person believed to be involved directly or indirectly in or privy to an offence.” Thus, the High Court failed to appreciate that the extent of culpability of the accomplice in an offence is not material so long as the magistrate tendering pardon believes that the accomplice was involved directly or indirectly in or was privy to the offence. The High Court also failed to appreciate that Section 133 of the Indian Evidence Act provides that an accomplice shall be a competent witness against an accused person and when the pardon is tendered to an accomplice under Section 306, Cr.P.C., the accomplice is removed from the category of co-accused and put into the category of witness and the evidence of such a witness as an accomplice can be the basis of conviction as provided in Section 133 of the Indian Evidence Act.’”

(Emphasis supplied)

105. Hence, in view of above discussion, there is no doubt in mind of this court that the testimony of PW39 Sh. Anup Singh Panwar can be safely acted upon by this court and even conviction can be arrived on its basis if it is corroborated by some independent evidence on material particulars. Here, it is also necessary to mention that one statement of the approver i.e. PW39 in terms of provisions contained in Section 306 (4) Cr.P.C. was duly recorded by this court at the time of grant of pardon to him vide order dated 23.05.2017 and in the said statement, he was also questioned regarding his previous confessional statement recorded U/S 164 Cr.P.C. before the court of Ld. MM-01, PHC, New Delhi on 24.07.2015 and he confirmed that the same was made by him voluntarily and without any coercion, promise and inducement etc. and he had disclosed therein the full facts about his role as well as the role of other accused persons. It is found that though the above previous

confessional statement dated 24.07.2015 of PW39 was not put to him during the course of recording of his testimony in trial by the Ld. Sr. PP for CBI due to some mistake or omission, but the same cannot be held to be fatal for the case of prosecution as the above previous confessional statement of PW39 could have been used by this court only for the limited purpose of providing some corroboration to his testimony, but even then the requirement of further corroboration of his testimony on material particulars by the independent evidence was not to be dispensed with.

106. PW20 Sh. Vipin Sharma, the then Managing Director of M/s Air Cruise, is another witness relating to generation or cancellation of the above PNRs by PW39 and during his statement, he has duly proved on record his letter dated 07.01.2014 supplying the documents mentioned therein to CBI on their request and this letter, along with the said documents, has also been exhibited by him as **Ex.PW20/A (colly) (D-42)** on record. He further identified signatures of the Executive Director of their company Sh. Sudhir Kochar on the said documents, which were put in token of attestation of the same. The said documents include an attested copy of the appointment letter of PW39 in the said company and also attested copies of printouts of the PNR history of generation and cancellation of the above three PNR nos. YZ489, YZ4PW and HZR3L by PW39 Anup Kumar Panwar.

107. PW20 has also stated on record that their company was an IATA recognized company for the purposes of booking of air tickets and they were using Galileo System for making reservations, which was an on-line system for booking of air tickets, and their counter executives were deployed for booking of domestic as well as international air tickets. He further deposed about the process and procedure regarding generation

of PNRs, while stating that a PNR was generated automatically and it was valid for a specific period within which booking had to be confirmed by the customer and this booking was shown on the system of airlines as well on their own system. He further stated that the e-tickets contained names and other details of the passengers and boarding passes were issued to the passengers at the airport and their customer executives were assigned sign-in-codes for booking of tickets on Galileo System and PW39 was their one of the customer executives.

108. On being shown **pages 6 to 8 of D-42**, he stated that the same contained history of the above three PNRs and it was generated by PW39 having sign-in-code 0406851. He also stated that PNR No. YZ489 was generated in the name of A-1 Anil Kumar Sahani, Sh. Anil Chadha, Sh. Arvind Kumar, Sh. Ram Naresh, Sh. Atul Kumar, Sh. Manjeet Singh and Sh. Rajesh Khatri and this PNR was generated at 9:45 GMT and it was cancelled at 9:52 GMT on 13.12.2012 having auto generated time limit till 16:15 IST and it was cancelled within the said time limit. He also stated that PNR No. YZ4PW was also generated by PW39 at 9:54 GMT on 13.12.2012 in the name of A-1 Anil Kumar Sahani, Sh. Anil Chadha, Sh. Arvind Kumar and Sh. Ram Naresh and this PNR was cancelled at 10:23 GMT and the auto time limit for this PNR was till 16:24 IST and it was also cancelled within the said limit. He further stated that PNR No.HZR3L was also created by PW39 at 10:23 GMT and it was cancelled at 10:39 GMT having the auto time limit till 16:53 IST and it was cancelled within the said auto time limit, though names of the passengers of this PNR have not been stated by the witness.

109. However, it has been observed on appreciation of depositions

made by PW20 and the documents brought on record during his statement that though the above letter dated 07.01.2014 signed by him stands duly proved on record through his testimony, but the other documents including the above PNR history regarding generation and cancellation of above three PNRs cannot be said to have been proved as per law because these printouts are found to be the computer printouts of the data and no certificate U/S 65B of the IEA was admittedly given or has been brought on record during evidence with regard to the genuineness and authenticity of contents thereof. Hence, various details contained in these printouts or the PNR history stated therein cannot be considered to be a part of the prosecution evidence and even depositions made by this witness based on these documentary details cannot be held admissible.

110. But still, despite the above, it can be held that the oral evidence brought on record through the testimony of this witness as well as of PW39 is sufficient to establish that PW39 at the relevant time was an employee of M/s Air Cruise and his sign-in-code was 0406851 and he had generated and cancelled the above three PNRs on 13.12.2012 on request and at the instance of A-3 Arvind Kumar.

**DOCUMENTARY/EXPERT EVIDENCE ABOUT HANDWRITING OF
A-3 IN T.A. BILL FORM EX.PW1/A**

111. The oral testimony of PW36 Sh. Gunjan Kumar regarding the above TA claim form **Ex.PW1/A (page 1 of D-2)** being filled up in the handwriting of A-3 is also found substantiated by the other oral and documentary evidence led on record. IO/PW40 has specifically stated before this court that it was so revealed during investigation of the case and he had also taken the specimen handwritings of A-3 Arvind Tiwari marked as S-13 to S-28 and the same were sent to CFSL, CBI, New

Delhi for examination with his questioned handwritings appearing at points Q1 and Q2 on the above said bill **Ex.PW1/A**.

112. The above specimen handwritings of A-3 marked S-13 to S-28 were taken by the IO/PW40 in presence of PW17 Sh. Liakat Ali and the same have been brought in evidence as **Ex.PW17/A (colly) (D-20)**. PW17 has even identified A-3 during the course of recording of his statement in the court and it is not under challenge from the defence also that the above specimen handwritings were not given by A-3 voluntarily or that the same did not pertain to him because even no such suggestions are found to have been given to the witnesses by Ld. Counsel representing the said accused. These specimen handwritings as per PW17 were taken in the CBI office on 12.11.2013.

113. PW32 Sh. Jeet Singh is the Forensic Expert posted as Sr. Scientific Officer, Grade-II (Documents-cum-Assistant Chemical Examiner) to the Government of India, CBI, CFSL, New Delhi at the relevant time and he is the person who had examined the above specimen and questioned handwritings of A-3, along with various other questioned as well as admitted handwritings and signatures of A-1, and this witness has duly proved on record his report regarding examination of said documents as **Ex.PW32/R (colly) (D-65)**, along with letter dated 03.07.2014 of Dr. Rajender Singh, the then Director of above laboratory forwarding the said report to CBI. It is necessary to mention here that the above report has been proved by the witness when he was re-examined, after having been recalled U/S 311 Cr.P.C. on request of the prosecution.

114. As per the above report **Ex.PW32/R (colly)** given by this witness, the questioned handwritings Q1 and Q2 on the above TA bill

Ex.PW1/A (D-2) were found matching with specimen writings marked as S-13 to S-28 of A-3 Arvind Tiwari due to the reasons as stated in the said report. There is nothing brought on record by the defence to challenge the conclusions drawn in the said report or to make this court disbelieve the testimony of this expert witness having a vast experience in the field of examination of documents. It is necessary to mention here that as per depositions and claims made by this witness, he was working with CFSL, CBI for a period of more than 36 years by that time and he had already examined more than 2000 cases containing approximately 4 lacs of exhibits and he had even appeared as a witness in around 680 cases all over the country. Thus, even this documentary evidence brought on record in the form of report **Ex.PW32/R (colly)** and the oral testimony of this witness corroborate the claim and depositions made by PW36 Sh. Gunjan Kumar that the above TA claim form was filled by A-3 Arvind Tiwari. Moreover, during the course of recording of his statement U/S 313 Cr.P.C. also, A-3 had not denied the filling up of the above said form in his own handwriting, though it was his submission that he had filled up the same only to guide A-36 as to how these forms were to be filled. In this regard also, nothing is found to have been brought on record on behalf of the said accused to sustain his above claim made in defence.

**CONVERSATIONS THROUGH CHATS AND CALLS BETWEEN
PW39 ANUP SINGH PANWAR AND A-3 ARVIND TIWARI**

115. As already discussed, the details of passengers for the above journey for sector Delhi to Port Blair-via-Kolkata of A-1 and his 6 other companions were sent by A-3 Arvind Tiwari to PW39 Anup Singh Panwar and the above three PNRs were then generated by PW39 to facilitate the issuance of boarding passes in respect to the above said passengers for this journey as A-3 had told PW39 that he will get the

boarding passes generated on the basis of PNRs through his source in Air India without the e-tickets. The case of prosecution to this effect and the oral evidence brought on record in support thereof is found duly corroborated by the documentary evidence led by prosecution, which has been led through the testimonies of nodal officers of the service providers of mobile numbers being used by PW39 and A-3 at the relevant time.

116. PW41 Sh. Vishal Gaurav, Nodal Officer of M/s Bharti Airtel Ltd., has brought in evidence the CAF and CDRs etc. of three mobile numbers 9910866895, 9810534466 and 9810818307 and the first mobile number 9910866895 belongs to PW39 and the other two mobile numbers are of A-2 N.S. Nair. This witness has duly proved on record one letter dated 26.03.2015 as **Ex.PW41/A (page 1 of D-55)**, which was sent by him to the above SP of CBI providing some information and the above said documents in respect to first two mobile numbers. He has also proved on record one certificate U/S 65B of the IEA exhibited as **Ex.PW41/B (page 2 of D-55)**, which was given by him with regard to genuineness and authenticity of the records generated and provided by him. Further, the certified copies of the CAF, passport and other supporting documents and CDR of the above mobile number 9910866895 of PW39 have also been exhibited during his testimony as **Ex.PW41/C (page 3 of D-55)**, **Ex.PW41/D (colly) (pages 4 to 7 of D-55)** and **Ex.PW41/E (colly) (pages 8 to 234 of D-55)** respectively and the witness has further identified his signatures as well as rubber stamp of M/s Bharti Airtel affixed on each page of these documents, which were put or affixed thereon in token of certification thereof.

117. As per the CAF **Ex.PW41/C** and the depositions made by the witness, the above mobile number 9910866895 was allotted or

subscribed in the name of PW39 Anup Singh Panwar and the said form is also found to be having a photograph of the subscriber, which is found matching with the photo of subscriber affixed on copy of his passport annexed with the application and exhibited as part of the documents **Ex.PW41/D (colly)**. Even the supporting declaration form in Form-60, which is also a part of the documents **Ex.PW41/D (colly)** annexed with CAF, is found to be in name of the above subscriber. Moreover, it has also not been disputed that the above photograph and other documents do not belong to PW39.

118. Though, during his cross-examination, the witness is found to have deposed on record that it was not part of his job to collect and verify the supporting documents for issuing a mobile number and further that he was not able to tell as to by whom, the said form and the supporting documents were received and verified, but these depositions of the witness do not matter much. Again, though, the witness has also stated it to be correct that name of the customer was not mentioned in the certificate **Ex.PW41/B** or that he was not the only person or nodal officer having access to the server of company, but even these depositions of the witness do not adversely affect the credibility of his testimony. Thus, there is nothing found on record to disbelieve or discard the documentary evidence led through this witness in the form of CAF **Ex.PW41/C** to the effect that the above mobile number was allotted or subscribed by M/s Bharti Airtel in the name of PW39 Sh. Anup Singh Panwar.

119. Again, the CDR of this mobile number brought in evidence through this witness as **Ex.PW41/E** spreads over from page numbers 8 to 234 and it is for the period w.e.f. 01.01.2012 to 04.11.2013, likewise the CDR pertaining to the other mobile number 9810534466 of A-2.

During his examination-in-chief itself, the witness was shown the said CDR and he admitted it to be correct that at portion marked X to X on page 119 of the said CDR (court page no.126), there was exchange of calls/SMSs between the above mobile number of PW39 and one other mobile number 9873826036, which is claimed by prosecution to be of A-3 Arvind Tiwari. On perusal of the calls/SMSs highlighted in pink in this portion marked as X to X on above court page number 126 of the above said document, it is observed that between 12:18:18 hours to 16:09:41 hours on date 13.12.2012, which is the date of generation of above PNRs and boarding passes, there were repeated conversations through chats or calls between these mobile numbers of PW39 and A-3 on 16 occasions and out of these 16, on 7 occasions there was exchange of SMSs and on 9 other occasions there were calls between the said mobile numbers. It is also observed that out of the above 7 SMSs, 3 SMSs were the incoming SMSs (referred to as SMT in the said document) received on the above mobile number of PW39 from the mobile number of A-3 and 4 were the outgoing messages (referred to as SMO in the said document) sent by PW39 to A-3. Similarly, out of the total 9 calls between these two mobile numbers, 6 calls were received by PW39 from A-3 and on 3 other occasions PW39 had made outgoing calls to A-3.

120. Thus, the above documentary evidence clearly supports and substantiates the other oral evidence led on record to the effect that the details about names of passengers for the above journey of A-1 and his companions and the PNRs generated in respect to the same were exchanged between PW39 and A-3 on date 13.12.2012, which is the date of generation of PNRs and also of the issuance of the boarding passes subsequently on its basis.

121. Though Ld. Defence Counsels have challenged the admissibility and correctness of these documents and records by making different submissions, but it has been observed on perusal of testimony of this witness that all these challenges and submissions being made by them are without any ground or basis. The witness has specifically stated during his cross examination that he being the nodal officer had access to CDRs being maintained on server of the company on the basis of user ID given to him specially for this purpose by the company. He has also specifically denied the suggestions given to him by Ld. Defence Counsels to the effect that the above CDRs and other records were false and fabricated or that he was not authorized to have access to and provide the same to CBI.

122. It is necessary to mention here that after this witness was cross examined by Ld. Counsels for A-1 & A-3 and before his cross examination on behalf of A-2 could commence, the witness was permitted to be re-examined by the court on request of Ld. Sr. PP for CBI and during his such re-examination, the witness on being shown had also identified one letter dated 30.01.2014 already exhibited as **Ex.PW40/L (D-31)** and sent by CBI to the nodal officer of their company to be same letter vide which the call details of above two mobile numbers were sought by the CBI. Though, he was not able to memorize if the said letter was received by him or not, but he also stated specifically that since it was marked to the nodal officer, it would have been dealt by him. Same was the reply of witness to one other letter dated 07.03.2014 shown to him. Hence, simply because the said letter was not in his personal name or he was not able to memorize at that point of time whether this letter was received by him or not, it can not adversely affect the veracity of his depositions because even prior to that the witness had maintained that they supplied any such

information, records and documents to law enforcing agencies only when they received notices for providing the same.

123. Further, he is also found to have rightly denied the suggestion given to him by Ld. Counsel for A-2 that the above said certificate U/S 65B of the IEA **Ex.PW41/B** was not in conformity with the details sought by CBI as the names of customers were not mentioned in the said certificate and it is so because such details were not required to be legally incorporated in the said certificate. Rather, it has been observed that the said certificate duly conforms to the mandate and provisions contained U/S 65B of the IEA as it certifies that information pertaining to the given mobile numbers was being produced in the form of hard copy of the computer generated record, which was produced by computer maintained by their company during the aforesaid period and the said computer was used regularly to store and process the information. Further, this certificate is also found specifically incorporating that the witness was having lawful control over the use of said computer and during the relevant period, information of the kind as contained in the electronic record, or of the kind from which the information so contained was derived, was regularly fed into the computer in the ordinary course of business of the said activities. It also incorporates that throughout the material part of the said period, the computer was operating properly and the information contained in the form of hard copy was an electronic record which reproduced such information, it was automatically fed into the computer in the ordinary course of business of the said company and there were no chances of tampering or manipulation thereof. Though, during his cross examination, this witness is also found to have stated that the CDR data was stored in server of the company and the concerned department of company maintained the server and he had no concern

with maintenance of the server technically, but these depositions of witness also cannot be taken to mean that the above records were actually tampered with or were not maintained properly or that he was not competent to issue the above said certificate.

124. Another material witness on this aspect is PW44 Sh. Anuj Bhatia, the then Nodal Officer of M/s Vodafone Ltd., and this witness has, *inter-alia*, brought in evidence the CAF and CDR etc. of the above other mobile number 9873826036 of A-3. The CAF and CDR of this mobile number duly exhibited by him on record are **Ex.PW44/B (colly) (pages 2 & 3 of D-70)** and **Ex.PW44/D (colly) (pages 5 to 240 of D-70)** and certificate U/S 65B of the IEA given by witness in support of genuineness and correctness of the above CDR has been proved as **Ex.PW44/C (page 4 of D-70)**. The witness has stated that the above documents were provided to CBI through the letter dated 28.11.2013 **Ex.PW44/A (page 1 of D-70)**, which was signed by the alternate Nodal Officer Sh. Deepak Tomar. The witness has also identified the signatures of Sh. Deepak Tomar appearing on each page of the CAF and supporting documents **Ex.PW44/B (colly)** in token of certification thereof and also his own signatures on the certificate **Ex.PW44/C** and those appearing on each page of the CDR **Ex.PW44/D (colly)**. Since this witness had been working with Sh. Deepak Tomar and had also seen him writing and signing, the other/Alternative Nodal Officer of the company, the witness is found to be duly in a position to identify the signatures of Sh. Deepak Tomar on the above said documents **Ex.PW44/A and Ex.PW44/B (colly)**.

125. It has been observed from the depositions made by this witness and the documents **Ex.PW44/B (colly)** that this customer agreement form is between the company and the subscriber named 'Arvind Kumar

S/o Sh. Gyanender Kumar' with his address of Delhi, as given in the said form. Though the surname 'Tiwari' is not found used with the name of subscriber or his father's name as given in the said form, but it has not been disputed that the above subscriber named Arvind Kumar and A-3 Arvind Tiwari are one and the same person. The above mobile number 9873826036 is found to have been allotted or subscribed in the name of A-3 through the above said form.

126. The CDR **Ex.PW44/D (colly) (which spreads from pages 5 to 240 of D-70)** of this mobile number furnished through the above letter **Ex.PW44/A** is for the period w.e.f. 01.11.2012 to 04.11.2013. The witness has specifically stated in his examination-in-chief itself that the above CDR was prepared and certified by him and he had put his signatures thereon, along with stamp, at point A thereof. Even during his cross examination, he has specifically deposed that printout of the CDR **Ex.PW44/D (colly)** was taken by him only, though he was not able to recollect that date and time thereof. He has also denied the suggestion given to him by Ld. Counsel for A-3 that the said printout was not taken by him or that he was not authorized to take out the same. He further stated on record that as a Nodal Officer, he was reporting to the Chief Nodal Officer in normal course and Vodafone company was the custodian of record of CDRs and the company had given them a unique user name and password to access the data, which was being stored in server of the company located at Pune, Maharashtra. He also stated in clear and specific terms that there was no possibility of manipulation with the extraction of data as the printout was in PDF format and it was directly downloaded from the server. He even denied the suggestion given to him by Ld. Counsel representing the above accused that anybody working at higher position in Vodafone could have manipulated the said data.

127. The witness has also claimed that he himself had personally handed over the above documents to CBI, though he was not able to recollect the date thereof and he was also not able to recollect the date of handing over of CDRs of some other mobile numbers. He further stated specifically on record that the certificate U/S 65 B of the IEA **Ex.PW44/C** in respect to authenticity and genuineness of the above CDR was signed by him and even though he admitted during his cross examination that the said certificate was not bearing any date and even the period to which the above CDR pertained was not mentioned therein, but his these depositions in no way affect the admissibility of the above CDR as it is found specifically incorporated in the said certificate that the CDR had been produced from computer system using printer and its contents were true reproduction of the original to the best of knowledge and belief of the witness. The witness had further certified in the said certificate **Ex.PW44/C** that the conditions as laid down in Section 65B(2)(a) to 65B(2)(d) of the IEA regarding admissibility of computer output in relation to the information and computer in question were fully satisfied in all aspects.

128. On perusal of the above **CDR Ex.PW44/D (colly) (pages 5 to 270 of D-70)** of this mobile number 9873826036 of A-3 and on its comparison with the **CDR Ex.PW41/E (colly) (pages 8 to 234 of D-55)** of the other mobile number 9910866895 of PW39 Sh. Anup Singh Panwar, it is observed that even this CDR **Ex.PW44/D** of A-3 substantially supports the case of prosecution regarding exchange of details and information between these two persons at or around the relevant time on date 13.12.2012 and almost corresponding calls and SMSs, incoming as well as outgoing, are shown on page 33 (reverse side) and 34 of the CDR **Ex.PW44/D** of mobile number 9873826036 of

A-3 as the same were reflected on court page no. 126 of the **CDR Ex.PW41/E (colly) of D-39**.

**CONVERSATIONS THROUGH CHATS AND CALLS BETWEEN A-2
N.S. NAIR AND A-3 ARVIND TIWARI**

129. As already discussed, PW44 Sh. Anuj Bhatia had proved on record, *inter-alia*, the CAF with supporting documents pertaining to the mobile number 9873826036 of A-3 as **Ex.PW44/B (colly) (pages 2 & 3 of D-70)**. He had also proved the CDR of said mobile number for the period w.e.f. 01.11.2012 to 04.11.2013 as **Ex.PW44/D (colly) (pages 5 to 240 of D-70)** and a certificate U/S 65B of the IEA given by him regarding the genuineness and authenticity of the above CDR as **Ex.PW44/C (page 4 of D-70)**.

130. PW41 Sh. Vishal Gaurav had similarly proved on record, *inter-alia*, the CAF of one mobile number 9810534466 belonging to A-2 as **Ex.PW41/F (page 235 of D-55)**, supporting documents of same being copy of the migration request from postpaid to prepaid & copy of driving licence of the subscriber as **Ex.PW41/G (page 236 of D-55) and Ex.PW41/H (page 237 of D-55)** respectively, CDR of the said mobile number as **Ex.PW41/I (colly) (pages 238 to 305 of D-55)** and a certificate U/S 65B of the IEA given by him regarding its genuineness and authenticity as **Ex.PW41/B (page 2 of D-55)**.

131. Further, besides proving the other documents and CDR pertaining to the above mobile number 9810534466 of A-2, PW41 is also found to have proved on record the CAF of one other mobile number 9810818307 of A-2, along with its supporting documents, as **Ex.PW41/J (colly) (D-75)**. However, for the reasons best known to the prosecution, the CDR or any certificate pertaining to genuineness or

authenticity thereof have not been brought in evidence during the course of trial and it is even not clear if the IO had actually obtained these documents from the concerned service provider or not.

132. It has been observed that though as per depositions made by PW41 and further as going by subject of the said document, the CDR **Ex.PW41/I (colly)** of the first mobile number 9810534466 of A-2 (**pages 238 to 305 of D-55**) is claimed to be for the period w.e.f. 01.01.2012 to 04.11.2013, but it actually pertains to the period beginning w.e.f. 10.07.2013 to 04.11.2013 only and thus, the same is not of any use or utility as the alleged relevant date of communication between these two accused i.e. A-2 and A-3, and even between A-3 and PW39 Anup Singh Panwar, by way of exchange of particulars for the above journey of A-1 and his other companions was the date of 13.12.2012 because as per the prosecution case, A-3 on that day had communicated the details of passengers to A-2 on his mobile for generation of fake boarding passes, after he received the PNR details on his mobile from the mobile phone of PW39. Somehow, it appears that neither the IO nor the Ld. Sr.PP had cared to go through the above CDR **Ex.PW41/I (colly)** to find out and ensure if the same actually served the purposes of investigation or trial or not.

133. However, still despite the above lapse of prosecution, the oral evidence led on record on this aspect finds sufficient corroboration from the documentary evidence as a bare perusal of the CDR **Ex.PW44/D (pages 5 to 240 of D-70)** of mobile number 9873826036 of A-3 shows that there were several communications through calls as well as SMSs between him and A-2 also, besides communications between him and PW39 as already discussed, on the relevant date i.e. 13.12.2012. It is found that these communications for exchange of information were

between mobile number 9873826036 of A-3 and the second mobile number 9810818307 of A-2 and during the time from 12:05 hrs. to 16:09 hrs., they both are found to have communicated with each other on a total for 13 times and out of these 13 times, on 7 times they communicated through calls and on 6 times the communication was through messages. Out of the total 7 calls made between these two accused during the above duration, 6 calls were the outgoing calls made by A-3 to A-2 and 1 was incoming call received by him and out of 6 messages, the incoming and outgoing messages were 3 each. No explanation has come on record in defence from any of the above two accused as to in what connection they both had communicated with each other during the above time and on the above relevant date and even as to how they both were known to each other. Their simple denial or ignorance regarding the above documentary evidence or communications between them is not enough to help them in negating the existence of the said evidence and a genuine or reasonable inference which can be drawn from their above repeated communications with each other during the above time and on the above date is only that it was to facilitate the procurement of fake boarding passes for the above journey of A-1 and his other companions.

ISSUANCE OF BOARDING PASSES BY PW42 MS. RUBEENA AKHTAR AND PW43 MS. S. PUNNEN FOR THE ABOVE JOURNEY AT THE INSTANCE OF A-2 N.S. NAIR

134. As already discussed, PW42 and PW43 were both the employees of AISATS and they are claimed to be on duty at IGI Airport, Terminal-III, Domestic side, at the relevant time and on the above relevant date i.e. 13.12.2012, when some of the above boarding passes for the journeys of A-1 and his other companions for the sector Delhi-Port Blair-via-Kolkata were allegedly issued by them at the

instance or on directions of A-2. As per their depositions made before this court also, they both were on duty at the check-in counters near the boarding gates of the said terminal on that day and it was part of their duties to attend the passengers for check-in and to generate boarding passes for them after checking their air tickets, PNR numbers, coupon numbers and identity documents etc. They stated that their employee codes were 1110805 and 1111414 and their sign-in-codes were 10679 and 10494 respectively. It has also come on record during their statements that in case of any doubt regarding passenger's identity, the passenger was referred to the counter supervisor for further clarifications and they used to act as per instructions of the supervisor. PW43 stated specifically that she was issuing boarding passes for economy class only for all the domestic flights. Further, they both have also claimed specifically that A-2 was their supervisor at the check-in counters at the relevant time.

135. PW16 Ms. Archana Jha, as already discussed, is the then Security Vigilance Manager working with AISATS on 07.03.2014 and she had handed over the duty allocation sheets of date 13.12.2012 of AISATS to the IO of this case and the memo in respect to seizure of these documents stands duly proved on record through the depositions made by this witness as well as of the IO/PW40 as **Ex.PW16/A (D-25)** as both these witnesses had identified their signatures appearing on this document and had also specially deposed about creation of this document. The above duty allocation sheets running into 10 pages have also been brought on record during the testimony of PW16 as **Ex.PW16/B (colly) (D-53)** and both the witnesses had also identified these sheets to be the same sheets which were seized vide the memo **Ex.PW16/A**.

136. Further, PW19 Sh. Gaurav Mittal, as already discussed, had also claimed that he was working as duty officer in AISATS at the relevant time and his job was to allocate duties to the staff and duty allocation sheets of the staff were maintained, which contained names and other details of the employees, and these sheets were maintained for the domestic as well as international flights. He also stated that subsequently, the sheets were submitted with the administration department for the purposes of record and these sheets also showed the presence of staff out of the sanctioned strength. He also identified the signatures of his senior officer Sh. R.B. Chopra appearing on a letter dated **17.02.2014 Ex.PW19/A (page 1 of D-28)** and this is the letter vide which also the duty allocation sheet containing the sign-in-codes and other details of PW42 and PW43 was supplied by his office to the CBI. Even Sh. R.B. Chopra had been examined as a witness by prosecution as PW30 and the above letter **Ex.PW19/A** has been duly proved on record by him during his statement. PW19 had further identified the signatures of Ms. Sudesh Jain, their Manager (Compliance), on a letter addressed to PW16 Ms. Archana, vide which certain information sought from her office regarding the sign-in-codes of above two officials was provided. This letter has been exhibited during the evidence of PW19 as **Ex.PW19/B (page 2 of D-28)**. Even Ms. Sudesh Jain had been examined by prosecution as PW31 subsequently and the above letter **Ex.PW19/B** stands duly proved on record by her and moreover, even PW30 Sh. R.B. Chopra had identified signatures of Ms. Sudesh Jain on this letter **Ex.PW19/B**. An attested copy of above duty allocation sheet provided to the CBI by the witness through the letter **Ex.PW19/A** had also come on record during the statements of PW19 as well as PW30 and the same had been exhibited as **Ex.PW19/C (page 3 of D-28)**. It has been observed that this duty allocation sheet **Ex.PW19/C** is infact a copy of page 10 of the

duty allocation sheets running in 10 pages, which were earlier exhibited on record during the testimony of PW16 as **Ex.PW16/B (colly) (D-53)**. It has further been observed that even page 10 of **Ex.PW16/B (colly)** was shown to PW19 during his examination and he identified his signatures at points A and B thereon and this page 10 of **Ex.PW16/B (colly)** had also been exhibited separately as **Ex.PW19/D** during his statement. It has further been observed that the signatures of witness appearing at point B on sheet **Ex.PW19/D** are in original and some other particulars and details are also found to be written thereon in original, whereas **Ex.PW19/C** is a photocopy thereof.

137. One other letter dated 06.02.2014 had also been proved on record during the testimony of PW30 as **Ex.PW30/A (colly) (page 4 of D-28)** and he had stated that through this letter also the information later on supplied vide letter dated 17.02.2014 (**Ex.PW19/A**) was earlier supplied to the CBI. He further stated that **on page 5 of D-28**, the sign-in-codes of PW42 and PW43 are given and page 6 thereof is again a copy of the same duty allocation slip, which was supplied through this letter. It has been observed that the above information supplied vide **Ex.PW19/A and Ex.PW30/A** was in response to the CBI letter dated 31.01.2014, which has been brought and proved in evidence during the testimony of IO/PW40 as **Ex.PW40/M (D-32)**.

138. It is the contention of Ld. Defence Counsels, especially Ld. Counsel representing A-2, that the above duty allocation sheets of PW42 and PW43 are not admissible in evidence as the same are only photocopies of the original records being maintained in computer and no certificate U/S 65B of the IEA has been produced or brought in evidence by the prosecution in support of genuineness or authenticity of the said records. It is also their submission that in the absence of

any documentary evidence, the oral evidence led on record regarding the duty of PW42 and PW43 being at the check-in counters at the relevant time and even their further depositions regarding issuance of boarding passes by them in respect of the above said journey of A-1 and his other companions for the sector Delhi-Port Blair-via-Kolkata should not be believed.

139. In this regard, it has already been discussed above that the duty allocation sheet **Ex.PW19/C (page 3 of D-28)** supplied to the CBI through the letter **Ex.PW19/A (page 1 of D-28)** of PW30 Sh. R.B. Chopra is only a photocopy of the said sheet or the computerized record and even the other copy of said sheet brought on record during the course of evidence as page 10 of the duty allocation sheets **Ex.PW16/B (colly) (D-53)** during the course of examination of PW16 is not in original form and is a photocopy only of the computerized data or record as it has been observed that except signatures of PW19 Sh. Gaurav Mittal appearing at point B thereon and further, except some other endorsements or writings appearing in red ink on this sheet, rest of the contents of this sheet in respect to the names, sign-in-codes, signatures, other details of the staff on duty at the relevant point of time and at the relevant location etc. are found to be in a copied form and not in original. Even otherwise, had the same been the original computerized print outs of the data contained or stored in the computer, a certificate U/S 65B of the IEA was must to have been brought and proved on record to establish its genuineness and authenticity with regard to the printed data or particulars of these documents, except the signatures put by the official concerned or the endorsements made by any of the officials concerned in original on these documents or sheets. It has also been observed that the original signatures of PW19 appearing at point B on **page 1 of Ex.PW16/B**

(colly) were put in token of attestation or certification of the said document only, whereas his signatures at point A on this document are in a copied form and not in original and the same were put as a mark of attendance of the said witness.

140. Thus, in any case, a certificate U/S 65B of the IEA was required to be brought in evidence by the prosecution for proving contents of the above duty allocation sheets in respect to names and sign-in-codes details etc. of PW42 and PW43 and the other officials of AISATS deputed for duties at the check-in counters at the relevant time of generation of above boarding passes by PW42 and PW43 at the instance of A-2 and since it has not been done, the contents of above duty allocation sheets cannot be looked into or considered by this court as a part of the evidence.

141. However, still it can be seen that the prosecution has been successful in establishing on record the presence of PW42 as well as of PW43 at the check-in counters at the above relevant time as the specific depositions made by these two witnesses to this effect corroborate each other and their depositions are further found to be corroborated from the depositions of PW19, who was also present on duty at the said point of time along with PW42 and PW43. Further, even during their cross examinations, they both had maintained that they were on duty at the relevant point of time on the above day and at the check-in counter with A-2 as their supervisor and no suggestions are also found to have been given to these witnesses to challenge or confront their testimonies on this aspect. Again, the oral testimonies of PW42 and PW43 on this aspect cannot be discarded or disbelieved for the reason that the documentary evidence brought on record in corroboration thereof has been held to be inadmissible as their

depositions are otherwise found truthful and inspiring confidence. Moreover, it is also found that they have no reason, ground or motive to depose falsely against A-2 in the present case as A-2 was a senior officer of Air India deputed with the task of supervising the check-in of passengers in the course of performance of his duties at the above airport at the relevant time and in that sense, both PW42 and PW43 were working as subordinates of A-2 at that time, even though they were not directly the employees of Air India and were working for AISATS or that they were not formally working under A-2.

142. PW35 Sh. Vijay Punj, the then Assistant Manager, Sales & Marketing, Air India had also deposed about nature of his duties being the handling of passengers, which included check-in facility for the passengers for undertaking journeys and he further stated about the procedure for check-in and issuance of boarding passes on the basis of PNR numbers and air tickets etc. He stated specifically that PNR was issued for booking reference only and it contained all the details of passengers, sector and journey etc. He further stated that first a PNR was created and thereafter, e-ticket was to be generated and passenger had to pay for the same and for generating PNR, ticket number was not necessary. However, he also stated that if after generation of PNR, ticket was not purchased, then the passenger could not travel as without ticket, PNR had no value.

143. On being shown the document **D-51**, PW35 had identified the signatures of Sh. Abhay Pathak (wrongly typed as Sh. Ajay Pathak at one place on page no. 2/9 in statement dated 05.03.2019 of the witness) on one letter dated 07.02.2014 addressed to CBI in response to their letter dated 31.01.2014. Vide this letter dated 07.02.2014 Sh. Abhay Pathak had provided certain information and documents to the

CBI. The said letter is found to have been exhibited by the witness as **Ex.PW35/A (part of D-51)**. The information provided through the said letter was to the effect that the allotted official sign-in-code of A-2 N.S. Nair, Office Superintendent, Terminal-III, was 2144 and his duty on 13.12.2012 was at the check-in counter, as per records of their office. Further, besides the above information, copy of one duty allocation sheet of N.S. Nair of the above date was also forwarded to the CBI, which has been exhibited on record by the witness as **Ex.PW35/B (page 1 of enclosures to D-51)** and the witness had also identified pages 3 and 4 of the document **D-51** to be the chart of location or place of duty of accused N.S. Nair and of his attendance sheet for the above said date respectively and the same have been exhibited during his statement as **Ex.PW35/C and Ex.PW35/D (pages 3 & 4 of enclosures to D-51)**. As per the depositions made by this witness, the above documents show that the duty of A-2 on the above said date was at counter shown at point **X** in **Ex.PW35/C** and he was present on duty in office at the relevant time of his shift i.e. 13:00 hrs. to 21.00 hrs. on 13.12.2012. On a careful perusal, these documents **Ex.PW35/B and Ex.PW35/C** also show that even PW42 and PW43 were on duty at that time, along with A-2, in the said shift and at the same counter meant for check-in of passengers. Though, it has further been observed by this court, and also put to the IO/PW40 during his cross examination, that date 13.12.2013 instead of date 13.12.2012 is found to have been stated or written in the above letter **Ex.PW35/A** brought in evidence during the course of statement made by this witness, but the same appears to be a typographical mistake only as even during the course of depositions made by the witness before this court, the date stated by the witness is 13.12.2012 and not 13.12.2013.

144. Further though, the above Sh. Abhay Patak, the then Deputy

General Manager (Commercial) of Air India, who was also acting as the Officiating Executive Director, Northern Region as well as Manager, In-charge of Delhi Airport at the relevant time of incident, is also found to have been examined by the prosecution as PW3 earlier, but it appears that due to some mistake or inadvertence on the part of Ld. Sr. PP, the above letter of this witness or the other documents forwarded by him to the CBI through the said letter have not been put to him during the course of his examination and hence, the same could not be exhibited or proved on record through him. However, still the prosecution has been successful in proving the above letter signed by Sh. Abhay Pathak through the testimony of PW35 Sh. Vijay Punj because PW35 is found to be in a position to identify the signatures of PW3 on the above letter **Ex.PW35/A** as PW35 has specifically stated on record during his examination-in-chief itself that he can identify the said signatures of Sh. Abhay Pathak because of having worked with Sh. Abhay Pathak for three years and during this period, he had seen various documents signed by Sh. Abhay Pathak. Besides identifying the signatures of PW3 on the above letter **Ex.PW35/A**, PW35 has also identified signatures of PW3 as appearing on all pages of the documents **Ex.PW35/B to Ex.PW35/D**, which are found to have been put by PW3 in token of attestation or certification of the said documents.

145. However, it has also been strongly argued by Ld. Defence Counsels, especially by the Ld. Counsel representing A-2, that even the documents **Ex.PW35/B to Ex.PW35/D** cannot be considered in evidence against the accused persons as no certificate U/S 65B of the IEA regarding generation or authenticity of contents of these documents has been brought on record. It is observed that this fact has been specifically admitted by the IO/PW40 during his cross

examination when he stated that he did not obtain any such certificate (inadvertently typed as a certificate U/S 650B of the IEA during cross examination of IO dated 27.11.2019 on page no. 5/10). In this regard, it is observed that though such a certificate was required in respect of the document **Ex.PW34/D**, i.e. copy of attendance sheet of A-2 of the above date as the particulars mentioned or stated in the said letter are found to have been written or filled by hand in a computerized format, but no such certificate at all was required for the other two documents **Ex.PW35/B and Ex.PW35/C**, which are totally handwritten documents and it was sufficient if the originals of these documents were produced before this court at the time of examination of PW35 and exhibition of these documents through him. However, even the originals of the above documents **Ex.PW35/B and Ex.PW35/C** have not been brought or produced before this court nor any evidence has been led to show or prove the loss or destruction etc. of the same entitling the prosecution to lead secondary evidence about contents of these documents. Further, even this is not clear from the evidence led on record as to whether the above copies of documents **Ex.PW35/B and Ex.PW35/C** have been made from the originals thereof or these only contain reproduction of certain computerized records. In any case, in the absence of production of originals of both these documents, and the original sheet of **Ex.PW35/D** and also a certificate U/S 65B of the IEA regarding genuineness and authenticity of the computerized portion of contents of the said document, none of these documents or any portion thereof can be seen or considered by this court as a part of the evidence led against the accused persons.

146. However, still despite the above lapses, the oral depositions made by PW35 as well as the oral testimonies of PW42 and PW43 with regard to the fact that A-2 was on duty on the above date and time and

also at the above said counter, i.e. the check-in counter, cannot be brushed aside simply for the reasons of non-production of originals of the above documents or a certificate required U/S 65B of the IEA or because these documents or copies have been held inadmissible as these witnesses duly corroborate each other and establish the case of prosecution to this effect. It has been observed that during cross examination of PW35, and even during cross examinations of PW42 and PW43 as already discussed, no suggestion at all is found to have been given to them to the effect that A-2 was not on duty on the relevant date and time and the suggestion given to them was only to the effect that his duty was not at the check-in counter and this suggestion was denied by the witnesses to be wrong. It has also been observed that even during the course of recording of his statement U/S 313 Cr.P.C., A-2 had admitted it to be correct that he was on duty at the above airport on 13.12.2012 during the above shift from 13:00 hrs. to 21:00 hrs., though he denied that his duty was at the above counter shown at point X in **Ex.PW35/C (page 3 of enclosures to D-51)**. However, he had also failed to lead any evidence in support of his defence that he was not on duty as a supervisor at the check-in counter and rather, he was working as a CSA at that time or was deputed for duties as a canteen supervisor and he had no concern with the counters for issuance of boarding passes. Thus, even in the absence of above documentary evidence, the oral evidence led on record is found sufficient to prove that besides PW42 and PW43, A-2 was also on duty as a supervisor at the relevant time of issuance of some of the above boarding passes on 13.12.2012 from the check-in counters of the said airport.

147. PW42 Ms. Rubeena Akhtar during her examination-in-chief was also shown the check-in history of the above passengers, i.e. A-1 and

his 6 other companions, for their above journey of the sector Delhi to Port Blair-via-Kolkata, as available on pages 4 to 24 of the document **D-18**. This check-in history contains details regarding the flight numbers, names of passengers for the said journey, generation and cancellation of PNRs and timings thereof and the boarding pass numbers issued or allotted to the passengers etc. All the printouts or sheets forming part of this check-in history are computerized printouts bearing attestation of PW3 Sh. Abhay Pathak in his capacity as Manager of the IGI Airport and these are further found to be countersigned by one Sh. Pankaj Vaid. These printouts or documents are found to have been supplied to the CBI vide letter dated 26.04.2014 of PW3. However, for the reasons best known to the prosecution, this letter or the documents are not found to have been put to PW3 during the course of his examination-in-chief and it is only during cross examination of the said witness conducted on behalf of A-2 that the same were exhibited or proved as **Ex.PW3/D2B (colly)** as the witness had duly identified his signatures appearing on these documents. The witness also stated that the information contained in the above letter was given to CBI on the basis of documents available in their office.

148. The above check-in history of passengers is also found accompanied by a certificate U/S 65B of the IEA given by Sh. Pankaj Vaid, the then Assistant Manager of Air India, and though the prosecution has also not examined on record Sh. Pankaj Vaid as a witness during the trial, despite his name being cited in the list of witnesses, but still the said certificate is found to have been exhibited and proved on record during the course of depositions made by PW35 Sh. Vijay Punj as **Ex.PW35/E (page 25 of D-18)** as he duly identified the signatures of Sh. Pankaj Vaid appearing on the said certificate.

PW35 is found to have also identified the signatures of Sh. Abhay Pathak appearing on the above letter dated 26.02.2014 **Ex.PW3/D2B (colly) (pages 1 & 2 of D-18)** and also as appearing on other pages of the said document and enclosures to the said letter, which were put thereon for attestation or certification of these documents. Since PW35 has specifically stated on record that he had worked with Sh. Pankaj Vaid and Sh. Pankaj Vaid was also discharging similar duties such as passengers handling and assistance etc., the said certificate can be said to have been duly proved through the testimony of this witness as he was in a position to prove the same on account of being familiar with and by way of identification of signatures of Sh. Pankaj Vaid.

149. It has been observed on perusal of the above check-in history that pages 4 to 6 thereof pertain to PNR no. YZ489 generated for all the above 7 passengers, including A-1, for their flight no. AI022 (mentioned as AI0022 in the document) dated 13.12.2012, pages 7 to 10 thereof are in respect of PNR nos. YZ4PW and HZR3L for 4 & 3 passengers respectively for the above flight no. AI022, pages 11 to 13 thereof are pertaining to PNR no. YZ489 in respect of 7 passengers for their flight no. AI0787 dated 14.12.2012 and pages 14 to 17 in respect to this flight no. AI0787 are pertaining to the two other PNRs bearing no. YZ4PW and HZR3L for 4 & 3 passengers respectively. As already discussed, the first PNR no. YZ489 was cancelled after its generation as it was wait-listed and hence, the relevant columns pertaining to history in respect to this PNR for both the above flights AI022 and AI0787 on pages 4 to 6 and 11 to 13 are found left blank as no boarding passes in respect of the said PNR were generated for the passengers and history in respect to the other two PNRs only i.e. YZ4PW and HRZ3L is found to have been generated and shown in the relevant columns on the other pages of check-in history. As also

discussed earlier, flight no. AI022 dated 13.12.2012 was destined from Delhi to Kolkata and flight no. AI0787 dated 14.12.2012 was destined from Kolkata to Port Blair.

150. On being shown the above check-in history contained on pages 7 to 10 and 14 to 17 in respect to flight nos. AI022 and AI0787 and the two PNR numbers YZ4PW and HZR3L respectively, PW42 Ms. Rubeena Akhtar has deposed about various details contained and stated in the said check-in history in respect to names of passengers, time of check-in and decheck-in, boarding pass numbers issued in respect to them and the executive/official responsible for check-in or decheck-in of the said passengers. For better appreciation of her testimony on these aspects, it becomes necessary to reproduce the relevant portion of her testimony recorded on 19.07.2019 on pages 2-6/15 and the same is being reproduced herein below:-

“Witness is now shown D-18, page 7. It shows that the PNR in question was YZ4P in the name of Mr. Anil Chadha. The boarding pass no.63 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI022 and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No. 10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 15 of D-18. The PNR of this ticket is YZ4P in the name of Mr. Anil Chadha. The boarding pass no.7 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0787 and date of journey is 14.12.2012 for Kolkata Delhi. This has been dechecked with ID No. 10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 7 of D-18. The PNR of this ticket is YZ4P in the name of Arvind Kumar. The boarding pass no.64 is shown on the same at point A. The check in time of the same is 1518 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0022 and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No. 10679 and it was generated with ID 10494. The same has been dechecked by me

using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 15 of D-18. The PNR of this ticket is YZ4P in the name of Arvind Kumar. The boarding pass no.8 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0787 and date of journey is 14.12.2012 for Delhi Kolkata. This has been dechecked with ID No. 10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 8 of D-18. The PNR of this ticket is YZ4P in the name of Ram Naresh. The boarding pass no.65 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0787 outbound flight and date of journey is 14.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 14 of D-18. The PNR of this ticket is YZ4P in the name of Ram Naresh. The boarding pass no.9 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0787 outbound flight and date of journey is 14.12.2012 for Kolkata. I cannot tell the destination of this journey. This has been dechecked with ID No.10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 8 of D-18. The PNR of this ticket is YZ4P in the name of Anil Kumar Sahani. The boarding pass no.66 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0022 outbound flight and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 14 of D-18. The PNR of this ticket is YZ4P in the name of Anil Kumar Sahani. The boarding pass no.10 is shown on the same at point A. The check in time of the same is 1548 hrs. It was de-checked at 1603 hrs. The details of the flight are AI0787 outbound flight and date of journey is 14.12.2012 for Kolkata IXZ. This has been dechecked with ID No.10679 and it was generated with ID 10494. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 9 of D-18. The PNR of this ticket is HZR3L in the name of Rajesh Khatri. The boarding pass no.70 is shown on the same at point A. The check in time of the

same is 1601 hrs. It was de-checked at 1629 hrs. The details of the flight are AI0022 outbound flight and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 10679. The same has been checked and dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 16 of D-18. The PNR of this ticket is HZR3L in the name of Rajesh Khatri. The boarding pass no.11 is shown on the same at point A. The check in time of the same is 1601 hrs. It was de-checked at 1629 hrs. The details of the flight are AI0787 and date of journey is 14.12.2012 for Kolkata to IXZ. This has been dechecked with ID No.10679 and it was generated with ID 10679. The same has been checked and dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 9 of D-18. The PNR of this ticket is HZR3L in the name of Rajesh Khatri. The boarding pass no.70 is shown on the same at point A. The check in time of the same is 1601 hrs. It was de-checked at 1629 hrs. The details of the flight are AI0022 and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 10679. The same has been checked and dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 9 of D-18. The PNR of this ticket is HZR3L in the name of Atul Kumar. The boarding pass no.71 is shown on the same at point A. The check in time of the same is 1604 hrs. It was de-checked at 1629 hrs. The details of the flight are AI0022 and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 2144. The same has been dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 17 of D-18. The PNR of this ticket is HZR3L in the name of Atul Kumar. The boarding pass no.71 is shown on the same at point A. The details of the flight are AI0787 and date of journey is 14.12.2012 for Kolkata to IXZ.

Now the witness is shown page 10 of D-18. The PNR of this ticket is HZR3L in the name of Manjit Singh. The boarding pass no.72 is shown on the same at point A. The check in time of the same is 1605 hrs. It was de-checked at 1629 hrs. The details of the flight are AI0022 and date of journey is 13.12.2012 for Delhi Kolkata. This has been dechecked with ID No.10679 and it was generated with ID 10679. The same has been checked and dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.

Now the witness is shown page 16 of D-18. The PNR of this ticket is HZR3L in the name of Manjit Singh. The boarding pass no.12 is shown on the same at point A. The check in time of the same is 1605 hrs. It was de-checked at 1629 hrs. The details of the

flight are AI0787 and date of journey is 14.12.2012 for Kolkata to IXZ. This has been dechecked with ID No.10679 and it was generated with ID 10679. The same has been checked and dechecked by me using my ID on the instructions of Sh. N. S. Nair who was counter supervisor.”

151. Thus, the above depositions made by PW42 Ms. Rubeena Akhtar clearly show that A-1 and his other 6 companions for their above journeys from Delhi to Kolkata and Kolkata to Port Blair by flight numbers AI022 dated 13.12.2012 and AI0787 dated 14.12.2012 on the basis of PNR numbers YZ4PW and HZR3L were checked-in and dechecked and their boarding passes were issued either by this witness having sign-in-code or ID no. 10679 or by her colleague Ms. S. Punnen or Shibi Punnen having sign-in-code or ID no. 10494 and it was done on the instructions of A-2 N.S. Nair, who was their counter supervisor on duty on 13.12.2012 at the check-in counter of the IGI airport and was dealing with the work of issuance of boarding passes to VIPs for domestic flights. The oral testimony of PW42 on these aspects is found duly corroborated by the depositions made by PW35 in respect to the details contained in the above check-in history of the passengers brought in evidence as a part of the documents **Ex.PW3/ D2B (colly) (D-18)** and also by the contents of these documents itself. Further, these documents also corroborate the testimony of PW39 Sh. Anup Singh Panwar and the case of prosecution regarding issuance of fake boarding passes on the basis of above PNRs generated by PW39 and communicated by him to A-3, which A-3 further communicated to A-2.

152. PW42 has also specifically stated during her examination-in-chief itself that VIP boarding passes used to be issued by them simply on instructions of A-2 since they were not knowing the VIP passengers and sometimes A-2 even used to check and decheck VIP passengers

himself using their sign-in-codes to save time and she further identified the said accused during her statement made before this court. Besides, the above depositions of the witness reproduced herein above, some further depositions made by her on page 9/15 in her examination-in-chief recorded on 19.07.2019 to this effect are also being reproduced here:-

“Sh. N. S. Nair was the supervisor at the time when the above referred boarding passes were issued and were checked and dechecked. He was the supervisor in the year 2012 and 2013. He was dealing with Special handling. He was dealing the issuance of boarding passes to VIPs. The boarding passes used to be issued by us on his instructions. Since we were not knowing the passengers referred above in my examination in chief who were said to be VIPs and the checking and de-checking was done on the instructions of N. S. Nair. Sh. N. S. Nair sometime used to decheck the passenger himself also using our ID or using his ID for early check / decheck to save the time.”

153. During her examination-in-chief itself, PW42 was also shown total 13 original boarding passes contained in file/document **Mark PW12/A (D-2)**, i.e. 7 boarding passes bearing no. 63, 64, 65, 66, 70, 71 and 72 of the flight no. AI022 dated 13.12.2012 in the name of A-1 and his other 6 companions of the journey from Delhi to Kolkata and also 6 boarding passes of the flight no. AI0787 dated 14.12.2012 from Kolkata to Port Blair of the said passengers, except the passenger Sh. Atul Kumar, and she identified these boarding passes to be the same boarding passes which were issued by them at the instance of A-2 N.S. Nair. She further stated that boarding passes of PNR no. YZ4PW were checked-in by sign-in-code/ID no. 10494 and dechecked by sign-in-code/ID no. 10679 and boarding passes for PNR HZR3L were checked-in as well as dechecked by her. As already discussed, the sign-in-code/ID no. 10494 pertained to PW43 Ms. S. Punnen and sign-in-code/ID no. 10679 pertained to this witness.

154. She is found to have been cross examined at length by Ld.

Counsel for A-2 and during her cross-examination, some contradiction has also come on record to the effect as to whether the passengers or boarding passes, which she claims during her examination-in-chief to have been checked-in or issued by using her sign-in-code/ID, were actually checked-in or issued by her or by A-2 N.S. Nair as she went on to state during her cross-examination that sometimes, due to paucity of time, A-2 himself used to check-in or decheck-in the passengers who were VIPs and A-2 also used her sign-in-code for check-in and decheck-in the above passengers as it was to be done promptly due to shortage of time. She also stated on record that these boarding passes were not issued by her and the same were issued by N.S. Nair by using her sign-in-code/ID. For better appreciation of the testimony of this witness to this effect, some of the depositions made by her during her cross-examination on pages 13&14/15 conducted on 19.07.2019 are also being reproduced herein below:-

“Q: Whether you had checked the passenger details before issuing the boarding pass in these cases referred above using PNR?”

A: Sh. N. S. Nair being the Supervisor used to say that due to paucity of time he will himself check and decheck the passengers as they were VIPs.

Sh. N. S. Nair had used my sign in code for check in decheck in the passengers stating that it is to be done promptly due to shortage of time. The boarding passes were not issued by me but were issued by N. S. Nair using my sign in ID.

Q: whether the boarding passes were checked / dechecked by you or using your ID by N. S. Nair, which of the two statement is correct?

A: The supervisor Sh. N. S. Nair used to come to my counter stating that this pertains to VIP passenger and boarding is about to close and while I was busy, the checking /dechecking the other passengers, he used my ID for checking / dechecking the passengers in question.

Even prior to these tickets the supervisors had checked / dechecked the system used by me for issuing boarding passes where I had already put my login ID citing paucity of time for closing of boarding.”

155. However, in considered opinion of this court, when testimony of PW42 is considered in entirety for proving the charges framed against the accused persons, the above contradiction or discrepancy does not matter much as it will not affect the prosecution case even if the evidence led on record shows that the fake boarding passes were not issued by PW42 herself at the instance or on directions of A-2, but the same were actually issued by A-2 himself by using sign-in-code of PW42 or of PW43. The direct involvement of A-2 in check-in and decheck-in of the passengers for this journey and for issuance of fake boarding passes in their names is also clearly visible from **page 9** of the document **Ex.PW3/D2B (colly) (D-18)**, which is the check-in history of flight no. AI022 dated 13.12.2012 from Delhi to Kolkata of passenger Sh. Atul Kumar in respect to PNR no. HZR3L because the sign-in-code 2144 of A-2 is also found to have been incorporated in this travel history of the above said passenger. As per case of the prosecution and history reflected on this page of the document, the said passenger was first put on standby mode by the agent having sign-in-code/ID no. 10679 i.e. PW42 Ms. Rubeena Akhtar, and then the passenger was accepted for check-in by the agent having sign-in-code 2144, which was the sign-in-code of A-2, and thereafter, the boarding pass or boarding card for this passenger was issued and the passenger was dechecked or deleted by the agent having sign-in-code 10679 i.e. PW42 Ms. Rubeena Akhtar.

156. Likewise, PW42, PW43 Ms. S. Punnen @ Shibi Punnen has also specifically deposed in her examination-in-chief itself that while she was working as CSA at IGI Airport, A-2 had directed her for issuance of boarding passes through her. She also deposed that since she was dealing with economy class, he therefore, went to another CSA Ms.

Rubeena Akhtar and she was told by him later on that he had deleted the boarding passes using the ID of Rubeena Akhtar. She further stated that she had enquired because economy class section should not have issued the boarding passes for business class. This witness was also shown, the document **Ex.PW3/D2B (colly) (D-18)** containing 1 to 25 pages and the history of passengers checked-in by her as contained on pages 7,8,14 and 15 in respect of PNR no. YZ4PW for the above said flights no. AI022 and AI0787 and likewise PW42, she also deposed about details contained in the said check-in history and check-in and decheck-in of the passengers of the said journey and issuance of boarding passes for them, either by using her own sign-in-code/ID no. 10494 or of her colleague Ms. Rubeena Akhtar having sign-in-code/ID no. 10679. The relevant portion of her depositions to this effect on pages 3-5/10 in her examination-in-chief conducted on 26.07.2019 is also being reproduced herein below:-

“Now the witness is shown D-18 already Ex.PW3/D₂B (colly) containing pages 1 to 25. Now the witness is shown page-7 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Anil Chaddha dated 13th December, 2012, flight no.AI0022 from Delhi-Kolkata. The check-in was accepted by me at 15:47 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 63.

On seeing this, I further stated that for PNR No.YZ4PW in the name of Arvind Kumar dated 13th December, 2012, flight no.AI0022 from Delhi-Kolkata. The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 64.

Now the witness is shown page-8 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Ram Naresh dated 13th December, 2012, flight no.AI0022 from Delhi-Kolkata. The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 65.

Now the witness is shown page-8 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Anil Kumar Sahani dated 13th December, 2012, flight no.AI0022 from Delhi-Kolkata. The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 66.

Now the witness is shown page-14 of D-18. On seeing this, I

state that for PNR No.YZ4PW in the name of Ram Naresh dated 14th December, 2012, flight no.AI0787 from Kolkata-Port Blair (IXZ). The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 9.

Now the witness is shown page-14 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Anil Kumar Sahani dated 14th December, 2012, flight no.AI0787 from Kolkata-Port Blair (IXZ). The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 10.

Now the witness is shown page-15 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Anil Chaddha dated 14th December, 2012, flight no.AI0787 from Kolkata-Port Blair (IXZ). The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 7.

Now the witness is shown page-15 of D-18. On seeing this, I state that for PNR No.YZ4PW in the name of Arvind Kumar dated 14th December, 2012, flight no.AI0787 from Kolkata-Port Blair (IXZ). The check-in was accepted by me at 15:48 hours at point B. The same was deleted vide agent no.10679 at 16:03 hours. The boarding pass number was 8.

All these boarding passes were issued by me on the directions of A-2 Sh. N. S. Nair.”

157. Further, she was also shown the original boarding passes bearing nos. 63, 64, 65, 66, 70, 71 and 72 issued in respect to the above passengers checked-in by her from above file/document **D-2** and she deposed about some details of the said boarding passes. She also specifically deposed that all the boarding passes were of executive class and from her seat, she was issuing boarding passes for economy class. Her depositions on pages 5-6/10 recorded in her examination-in-chief conducted on 26.07.2019 to this effect are also being reproduced herein below:-

“Now the witness is shown page-61 of D-2. This is boarding pass no.64 in the name of Sh. Arvind Kumar, flight no.AI022 dated 13.12.2012 destination New Delhi-Kolkata, seat no.5C. Vol. On this boarding, pass my login ID is not mentioned. On boarding passes login IDs are not mentioned.

Now the witness is shown boarding pass no.63. The same is in the name of Sh. Anil Chaddha, flight no.AI022 dated 13.12.2012 destination New Delhi-Kolkata, seat no.5A. On seeing Ex.PW3/D₂B page-7, I can state that this boarding pass is of executive class and

I was issuing boarding passes for economy class. However, the seat number and passenger name and everything is same but boarding pass was not issued by my counter by me. All the boarding passes are of executive class and from my seat I was issuing boarding passes for economy class.

Now the witness is shown boarding pass no.65. The same is in the name of Sh. Ram Naresh, flight no.AI022 dated 13.12.2012 destination New Delhi-Kolkata, seat no.5D.

Now the witness is shown boarding pass no.66. The same is in the name of Sh. Anil Kumar, flight no. not legible as exhibit number is written on it, dated 13.12.2012 destination New Delhi-Kolkata, seat no.4A.

Now the witness is shown boarding pass no.9. The same is in the name of Sh. Ram Naresh, flight no.AI787, dated 14.12.2012 destination Kolkata-Port Blair, seat no.15D.

Now the witness is shown boarding pass no.10. The same is in the name of Sh. Anil Kumar Sahani, flight no.AI787, dated 14.12.2012 destination Kolkata-Port Blair, seat no.faded not legible. It looks like 15B.

Now the witness is shown boarding pass no.7. The same is in the name of Sh. Anil Chaddha, flight no.AI787, dated 14.12.2012 destination Kolkata-Port Blair, seat no.15F.

Now the witness is shown boarding pass no.8. The same is in the name of Sh. Arvind Kumar, flight no.AI787, dated 14.12.2012 destination Kolkata-Port Blair, seat no.15E.”

158. This witness was also cross examined at length by Ld. Counsel for A-2 and during her cross examination, she tried to clarify the discrepancies or contradictions, which have come on record during her examination-in-chief because at one point of time she stated that she had issued all the boarding passes on directions of A-2 N.S. Nair, but she also deposed that A-2 had taken boarding passes from her and since she was issuing boarding passes for economy class only, A-2 therefore went to another CSA Ms. Rubeena Akhtar for issuance of boarding passes. She also went on to state during her cross examination that since boarding passes issued by her were for economy class, the boarding passes given by her to A-2 were destroyed by him and he got issued the boarding passes from Ms. Rubeena Akhtar's ID, who was dealing with executive class. She also stated that seat of Ms. Rubeena Akhtar was behind her seat and

counters for economy seats and business class were at different sides and from her counter, A-2 with boarding passes of economy class had gone to the counter of Ms. Rubeena Akhtar dealing with business class for getting the boarding passes issued. In reply to a specific query of Ld. Counsel for A-2 also, she stated that the boarding passes in physical form were taken from her counter by A-2, but the same were of economy class. However, she maintained during her cross examination also that she had issued 4 boarding passes only and she also stated that she had asked A-2 on the day of issuance of boarding passes itself about the said boarding passes and A-2 told her that he had deleted them. She also clarified that the boarding passes issued by her were actually deleted by A-2 and not destroyed. She further volunteered that it was for the first time that she had issued boarding passes on directions of A-2 for a VIP and that is why she was able to remember it.

159. During their cross examinations, it has been specifically stated on record by both PW42 and PW43 that it was their duty to check the identity and other details of passengers before issuance of the boarding passes. In light of their above admission and further in light of the other evidence on record to the effect that on the basis of PNRs only, the boarding passes could not have been issued or generated, it is the contention of Ld. Defence Counsels that the issuance of boarding passes in this case was not possible as the details of passengers could not have been generated by the system in the absence of actual travel tickets. However, the evidence led on record by prosecution through the testimonies of PW42 and PW43 suggest that these boarding passes were not generated automatically by the system and rather, these were created or issued manually, either by A-2 using the sign-in-codes of PW42 and PW43 or the same were issued

so by these two witnesses on directions or under the influence of A-2. Their depositions on record also clearly show that they both were acting under the influence of A-2, who was on duty at the check-in counters in the capacity of a superintendent or supervisor deputed by the Air India and thus, he had the capacity to exercise the said influence.

160. It further emerges out from their testimonies that out of total 21 boarding passes of the three flights AI022, AI0787 and AI9602, 13 boarding passes were issued by or with the help of sign-in-codes of either of these two female executives and out of these 13 boarding passes, 7 boarding passes were of all the 7 passengers for the flight dated 13.12.2012 from Delhi to Kolkata and 6 boarding passes were of 6 out of the above 7 passengers, i.e. all except the passenger Sh. Atul Kumar, of flight no. AI0787 dated 14.12.2012 from Kolkata to Port Blair. Again, though the above 7th boarding pass of Sh. Atul Kumar of the flight dated 14.12.2012 is also there on **page 12** in the file/document **D-2**, but the flight number found mentioned on this boarding pass is AI9602 which was actually the number of flight dated 16.12.2012 from Port Blair to Delhi and it is not AI0787 which was the number of flight dated 14.12.2012 in the above sector of journey from Kolkata to Port Blair and that why the above witnesses have not identified the said boarding pass to be a part of the boarding passes issued by or through them. As far as the 7 other boarding passes of these passengers for the flight AI9602 of date 16.12.2012 from Port Blair to Delhi are concerned, the same were not shown to these witnesses as it was not the case of prosecution that these boarding passes were issued by or through them from the IGI Airport.

161. Further, though, both PW42 and PW43 have also stated on

record that their sign-in-codes or IDs are not shown or written in the boarding passes and even their signatures were not there on the boarding passes, but they have also clarified that the same were not expected or required to be there. Again, though they have also not been able to tell the date or month etc. of issuance of the boarding passes specifically in their statements, but their omission to this effect can be attributed to the lapse of time or their fading memory only. However, they both duly corroborate each other on the aspect that issuance of the above boarding passes or check-in or decheck-in of the said passengers on the above relevant date was done by them and it was done only on the instructions and under influence of A-2 and thus, it does not matter much if some discrepancies or contradictions have come up in their testimonies with the passage of time or because of their fading memories with respect to the exact number of boarding passes issued by each of them or as to whether all or some of the same were issued and passengers in respect to the same were checked-in or dechecked by them personally or not or even whether A-2 had done it by using their sign-in-codes/IDs.

162. Again, even if both these witnesses have not been able to tell during their cross examinations as to how many check-in counters were functioning or as to how many supervisors or superintendents of Air India were there on duty at that time at the above said airport, but they both have clearly maintained that it was A-2 only who was on duty with them on that day and who was handling the VIP passengers. Their depositions also show that A-2 had full access to the system available at the counters of these two officials and thus, he himself was also in a position to generate or issue the boarding passes by using the sign-in-codes/IDs of these two officials or even his own sign-in-code/ID. Further, even if certain details like the year of journey or boarding gate

no. etc. are not appearing on these boarding passes, it cannot affect the case of prosecution as all these boarding passes got issued by A-2 by using the sign-in-codes of these two officials were fake only and appear to have been got manually issued or created and since these boarding passes were not generated by the system automatically, these were never expected to be bearing the correct particulars generated by the system of Air India. Further, even the other discrepancy in case of prosecution as to whether these two officials had issued 13 boarding passes or 12 passes in total does not matter much and it can be safely ignored.

163. The submission of Ld. Defence Counsels is also that the statement of PW42 Ms. Rubeena Akhtar should not be believed as she was one of the suspects named as accused in the FIR **Ex.PW40/A (D-1)** and further since her name was also kept in column no.12 of the chargesheet as one of the accused, who was not chargesheeted in the case for lack of evidence but could have been summoned as an accused by the court. However, even this submission of Ld. Defence Counsels is found not legally tenable as though she was initially a suspect and her name was also kept in the above column pertaining to accused who were not chargesheeted or sent to face trial by the CBI, but ultimately the court did not summon her as an accused in this case for the apparent reason that the allegations made and the evidence collected during investigation of case was not felt sufficient to summon her as an accused. Hence, the prosecution was not precluded from examining her as a witness to prove its case and to substantiate its allegations and charges that whatever was done by her was only on directions or under the influence of A-2. Therefore, her testimony can safely be believed and acted upon by this court.

164. Thus, it also clearly emerges out from the statements of PW42 and PW43 that neither any tickets were purchased nor the journeys performed by A-1 and his other 6 companions on the above said flights no. AI022 and AI0787 as after check-in, all the passengers were dechecked and the fake boarding passes issued in their names were subsequently deleted or cancelled. Their oral depositions to this effect also stand duly corroborated from the other oral evidence already discussed and the above check-in history of passengers in respect to these two flights, which has been brought in evidence as a part of the documents **Ex.PW3/D2B (colly) (D-18)**.

165. As already discussed, the above documents **Ex.PW3/D2B (colly)** were brought on record by Ld. Counsel representing A-2 himself during the cross examination of PW3 Sh. Abhay Pathak and when these documents were shown to the witness, he duly identified his signatures appearing on the letter dated 26.02.2014 available on pages 1 to 3 of the said documents and he also deposed that the information contained in this letter was supplied by him to the CBI on the basis of records available in their office and certified copies of the above check-in history available on pages 4 to 17 of the said documents and the passengers lists of the two flight nos. AI9602 and AI022 available on pages 18 to 24 thereof were also forwarded to the CBI in support of the contents of and information provided through the said letter, along with a certificate U/S 65B of the IEA available on page 25 of the said documents. He even identified his signatures put on all pages of the above check-in history and passenger lists in token of certification or attestation thereof.

166. It has been observed on a perusal of the above said letter dated 26.02.2014 proved on record by this witness that the information

provided through the said letter was in response to some queries raised by the IO/PW40 regarding issuance or genuineness of the air tickets bearing no. 0981005623501 to 0981005623507, as stated in the trip itinerary of A-1 contained in the file/document **D-2** and issuance of boarding passes in respect to the above three flights for the above sector of journey of A-1 and his 6 other companions and the information sought was to the effect as to whether the above tickets were issued or generated by the Air India system and similarly, whether the boarding passes were issued and the passengers had actually performed the said journey or not. The information furnished by Air India to CBI through their replies, alongwith the questions framed by the IO, is also being reproduced herein below:-

“The desired updated information is once again resubmitted hereunder:-

Point I:- Whether aforesaid air tickets were generated / issued?

Reply:- The ticket number 098-1005623501/ 502/ 503/ 504/ 505/ 506/507 in the name of Sh. Anil Kumar Sahni, Sh. Atul Kumar, Sh. Arvind Kumar, Sh. Rajesh Khatri, Sh.Manjit Singh, Sh. Anil Chadha, Sh. Ram Naresh for the sector DELHI-KOLKATA-PORTBLAIR-DELHI were not issued or generated from our system.

Point II:- Whether aforesaid booking reference was generated?

Reply:- The booking reference number YDC80 (098-1005623501-507) was not generated through our system.

Point III:- Whether aforesaid boarding passes were generated?

Reply:- The boarding passes for flight number AI-022 dated 13 December 2012 (Delhi/Kolkata) and for flight number AI-0787 dated 14 December 2012 (Kolkata/Portblair) were issued in the name of the passengers, Sh. Ram Naresh (PNR YZ4PW), Sh. Anil Kumar Sahni (PNR YZ4PW), Sh. Atul Chadha (PNR YZ4PW) and Mr. Arvind Kumar (PNR YZ4PW) by AI SATS staff Ms Shibi Punin under chek-in code number 10494. Subsequently all the four passengers were de-checked by AI SATS staff Ms Rubina Akhtar with the sign in code 10679. Kindly refer Annexure I, page 7 to 10 and pages 14 to 16 with regard to above information.

Further the boarding passes for flight number AI-022 dated 13 December 2012 (Delhi/Kolkata) and for flight number AI-0787 dated 14 December 2012 (Kolkata/Portblair) were issued in the

name of the passengers, Mr. Rajesh Khatri (PNR HZR3L) and Mr. Manjeet Singh (PNR HZR3L) by AI SATS staff Ms Shibi Punin under check-in code number 10494. Passengers were de-checked by AI SATS staff Ms Rubina Akhtar with the sign in code 10679. Kindly refer Annexure I, page 7 to 10 and pages 14 to 16 with regard to above information. Where as Mr. Atul Kumar (PNR HZR3L) was issued boarding card for flight AI-022 dated 13th December 2012 (Delhi/Kolkata) only. He was checked in by AISATS staff Ms Shibi Punin under check in code 10494 and was also de-checked by the sign in code number 10679 allotted to Ms. Rubina Akhtar, the AI-SATS staff (Kindly refer Annexure I, pages 7 to 10 and page number 17 with regard to the above information). We further clarify that the boarding cards for flight AI 9602/16 December 12Portblair/Delhi were not issued from Air India system and PNR under reference YZ789 remained unutilized for sector Delhi/Kolkata/Portblair/Delhi (please refer pages 4 to 6 and 11 to 13, annexure I).

Point IV:- Whether the passenger performed journey as per aforesaid details?

Reply:- As per the passenger list of flight AI-022 of 13th December 2012 for the sector Delhi – Kolkata and the passenger list of flight AI-9602 dated 16th December 2012 for sector Portblair – Delhi, the passengers in the name of (Sh. Ram Naresh, Sh. Anil Kumar Sahni, Sh. Anil Chadha, Mr. Arvind Kumar, Mr. Rajesh Khatri, Mr. Atul Kumar, Mr. Manjeet Singh) had not traveled or performed journey on the flight.

We are enclosing the certified copies of the passenger list of flight AI-022 dated 13th December 2012 (Delhi – Kolkata) and flight AI-9602 (Portblair – Delhi) dated 16th December 2012 (annexure II) along with the certified annexure I and annexure II as mentioned above. Please note that all certified list / annexures are generated through our system.”

167. However, on a careful perusal of the documents **Ex.PW3/D2B (colly) (D-18)**, it has been observed that a certificate U/S 65B of the IEA available on page 25 thereof and exhibited as **Ex.PW35/E** is only with respect to the authenticity of the computerized check-in history of the above two flights AI022 and AI9602 and it does not refer or pertain to the passenger lists of said two flights and hence, in the absence of such a certificate, computerized contents of these passenger lists available on pages 18 to 24 of the documents **Ex.PW3/D2B (colly)**

cannot be seen or considered to be a part of the prosecution evidence.

168. But still, the oral depositions made by this witness and the information supplied by him through the above letter and the check-in history enclosed therewith duly proves the case of prosecution that A-2 and his other 6 companions were dechecked after check-in for the above two flights AI022 and AI0787 and boarding passes issued to them in respect to these two flights were also deleted or canceled and thus, none of them had actually performed their scheduled journeys not only on these two flights, but also on the third flight no. AI9602.

169. Though, Ld. Defence Counsels have also objected to or challenged the validity of the certificate U/S 65B of the IEA brought in evidence as **Ex.PW35/E (page 25 of D-18)** during the depositions made by PW35 Sh. Vijay Punj on the grounds that neither the said certificate has been proved on record as per provisions of the Evidence Act nor it meets out the requirements of the said Section, but this court is of the opinion that this argument of Ld. Defence Counsels is not tenable. As already discussed, even if the prosecution failed to examine on record the author of the said certificate Sh. Pankaj Vaid, but the said certificate stands duly proved on record through depositions made by PW35 because he was in a position to identify the signatures of Sh. Pankaj Vaid on the said certificate. Further, there is nothing on record to suggest that the above said certificate fails to meet out the requirements of Section 65B of the IEA as it clearly says that the check-in history in respect to the above 3 PNRs YZ489, YZ4PW and HZR3L in response to CBI letter and Vigilance (Air India) letter was produced by the author of this certificate from the Air India's Computer System for reservation and check-in of passengers using a printer and its contents were the true reproduction of original to the

best of knowledge and belief of author of the certificate. It further certified that the conditions laid down U/S 65B (2) (a) of the IEA regarding admissibility of computer output in relation to the information and the computer in question were fully satisfied in respect thereto. However, simply because if this certificate only mentions that the conditions laid down in Section 65B (2) (a) of the IEA were satisfied, it cannot be taken to mean that the requirements or conditions of other clauses of Section 65B (2) of the IEA regarding admissibility thereof or genuineness and authenticity of the information contained therein were not satisfied.

170. Ld. Defence Counsels have also submitted that during his cross examination, PW35 Sh. Vijay Punj has stated that the above computer generated printouts were taken from the software of DCS, which was being used in the office of Air India and server of DCS was not located in India and probably it was in Canada. They have also referred to the depositions made by the witness during his cross-examination to the effect that the Air India was not managing the server of DCS at Canada where the details of passengers were maintained and stored and hence, it is their submission that since Sh. Pankaj Vaid had no control over the above system or server of DCS, he was not in a position to authenticate the said check-in history or the computerized printouts of the data maintained or stored in the said system. On this aspect also, this court is of the considered opinion that the above submission of Ld. Defence Counsels cannot be accepted as it is nowhere required for certifying the genuineness or authenticity of some computerized data or printouts thereof that the person producing or generating the above computerized information or data should be in control of the entire system or of the main server. The depositions made by this witness during his cross-examination duly show that DCS was an inbuilt

computer software which was being used by the Air India and though server of DCS could have been located in Canada, but the inputs or the information which was being uploaded on or feeded in this system about movement of passengers or issuance of tickets etc. was being uploaded or feeded through the officials of Air India and the officials on duty used to feed the said information or data in the system manually and then any other official having control or charge of the system at any other working place was also in a position to reproduce the contents of the said information or data stored in the system by taking out prints thereof. Further, the depositions of this witness also make it clear that the above computerized information reproduced by the system was auto generated and thus, it ruled out the possibility of any subsequent tampering of the data or information which was already stored in the system. The witness has also stated specifically during his cross-examination that like him, Sh. Pankaj Vaid was also an Assistant Manager of Air India having similar duties such as passenger handling and assistance etc. and therefore, it can be said that Sh. Pankaj Vaid was having lawful control or charge of the system and was in a position to produce or generate the above information or data or to take out prints thereof, which was produced, generated or printed automatically by the system.

171. Further, PW8 Sh. Ritesh Kumar, the then Manager (System & Maintenance) of Air India, has also deposed on record that his duties were to develop the in-house applications related to DCS, Cargo and Finance for Air India and on being shown the document **D-79**, though he was not able to identify the signatures of Sh. Debashish Bose, the then Deputy General Manager (Vigilance), on a letter dated 01.05.2015 (**page 1 of D-79**) addressed to the then SP of CBI forwarding certain documents along with a certificate U/S 65B of the IEA regarding

authenticity thereof, but he had duly identified his own signatures appearing on the above said certificate available on page 3 of the said document and had proved it on record as **Ex.PW8/A**. As per depositions made by the witness and contents of the said certificate also, it was issued with regard to the genuineness and authenticity of the passenger manifests for the above three flights i.e. AI022 dated 13.12.2012, AI0787 dated 14.12.2012 and AI9602 dated 16.12.2012, which were supplied to the CBI by Sh. Debashish Bose through the above said letter and these passenger manifests have also been exhibited on record by the witness as **Ex.PW8/B (colly) (pages 4 to 8 of D-79)**.

172. On a careful perusal of the passenger manifest for the flight AI9602 dated 16.12.2012 available on **page 4 of D-79** and from the depositions made by this witness, it is clear that the word 'IXZ' stated in a column thereof pertaining to 'origin' indicated the place of origin of the said flight as Port Blair and it shows that the name of none of the 7 passengers of above journey was included in the above said manifest. However, as per depositions made by this witness though the names of 6 passengers of PNR nos. YZ4PW and XZR3L, namely accused Anil Kumar Sahani, Sh. Ram Naresh, Sh. Anil Kumar Chadhha, Sh. Rajesh Khatri, Sh. Manjit Singh and Sh. Atul Kumar, were shown in the manifest of flight AI022 dated 13.12.2012 from Delhi to Kolkata along with their boarding pass numbers 66, 65, 63, 70, 72 and 71 respectively, but he also stated that all these passengers were further shown to have been dechecked in the system and for them no ticket numbers are mentioned in the said list. He further stated that he cannot say whether the boarding passes were actually issued to them or not. Again, as per depositions made by him, even in the manifest for flight no. AI0787 dated 14.12.2012 from Kolkata to Port Blair in respect to

the above two PNRs, boarding numbers were though issued for the above said 6 passengers, but here also, none of them is shown to have been accepted for the said flight and no seat number was given to them and even their ticket numbers were not mentioned in the passenger manifest, which shows that these 6 passengers did not perform their journey on the above said date even on this flight.

173. On this aspect, it has been observed by this court that though due to some mistake or inadvertence, the witness has not deposed about journey of the 7th passenger Sh. Arvind Kumar of the boarding pass no. 64 as per the passenger manifest of AI022 and also in respect to the other flight no. AI0787, in relation to both the above PNRs, but even the name of this passenger is found duly reflected in both these passenger manifests, along with the other 6 passengers named by the witness, and it can be seen from these passenger manifests that he had also not performed his journey on the above two flights. Thus, the oral depositions made by this witness as supported by the above documentary evidence brought on record in the form of passenger manifests **Ex.PW8/B (colly)** also duly corroborate the other evidence already discussed under this head and the prosecution has thus been successful in proving its case to the effect that though boarding passes in the name of A-1 and his other 6 companions were issued for the flight nos. AI022 and AI0787, after they were checked-in at the Airport by PW42 or PW43 on directions and instructions of A-2, but they did not actually perform the above said journey. It further proves the case of prosecution that they did not even undertake their journey for the flight AI9602 dated 16.12.2012.

174. Ld. Defence Counsels have also challenged the validity of above certificate U/S 65B of the IEA issued by PW8 and proved as **Ex.PW8/A**

by him on the ground that this witness was not a competent witness to issue the said certificate and to certify the genuineness or authenticity of the above computerized passenger manifests. They have also referred to certain depositions made by this witness during the course of his cross-examination, where the witness himself went to state on record that the right person to issue a certificate U/S 65B of the IEA would have been a witness from M/s SITA.

175. In this regard, it is observed that during his cross-examination, PW8 was asked by Ld. Counsel representing A-2 to tell as to who was custodian of the electronic data of passenger manifests and in reply thereto, the witness stated that it was DCS history data, which was stored in server of M/s SITA and their servers were at Atlanta, USA and the Passengers Services System (PSS) of Air India has been outsourced to M/s SITA. The witness further stated it to be correct that source data in this case was from a computer system owned and managed by M/s SITA and he had no control on the computer system or data lying in the systems or any processes defined in the system and he had also indicated this fact in the said certificate.

176. On this aspect, it is also necessary to mention here that on the above certificate **Ex.PW8/A** itself, the witness is found to have given a handwritten note, which reads as under:-

“Please note:-

(1) The enclosed passengers manifest are extracted from the passenger check-in history (XML format) put by M/s SITA (Air India's PSS hosted Solution Vendor) on its FTP Server using in-house developed programme.

(2) As the source date is from a computer system (owned and managed by M/s SITA), the undersigned has no control on the computer system or data lying in these systems or any processes defined in the system.”

177. However, in opinion of this court, the above depositions and the

note made by the witness do not actually mean or show that the witness was not a competent person to issue the said certificate or to authenticate the genuineness or validity of above computerized record. As stated above, the witness was working as a Manager (System & Maintenance) in Air India and it was his duty to develop in-house applications related to DCS etc. for Air India. During the depositions made by PW3, it has earlier come on record that the DCS system was in operation in Air India during the year 2012 and he stated that SITA system was introduced later in the year 2016. It is observed that the above passenger manifests have been reproduced or generated by PW8 in the year 2015 as the same are found to have been forwarded to the CBI through a letter dated 01.05.2015. Since this witness has specifically stated that the data has been produced from the system of M/s SITA, it appears that the system of M/s SITA has already come into operation in the year 2015 and it was not introduced in the year 2016 and the data regarding movement of passengers of this case pertaining to the year 2012 as generated on the DCS system then came to be stored on the server of M/s SITA, as per depositions made by these witnesses.

178. The above note of PW8 clearly shows that he had extracted the above passenger manifests from the passenger check-in history which was already stored on systems of M/s SITA by using the in-house developed programme of Air India. As already discussed, the above computerized printouts with regard to passenger movements or check-in history etc. were being auto generated by the system of Air India and simply because the main server(s) of the DCS or even of M/s SITA, as is in relation to these passenger manifests, was or were located out of India, it cannot be said that only a person having the control of those servers was competent to issue the said certificate and it could not

have been issued by any other person operating or in-charge of the said system on any working point at the IGI Airport or the other office of the Air India. Further, even in terms of sub-section (4) of Section 65B of the IEA, such a certificate can be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities, whichever is appropriate, and such a certificate shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it. Moreover, the certificate **Ex.PW8/A** given by this witness clearly states that the passenger manifests for the above three flights were produced by him from the computer system using printer and its contents were the true reproduction of the original to the best of his knowledge and belief. Again, though even this certificate states that the conditions laid down U/S 65B (2) (a) of the IEA regarding admissibility of computer output in relation to the information and the computer in question were fully satisfied in all respect, but it can not be taken to mean that the other conditions contained clauses (b), (c) and (d) of sub-section (2) of Section 65B of the IEA were not satisfied and there is also nothing on record to show that the same were actually not satisfied with regard to the above passenger manifests. Hence, the above said certificate **Ex.PW8/A** given by this witness is held to be a valid and proper certificate for proving authenticity of the contents of above computer printouts of passenger manifests for the above three flights and these passenger manifests also duly corroborate the other oral and documentary evidence on record to the effect that A-1 and his other 6 companions did not actually perform the above journey on flights AI022, AI0787 and AI9602.

**FAKE BOARDING PASSES EVEN OF FLIGHT NO. AI9602 FROM
PORT BLAIR TO DELHI OF DATE 16.12.2012**

179. As discussed in the previous head, out of total 21 boarding passes available in document **D-2** for the above three flights, 13 boarding passes of the two flight nos. AI022 and AI0787 in respect to two PNR nos. YZ4PW and HZR3L were shown to and identified by PW42 and PW43 as the boarding passes which were issued and deleted either by them on directions and instructions of A-2 or by A-2 using their sign-in-codes. However, 8 other boarding passes of flight no. AI9602 i.e. 1 boarding pass of the passenger Sh. Atul Kumar for the flight AI9602 of date 14.12.2012 from Kolkata to Port Blair and other 7 boarding passes of all the above 7 passengers for the flight of date 16.12.2012 from Port Blair to Delhi were not shown to or identified by these witnesses as they were not instrumental in issuance thereof. Though the above boarding pass of passenger Sh. Atul Kumar for flight no. 14.12.2012 (**available on page 8 of D-2**) shows the flight number as AI9602 from Kolkata to Port Blair, but it was actually the number of flight dated 16.12.2012 which was from Port Blair to Delhi. Thus, the very fact that flight no. AI9602 was printed on the above boarding pass of Sh. Atul Kumar for the flight dated 14.12.2012 is itself a circumstance to show that the above boarding pass with its given flight number and date was a fake document. Even the depositions made by PW2 Sh. Ashwani Kumar Srivastava regarding the place of origin and destination of these flight numbers are found duly corroborating the depositions made by PW42 and PW43 to this effect.

180. Further, PW2 has also specifically stated on record that the executive or business class of seats were available only in flight no. AI022, whereas all the 21 boarding passes available in the file/document **D-2** are found to have been issued for the executive class,

which as per the oral and documentary evidence brought on record was not available in the other two flights AI0787 and AI9602. Hence, this is another fact which goes on to prove that besides the boarding passes of flight AI0787, even the above 8 boarding passes available in file/document **D-2** for the flight AI9602 are not genuine boarding passes and the same are rather fake boarding passes as executive or business class did not exist in these two flights.

181. Again, as already discussed, PW8 Sh. Ritesh Kumar has also duly proved on record, *inter-alia*, the passenger manifest for the flight AI9602 dated 16.12.2012 originating from Port Blair and destined for Delhi-via-Bhuvneshwar. He also specifically stated on record that none of the above 7 passengers is found to have been accepted for journey on the above said flight as their names do not exist in the said passenger manifest dated 16.12.2012 of the above flight, which has been proved and brought on record during his testimony as part of the documents **Ex.PW8/B(colly) (page 4 of D-79)**. Hence, even the depositions made by this witness as corroborated by the documents proved by him duly establish that the above boarding passes of flight no. AI9602 available in **D-2** are fake documents and it does not matter if during investigation of the case, the IO/PW40 failed to collect and the prosecution also failed to prove on record during the trial as to where and by whom the above boarding passes of flight AI9602 were issued or created. In any case, the evidence duly establishes that these fake boarding passes as well as the other boarding passes of flights of this sector of journey for all the above 7 passengers, along with fake e-tickets, were delivered at the residence of A-1 by PW36 Sh. Gunjan Kumar and the same were arranged by A-3 Arvind Tiwari in furtherance of the above criminal conspiracy.

FAKE IMMIGRATION STAMPS ON BOARDING PASSES

182. As discussed under the preceding heads, the prosecution has been successful in establishing on record that all the above 21 boarding passes issued in respect to the above journey of A-1 and his other 6 companions for the above said sector, as contained in the file/document **D-2**, were fake in the sense that no journeys were actually performed by the above passengers on the flights for which the above boarding passes are shown to have been issued.

183. Besides the above, it is also the case of prosecution that the investigation conducted in this case had further revealed that even the immigration check or Pre-Embarkation Security Check (PESC) stamps affixed on these boarding passes were fake and to prove these allegations and charge, PW34 Sh. Ashish Kumar Chandra is also found to have been examined on record by the prosecution during the course of trial. PW34 is the then Inspector of CISF posted at the Security Hold Area (SHA) of Terminal-III of the IGI Airport on domestic side at the relevant time, when the security stamps appearing on these boarding passes were alleged to have been affixed thereon on the relevant date i.e. 13.12.2012. During his statement made before this court, he explained the procedure for security check and affixation of the PESC stamps and stated that it was only after the boarding pass of a passenger containing all the requisite details regarding his journey was checked by them that the above stamp was affixed on the boarding pass of the said passenger, which authorized the passenger to enter and remain in the SHA of the airport. He further stated specifically that security stamps being affixed by them contained the particulars, which were specified by the Bureau of Civil Aviation Security Specification (BCAS) and these particulars included not only the name of airport, but also the date of journey etc. He further stated that separate security

stamps for domestic and international passengers were being affixed by them. For better appreciation of testimony of this witness also, some of the relevant depositions recorded on pages 1-3/6 during his examination-in-chief conducted on 05.03.2019 are being reproduced herein below:-

“In the case of domestic flight, after issuance of boarding pass from check in counter of the concerned Airline, the passenger approaches the queing point before security hold area (SHA) where Airport Security Unit (APSU) i.e. CISF on duty personnel checks the genuineness of boarding pass i.e. date of journey, flight number etc and directs the passenger towards security check point for screening / frisking. After physical checking by CISF Duty personnel, the passengers are allowed in security hold area (SHA) with duly stamped boarding passes. As per (BCAS) Bureau of Civil Aviation Security Specification, the security stamp should contain particular number, name of the Airport whether it is international or domestic and date of journey. The said stamp as per BCAS circular has a defined specification i.e. width and length which is 3.5 cm and 2.5 cm width. It also contains name of the airport and date of journey and particular number. Each stamp has a particular number. Every screening staff using the security stamp has a particular number.

The Air India domestic flight number starting from 001 to 349 and above departs from International SHA and in that case the immigration stamp for domestic clearance is mandatory on the boarding pass. Separate security stamps are earmark for international and domestic SHA and the same is being issued to the duty personnel before starting of each shift after making proper entry in the specific register and after completion of duty the same is deposited back.

The serial number used in stamp for domestic PESC is from 1 to 300 whereas the number used for international stamp is 301 to 600. Every Airport have different criteria. This criteria is applicable for Delhi Airport.

Thereafter, passengers collect their belongings from output roller of X-BIS machine installed at SHA which is cleared by CISF personnel by putting security stamp on baggage bag as well. Then the passenger proceeds towards the concerned boarding gate.

At the boarding gate, the concerned Airline personnel use bar code reader to verify the passenger and allows the passenger to board the plane. Previously, the CISF official also used to check the presence of security stamp on boarding passes and bags to ensure security clearance of the passengers and hand bags at security check point and then allows them to board the aircraft.”

184. Further, during his examination-in-chief, PW34 has also

identified signatures of the then DIG Sh. Sudeep Kumar Sinha on a letter dated 26.03.2015 shown to him as he stated that he had worked for a period of around 5 years under the said DIG and hence, the above said letter stands duly proved on record during his testimony as **Ex.PW34/A (pages 1 & 2 of D-81)**. He further stated the above letter contains para-wise clarifications of the queries raised by CBI in their letter dated 23.03.2015, which also stands duly proved on record during testimony of the IO/PW40 as **Ex.PW40/W (D-56)**. Through this letter, the above DIG of CISF had intimated to the CBI not only the procedure for security check by the CISF officials at the IGI Airport, after issuance of boarding passes, but also as to how many types of stamps were being used for security check by them, the particulars which such a security stamp contained and further the stage etc. when it was affixed on the boarding pass. PW34 was also shown specimen of the security check stamp being used by the CISF at that time and the said specimen affixed or contained at point B on a separate sheet enclosed with the said letter has also been exhibited by him as **Ex.PW34/B (page 3 of D-81)**, which further contains the signatures of this witness at point A thereon as a proof of its certification.

185. Again, during his examination-in-chief itself, he was also shown the three boarding passes bearing nos. 66, 10 and 79 in respect to the passenger/accused Anil Kumar Sahani, as contained in document **D-2**, and on seeing the said boarding passes, he specifically stated that the security stamp appearing on these boarding passes was not the security stamp used by CISF for PESC for the reason that the same was in round shape, whereas the stamp used by CISF was rectangular. He also stated specifically about the missing particulars in these stamps appearing on above boarding passes, which were expected to be there as per the specimen security check stamp given in

Ex.PW34/B. Thereafter, he was shown all the other boarding passes also, which were part of the document **D-2**, and he stated that even the security stamps appearing on these boarding passes were forged as the same were not as per the specifications prescribed by the BCAS and followed by the CISF.

186. Thus, the oral testimony of this witness as corroborated by the documents proved on record through him duly establishes the case of prosecution that even the PESC stamps affixed on above 21 boarding passes, which are part of the file/document **D-2**, are fake and it is another circumstance to prove that all these boarding passes were fake.

FAKE TRIP ITINERARIES AND SUBMISSION OF TA/DA CLAIM

187. As already discussed, the file/document **D-2** is the TA claim of A-1 Anil Kumar Sahani, which was submitted in the Rajya Sabha Secretariat for claiming reimbursement of expenses of the above journey of accused and his 6 companions for the sector Delhi-Port Blair-via-Kolkata and apart from the TA claim form **Ex.PW1/A**, it also contained the above original 21 boarding passes and the trip itineraries of the above three flights. It is found on perusal of record that the above trip itineraries are total 7 in numbers i.e. one in respect to each of the 7 passengers of above journey. On these trip itineraries, the name of travel agency as M/s Sree Balaji Travels, 3, Ashok Deep Building, East Patel Nagar, New Delhi-110005 and one mobile number as +91-9873826036 are also found to be printed at the top of left side of these trip itineraries.

188. PW1 Sh. Satish Kumar, is the then Diarist of Rajya Sabha Secretariat, Parliament House and it was one of his duties to mark the

dak/documents, as per directions of the competent authority, to the concerned officials and the dak received in their section i.e. MS&A Branch (Member Salary and Allowances), included the TA/DA bills of MPs. He stated that they were using the Document Management Information System (DMIS) software for generating diary number of the dak/document and thereafter, they used to put rubber stamp on the same, alongwith date of receiving of the dak/document. He also stated that information in respect to the dak/document was also being stored in the DMIS and this procedure was applicable in respect of TA bills also.

189. On being shown, the document **D-2**, PW1 identified it to be the file of TA claim of A-1 and he stated that this claim was marked to the then Dealing Assistant, Ms. Pushpa Rani (**PW14**) by the then Assistant Director, Ms. Indira Chaturvedi Vaidya (**PW13**) and he also identified the initials dated 31.12.2012 of PW13 at point A on the TA claim form **Ex.PW1/A (page 1 of D-2)**. He further identified the rubber stamp affixed by their branch and diary no. 26 of date 01.01.2013 given by him in his own handwriting, as appearing at point B of the said claim form. He stated that the said diary number of above claim was also given by him in computer.

190. Further, during the course of his examination, one computerized printout generated by DMIS with regard to diary of the above said claim has also been identified and exhibited by him as **Ex.PW1/C (page 10 of D-21)**, which is found to be certified by the then Joint Secretary of Rajya Sabha Secretariat Sh. P. P. K. Ramacharyulu, J. (**PW29**) and sent by him to the CBI along with some other documents vide his letter dated 16.06.2014. The above said letter dated 16.06.2014 has also been exhibited by the witness as **Ex.PW1/B (page 1 of D-21)**.

However, since admittedly, **Ex.PW1/C** is a computerized printout, whose exhibition was objected to by the Ld. Defence Counsels for want of a certificate U/S 65B of the IEA, the contents of this certificate cannot be seen in or considered to be a part of the evidence as no such certificate has been brought on record in respect to this document even thereafter.

191. But still, the oral depositions made by this witness and the manual diary number with date put up by him on the said document duly prove that the above TA claim of A-1 was marked by PW13 to the concerned dealing assistant i.e. PW14 and it was dealt with by PW14. The depositions made by the witness also duly show that he was in a position to identify the signatures or initials of his above two senior officers of the Rajya Sabha Secretariat as he had been working under them for a considerable time and he had also seen various documents signed or written by them. Even otherwise, PW13, PW14 and PW29 have also been examined by the prosecution as witnesses subsequently and the above documents stand duly proved during their testimonies too.

192. PW4 Sh. Ajin J.R., the then Executive Officer of the above said branch of Rajya Sabha, has also identified the document **D-2** to be the TA/DA file of A-1 and he further identified the initials of PW13 at point A on the said document marking it to the dealing assistant Ms. Pushpa Rani and thus, even he corroborates the depositions made by PW1 on this aspect. He also identified the above diary no. 26 given or written by the diarist/PW1 on the said claim form and also the rubber stamp of their office. Even he is found to be a competent person to identify the initials or signatures of PW13 for the same reasons and further, as he also stated specifically that he had seen her writing and signing during

the course of her employment.

193. On being shown the reverse/backside of **page 29 of D-2 (Ex. PW4/A)**, PW4 stated that he wrote 'Arvind' and mobile number '9873826036' at point A thereon in his own handwriting and he also stated that he wrote it because he was directed to make a call at this number, which was supposed to be the number of M/s Sree Balaji Travels, to check authenticity of the air tickets of A-1 submitted with the said claim. Hence, as per depositions made by the witness, the above call by him on the above said mobile number was made to check authenticity of the air tickets and the witness also stated on record that this call was attended by one 'Arvind', who told him that he had no connection with M/s Sree Balaji Travels and for this reason, he had mentioned the name 'Arvind' with the above mobile number on the said document.

194. PW4 has also stated specifically during his examination that they had first made inquires about ticket numbers 981005623501 to 981005623507 from the Air India counter located at Parliament itself, but they were told that the above tickets were not available in the Air India system record. He also stated that then he took up the matter with Air India office at Safdarjung and they received one reply dated 05.02.2013 to the same effect. He further stated that thereafter, he wrote a noting regarding the above inquiries made by him and put up the file before PW13 on 06.02.2013 and the file was ultimately put up before the Secretary General, Rajya Sabha Secretariat, who directed that the concerned person be informed about inadmissibility of the said TA/DA claim.

195. On being shown **page 4 of D-21**, he also identified the

signatures of Sh. S. C. Dixit (**PW9**) at point A on a letter dated 18.02.2013 addressed to A-1 informing him that his claim for reimbursement of e-air tickets has been found to be inadmissible on verification and the said letter has been exhibited as **Ex.PW4/C**. He also identified the signatures of Sh. N.S. Walia (**PW37**) on one other letter dated 25.03.2015 sent to CBI supplying some information and documents in the form of certified copies of some computerized printouts and note-sheets attested by Sh. S.C. Dixit. The said letter (**pages 1 to 3 of D-73**), along with documents (**pages 4 to 26 of D-73**), has been exhibited on record during his testimony as **Ex.PW4/B (colly)**. Even PW4 is found to be in position to identify signatures of both of his above seniors namely Sh. S.C. Dixit and Sh. N.S. Walia for the similar reasons and moreover, these two senior officers of Rajya Sabha Secretariat are also found to have been examined during the trial as PW9 and PW37 respectively and they have also identified their own signatures appearing on different documents, besides deposing about facts of the case.

196. However, again it is observed that all the above documents on **pages 4 to 26 of D-73** are either certified copies of computerized printouts of some data or of the office note-sheets and since no certificate U/S 65B of the IEA has been brought in evidence or proved in support of these computerized printouts and further since even originals of the above office note-sheets have not been produced before this court, all these documents cannot be read in evidence against the accused persons. But still, the oral depositions made by this witness and the other admissible record, as already discussed, are sufficient to prove that during inquiry, the above trip itineraries or e-tickets contained in TA claim file **D-2** of A-1 were found fake.

197. Further, as also discussed earlier, though boarding passes for the above journey were got issued by A-1 merely on the basis of PNR numbers and no e-air tickets were actually purchased for this journey, but these fake e-tickets were submitted by him in his TA claim as without these tickets his claim for reimbursement was not maintainable as per the applicable rules, guidelines and procedure on the subject. The depositions of PW36 Sh. Gunjan Kumar also show that prior to these fake e-tickets having name of the above travel agency, one other set of fake e-tickets was arranged by A-3 for this journey and delivered at the residence of A-1 by PW36, but A-1 then called him to take back those tickets as the name of travel agent was not there and it was required to be there to get the claim. The TA claim of A-1 was dealt with by the Dealing Assistant Ms. Pushpa Rani, who has been examined as PW14. She has explained the procedure of processing of TA/DA claims and on being shown the above claim file **D-2**, she also duly identified the initials and endorsement made in her name by PW13 in respect to the marking of said claim to her. She even identified the signatures of A-1 appearing not only on the TA claim form **Ex.PW1/A**, but also on the above 7 trip itineraries available on pages **5, 6, 10, 14, 18, 25 and 29 of D-2**, which were already exhibited as **Ex.PW13/A (colly)**. She also stated specifically that a record of specimen signatures of the MPs was being maintained in their branch and the signatures of MPs on the claimed documents were matched with their signatures available in record for processing of the claims and she also stated specifically that she was in a position to identify the signatures of A-1 appearing on the above claim documents as she was dealing with such claims of MPs of the States of Andhra Pradesh, Bihar and Jharkand and TA/DA claims of nearly 40 MPs were marked to a dealing assistant.

198. She also stated that in case any discrepancy in the claim about

e-tickets was observed, then inquiries were made from the concerned Airlines and regarding the above claim **Ex.PW1/A (D-2)**, she also specifically stated that inquiries were made by them as she observed that the boarding passes available in the claim file were not having e-ticket numbers and some clarifications regarding air fare were also required. The relevant depositions made by the witness on pages 3&4/9 during her examination-in-chief dated 30.11.2018 regarding the above inquiry and result thereof are also reproduced herein below:-

“.....I observed that the boarding passes are not having the ticket numbers. Some clarifications were also required for air fare. Therefore, for clarifications of boarding passes and bifurcation of air fare, the matter was referred to Air India. First we made enquiries from the office of Air India at Parliament House but they directed us to make enquiries from Head office of Air India as they were not able to find the details of E-tickets in question. At page 2 of D-73, is the office noting initiated by me on 04.01.2013 where I had noted that the counter incharge of Air India has informed that ticket numbers in question are not traceable and advised to take up the matter with the Regional Office Safdarjung, New Delhi for verification. I identify my signatures at point C on page 2. At page 4 is the noting where it is noticed that the Air India, Regional Office, Safdarjung, New Delhi has informed that ticket no. 0981005623501-07 were found to be incorrect as per their system records. The respective airport at Delhi/Kolkata and Port Blair had informed that the passenger manifests of the flights/dates/name in their system does not match with details mentioned in the tickets produced by the member (para 2). vide letter dated 05.02.2013, Ex.PW9/Z15, Air India informed Ms. Indira Chaturvedi Vaidya that the ticket nos. 0981005623501-07 were found to be incorrect as per their system records. This letter bears initials of Ms. Indira Chaturvedi Vaidya at point B and she marked the letter to me by writing my name at point C.

At page 10 of the noting is my signatures at point A whereby a draft letter to Secretary, Civil Aviation for taking appropriate action against the travel agent was put up for approval. Same is part of Ex.PW9/Z16 (colly).

On coming to know the response of Air India, A-1 MP A K Sahani was informed that his TA DA claim for the concerned journeys of December 2012 is not admissible. This was informed vide D-21, page 4 already Ex.PW4/C which is a letter dated 18.02.2013 written by Sh. S. C. Dixit, Joint Director, RS Secretariat and addressed to A-1 MP A K Sahani informing that his TA DA claim is inadmissible. Several telephone calls were received from the residence of A-1 MP A K Sahani enquiring

about the fate of TA DA claim. However, he never came to meet me in this regard. The members meet our senior officers and not us with regard to any query.

Thereafter, a letter dated 01.03.2013 was received which is already Ex.PW4/D1A as per which A-1 MP A K Sahani had asked that the forged tickets be made available to him for his examination.”

199. Thus, even this witness corroborates the other evidence already discussed under this head to the effect that the above TA claim of A-1 was found inadmissible on inquiry for the reasons that not only the above trip itineraries or e-air tickets filed with the claim were found fake for the given reasons and not existing in the records of Air India, but it was further reported that no journeys by A-1 and his other 6 companions for the above sector were actually performed.

200. Again, even PW9 Sh. S.C. Dixit, the then Joint Director, Rajya Sabha Secretariat, not only deposes on record about the procedure of processing of TA claims of MPs, but he also deposes specifically about the inadmissibility of above TA claim of A-1 and the office notes written and correspondence made to this effect. As already discussed, the letter dated 18.02.2013 **Ex.PW4/C (page 4 of D-21)** brought on record during the testimony of PW4 Sh. Ajin J.R. is found to have been sent by this witness to A-1 informing him about inadmissibility of his claim and the witness has also duly identified his signatures appearing on this letter. Since only a certified copy thereof has been brought in evidence and the original thereof has not been produced, contents of the same could not have been otherwise admissible in evidence, unless the same were admitted by or on behalf of the accused. However, this part of the prosecution case is not found to be under challenge from the side of accused as during cross examinations of PW4, PW9 and PW14 etc., Ld. Counsel representing A-1 had himself put to these witnesses, a certified copy of the letter dated 01.03.2013

Ex.PW4/D1A (page 5 of D-21) and this is the letter which A-1 had written to the Joint Director, Rajya Sabha Secretariat in response to the above letter dated 18.02.2013 **Ex.PW4/C** written to him by this witness. In this letter **Ex.PW4/D1A**, A-1 submitted that the above TA bill or claim in respect of 14 air tickets was not submitted by him or by his PA. Thus, the oral depositions made by PW9 as corroborated by the above documentary evidence and admission of accused about submission and return of the claim duly substantiate the other evidence led on record regarding inadmissibility of above claim of A-1 and its communication to him through the above said letter dated 18.02.2013 **Ex.PW4/C**.

201. On being shown, PW9 has also identified the signatures of some other officers of his Secretariat on the letters sent to A-1 and the replies of A-1 received to this effect and certified copies of these letters or correspondence are/is available from pages **6 to 10 of D-21**. But as already discussed, the originals thereof have not been produced. He has also identified his own signatures on one other letter dated 06.04.2015 sent by him to CBI and exhibited or proved the said letter, along with its annexures, as **Ex.PW9/Z9 (colly) (D-80)**. The annexures to the above letter are copies of the two gazette notifications regarding appointment of A-1 as MP of Rajya Sabha for two different terms and also a typed statement containing details of the persons authorized by A-1 to enter the Parliament House complex. He further proved on record one more letter dated 26.03.2015 sent by him to the CBI as **Ex.PW9/Z10 (part of D-54)** supplying some documents in respect to the other claim for reimbursement made by the said accused and exhibited the said documents as **Ex.PW9/Z11 and Ex.PW9/Z12 (parts of D-54)**. PW37 Sh. N.S. Walia, the then Joint Secretary of Rajya Sabha, has also identified his own signatures and signatures of his

other colleagues on various letters and documents already exhibited as **Ex.PW4/B (colly)**, **Ex.PW9/Z15**, **Ex.PW4/C**, **Ex.PW9/Z5**, **Ex.PW9/Z6**, **Ex.PW9/Z7** and **Ex.PW1/C** etc.

202. All the above witnesses are found to have been duly cross examined by Ld. Counsel representing A-1 at length. However, it has been observed that nothing material in their cross examinations could be extracted out by the Ld. Counsel, which can challenge or controvert the above factual position regarding submission and rejection of the above said TA claim **Ex.PW1/A** of A-1 for the above given reasons or the veracity or competency of the witnesses to depose about the same. On being asked by Ld. Counsel for A-1, though some of the above witnesses have stated during their cross-examinations that the signatures of accused as appearing on the above TA claim form **Ex.PW1/A** and trip itineraries **Ex.PW13/A (colly)** were not put by the said accused in their presence, but it does not in any way goes against the prosecution case as they all had dealt with the above TA claim of A-1 personally and on being shown the said documents and further on being asked to identify the signatures of this accused, as appearing on the documents of above claim in **D-2** or in the files of his previous claims, they have also duly identified the same. Further, though it has also come on record during statements of PW1, PW4, PW9 and PW14 etc. that it was not possible for them to tell as to whether the above TA claim was submitted in the MS&A branch of Rajya Sabha or the said Secretariat by A-1 personally or the same was submitted by his PA or some other authorized person, but again, this fact is not found detrimental to the case of prosecution in any way because it was not at all required for processing the said claim that it should have been submitted by the accused personally and it was also not required for proving the guilt of accused to mandatorily ascertain the identity of the

said person who actually submitted it. It cannot be ignored that though the above witnesses have stated that it was not possible to tell about the person who submitted the said claim as no such data or record was being maintained in their office, but they have also maintained throughout their examinations that the claim could have been submitted either by the MP personally or by any person authorized by him as entry in the said Secretariat was restricted. PW1 even went on to state specifically that the claim could not have been submitted by any Tom, Dick and Harry as entry in the Rajya Sabha Secretariat was through a pass only.

203. It is the contention of Ld. Counsel representing A-1 that in the absence of determination of identity of the person who actually submitted the above TA claim file, liability for its submission cannot be fixed upon the accused because the same was submitted by someone else for some ulterior or malafide reasons and without having any authority or instructions to do so from the side of accused. He also submitted that even some suggestions to this effect were given by him to the relevant witnesses during their cross-examinations. But it has been observed by this court that such suggestions were rightly denied by the said witnesses as wrong as they were actually not aware of the person who submitted the said claim and it was for the simple reason that no record to this effect in their office was being maintained at the relevant time, as already discussed. Further, on this aspect, Ld. Counsel for A-1 has also heavily relied upon the contents of above letter dated 01.03.2013 **Ex.PW4/D1A (page 5 of D-21)**. However, as also discussed earlier, the above letter **Ex.PW4/D1A** was sent by the accused in response to the letter dated 18.02.2013 **Ex.PW4/C** of PW9 (the date of letter **Ex.PW4/C** is found wrongly written as 08.02.2013 in **Ex.PW4/D1A**) informing him about inadmissibility of his claim, receipt

of which has been admitted by the accused. In this letter **Ex.PW4/D1A**, the accused stated that the above air tickets were not deposited or submitted by him or by his PA and somebody else in his name had submitted the fake air tickets and claim for reimbursement. But in considered opinion of this court, the above letter is not sufficient to absolve the accused from the charge of submission of above false claim or to prove that it was not submitted by him or any person authorized on his behalf because there is no reason to disbelieve or discard the consistent and corroborative depositions made by all the above prosecution witnesses with regard to submission of the said claim either by the accused himself or by any of his authorized representatives.

204. It is also the contention of Ld. Counsel representing A-1 that though the prosecution has examined on record two witnesses i.e. PW12 Sh. Rahul Raj and PW38 Sh. Avinash Singh who claimed themselves to have worked as PAs to the said accused, but none of them has stated that he had deposited the above TA claim of the accused in Rajya Sabha Secretariat and hence, the above lapse or flaw in the story of prosecution is sufficient to create a doubt about truthfulness thereof and the accused is required to be given a benefit of doubt on this ground only. Further, it is also his contention that it was PW38 Sh. Avinash Singh who had actually deposited the above TA claim in the Rajya Sabha Secretariat on the basis of above fake documents and it was done by him without the knowledge or instructions of A-1 as he used to keep with him blank TA claim forms signed by the accused and he might have also taken the signatures of accused on the other documents like the trip itineraries/e-tickets **Ex.PW13/A (colly)** in routine and by mixing it with the other documents.

205. In this regard, it is observed that as per depositions made by PW12 Sh. Rahul Raj, he had worked as PA to the said accused from January, 2013 to April, 2018 and PW38 Sh. Avinash Singh claims that he worked with A-1 in the said capacity till April, 2012 only. Hence, according to these witnesses, none of them was working with the said accused in the month of December, 2012, when the said claim file was submitted or deposited in the Rajya Sabha Secretariat. As per the evidence already discussed, the above claim was assigned by PW13 Ms. Indira Chaturvedi Vaidya to PW14 Ms. Pushpa Rani on 31.01.2012 and it was diaried vide no. 26 by PW1 Sh. Satish Kumar on 01.01.2013, in the process of assigning the said claim to PW14. Though it has neither been pointed out on behalf of prosecution nor by the accused, but on a careful perusal of the endorsement made by PW13 on the above TA claim form **Ex.PW1/A** about assigning it to PW14, it has been observed by this court that the date initially written by PW13 below her initials was '21/XII' (21/12), but it was then changed to '31/XII' (31/12) by way of modification/correction/overwriting and by making the digit '2' to '3'. Since the above modification or correction had gone unnoticed during the course of trial, no question is also found to have been put to any of the witnesses examined on record, who had dealt with the above claim and therefore, no explanation to this effect has also come on record. In any case, even despite the above, it can be safely inferred from the above evidence that this claim of A-1 was duly received in the Rajya Sabha Secretariat on or around 21.12.2012 and none of the above two PAs was working with A-1 at that time, as has been deposed by them.

206. Again, during the course of his examination, PW9 has proved on record, *inter-alia*, one letter dated 06.04.2015 **Ex.PW9/Z9 (colly)**

(pages 1 & 2 of D-80) written by him to the CBI and through this letter, he had supplied the documents available on pages 3 to 12 of the said document i.e. **D-80** and these documents are also found to be a part of **Ex.PW9/Z9 (colly)**. Further, as discussed earlier, these documents consist of two notifications regarding appointment of A-1 as MP of Rajya Sabha for two different tenures and these notifications were made as **Annexures A and B** to the said letter and one statement containing details of the persons authorized by A-1 to enter the Parliament House Complex was also annexed with the said letter as **Annexure C**.

207. As per details contained in Annexure C to the above letter, PW38 Sh. Avinash Kumar was authorized by A-1 to enter the Parliament House Complex from 30.09.2010 to 02.04.2012 and then from 03.04.2012 to 15.05.2012 and PW12 Sh. Rahul Raj was authorized to enter the said complex from 07.12.2012 till date i.e. the date of supply of the said documents. The above statement further shows that during the intervening period i.e. between 15.05.2012 to 07.12.2012, one Sh. Rajendra Kumar Chauhan was authorized to enter the above complex. It, therefore, follows from the above that during the month of December, 2012, two different persons i.e. Sh. Rajendra Kumar Chauhan and PW12 Sh. Rahul Raj were authorized to enter the Parliament House Complex in connection with the acts to be done or responsibilities to be discharged by them for and on behalf of A-1 and the authority of Sh. Rajendra Kumar Chauhan was valid till 07.12.2012 and authority of PW12 Sh. Rahul Raj also commenced on 07.12.2012 and it was still continuing on the date of above letter sent by PW9 to CBI. Therefore, when PW12 deposed that his tenure as PA to A-1 started from January, 2013 and lasted till April, 2018, he was required to be questioned or confronted on this aspect by Ld. Sr. PP with

reference to contents of the above statement, which was a part of the documents **Ex.PW9/Z9 (colly)**, but it has not been done.

208. However, in any case, if it cannot be established from the evidence led on record through the testimonies of above official witnesses of Rajya Sabha Secretariat as to who actually deposited or submitted the above TA claim file of A-1 in the said Secretariat, it is not because of the fact that such an evidence has been concealed or intentionally withheld by them or by the prosecution from this court and it is only because of the fact that no such evidence actually existed and the depositions made by the witnesses appearing from the Rajya Sabha Secretariat also show clearly that no record was being maintained in their office regarding the persons who were submitting or depositing such type of files or correspondence. As also discussed earlier, the fact that who actually deposited the above claim file is not at all relevant for proving the above charges framed against the accused persons as, admittedly, the above claim for reimbursement pertains to A-1 and the evidence also establishes that it was being pursued by him and he was also the only beneficiary of the said claim.

209. However, still evidence to this effect is found to have been duly led on record by prosecution through the testimony of PW36 Sh. Gunjan Kumar and there is no reason to disbelieve and discard the clear and specific depositions made by him on record on this aspect, as already reproduced, that the above TA claim of A-1 was submitted in the Rajya Sabha Secretariat by A-3 Arvind Tiwari as A-3 was having pass for entering in the Rajya Sabha Secretariat because he was working as PA to some other MP at that time. He also deposed specifically that he had even informed A-1 about submission of the above TA bill with the said Secretariat by A-3. He even deposed before

this court to the effect that when the payment against the said TA bill was not received in account of A-1, A-1 had also asked him to request A-3 Arvind Tiwari to find out the reasons therefor and he told A-1 that it would not be possible for A-3 to make enquiries from the Rajya Sabha Secretariat. Again, he also deposed specifically before this court that on request of A-1, he even requested A-3 lateron to take back the above TA bill submitted in the Rajya Sabha Secretariat by him on behalf of A-1, but A-3 expressed his inability to withdraw the same. Thus, the prosecution has even proved it on record that the above TA claim of A-1 was submitted in the Rajya Sabha Secretariat by A-3.

210. Moreover, as stated above, the evidence led on record by prosecution also reflects that the above TA claim was being pursued by A-1 in the Rajya Sabha Secretariat. PW13 was though silent on this aspect during her examination-in-chief, but in reply to the questions put by Ld. Counsel for A-1 during her cross-examination, she is found to have specifically stated on record that on behalf of the member Anil Kumar Sahani, several enquiries were made telephonically to find out the fate of his TA/DA claim and he had also once visited the MSA Branch personally and met her for making enquiries about the said claim. She also stated specifically during her cross-examination that she informed to the member that the bill was inadmissible as per information from Air India and this intimation was thereafter even conveyed to him vide letter **Ex.PW4/C** as well. Regarding her these depositions about telephonic calls received or enquiries made by the said accused for pursuing his TA claim, she is also found to be duly corroborated by the depositions made by PW9 and PW14 during their cross-examinations because they both too had deposed on these lines specifically. Hence, even if PW14 stated on record that A-1 did not meet her personally, despite the fact that she was the concerned

dealing assistant for the above TA claim of A-1, this cannot be considered to be a discrepancy or lapse in the case of prosecution, as has been argued by Ld. Defence Counsel, because the accused being a MP was not expected to meet the official working at the lowest level. PW14 herself supports this inference when she specifically stated on record that members used to meet their senior officers only and not with them with regard to their queries. Thus, the evidence on record even proves that A-1 was personally pursuing his above claim and it falsifies his defence that it was submitted by someone else in his name for some vested interests or malafide reasons.

211. Again, it is an admitted fact that after the TA/DA claim of MPs were processed and approved, the claimed amount was not paid in cash. There is also nothing on record to infer or conclude that reimbursement of the above TA claim was to be paid, credited in or transferred to the account of any other person as in the usual course, the same could have been paid through cheque or transferred or credited directly in account of A-1 only. Hence, the defence of A-1 or the submission being made on his behalf by Ld. Counsel representing him that the above claim was submitted by someone else in the name of A-1 or by PW38 Sh. Avinash Singh for some mischievous reasons or without having any authority or instructions from the accused to do so is found to be without any merit as such other person could not in any way have been benefited by approval of the above claim.

212. Further, it has also been argued on behalf of A-1 that the accused was trying to expose some racket involved in making such false claims by some other MPs and it was only as a result thereof that he was got falsely implicated in the case. Ld. Defence Counsel has also referred to the subsequent letter dated 13.11.2013 **Ex.PW9/Z6**

(page 7 of D-21) written by A-1 to the Chairman, Rajya Sabha to this effect and also as a protest to the CBI raid conducted at his residence. However, even this defence of the accused has remained unsubstantiated as no such evidence is found to have been adduced or led on record by A-1 in his defence to prove or establish the said fact. Rather, the oral and documentary evidence led before this court shows that even prior to the above TA claim raised by A-1 on the basis of fake documents contained in file/document **D-2** for the above sector of journey i.e. Delhi-Port Blair-via-Kolkata, he had also raised a similar claim for reimbursement on the basis of fake documents in respect to another sector of journey i.e. Delhi-Chennai-Port Blair-Chennai-Delhi, allegedly performed by him and his 9 other companions in the month of March, 2012, which will be discussed separately lateron. Hence, the above submission being made or argument advanced on behalf of the accused regarding his false implication in the present case by someone for some vested or malafide reasons is found to be without any merits.

213. A-1 is also found to have examined on record one defence witness Sh. Lal Babu Gope as DW1/A1, who claims to have witnessed an incident or episode at the Delhi residence of accused in April, 2012 and it was between the accused and his PA Sh. Avinash Singh i.e. PW38. This witness deposed that in the said episode, A-1 got annoyed and he had scolded PW38 for lodging a false claim for reimbursement of travel expenses in his name and he also stated that in the said episode PW38 had admitted the above fact and even felt sorry for the same. However, admittedly, these depositions of DW1/A1 do not pertain to the above claim for reimbursement contained in the file/document **D-2** for the sector of journey from Delhi to Port Blair-via-Kolkata, for which a charge with reference to the offence of criminal

conspiracy has been framed against all the three accused, as this journey was purportedly performed only in December, 2012 i.e. much after the above episode. Even otherwise, in the absence of any corroboration from any other independent source, these depositions of DW1/A1 cannot be believed as he is found to be an interested witness and admittedly, even no complaint to the police or any authority against PW38 was made by him or by A-1 regarding this incident and hence, his above depositions have remained unsubstantiated and the same cannot be believed.

214. Moreover, it has also been observed on perusal of record that PW38 during his cross-examination was not even questioned regarding the above incident or episode and though he was asked whether he knew any Lal Babu Gope, but he denied knowing the above said witness and he also denied the suggestion that the said witness was a representative of A-1 in his constituency. He further denied the suggestion given to him by Ld. Counsel for A-1 that DW1/A1 had even called him once on his mobile number, after visit of CBI to the flat of A-1.

215. Again, it is an admitted fact that A-1 had not got lodged or given any complaint to the police or any other authority, including the competent authority of Parliament or Rajya Sabha, holding PW38 Sh. Avinash Singh to be responsible for lodging the above TA claims with Rajya Sabha Secretariat without his instructions or knowledge, even after his request for withdrawal of his above claim in **D-2** for perusal vide his letter dated 01.03.2013 **Ex.PW4/D1/A (page 5 of D-21)**, which was not considered by the concerned authority. Rather, contents of the above letter are found to be in contradiction with his above specific defence and submissions made to the effect that it was or could have

been PW38 who had lodged the above false claim for reimbursement in his name based on fake documents because in the said letter it is found stated specifically that the said claim was not lodged by him or his PA and it was lodged by someone else. Further, as already discussed though PW38 might not have been working as his PA around 21.12.2012 when this claim could have been submitted, but nothing still prevented the accused from implicating PW38 as the culprit or as a suspect by name in the said letter.

216. Further, a perusal of cross examination of PW38 conducted on behalf of A-1 also shows that though he was questioned at length with regard to nature of his duties during his tenure as PA to A-1 and he admitted that he even used to visit Rajya Sabha Secretariat regarding TA/DA bills of the accused and he also used to write letters for him and to look after booking and reservation of railway tickets for people of his State as referred to by the accused, but he was nowhere specifically suggested that the TA claim form in file/document **D-2** was submitted by him on behalf of the accused. He even denied as wrong a suggestion given to him by Ld. Counsel for A-1 that he used to get signed blank forms from the accused during his above tenure. Hence, the evidence on record nowhere shows that it could have been PW38 who had submitted the above TA claim with the Rajya Sabha Secretariat and that too without any directions or instructions or even knowledge of A-1. The above depositions of PW38 also cannot override the clear depositions made by PW36 Sh. Gunjan Kumar that it was submitted by A-3.

IDENTIFICATION OF SIGNATURES OF A-1 ON THE CLAIM DOCUMENTS IN D-2 AND THE EXPERT EVIDENCE ABOUT IT

217. As discussed above, the TA claim form **Ex.PW1/A** and the trip

itineraries **Ex.PW13/A (colly)** available in the claim file/document **D-2** are found bearing signatures of A-1 Anil Kumar Sahani, which have also been specifically identified by PW13 and PW14 when the said documents were shown to them. Further, besides identifying the signatures of the other officers/officials of their branch/section, PW9, PW13 and PW14 have also identified the signatures of this accused on different documents available in the other claim documents **D-3 to D-14**, which are admittedly the files of previous claims of similar nature made by the accused. Apart from the above, they had also identified the signatures of accused appearing on some other letters **Ex.PW4/D1A (page 5 of D-21)**, **Ex.PW9/Z6 (page 7 of D-21)** and the documents **Ex.PW9/Z11** and **Ex.PW9/Z12 (parts of D-54)** etc. Besides these witnesses, even PW38 Sh. Avinash Singh had identified signatures of the accused appearing on the above said documents. All these witnesses are found to be duly competent to identify signatures of the said accused for different reasons, as already discussed.

218. Apart from the above, one other witness who could have identified signatures of this accused was PW12 Sh. Rahul Raj. However, when the above documents containing signatures of accused were shown to him during his examination before this court, he though had not confirmed with certainty that the signatures on these documents pertain to this accused, but even he is found to have stated on record that the same resemble with or look like signatures of the accused. In any case, even the accused himself is not found to have challenged his signatures as contained on the above documents and rather, during cross-examination of some of the official witnesses of Rajya Sabha Secretariat, Ld. Counsel representing him had himself put to them the files/documents of previous claims of the accused to bring it on record that no discrepancy in these previous claims for

reimbursement of travel expenses of the accused was found by them.

219. Again, besides the above oral evidence, the documentary evidence with regard to identification of signatures of accused on the documents contained in the above claim file/document **D-2** is also there on record and it is in the form of testimony of PW32 Sh. Jeet Singh, Handwriting Expert from CFSL, Lodhi Colony, New Delhi and the report **Ex.PW32/R (colly) (D-65)** given by him. As already discussed, this witness has been examined twice and after the report **Ex.PW32/B (D-77)** was proved on record during his initial examination, he was permitted to be recalled on request of Ld. Sr. PP and one other report given by him has been proved on record as **Ex.PW32/R (colly)**, along with forwarding letter thereof.

220. This report **Ex.PW32/R (colly) (D-65)** pertains to the questioned signatures of accused marked as Q-3, Q-5 and Q-7 to Q-14 as appearing on the above TA claim form and trip itineraries available in his claim file/document **D-2**. The said questioned signatures of accused are found to have examined by PW32 with reference to his specimen signatures marked as S-1 to S-12 **Ex.PW15/A (colly) (D-19)** and his admitted signatures marked A-1 to A-41 and A-15A appearing on documents contained in the files of his previous claims, the specimen writings marked S-13 to S-28 **Ex.PW17/A (colly) (D-20)** of A-3 Arvind Tiwari and his questioned writings marked Q-1 and Q-2 on the above documents. The conclusions arrived at by the witness in this regard and as mentioned by him in his report **Ex.PW32/R (colly)** are being reproduced below:-

“7. Result of Examination:-

I. Handwriting evidence points to the writer of the standard English signatures marked S-1 to S-12 and A-1 to A-41, A-15A attributed to Anil Kumar Sahani being the person responsible for

writing the questioned English signatures marked Q-3, Q-5 and Q-7 to Q-14, due to the following reasons:-*****

II. Handwriting evidence points to the writer of the specimen English writings S-13 to S-28 attributed to Arvind Tiwari being the person responsible for writing the questioned English writings marked Q-1 and Q-2, due to the following reasons:- *****
*****”

221. Thus, even the documentary evidence led through the testimony of this witness establishes that the questioned signatures of accused at points marked Q-3, Q-5 & Q-7 as appearing on the above TA claim form **Ex.PW1/A** in file/document **D-2** and his other questioned signatures appearing at points marked as Q-8 to Q-14 on the above 7 trip itineraries **Ex.PW13/A (colly)** contained in file/document **D-2** are of this accused only.

LAW OF CRIMINAL CONSPIRACY

222. The law of criminal conspiracy is well settled and it is settled that since conspiracies are hatched mostly behind the closed doors, very rarely any direct evidence showing the existence of such a conspiracy or meeting of minds of the conspirators is available and more or less the existence of a criminal conspiracy has to be drawn or inferred from the facts of a particular case. It will be a question of fact in each case as to whether the acts done by accused have been done or performed in furtherance of any such criminal conspiracy or the objects thereof or the same are separate or individual acts of the accused persons, without sharing of any such common intent or object. Section 120A IPC defines criminal conspiracy in the following words :-

“S. 120A. Definition of criminal conspiracy.—When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act

besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.”

223. Thus, it is clear from the language used in Section 120A IPC that the offence of criminal conspiracy consists in doing, agreeing to do or causing to be done of illegal act by two or more persons or an act which is not illegal in itself by illegal means. Thus, though an agreement to do or cause to be done an act which is *per se* illegal shall constitute a criminal conspiracy, but it will not amount to criminal conspiracy if the accused agree to do an act which is not illegal by itself unless it is agreed to be done by some illegal means. An agreement between the accused persons to do an illegal act or a legal act by illegal means is gist of the offence of criminal conspiracy. Once the evidence establishes the existence of a meeting of minds or an agreement between the accused persons for doing of an offence or an illegal act or a legal act by illegal means, then even the acts done individually by the accused persons have to be taken with reference to their common intent or design of the said criminal conspiracy. However, it is possible to draw such an inference regarding the *prima facie* existence of such a criminal conspiracy only when the facts and circumstances of a particular case reasonably permit to do so. In the Full Bench decision of the Hon'ble Supreme Court in the celebrated case of **P. K. Narayanan Vs. State of Kerala, (1995) 1 SCC 142**, their lordships had very well considered and laid down the scope of a criminal conspiracy and of drawing inference in this regard in the following words :-

“10. The ingredients of this offence are that there should be an agreement between the persons who are alleged to conspire and the said agreement should be for doing of an illegal act or for doing by illegal means an act which by itself may not be illegal. Therefore the essence of criminal conspiracy is an agreement to

do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both and it is a matter of common experience that direct evidence to prove conspiracy is rarely available. Therefore the circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused. But if those circumstances are compatible also with the innocence of the accused persons then it cannot be held that the prosecution has successfully established its case. Even if some acts are proved to have been committed it must be clear that they were so committed in pursuance of an agreement made between the accused who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. From the above discussion it can be seen that some of the circumstances relied upon by the prosecution are not established by cogent and reliable evidence. Even otherwise it cannot be said that those circumstances are incapable of any other reasonable interpretation.”

224. In the case of **State of Maharashtra & Ors. Vs. Som Nath Thapa & Ors., Manu/SC/0451/1996**, the following observations have been made by the Full Bench of Hon'ble Supreme Court :-

“24. The aforesaid decisions, weighty as they are, lead us to conclude that to establish a charge of conspiracy knowledge about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use. When can charge be framed ?”

225. In case **Vijayan @ Rajan Vs. State of Kerala, 1999 Cri.L.J. 4164**, their Lordships had observed that :-

“It is no doubt true that it is difficult to establish conspiracy by direct evidence and, therefore, from established facts inference could be drawn but there must be some material from which it would be reasonable to establish a connection between the

alleged conspiracy and the act done pursuant to the said conspiracy.”

226. Even in the case **Yogesh @ Sachine Jagdish Joshi Vs. State of Maharashtra, 2008 Cr.L.J. 3872**, the following observations have been made by their lordships of the Hon'ble Supreme Court:-

“22. More recently, in State (NCT of Delhi) Vs. Navjot Sandhu @ Afsan Guru , making exhaustive reference to several decisions on the point, including in State Through Superintendent of Police, CBI/SIT Vs. Nalini & Ors., Venkatarama Reddi, J. observed thus:

"Mostly, the conspiracies are proved by the circumstantial evidence, as the conspiracy is seldom an open affair. Usually both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused (per Wadhwa, J. in Nalini's case at page 516). The well known rule governing circumstantial evidence is that each and every incriminating circumstance must be clearly established by reliable evidence and "the circumstances proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn and no other hypothesis against the guilt is possible." (Tanviben Pankajkumar case , SCC page 185, para 45). G.N. Ray, J. in Tanibeert Pankajkumar observed that this Court should not allow the suspicion to take the place of legal proof."

23. Thus, it is manifest that the meeting of minds of two or more persons for doing an illegal act or an act by illegal means is sine qua non of the criminal conspiracy but it may not be possible to prove the agreement between them by direct proof. Nevertheless, existence of the conspiracy and its objective can be inferred from the surrounding circumstances and the conduct of the accused. But the incriminating circumstances must form a chain of events from which a conclusion about the guilt of the accused could be drawn. It is well settled that an offence of conspiracy is a substantive offence and renders the mere agreement to commit an offence punishable even if an offence does not take place pursuant to the illegal agreement.”

227. Coming back to facts of the present case, it is clear that the above incriminating facts and circumstances proved on record against the accused persons duly constitute a complete chain of events showing existence of a criminal conspiracy or meeting of minds of between all of them to arrange or procure fake e-air tickets and

boarding passes showing traveling of A-1 Anil Kumar Sahani and his other 6 companions for the above sector of journey between Delhi-Port Blair-via-Kolkata, without actual performance of the said journey, so as to enable A-1 to lodge a false claim for reimbursement of travel expenses of the said journey from the office of Rajya Sabha Secretariat and thus, to cheat the said office to the extent of Rs.9,49,270/-, which was cost of the above air tickets. It was only in furtherance of this criminal conspiracy that A-1 had procured the above fake e-tickets and boarding passes from A-3 Arvind Tiwari through PW36 Sh. Gunjan Kumar and PW39 Sh. Anup Singh Panwar generated fake PNRs on request of A-3 to enable him to get the above boarding passes issued with the help of A-2 N.S. Nair on the basis of these PNRs and A-2 had got 13 boarding passes, out of total 21 boarding passes of the above journey, issued with the help of PW42 Ms. Rubeena Akhtar and PW43 Ms. S. Punnen. There is clear, consistent and corroborative evidence, oral as well as documentary, brought on record by prosecution to prove the above incriminating circumstances and also the exchange of details in respect to the above falsely generated PNRs through conversations between A-3 & PW39 and also between A-3 & A-2. Further, there is also reliable evidence on record to prove the delivery of fake trip itineraries/e-tickets and all the boarding passes of this journey by A-3 to PW36 and its delivery at the residence of A-1 by PW36 and A-3 had even then got printed his own mobile number with name of a fake travel agency i.e. Sree Balaji Travels on these e-tickets, when he was told by PW36 that the name of travel agent was not there on the e-tickets earlier delivered at the residence of A-1 and it was required for getting the claim for reimbursement by A-1. A-3 even subsequently deposited the above claim file in the Rajya Sabha Secretariat on behalf and as per instructions of A-1 as he was working with some other MP at that time and was having an entry pass of the Parliament House

Complex.

228. Ld. Defence Counsels have argued that the evidence led on record does not even show that all the three accused persons were known to each other as though some evidence has been led before this court to the effect that A-1 & A-3 were known to each other, but the evidence nowhere suggests that A-2 was known to A-1. However, this argument of Ld. Defence Counsels is without any merits because it is not at all necessary for holding the accused persons guilty for the offence of criminal conspiracy that they must know each other or they must know each and every detail of the conspiracy and as long as they are co-participants in the main object of conspiracy, they are liable for acts of each other, which are committed by them to achieve the object of the said conspiracy. The entire gist in the case of conspiracy is the agreement to commit an offence and if pursuant to the said conspiracy, conspirators commit several acts or offences, then all of them are to be held liable for the acts so done or offences so committed even if some of them had not actively participated in commission of such acts or offences. Reference on this aspect can be made to judgment of the Hon'ble Supreme Court in the case of **Yashpal Mittal Vs. State of Punjab, AIR 1977 SC 2433**. In the instant case, the prosecution has been successful in establishing each and every incriminating circumstance constituting the above criminal conspiracy between the three accused persons put on trial through reliable evidence and circumstances proved on record, which clearly form a complete chain of events and the only irresistible conclusion which can be drawn by this court therefrom is of guilt of the accused persons and no other hypothesis against their guilt is possible.

229. Therefore, in light of the above factual and legal discussion, it is

held that the prosecution has been successful in establishing on record beyond reasonable doubts the existence of a criminal conspiracy between all the three accused persons for procuring or arranging fake e-air tickets and boarding passes etc. for raising up a false claim for reimbursement of travel expenses of Rs.9,49,270/- by A-1 for the above sector of journey between Delhi to Port Blair-via-Kolkata and these fake e-tickets and boarding passes with the TA claim form were also duly submitted in the office of Rajya Sabha Secretariat to claim the said travel expenses and the said claim with fake documents was actually submitted in the above office by A-3 on behalf of A-1. The evidence led on record, however, also proves that the above expenses were not actually reimbursed to or paid in account of A-1 as his claim was found inadmissible during the course of enquiry conducted by the Rajya Sabha Secretariat.

OFFENCES CHARGED AND PROVED AGAINST THE ACCUSED PERSONS WITH REFERENCE TO THE ABOVE CRIMINAL CONSPIRACY

230. As already discussed, vide order on charge dated 17.09.2018 pronounced by this court, it has been observed that all the three accused persons i.e. A-1 to A-3 were liable to be charged for commission of the offence of criminal conspiracy punishable U/S 120B IPC r/w 420 r/w 511 IPC, Section 471 IPC and Section 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act and A-1 was also held liable to be charged for commission of substantive offences U/S 201 IPC, 420 r/w 511 IPC and 471 IPC & also Section 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act and even A-3 was held liable to be charged for commission of the substantive offence U/S 471 IPC. However, on a careful perusal of the charges framed by this court against the accused persons on the above said date, it has also been observed that a charge for the

substantive offence U/S 471 IPC was not framed against A-3 by this court, though a charge for commission of the offence of criminal conspiracy with reference to the above said offences under the IPC and PC Act was framed against all the above three accused and even a charge for commission of the above said substantive offences under these Acts was framed against A-1.

231. As per allegations made in the chargesheet, and even as per the evidence which has been led before this court, it is clear that A-2 N.S. Nair was instrumental in issuing or getting issued 13 out of the total 21 boarding passes of this journey, either directly or indirectly, with the help or by use of the sign-in-codes of PW42 and PW43 and also by using his own sign-in-code and hence, even he could have been safely chargesheeted and charged for the offence of making of false documents for the purpose of cheating as *prima facie* evidence to this effect was there on record. Again, A-3 was already held liable to be charged for the substantive offence U/S 471 IPC, besides the offence of criminal conspiracy, but due to some mistake or error on the part of this court, a separate charge for commission of this substantive offence is not found to have been framed against him and this mistake was even not pointed out on behalf of the prosecution at any point of time.

232. In view of the law of criminal conspiracy already discussed, this court is of the considered opinion that besides charge for the offence of criminal conspiracy framed against all the accused persons, even charges for commission of the above said substantive offences were liable to be framed against all the accused as they all were liable for the acts of each other committed in pursuance to the common object of said conspiracy, irrespective of the fact as to whether they all participated in actual commission of these offences or not. It has

already been discussed that in view of provisions contained in Section 120A IPC, which defines criminal conspiracy, an agreement to commit an illegal act or a legal act by illegal means *per se* amounts to an offence and the same is punishable U/S 120B IPC irrespective of the fact that no overt act is done by any of the conspirators to achieve the object of said conspiracy. Hence, when evidence on record established a meeting of minds or the existence of a criminal conspiracy between all the above three accused persons to procure fake e-tickets and boarding passes for setting up of a false claim for reimbursement of travel expenses by A-1 from his office, the above criminal conspiracy became punishable U/S 120B IPC irrespective of any overt act done or to be done by any of the above three accused. Further, even going by the principles governing the law of criminal conspiracy, the mere procurement or use of the above fake documents by any of the accused in pursuance to the above criminal conspiracy could have been sufficient to frame charges for all the substantive offences against all of them by holding them liable for acts of any one of the conspirators involved in actual commission of offences, whereas in the present case evidence has also been led to prove the overt acts done or performed by all the three accused in issuance of the above fake e-tickets and boarding passes and its use by way of submission thereof, along with the TA claim form of A-1 in his office. Hence, even the charges for substantive offence were liable to be framed against all the three accused persons by this court simply going as per the allegations made in chargesheet.

233. Though, in terms of provisions contained in Section 216 Cr.P.C., the court is empowered to amend or alter the charges framed in this case at any time before pronouncement of the judgment, but it is well settled that if such an amendment of charges will prejudice the

accused then it has to be avoided. This case pertains to commission of offences alleged to have been committed in the year 2012 and chargesheet in the case was filed on 23.10.2015 and thus, a period of around 7 years has passed since the date of filing of chargesheet and the matter stands already reserved for judgment after hearing the final arguments addressed on behalf of prosecution as well as the accused persons. Hence, in considered opinion of this court, any amendment of charges in the case at this final and belated stage is not required as there may also be a requirement of holding the trial *de-novo* or of recalling some of the witnesses and this is certainly going to seriously prejudice the interests of the accused persons. Reference on this aspect can also be made to a judgment of the Hon'ble Delhi Court in the case of **Nazim Khan & Anr. Vs. State of Delhi, 89 (2001) DLT 279** and also the judgment of Hon'ble Bombay High Court in the case of **State of Maharashtra Vs. Ramdas Shankar Kurlekar, 1999 Cri. L.J. 196 (Bom.)**.

234. As already discussed, the charge of criminal conspiracy punishable U/S 120B IPC has been framed against the above three accused persons with reference to Section 420 r/w 511 IPC, Section 471 IPC and Section 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act. Section 511 IPC lays down punishment for an attempt to commit an offence under the said Code which is punishable with imprisonment and similarly, Section 15 of the PC Act, as it was in force at that time, also prescribed punishment for an attempt to commit an offence under clauses (c) and (d) of sub-section 1 of Section 13 of the said Act. However, in considered opinion of this court, charge for the offence of criminal conspiracy punishable U/S 120B r/w 420 IPC should not have been framed against the accused persons with reference to or with the help of Section 511 IPC and similarly, charge for the offence U/S 120B

IPC r/w 13 (1) (d) r/w 13 (2) of the PC Act should not have been framed with reference to or with the help of Section 15 of the said Act because the criminal conspiracy which came into existence between the accused persons was or could never have been of an attempt to commit the offences of cheating and criminal misconduct by a public servant and rather, the same apparently was to commit the above said offences of cheating and criminal misconduct by itself. Further, this offence of criminal conspiracy to commit cheating and criminal misconduct by a public servant stood completed with conclusion of the conspiracy itself and it was never dependent upon result of the said conspiracy or upon any overt act to be done by any of the accused conspirators. Hence, even if the offence of cheating or criminal misconduct by a public servant could not be completed subsequently due to some unforeseen reasons or events, it made no difference to the accused or conspirators as they all became liable for punishment U/S 120B IPC r/w Section 420 IPC and 13 (1) (d) r/w 13 (2) of the PC Act, besides U/S 120B IPC r/w Section 471 IPC, on conclusion of the above criminal conspiracy between them to commit the above said offences as their conspiracy was to commit the above offences U/S 420 IPC, 471 IPC and Section 13 (1) (d) r/w 13 (2) of the PC Act by way of procuring of fake e-tickets and boarding passes and then to cheat the government exchequer by raising up a false claim for reimbursement of the above travel expenses of Rs.9,49,270/- by A-1, who was a public servant, from the office of Rajya Sabha Secretariat, on the basis of above fake documents and this criminal conspiracy was *per-se* punishable. Hence, it can be said that the prosecution has been successful in proving its charge for the offence U/S 120B r/w 420/471 IPC and also r/w Section 13 (1) (d) r/w 13 (2) of the PC Act against all the above three accused persons.

235. Therefore, in view of the above discussion, it is held that prosecution has successfully established the guilt of all the three accused persons i.e. A-1 to A-3 and successfully substantiated its charge for the offence of criminal conspiracy punishable U/S 120B r/w 420/471 IPC and also r/w Section 13 (1) (d) r/w 13 (2) of the PC Act against all of them and hence, they all are held guilty and convicted of the above said offences.

THE CLAIM FOR REIMBURSEMENT MADE BY A-1 ON THE BASIS OF FAKE E-AIR TICKETS AND BOARDING PASSES FOR THE OTHER SECTOR OF JOURNEY FROM DELHI TO PORT BLAIR-VIA-CHENNAI

236. As already discussed, apart from the claim for reimbursement of Rs.9,49,270/- made by A-1 for the sector of journey from Delhi to Port Blair-via-Kolkata allegedly performed by him and his other 6 companions in the month of December, 2012, one other claim for reimbursement of Rs.14,22,190/- was also found to have been made by the accused for the sector of journey from Delhi to Port Blair-via-Chennai allegedly performed by him and his other 9 companions in the month of March, 2012 and this claim was also reported to have been based on fake documents i.e. fake e-tickets and boarding passes. However, just like the claim of Rs.9,49,270/- already discussed, payment for the travel expenses of this claim was also not made, credited or transferred in account of A-1 as investigation of the case though revealed that the said claim was processed and approved by the Rajya Sabha Secretariat, but prior to payment of the claimed amount it was withdrawn by A-1. The evidence led on record about this claim and journey can also be broadly discussed under the following heads:-

RECOVERY OF FAKE E-TICKETS AND BOARDING PASSES OF THEIR JOURNEY FROM THE POSSESSION OF A-1

237. IO/PW40 Insp. M.C.R. Mukund (as he was at the time of investigation) during his statement made before this court was shown, *inter-alia*, one search list dated 01.11.2013 and it was in respect to search of the residence-cum-office premises of A-1 at C-401, Swarna Jayanti Sadan, Dr. B.D. Marg, C-Block, New Delhi. He stated that the above search was conducted in pursuance of the search warrants issued by this court and the documents/articles mentioned in the said list at serial nos. 1 to 6 were seized in the said search. He also stated that the above search was conducted by a team led by Insp. Sudhanshu Shekhar and he further identified the signatures of Insp. Sudhanshu Shekhar at point B and one other Insp. Jaiveer Singh (SI at that time) at point C thereof, while stating that he can identify their signatures as he had seen both of them signing and writing the documents during the course of his employment. Thus, the above search list already **Ex.PW18/A (D-48)** stands duly proved through his testimony.

238. IO/PW40 has also stated that the above search proceedings were conducted in presence of independent witnesses, who were also signatories to the said search list and during the course of this trial, the prosecution is also found to have examined one of the above two independent witnesses namely Sh. Dipender Kumar as PW18 and even he has identified his signatures at point A on the said list and has proved it as **Ex.PW18/A**. Though, signatures of the accused appearing on this document are not found to have been put to or got identified from any of these two witnesses, but admittedly, the above search proceedings were conducted in presence of A-1 and specific suggestions to this effect are also found to have been given to these witnesses by Ld. Counsel for A-1 and admitted by them to be correct.

During cross-examination of PW18, it has also come on record that the documents seized vide above search list were not given by A-1 to CBI officials on his own, but the same were taken out from the almirah kept in his house. PW18 also denied a suggestion of Ld. Counsel for A-1 that A-1 himself handed over the above documents to CBI officials.

239. In any case, the oral depositions made by the above two witnesses and contents of the above search list **Ex.PW18/A** duly establish on record that the documents and articles mentioned from serial nos. 1 to 6 thereof were seized from the above residence-cum-office premises of A-1. The details of documents mentioned at serial no.6 of this search list are being reproduced herein below:-

“6. One bunch containing original 10 air tickets of Air India and 40 Boarding Passes regarding travel of S/Sh. Anil Kumar Sahani, D.K. Sharma, Archana Sharma, Sachin Sharma, Ms. Nisha Sharma, Vinod Chopra, Ms. Nitu Chopra, Ms. Deepa Chopra, Ms. Anju Chopra and Abhishek Chopra to New Delhi, Chennai and Port Blair- total 50 sheets (All tickets issued on 08.03.2012).”

240. Thus, it stands established from above that the original e-air tickets and boarding passes of A-1 and his other 9 companions for this sector of journey from Delhi to Port Blair-via-Chennai were recovered from the residence-cum-office of A-1 during the search conducted on 01.11.2013 vide search list **Ex.PW18/A (D-48)**.

241. The above bunch of 50 pages containing the original e-air tickets and boarding passes of this sector of journey is found contained in the file/document **D-15** and on perusal thereof it is observed that there are total 10 e-tickets/itinerary receipts in name of each of the above 10 passengers in respect of three different flights i.e. AI801 dated 23.03.2012 from Delhi to Chennai, AI549 dated 24.03.2012 from Chennai to Port Blair and two flights AI550 and AI438 dated 26.03.2012 from Port Blair to Chennai and Chennai to Delhi respectively and these

itinerary receipts are available on pages 1, 6, 11, 16, 21, 26, 31, 36, 41 and 46 and the original 40 boarding passes, i.e. 4 boarding passes in respect to each of the above passengers for the above said four flights, are available on the remaining pages of this file and all these itinerary receipts and boarding passes are found exhibited as **Ex.PW9/Z14 (colly)** during the course of trial.

**SUBMISSION OF CLAIM BASED ON THESE FAKE DOCUMENTS
WITH RAJYA SABHA SECRETARIAT AND ITS WITHDRAWAL BY
OR ON BEHALF OF A-1 BEFORE PAYMENT**

242. As also discussed earlier, though PW38 Sh. Avinash Singh stated that he did not deposit the other TA bill file for journey of A-1 and his 6 companions in the month of December, 2012, but he specifically stated on record that the TA claim bill of A-1 and his other 9 companions for this sector of journey i.e. Delhi to Port Blair-via-Chennai was deposited in the Rajya Sabha Secretariat by him. He also stated that the accused used to provide him the TA claim form, e-tickets and boarding passes after completion of journeys for submission of the claim for reimbursement in the Rajya Sabha Secretariat and the form used to be signed by the accused, though he used to fill some other details of the form. On being shown to him, he also identified the above e-tickets/itinerary receipts and boarding passes **Ex.PW9/Z14 (colly) (D-15)** to be the same e-tickets and boarding passes which he submitted with the TA claim form of A-1 for this sector of journey. The relevant depositions made by the witness to this effect and also with regard to identity of the above documents etc. as contained on pages 1&2/7 of his examination-in-chief conducted on 25.04.2019 are being reproduced herein below:-

“On an average, I was submitting two to three TA bills /claim for journeys undertaken by the MP along with his companion. Most of the time, the journeys were Delhi to Patna and back. Sh. A. K.

Sahani used to provide me Rajya Sabha form, air tickets and boarding passes after completion of journey for submitting to Rajya Sabha Secretariat. The form used to be signed by the MP but I used to fill the other details in the form. The claim bill was submitted in MSA Branch, Rajya Sabha. I used to personally submit the TA bill with Rajya Sabha Sectt. I used to submit the TA bills to the official dealing with the State of Bihar. At that time, there was one lady official who was dealing with TA bills of the MPs from the State of Bihar.

Now the witness is shown D-15 Ex.PW9/Z14 (colly) which are itinerary tickets with boarding passes pertaining to Sh. Anil Kumar Sahani and other companions. The witness has seen itinerary tickets and boarding passes for the Sector Delhi-Chennai-Port Blair and back for the month of 2012. I identify these itinerary tickets and boarding passes. The itinerary tickets were having the signatures of A. K. Sahani when I submitted the same with TA bill duly signed by Sh. A. K. Sahani with Rajya Sabha Sectt. However, today I do not find the signatures of A. K. Sahani on the itinerary tickets and the same appears to be removed from the tickets. However, the itinerary ticket was having the signatures of MP A. K. Sahani when I submitted the same in Rajya Sabha Sectt. Without signatures on the itinerary tickets, the same is not accepted by the Rajya Sabha Sectt.”

243. Thus, it emerges out from the above depositions made by this witness that the TA claim bill of accused for this sector of journey was submitted or deposited by him and the itinerary tickets available in file **D-15** were also signed by A-1 before submission of the said claim, though signatures of A-1 on these itinerary tickets were not there now and the same appear to have been removed. He also stated in clear and specific terms that without signatures of the accused on these itinerary tickets, the claim could not have been accepted by the Rajya Sabha Secretariat.

244. During his examination-in-chief itself, the witness was also shown the file/document **D-54** marked as **Mark PW9/Z13** and running into 6 pages and further on being shown page 3 of the said document, i.e. the letter dated 10.04.2012 already **Ex.PW9/Z12** purported to be written by A-1, he identified signatures of the said accused appearing at point C thereon and he also identified signatures of the accused at

point D on page 6 of this document, which was the TA bill no. 40 of the Rajya Sabha Secretariat prepared for this sector of journey and already **Ex.PW9/Z11**. He stated that these signatures of the accused at point D are contained on a cutting of TA claim form which has been pasted on the above said bill and he further stated that below the above signatures, the name of MP/accused was written in his handwriting. He also stated that after perusal of the above bill, he can say that it was processed by the Rajya Sabha Secretariat and it pertained to this sector of journey. He further stated that a TA claim bill (form) is signed by a MP at three places and e-tickets are also signed on each page by the MP and one signature of MP affixed on right side at lower portion of the claim bill (form) are pasted on the TA bill prepared by the office. However, he expressed his ignorance regarding taking of the above claim back by the accused.

245. PW38 was cross-examined at length by Ld. Counsel representing A-1 and during the course of his cross-examination, he denied the suggestions given to him by Ld. Counsel for A-1, *inter-alia*, to the effect that he used to get signed blank TA claim forms from A-1 or that the accused did not sign on the above itinerary receipts before its submission to the Rajya Sabha Secretariat. He also denied the suggestion that he himself had forged signatures of A-1 on documents **Ex.PW9/Z14 (colly) (D-15)** and when the above bill was processed and sanctioned, he got the said signatures erased in connivance with Rajya Sabha Secretariat officials as they were known to him. He further denied the suggestion that his depositions made before this court to the effect that the above documents **Ex.PW9/Z14 (colly)** were signed by A-1 were wrong and the same were made to save his own skin and under the pressure of CBI. Rather, he reiterated even during his cross-examination that the above claim was submitted by him only after the

accused had signed the TA claim form and e-tickets as without signatures of the accused, the above bill or claim could not have been entertained or processed by the Rajya Sabha Secretariat.

246. As already discussed, the Rajya Sabha Secretariat officials used to keep a stock of specimen signatures of MPs and according to the procedure for processing of such claims, as brought on record during the testimonies of witnesses appearing from the said office, signatures of a MP made on the TA claim form and e-tickets etc. were compared with the specimen signatures of the said MP available in official record and a portion of the TA claim form containing signatures of the MP was cut from the TA claim form and pasted on the TA bill, which was to be processed for approval of the officers of Rajya Sabha Secretariat.

247. PW9 Sh. S.C. Dixit, the then Joint Director of Rajya Sabha Secretariat, has stated that he was the final approving authority for processing of such claims as after his signatures and approval, such claims or bills were sent to the Pay and Accounts Office (PAO) for payment to the concerned MP. He also explained, *inter-alia*, the procedure for processing, approval and return of the bills to the concerned MP in case of any discrepancy. On being shown the document **D-54**, he identified his signatures appearing on a letter dated 26.03.2015 (**pages 1 & 2 of D-54**) and stated that through this letter, he provided some information and documents to CBI in respect to the above claim for reimbursement made by A-1 regarding this sector of journey i.e. Delhi to Port Blair-via-Chennai and it was sent in response to the CBI letter dated 17/18.03.2015. This letter written by the witness stands exhibited and proved through his testimony as **Ex.PW9/Z10** and the above letter of CBI has also been subsequently proved during the testimony of IO/PW40 as **Ex.PW40/Y (D-59)**. PW9 also specifically

stated before this court that the above claim for reimbursement made by A-1 on the basis of e-ticket nos. 0982102583511 to 0982102583530 was though processed and approved for payment on 09.04.2012, but it was withdrawn by accused on the very next day i.e. on 10.04.2012 vide a written request for some verification. He also stated that the accused visited the branch personally for withdrawal of the said claim and hence, the original claim papers along with e-tickets and boarding passes were returned back to him. The relevant depositions made by this witness on these aspects as contained on pages 4-5/8 of his testimony recorded on 08.10.2018 are also being reproduced herein below:-

“(Now the witness is shown file D-54). This is letter dated 26.03.2015. I had written this letter to Sh. Asif Jalal, SP, CBI in response to his letter dated 17/18.03.2015. In this letter, it was informed that the member during his previous term in Rajyasabha from 01.01.2010 to 02.04.2012 had tendered a TA claim along with ten returned journeys pertaining to self and nine companions for reimbursement in the month of April 2012 for Tkt No.0982102583511 to 530 date of journey 23.03.2012 Delhi-Chennai, 24.03.2012 Chennai – Port Blair, 26.03.2012 Port Blair-Chennai-Delhi. It was stated in that letter that the Member had visited the Branch personally and made a written request to return the said claim that was submitted through his Personal Assistant for his verification. Resultantly, the bill was withdrawn from P&AO (Audit Section) and claim papers along with tickets and boarding passes were returned to him on proper acknowledgment. The copies thereof were not retained. I identify my signatures at point A on letter dt. 26.03.2015 at point A which is now Ex.PW9/Z10. Along with this letter, I had also given the original letter dt. 10.04.2012 written by Prof. Anil Kumar Sahani requesting for return of claim submitted through his Personal Assistant. On this letter, I had made a note that on the request of Hon'ble Member, the concerned claim be returned. Along with this letter, I had also given the Rajyasabha Member's travelling allowance bill in the name of Sh. Anil Kumar Sahani dated 04.04.2012. I identify my signatures on this bill at point A. I also identify the signatures of Sh. Madho Prasad, Asst. Director and at point C the signatures of Smt. Pushpa, the dealing hand. I also identify the signatures of Sh. Anil Kumar Sahani at point D. This Rajyasabha Member's Travelling Allowance Bill dt. 04.04.2012 is Ex.PW9/Z11. The letter dated 10.04.2012 written by Sh. Anil Kumar Sahani is now Ex.PW9/Z12. The file M-285/2015 RC No.9(A)/2013 ACIII containing six pages

is Mark PW9/Z13. The original bill deposited vide Diary No.2260 dated 04.04.2012 was returned as mentioned on the letter dated 10.04.2012 to Sh. Anil Kumar Sahani at point B. Ex.PW9/Z11 was prepared by the dealing assistant on the basis of bill submitted by the Member Sh. Anil Kumar Sahani alongwith e-tickets and boarding passes.”

248. Further, on being shown the document **D-15**, the witness has also identified the itinerary receipts and boarding passes contained therein to be the same documents of the above TA claim of A-1 which were returned back to the accused and the same were exhibited during his statement as **Ex.PW9/Z14 (colly)**. He also stated specifically that the itinerary receipts available in **D-15** presently do not bear signatures of A-1, though earlier the same were bearing his signatures. The depositions made by witness to this effect as contained on pages 5&6/8 of his testimony recorded on 08.10.2018 are also being reproduced herein below:-

“(Now the witness is shown D-15 containing page no.1 to 50). I have seen the Itinerary receipt dated 08.03.2012. It is not bearing the signatures of Sh. Anil Kumar Sahani. The itinerary receipt at Page no.6 of 08.03.2012 also does not bear the signatures of the Memeber Sh. Anil Kumar Sahani. Same is the position with Page no.11, 16, 21, 26, 31, 36, 41, 46 and on these itinerary tickets the signatures of the Member Sh. Anil Kumar Sahani are not available. It appears that on all these itinerary receipts, the thin layer of page bearing the signatures has been removed. When I compare Ex.PW9/Z12 with these itinerary receipts, I find that the air tickets mentioned in Ex.PW9/Z12 are matching with the air tickets mentioned on itinerary receipts referred above. Therefore, I can say that these are the itinerary receipts which were deposited by Sh. Anil Kumar Sahani along with his TA claim and were taken back by him from Rajyasabha Secretariat. The itinerary receipts and boarding passes part of D-16 are now exhibited as Ex.PW9/Z14 (colly).”

249. During his cross-examination also he stated that when the above bill was being processed the same was collected by A-1 before payment by PAO. He also stated that regarding this case, the Rajya Sabha Secretariat did not inform A-1 about any discrepancy in the bill and the Member himself had taken back the said bill. He further stated

that he himself had dealt with the above bill and he did not see any discrepancy in the same. He also admitted it to be correct that A-1 personally visited their office and requested for return of the above bill vide letter dated 10.04.2012 **Ex.PW9/Z11** (wrongly typed as PW9/Z11 in cross examination of this witness, though as per his examination-in-chief it was Ex.PW9/Z12) and no order was passed by the PAO for payment of this bill as the bill was taken back.

250. Further, even PW13 Ms. Indira Chaturvedi Vaidya corroborates the evidence to the effect of submission of above TA claim of A-1 based on the above e-tickets/itinerary receipts and boarding passes **Ex.PW9/Z14 (colly) (which are part of D-15)**. She also corroborates the prosecution case to the effect that the above claim was processed and approved by their office and further that though the e-tickets/itineraries receipts shown to her now in the court were not bearing signatures of the accused, but the same were there on these documents when the said claim was processed. The relevant depositions made by her on pages 8&9/11 of her examination-in-chief dated 28.11.2018 are also being reproduced herein below:-

“Now the witness is shown D-15. This is E-ticket and boarding passes of E-ticket no.0982102583511-512, 0982102583513-514, 0982102583515-516, 0982102583517-518, 0982102583519-520, 0982102583521-522, 0982102583523-524, 0982102583525-526, 0982102583527-528, 0982102583529-530 alongwith their boarding passes already Ex.PW9/Z14 (colly). These are the E-tickets and boarding passes which were processed by the MSA branch as per page 4 of D-54. Pursuant to this claim, the Rajya Sabha members bill information was prepared at page 6 for payment of Rs.14,22,190/-. This is also signed by Ms. Pushpa at point C, Sh. Madhav Prasad at point D and Sh. S. C. Dixit at point A and signatures of MP Anil Kumar Sahani cut from his claim and pasted on his bill. Once the claim is found satisfactory, one of the signatures from the claim are cut and pasted on the bill. Same is already Ex.PW9/Z12.

The witness when shown E-air tickets/ itinerary receipt states that at the bottom there is no signatures but when these receipts were submitted with MSA branch, they were signed by A-1 MP

Anil Kumar Sahani as no claim form is accepted without the signatures of MP on the E-air tickets/ itinerary and the bill is not prepared without the signatures of the MP.

The earlier bill Ex.PW9/Z12 was processed by MSA branch and passed by DDO, MSA for payment by P&AO but before that the member had requested that the TA DA form be returned to him and the same was returned to him on his request. Therefore, no payment was made for that bill to the member.”

251. Thus, it emerges out from the testimony of this witness also that the original itineraries receipts and boarding passes **Ex.PW9/Z14 (colly)** contained in file/document **D-15** are the same documents which A-1 had submitted in the Rajya Sabha Secretariat through his PA/PW38 Sh. Avinash Singh to claim reimbursement for travel expenses of this sector of journey and these documents were subsequently returned back to the accused on his written request **Ex.PW9/Z12**, after A-1 had sought its return on the ground of some verification and after his above request was approved by PW9 vide his endorsement made at point A thereon. The said documents were returned back to him in original by the dealing hand Ms. Pushpa and her endorsement on this request letter **Ex.PW9/Z12** is at point B. Even otherwise, it is also the admitted case of accused that he visited the above office personally and withdrew the above said claim through the above application/letter dated 10.04.2012, though he also claims that the same was not submitted or deposited in the Rajya Sabha Secretariat on his instructions. This witness also corroborates PW38 Sh. Avinash Singh and PW9 Sh. S.C. Dixit on the aspect that signatures of A-1 on the above itinerary receipts were there when the claim was submitted by PW38 and even when the claim documents were returned back to A-1, but these are not there when the itinerary receipts have been shown to the witness in court.

252. The concerned dealing hand for processing of this TA claim bill

was also PW14 Smt. Pushpa Rani and on being shown the above letter **Ex.PW9/Z12** (wrongly typed as Ex.PW9/Z11 in statement of this witness also), she has duly identified the above endorsement made by her at point B on the said letter about the diary number and return of the original bill of accused to him, besides identifying the endorsement of PW9 at point A and signatures of accused at point C thereon. Further, on being shown the original itinerary receipts and boarding passes **Ex.PW9/Z14 (colly)** contained in file **D-15**, she also identified these documents to be the documents which were submitted with the above TA claim of A-1 and then returned back to him. She further identified some numerical words written on the original itinerary receipts available in this file and stated that these numeric words refer to the fare from Delhi to Chennai and Chennai to Port Blair. She also stated that Rajya Sabha Member Bill Information available on page 6 of **D-54**, i.e. TA bill processed by the Rajya Sabha Secretariat which stood already exhibited as **Ex.PW9/Z11** (wrongly typed as Ex.PW9/Z12), was prepared by her on considering the itinerary receipts contained in **D-15** and at that time, these itinerary receipts were having signatures of A-1 and she had even tallied signatures of the said accused with his specimen signatures available in the MSA Branch. Thus, this witness has also identified the original itinerary receipts and boarding passes contained in **D-15** to be the same documents which were submitted with the original TA claim form by A-1 and she also stated that the above claim was dealt with by her and it was also approved on processing, but A-1 took back the original claim documents vide his above letter dated 10.04.2012 **Ex.PW9/Z12** for some verification.

253. Though, she admitted during her cross-examination conducted by Ld. Counsel for A-1 that A-1 did not sign on the above itinerary receipts in her presence, but it does not matter much because she also

stated that it was not required as the specimen signatures of the MPs were already available with them for the purposes of comparisons. However, she specifically denied a suggestion given to him by Ld. Counsel for A1- that A-1 had not signed on the above e-tickets. She also admitted it to be correct that the boarding passes were not required to be signed by the Members, but even her this admission is of no help to the case of accused. She also admitted it to be correct that this claim for reimbursement made by the accused for March, 2012 journey was approved for payment by the MSA Branch vide **D-54** after scrutiny and MSA branch had not observed any discrepancy in this claim.

254. Thus, even PW14 Smt. Pushpa Rani corroborates the other PWs about processing, approval and withdrawal of the above claim for travel expenses of A-1 and his other 9 companions before payment and return of the original claim documents to A-1 on his written request. It also stands established from the testimony of PW38 that he submitted the above claim file of A-1 in the Rajya Sabha Secretariat as per instructions of A-1.

EVIDENCE FROM THE OFFICE OF AIR INDIA ABOUT THESE FAKE E-TICKETS AND BOARDING PASSES

255. During examination of the IO/PW40, office copies of two letters dated 25.02.2015 and 19.03.2015 sent by the then SP of CBI to the CVO of Air India have also been exhibited and proved on record as **Ex.PW40/Z9 (D-63)** and **Ex.PW40/Z1 (D-58)** respectively and through these letters information was sought by the CBI from the office of Air India regarding genuineness and veracity of the above itinerary receipts/e-tickets bearing nos. 0982102583511 to 0982102583530 and the boarding passes contained in file **D-15** in respect to the above 10

passengers and the above four flights of this journey. During his examination, PW6 Sh. Kulkarni Parveen Manohar, the then Assistant Manager, Traffic Services Section, Air India at Mumbai, has duly identified the signatures of Sh. Pankaj Srivastava, the then Director (Commercial) on a letter dated 13.05.2015 **Ex.PW6/A (page 1 of D-83)** sent to the CBI and through this letter, copy of one e-mail dated 15.04.2015 sent by Sh. Pankaj Srivastava to the CVO, Air India and certain other documents were supplied to the CBI. However, for the reasons best known to the Ld. Sr. PP for CBI, the signatures of Sh. Pankaj Srivastava appearing on copy of this e-mail have not been put to or got identified from this witness and the same have subsequently been identified by PW11 Sh. Ranjan Kumar Datta, the then Assistant General Manager (Traffic Services Section), Air India, along with signatures of Sh. Pankaj Srivastava appearing on the above letter **Ex.PW6/A**. The above copy of e-mail has also been exhibited as **Ex.PW11/B (pages 2&3 of D-83)** during the statement of PW11. Both PW6 and PW11 are found to be in a position to identify the signatures of Sh. Pankaj Srivastava on the above documents.

256. PW6 was also shown, *inter-alia*, **pages 10 to 21 of D-83**, which infact is the DCS check-in history in respect to the above four flights and the above named 10 passengers. This check-in history is found exhibited during his statement as **Ex.PW6/C (colly)**. The witness has duly identified his own signatures appearing at point A and also signatures of PW11 appearing at point B on each page thereof. The signatures of PW11 on these documents were in token of certification or attestation thereof and the same were also identified by PW11 himself subsequently. As per depositions made by PW6, the above check-in history shows that none of the above 10 passengers of this sector of journey through flight nos. AI801 dated 23.03.2012, AI549

dated 24.03.2012 and AI550 and AI438 dated 26.03.2012 had actually performed his journey on these flights. Even PW11 stated specifically that vide the above letter (it should be e-mail) dated 15.04.2015, Sh. Pankaj Srivastava wrote to the CVO, Air India about investigation conducted by the Finance and Commercial Departments of Air India and clarified that the tickets in question were actually issued from the Air India office at Mumbai on 13.01.2012 and not in Delhi in March, 2012, as indicated by the CBI. He also deposed that the sectors for which originally these tickets were issued through Air India was different from the sectors mentioned on the above tickets.

257. Further, during the statements of PW6 and PW11, one letter/note dated 09.04.2015 signed by PW11 also stands duly proved on record as **Ex.PW6/B (page 9 of D-83)** and this note refers to some meeting held on 07.04.2015 Chaired by the Director, Commercial regarding Vigilance/CBI cases about fraudulent use of above Air India tickets and boarding cards. Even this note states that the DCS data in respect to the above flights was accessed and none of the passengers under reference was found listed on these flights. It also states that the flight no. AI438 dated 26.03.2012 did not even operate. It has been observed that this note was even made as **Annexure-C** to the above e-mail **Ex.PW11/B** and copies of the said e-mail as well as of this note were amongst the documents forwarded to CBI by Sh. Pankaj Srivastava through the above letter **Ex.PW6/A**. Along with this note and copy of the e-mail, the DCS printout of the above flights **Ex.PW6/C (colly)** was also attached, as already discussed. The file/document **D-83** also consists of one other note/letter dated 07.04.2015 of Sh. A. D'Souza and addressed to Sh. Pankaj Srivastava intimating the result of inquiry/ investigation conducted with regard to the above flights, passengers and their tickets etc. The said note/letter has also been exhibited during

the statement of PW11 as **Ex.PW11/E (page 6 of D-83)**.

258. Further, one computerized printout was made as **Annexure-A** to the above e-mail **Ex.PW11/B** showing the difference in sector of journey of the flight numbers given by CBI with regard to this journey and one more computerized sheet was also made as **Annexure-B** to the above e-mail showing that out of given 20 tickets, only 13 tickets were utilized for travel, 4 were refunded, 2 were voided and only 1 ticket was not utilized. Further, during examination of PW11, he was also shown two certificates U/S 65-B of the IEA i.e. one given by Sh. Sanjiv Kumar, the then Executive Director (Cargo), Air India and the other given by Sh. A. D'Souza, the then Executive Director (Finance). The above certificates were given in respect to authenticity of the computerized records/printouts of the DCS check-in history of the above flights/passengers and the status of their above said tickets. For the reasons already discussed, PW11 has been found to be capable enough to identify the signatures of his above two colleagues on these two certificates and hence, these certificates exhibited as **Ex.PW11/C (page 4 of D-83)** and **Ex.PW11/D (page 5 of D-83)** stand duly proved through his testimony. These certificates are found to have given with reference to the above letter dated 19.03.2015 **Ex.PW40/Z1** of the CBI. Hence, even though the copy of the above e-mail **Ex.PW11/B** sent by Sh. Pankaj Srivastava to the CVO, Air India and subsequently forwarded to the CBI is not found supported by any separate certificate U/S 65B of the IEA and it cannot be read in evidence for that reason, but the other computerized printouts/records enclosed with the above e-mail and the above letter **Ex.PW6/A** of Sh. Pankaj Srivastava sent to CBI in the form of DCS check-in history about passengers/flights and the record pertaining to actual sectors of journey and passengers traveling in the said flights are found to be duly supported by two

separate certificates U/S 65B of the IEA issued by the above two officers of the concerned divisions of Air India and therefore, contents of the same can be duly read in evidence and can even be used to corroborate the oral testimonies of the above official witnesses appearing from the office of Air India.

259. Again, during the depositions of PW11, one other letter dated 15.05.2015 sent by Sh. Sanjiv Kumar to CBI also stands exhibited and proved on record, along with the documents sent through this letter, as **Ex.PW11/A (colly) (D-30)** and the documents which were forwarded to the CBI through this letter were the copy of manual of passenger services, as certified by PW11 Sh. Ranjan Kumar Datta. During cross examination of PW11 conducted by Ld. Counsel for A-1 though it has again come on record that the DCS system was being maintained by M/s SITA and M/s SITA was having offices in different places in India and at Atlanta and he did not personally interact with any official of M/s SITA, but as already discussed, the certificate from an officer controlling the main server of M/s SITA was not at all required in this case and it is sufficient if any of the concerned officers of Air India had given a certificate regarding authenticity of the process of generation of this data and the computer source from which the above data has been generated. It is so because, as discussed earlier, the above data was being stored and generated automatically by the system without any manual interference and by simply feeding the details of flights and passengers etc. in computer system in the in-house application being used by the Air India. Again, even if the authors of the above two certificates have not been examined personally or these certificates also talk about compliance of provisions of Section 65B (2) (a) of the IEA only, the same also do not affect case of the prosecution as signatures of authors of these certificates have been duly identified by

the witnesses examined on record and the computerized printouts or generated data about the above tickets, flights or passengers brought on record with these certificates rules out the possibility of any tampering of records of the Air India at the time of generation of the said data or records or at any other time before and after that.

260. Further, besides the above oral and documentary evidence, there is also some other evidence on record to the effect that the above DCS check-in history of passengers and flights contained in file/document **D-83** showing that the above itinerary receipts and boarding passes contained in file **D-15** were all fake documents as no journeys by the above passengers on the above said flights were performed. The relevant depositions as made on record by PW6 Sh. Kulkarni Parveen Manohar, on being shown the above DCS check-in history, e-tickets and boarding passes, on pages 2&3/4 of his examination-in-chief dated 26.09.2018, are being reproduced herein below:-

“I had seen the DCS check-in history which shows that no passenger in the name of Sh. Anil Kumar Sahani, Sh. Dilip Sharma, Ms. Archana Sharma, Sh. Sachin Sharma, Ms. Nisha Sharma, Sh. Vinod Chopra, Ms. Neetu Chopra, Ms. Deepa Chopra, Ms. Anju Chopra or Sh. Abhishek Chopra ever performed journey through flight AI0801 dated 23.03.2012, AI0549 dated 24.03.2012, AI0550 dated 26.03.2012 and AI438 dated 26.03.2012.

(Now the witness is shown D-15). These are E-tickets of different dates and different ticket number. At page 1, is E-ticket no.0982102583511-512 for flight AI801 dated 23.03.2012, AI549 dated 24.03.2012, AI550 and AI438 both dated 26.03.2012. I have also seen E-ticket no. 0982102583513-514 at page 6, E-ticket no. 0982102583515-516 at page 11, E-ticket no. 0982102583517-518 at page 16, E-ticket no. 0982102583519-520 at page 21, E-ticket no. 0982102583521-522 at page 26, E-ticket no. 0982102583523-524 at page 31, E-ticket no. 0982102583525-526 at page 36, E-ticket no. 0982102583527-528 at page 41 and E-ticket no. 0982102583529-530 at page 46. I had checked on the basis of air ticket numbers mentioned above the status of journey and found that the passengers mentioned above had not performed the journey as per these tickets. It was also found that AI438 did not operate during the period mentioned on the tickets. i.e. 23.03.2012 to 28.03.2012.

On comparison of DCS check-in history with the information contained in D-15, revealed that the passengers namely Sh. Anil Kumar Sahani, Sh. Dilip Sharma, Ms. Archana Sharma, Sh. Sachin Sharma, Ms. Nisha Sharma, Sh. Vinod Chopra, Ms. Neetu Chopra, Ms. Deepa Chopra, Ms. Anju Chopra or Sh. Abhishek Chopra did not perform the journey on the basis of tickets mentioned on D-15. Therefore, I state that the tickets are either forged as ticket numbers and names are not matching with the DCS check-in history. Since the tickets are fake there is no question there being genuine boarding passes for them which are also fake and forged as are available in D-15. D-15 is marked as PW6/D.”

261. Further, some other evidence led by prosecution on record and touching upon falsity of the above e-tickets bearing nos. 0982102583511 to 0982102583530 and the above boarding passes contained in file/document **D-15** is through the testimony of PW23 Sh. Ashok N. Harinarayan. As already discussed, he was working as Deputy General Manager at Mumbai office of the Air India and his duty was to supervise the activities of Air India, especially the Passenger Service System (IT) and coordination of Data Mart System. On being shown the file/document **D-84**, he duly identified his signatures along with rubber stamp appearing on a letter dated 11.06.2015 sent by him to the CBI, vide which he had supplied the documents enclosed with the said letter to the CBI. This letter stands duly proved on record through his testimony as **Ex.PW23/A (page 1 of D-84)**. He also identified his signatures and rubber stamp appearing on each of the pages of e-ticket check-in history consisting of 20 pages in respect to the above e-ticket nos. 0982102583511 to 0982102583530, which were put on these documents in token of certification thereof, and exhibited this e-ticket check-in history as **Ex.PW23/B (pages 1 to 20 of enclosures to the above letter Ex.PW23/A in D-84)**. Further, he also identified his handwriting and signatures along with rubber stamp on a hand written note **Ex.PW23/C (page 21 of enclosures to the above letter Ex.PW23/A)**, which was written by him explaining the

process of source of data in respect to the above e-tickets, on each page of the passenger check-in history **Ex.PW23/E (colly) (pages 23 to 31 of enclosures to the above letter Ex.PW23/A)** and also on a certificate U/S 65B of the IEA **Ex.PW3/D (page 22 of enclosures to the letter Ex.PW23/A)** given regarding authenticity of the above computerized data/printouts.

262. PW23 also stated in clear and specific terms that all the above tickets were issued from their Mumbai office on 13.01.2012 and out of these 20 tickets, only 13 tickets were used for performing journey, 4 tickets were refunded, 1 was open and 2 were void. He also stated specifically on comparison of the data supplied by him with the e-tickets available in file/document **D-15** that not only the place of issuance of e-tickets available in **D-15** was different from the actual place of issuance of tickets bearing the above numbers, but also that the passengers named in the e-tickets appearing in **D-15** were not the actual passengers of the original tickets. The relevant depositions made by this witness on above aspects on pages 2 to 4/4 of his examination-in-chief recorded on 04.02.2019 are being reproduced herein below:-

“Now the witness is shown e-ticket available at page no. 1 of Ex.PW23/A. This e-ticket bearing No.0982102583511 was issued from Mumbai office on 13.01.2012 in the name of Sh. Murli Ganesh Pillai for Sector TRV-BOM. This is already Ex.PW23/B. All other tickets having No. 0982102583512 to 30 have also been issued from Mumbai office on 13.01.2012.

The witness is now shown documents available on Page 23 to 41 i.e. Passengers Check in History. After comparing the Passenger Check in History with abovesaid e-tickets, total 13 tickets out of 20 tickets actually used for performing the journey. Four tickets were refunded and one is open and two are void.

Now witness is shown document D-15 which contains e-tickets and boarding passes in the name of A1 Anil Kumar Sahani and nine other companions earlier Ex.PW9/Z14 (colly). Now witness is shown e-ticket (itinerary receipt) bearing No. 0982102583511-12. As per this e-ticket, it was issued in the name

of Anil Kumar Sahani on 08.03.2012. Place of issuance of this e-ticket is CBO Delhi, Air India for sector Delhi-Chennai-Port Blair-Chennai-Delhi, date of journey 23.03.2012 and flight no. is AI801, AI549 (24.03.2012), AI 550 (26.03.2012) and AI438 (26.03.2012).

After perusing the other itinerary receipts No. 0982102583513-14, 0982102583515-16, No. 0982102583517-18, No. 0982102583519-20, No. 0982102583521-22, No. 0982102583523-24, No. 0982102583525-26, No. 0982102583527-28, No. 0982102583529-30, available in the file Mark PW6/D, the place of issuance, date, journey sector and flight number of these itinerary receipts are same. After perusing the tickets, witness states that two consecutive tickets were shown for each of the passengers. After comparing the e-ticket (itinerary receipts) earlier Ex.PW9/Z14 (colly) and Ex.PW23/B, witness states that it is clear that date of issuance of e-tickets is 08.03.2012 whereas the actual date of issuance is 13.01.2012. Place of issuance of e-tickets is Delhi Air India office whereas actually the place of issuance is Mumbai office. The names of passengers in the two sets of tickets are also entirely different. Fare of tickets and date of journey of tickets in TA bill and sector and flight number are also not matching which shows that all the e-tickets (itinerary receipts) Ex.PW9/Z14 (colly) are fake and forged. They do not match with the information furnished by Air India and no journey was performed by Sh. Anil Kumar Sahani and other nine companions as the tickets / itinerary receipts were issued in the name of other passengers, different sectors, date and flight.”

263. Though, during his cross-examination even this witness has stated that servers of Air India were being maintained by M/s SITA and no certificate U/S 65B of the IEA was obtained by him from any engineer of M/s SITA, but as already discussed, not only the certificate **Ex.PW23/D** given by this witness is found to be duly proved through his testimony, but it is also found that the witness was competent to issue the same. It is very much clear from the contents of above hand written note **Ex.PW23/C** proved by this witness as well as from his depositions made in cross-examination that the information generated by him through the above e-ticket check-in history and passenger check-in history was stored in server of Air India itself, which was located at Mumbai and the above information was automatically stored and generated in their in-house developed system and printouts

thereof were taken by him from the said system. He also stated specifically that when the passenger traveled, the raw data was picked from the servers of M/s SITA and check-in history was created for their records. Thus, it is clear from the above that the process of creation of check-in history of e-tickets and also that of passengers movement and its generation was all automatic and only some manual feed out was required to be given by the Air India officials for the said purposes. There is no reason or ground made out or brought on record by the defence as to why and for what reasons the said manual feed out could have been wrongly given in the computer systems of Air India by its officials to falsely implicate the accused persons in the present case in the future.

264. Apart from the above, one other witness also examined on record by prosecution on this aspect is PW27 Sh. Ajit Udhav Karmakar, the then Assistant General Manager (Finance), Air India at Mumbai and he stated before this court that he was receiving all the sales reports of Air India tickets through internet and was assessing the passenger air revenue. On being shown the document/file **D-85**, he identified his signatures on a letter dated 11.06.2015 supplying the sales office report of date 13.01.2012 in respect to the above e-ticket nos. 0982102583511 to 0982102583530 issued at Mumbai reservation office, Air India, along with a certificate U/S 65B of the IEA regarding authenticity of the above computerized report. The said letter stands duly proved during his testimony as **Ex.PW27/A (page 1 of D-85)**, the sales office report containing his signatures as well as rubber stamp as **Ex.PW27/B (colly) (pages 1 to 4 of enclosures to the above letter Ex.PW27/A and part of D-85)** and the above certificate as **Ex.PW27/C (page 5 of enclosures to the letter Ex.PW27/A)**.

265. During his examination-in-chief itself he stated that all the above tickets were issued from their Mumbai office and the same were not issued from the Delhi office as reflected in the itinerary receipts/e-tickets available in file/document **D-15**. He also stated that even the date of issuance of these tickets was different and air fares shown in these tickets also do not match. The relevant depositions of the witness as made on pages 1 to 3/3 of his examination-in-chief dated 05.02.2019 are also being reproduced herein below:-

“All the E-tickets bearing no.0982102583511 to 530 were issued from office of Air India at Nariman Point. The said office has a code 14390316 which is shown at point X which has been highlighted with green colour. All these tickets are issued on same date i.e. 13.01.2012.

Now the witness is shown D-15. These are purportedly itinerary receipts/E-tickets for ticket no.0982102583511 to 530, Ex.PW9/Z14 (colly).

As per these tickets the date of issuance is same which is 08.03.2012. These are shown to be issued from CGO, Delhi Air India. The sector of these tickets are from Delhi/Chennai/Port Blair/Chennai/Delhi. Date of journey is 23.03.2012 (AI-801), 24.03.2012 (AI-549), 26.03.2012 (AI-550) and 26.03.2012 (AI-438) are same for all itinerary receipts.

Now the witness has compared the tickets shown D-85 Ex.PW27/B (colly) and Ex.PW9/Z14 (colly) (D-15). On comparison I state that the fare of the tickets in Ex.PW9/Z14 is not matching with the actual fare of Air India as shown in Ex.PW27/B (colly). I have seen and state that even the date in the two sets of tickets details is not matching. The place of issuance is also different as Ex.PW9/Z14 (colly) is shown to be issued from Delhi whereas, the Ex.PW27/B (colly) shows that the tickets were sold from Mumbai Air India Office. The conclusion of my comparison is that Ex.PW27/B is the correct detail of the tickets in question and Ex.PW9/Z14 (colly) are fake and not correct.”

266. During cross-examination of this witness also, it has come on record that the above computerized printout of the above said sales office report about these tickets was taken by the witness from the data maintained on the server of M/s SITA and the witness also stated that he did not know the location of the said server. He also stated that it to

be correct that he did not obtain any certificate U/S 65B of the IEA from M/s SITA. As already discussed, these depositions made by the witness do not adversely affect the case of prosecution for the reasons already discussed and even this witness is found to have stated specifically that the above data could not have been changed or altered manually and the same also matched with the books of accounts which were being maintained electronically by them through the SAP financial system software.

267. Hence, there is no reason or ground to disbelieve the above oral as well as documentary evidence brought on record during the testimonies of PW23, PW27 as well as the other official witnesses of Air India and thus, the oral evidence stands duly corroborated and substantiated by the documentary evidence led on record and the same establishes beyond reasonable doubts that even the above e-tickets/itinerary receipts and boarding passes for this sector of journey, as submitted in the Rajya Sabha Secretariat with the TA claim of A-1, were fake and forged documents.

**IDENTIFICATION OF SIGNATURES ON THE TA CLAIM BILL IN D-15
AND THE EXPERT EVIDENCE ABOUT IT**

268. On perusal of the report **Ex.PW32/B (D-77)** given by PW32 Sh. Jeet Singh, it is observed that the same has been given in respect to the questioned signatures marked Q-25 and questioned writings marked Q-26 appearing on **page 6 of D-54**, which has been exhibited as **Ex.PW9/Z12** during the course of trial. Q-25 contains the signatures of A-1 and Q-26 is the writing of his name. The signatures appearing at point marked Q-25 on this document were also identified by the above witnesses from Rajya Sabha Secretariat and this document is infact the TA claim bill for the journey between Delhi to Port Blair-via-Chennai of

A-1 for Rs.14,22,190/-, which was processed and approved by the Rajya Sabha Secretariat, and the above signatures and writings in name of accused at points Q-25 and Q-26 are found to be appearing on a paper slip affixed/pasted on this bill and this paper slip is stated to be a part of the TA claim form filled in respect to the above journey for which the above reimbursement amount has been approved.

269. Alongwith, the questioned signatures/writings Q-25 and Q-26, the specimen signatures of A-1 on sheets marked as S-1 to S-12 and **Ex.PW15/A (colly) (D-19)**, the admitted signatures of A-1 marked as A-1 to A-41 and A-15A in the files containing documents of his previous claims in **D-11, D-9, D-8, D-10, D-7, D-5, D-6, D-13, D-4, D-14, D-12 and D-3** and the specimen handwritings marked as S-29 to S-40 of PW38 Sh. Avinash Singh were also sent to CFSL and examined by PW32 and the result of above examination, as reflected in his report **Ex.PW32/B (D-77)**, is as under:-

“7. Result of Examination:-

I. Handwriting evidence points to the writer of the standard English signatures marked S-1 to S-12 and A-1 to A-40, A-15A attributed to Anil Kumar Sahani being the person responsible for writing the questioned English signature marked Q-25, due to the following reasons:-

II. Handwriting evidence points to the writer of the specimen English writing marked S-29 to S-40 attributed to Avinash Singh being the person responsible for writing the questioned English writings marked Q-26, due to the following reasons:-

*******”**

270. Thus, this report **Ex.PW32/B** given by PW32 duly establishes that the questioned signatures appearing at point marked as Q-25 on **Ex.PW9/Z12 (D-54)** matched with the specimen signatures of A-1 marked S-1 to S-12 and his admitted signatures marked A-1 to A-41 and A-15A on the documents of his previous claim files and the same were found similar. It has already been discussed that the above

signatures of A-1 at point Q-25 on **Ex.PW9/Z12 (page 6 of D-54)** on a paper slip are the signatures which were put by A-1 on his TA claim form for this journey and that portion of the claim form was cut and pasted on this TA bill **Ex.PW9/Z12** by the concerned dealing assistant while dealing with the said claim and as per the applicable procedure for processing of such bills.

**EXPERT EVIDENCE ABOUT ERASION OF SIGNATURES OF A-1
ON E-TICKETS/ITINERARY RECEIPTS OF THIS JOURNEY**

271. As already discussed, the claim of Rs.14,22,190/- submitted on behalf of A-1 for reimbursement of travel expenses of this journey based on e-tickets/itinerary receipts (which are part of the file/document **D-15** and **Ex.PW9/Z14 (colly)** on record) and boarding passes in respect to the flights given in these tickets, was returned back to him on his written request for the purpose of some verification sought by A-1 and it was despite the fact that the above claim stood already processed and approved for payment of the said expenses to A-1. The original TA claim form and the itinerary receipts and boarding passes **Ex.PW9/Z14 (colly)** were also returned back to him by the concerned dealing hand PW14 Smt. Pushpa Rani and these itinerary receipts and boarding passes **Ex.PW9/Z14 (colly)** have also been subsequently recovered from the possession of accused during search of his residence-cum-office vide the search memo/list **Ex.PW18/A (D-48)**. Further, it has also come on record in the statements of above official witnesses from the Rajya Sabha Secretariat that these itinerary receipts/e-tickets were bearing signatures of accused at the time of submission of claim and also when the same were returned back to A-1.

272. However, it has further come on record during the evidence led

by prosecution, as already discussed, that the above signatures of accused were missing and the same were not there on these documents when these documents have been shown to the official witnesses of the Rajya Sabha Secretariat during the course of trial. These original itinerary tickets were also sent for forensic analysis by the IO/PW40 during investigation of the case and were examined and analyzed by PW28 Ms. Reeta R. Gupta, Forensic Expert of the CBI, CFSL, New Delhi. The portions which allegedly contained the above signatures of accused on the above 10 itinerary receipts were marked in red from Q-15 to Q-24 by the IO/PW40 in red and these questioned portions of the itinerary receipts have been examined by this witness by PW28 vide her report dated 30.04.2015, which has been exhibited and proved on record by the witness as **Ex.PW28/A (colly) (D-76)**, along with the forwarding letter dated 11.05.2015 sent by the then Director of the said laboratory to the CBI. The witness has duly identified the signatures of their Director on the above said letter as well as her own signatures in the report. She also stated specifically that the above report was prepared by her.

273. As per depositions made by this witness, the result of above examination was contained at serial no.7 of her report from point X to X and the same is being reproduced herein below:-

“The Video Spectral Comparator and Microscopic examination of the questioned documents marked Q-15 to A-24 reveal that these questioned documents are showing the signs of physical erasures at certain places which is evident with disturbances of fibers on the particular portions in the red enclosed questioned documents. However, the original writings if any, could not be deciphered on the basis of available scientific techniques in this Laboratory.”

274. Thus, the depositions made by the above witness, as corroborated from the contents of her examination report, clearly establish that the above questioned portions on the itinerary receipts

contained in **D-15** show signs of physical erasions at certain places and it was evident with disturbances of fibers on particular portions, which have been marked in red ink in the boxes on these documents. She has also stated that, however, the original writings, if any, contained at the above erased portions could not be deciphered on the basis of available scientific technology in their laboratory.

275. During her cross examination conducted by Ld. Counsel for A-1, she deposed that she was examining around 80-90 cases every year and every month she was appearing in the court as a witness on 3-4 occasions. With reference to her above report, she also stated that erasures were made physically by repetitive rubbing/blade and it was also evident from fiber disturbances. Though she was not able to tell as to whether any chemical was used for erasing or that the time and duration of the said erasions, but she further stated that the erasing could be made by a rubber or by any other manner physically. However, she also stated that no trace of eraser used was found on the above documents and i.e. why she did not mention it in her report. She specifically denied the suggestion given to him by Ld. Counsel representing A-1 that the above disturbance or damage to the fiber in this case was caused due to vagaries of weather, dampness in the atmosphere, termites or by water drop falls.

276. Hence, it stands clearly proved on record during testimony of this witness that the above itinerary receipts/e-tickets were tampered with by A-1 while the same were in his custody or possession, after return thereof to him by the official of Rajya Sabha Secretariat, and it was apparently done by him to remove his signatures which were put by him thereon at the time of deposit thereof as a part of his TA claim. Further, the evidence led on record also establishes that even the TA

claim form in original was returned back to him, along with the itinerary receipts and boarding passes **Ex.PW9/Z24 (colly)**, and since the same was not recovered from him during the search conducted at his premises, the only legitimate inference which can be drawn therefrom is that the same was destroyed by him to escape from prosecution and consequences of his illegal acts, as it contained his signatures.

OFFENCE (S) ALLEGED AND PROVED FOR THIS SECTOR OF JOURNEY

277. So far as this sector of journey performed in March, 2012 is concerned, it is not the case of prosecution that the claim for reimbursement of travel expenses thereof was made or the fake itinerary receipts and boarding passes of the same were procured by A-1 in furtherance of any criminal conspiracy with the other accused persons sent to face trial along with him. It is so because no evidence to this effect could be collected or even came to knowledge of the IO/PW40 during investigation of the case. As already discussed, the fact of submission of this claim and its return back to A-1 came to knowledge of the IO/PW40 only during the course of investigation of the present case, which was originally registered about the claim for reimbursement of the other sector of journey i.e. Delhi to Port Blair-via-Kolkata performed in December, 2012. Hence, on the basis of chargesheet and documents filed therewith, no charge for commission of the offence of criminal conspiracy punishable U/S 120B IPC in respect to the allegations or documents of this claim was framed against A-1 or the other accused persons and only charges for commission of substantive offences punishable U/S 201 IPC, 420 r/w 511 IPC, 471 IPC and also U/S 15 r/w 13 (1) (d) and 13 (2) of the PC Act were framed against A-1. These charges framed against A-1 were based on the allegations pertaining to destruction or disappearance of

evidence by way of erasion/deletion of his signatures on the itinerary receipts of this journey as well as by destruction of the TA claim form of this claim and his attempt to claim reimbursement of travel expenses amounting to Rs.23,71,460/- in total, i.e. Rs.14,22,190/- for this sector of journey and Rs.9,49,270/- for the other journey, based on false and fake documents, which also amounted to criminal misconduct on the part of a public servant. It has already been discussed that the prosecution has successfully established the charge framed against the accused persons, including A-1, for commission of the offence of criminal conspiracy in respect to the allegations pertaining to his attempted claim for reimbursement of Rs.9,49,270/- for the other journey of sector Delhi to Port Blair-via-Kolkata purportedly performed in December, 2012.

278. So far as the charge for commission of substantive offences framed against A-1 under above Sections of the IPC and the PC Act is concerned, it has been vehemently argued by Ld. Counsel representing A-1 that the accused cannot be held guilty for commission of the offence punishable U/S 420 r/w 511 IPC as admittedly, in none of the above two claims, the accused had got any undue or illegal benefit in the form of payment or reimbursement of expenses because the other claim for alleged journey in the month of December, 2012 was held inadmissible and even the present claim for alleged journey in the month of March, 2012 was withdrawn by him for the purpose of verification. It is his contention that the evidence led on record at the most can establish a preparation only on the part of accused to fraudulently claim the above amounts by way of reimbursement and it cannot be considered as an attempt on the part of accused to cheat the government exchequer.

279. However, in considered opinion of this court, the above argument of Ld. Defence Counsel is legally not tenable as the evidence led on record before this court duly establishes two repeated attempts on the part of A-1 to fraudulently and dishonestly claim the above amounts by way of reimbursement of travel expenses from his office on the basis of fake and forged documents and the same cannot be held to be mere preparations. The above attempts stood completed the very moment when the above TA claims based on fake documents were submitted in the Rajya Sabha Secretariat by or on behalf of the accused and non payment of these amounts to or in account of A-1 subsequently is not material as the accused has been charged only for an attempt to commit the offence of cheating and had the amounts of these claims been reimbursed or paid to him by any mode, then there was no question of framing of a charge for the offence of cheating punishable U/S 420 IPC with reference to Section 511 IPC, which deals with an attempt to commit an offence, and straightaway a charge for commission of the offence punishable U/S 420 IPC could have been framed against him. It so because the offence of cheating would have been completed then at the very moment when payment of the above claims was made or credited in account of the accused. The judgment of Hon'ble Supreme Court in case of **Abhayanand Mishra Vs. The State of Bihar, AIR 1961 SCC 1698** being relied upon by Ld. Sr. PP for CBI beautifully explains the difference between a mere preparation and an attempt to commit an offence and the evidence led on record in this case no doubt constitutes an attempt on part of A-1 to commit the offence of cheating in light of the propositions of law laid down in the above case and the same cannot be termed as a mere preparation.

280. Similarly, the charge U/S 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act also stands duly proved against the accused as Section 15 of the

PC Act in force at that time dealt with and made punishable only an attempt to commit the offence referred to in clauses (c) or (d) of sub-section (1) of Section 13 of the said Act and it did not deal with completed offences under the above clauses of sub-section (1) of Section 13 of the Act. It is the contention of Ld. Counsel for A-1 that even charge for the substantive offence U/S 15 of the PC Act cannot be held to have been proved against A-1 as his alleged acts of claiming reimbursement on the basis of fake documents were not done or committed by him while discharging his public duties as such and thus, the same cannot be considered to be an abuse of his public office by A-1. However, this submission of Ld. Defence Counsel is not legally tenable as the question of abuse of his position as a public servant to obtain valuable thing or pecuniary advantage for himself or any other person comes only with reference to sub-clause (ii) of clause (d) of Section 13 (1) of the PC Act and even the requirement of holding of a public office while doing or performing such an act to obtain such valuable thing or pecuniary advantage without any public interest comes into operation only in case of applicability of sub-clause (iii) of clause (d) of Section 13 (1) of the said Act and the case of A-1 is found fully covered by sub-clause (i) of clause (d) of Section 13 (1) of the Act as in terms thereof all that was required for applicability of the said sub-clause was that a public servant employed any corrupt or illegal means to obtain for himself or any other person any valuable thing or pecuniary advantage and it was nowhere required by the said sub-clause (i) that such corrupt or illegal means were employed by the public servant while holding his office of public servant to obtain such valuable thing or pecuniary advantage without any public interest or that he had abused his position as a public servant to obtain the same. Thus, it was not at all required for applicability of provisions of sub-clause (i) of clause (d) of Section 13 (1) of the PC Act that the alleged

illegal acts of the public servant were related to the discharge of his duties as such, which was necessary in relation to the other two sub-clauses i.e. (ii) and (iii) of clause (d) of Section 13 (1) of the said Act. As already discussed, sufficient oral as well as documentary evidence has been led on record by prosecution to prove that A-1 by employing corrupt or illegal means had definitely tried to obtain for himself the above undue and illegal pecuniary benefit or advantage in the form of claimed travel expenses of Rs.23,71,460/- in total in the above two false claims for reimbursement of his travel expenses.

281. As far as the offences U/S 471 IPC and 201 IPC are concerned, here also Ld. Counsel for A-1 is not right in making a submission that only a charge for attempts to commit these offences can be said to have been proved against the accused. It is so because the evidence led on record duly establishes the charges for commission of completed offences under these Sections as even though the attempt on part of accused to commit the offence of cheating by way of obtaining undue or illegal pecuniary benefit or advantage, fraudulently, dishonestly and by employing corrupt or illegal means, was not completed, but the offence of use of fake documents as genuine made punishable U/S 471 IPC stood completed the very moment when the accused had submitted the above fake e-tickets/travel itineraries and boarding passes of his above two claims in his office to claim the above travel expenses. Similarly, the offence of destruction or causing disappearance of the evidence made punishable by Section 201 IPC also stood completed the moment when the accused erased or caused to be erased his signatures on the above itinerary receipts **Ex.PW9/Z14 (colly)** contained in file/document **D-15** of the present claim and he also destroyed or made to disappear the original TA claim form of his present claim, which was returned back to him along with

the original itinerary receipts and boarding passes **Ex.PW9/Z14 (colly)** on his written request. There is no doubt in mind of this court that the above erasion/deletion of signatures on itinerary receipts and destruction or disappearance of the TA claim form was done by the accused intentionally in order to destroy the evidence showing the commission of offences by him and to save himself from the consequences of setting up a false claim for reimbursement based on fake documents.

282. Hence, it is held that the prosecution has also been successful in establishing its charge for the above said substantive offences as framed against A-1.

CONCLUSION

283. In view of the above discussion, all the three accused persons i.e. A-1 Anil Kumar Sahani, A-2 N.S. Nair and A-3 Arvind Tiwari are being held guilty and convicted for the offence of criminal conspiracy punishable U/S 120B r/w 420/471 IPC and also r/w Section 13 (1) (d) r/w 13 (2) of the PC Act. Apart from the above, A-1 is also being held guilty and convicted for commission of the substantive offences punishable U/S 201 IPC, 420 r/w 511 IPC, 471 IPC as well as U/S 15 r/w 13 (1) (d) r/w 13 (2) of the PC Act.

**Announced in open court
on 29.08.2022**

**(M. K. NAGPAL)
Special Judge (PC Act),
CBI-09 (MPs/MLAs Cases),
RADC, New Delhi : 29.08.2022**