**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Cr. Appeal (S.J.) No. 448 of 2015**
**------**

Shekhar Prasad, Son of Late H. Prasad, Resident of House No. 1550, Gurgaon, P.O. & P.S.-Gurgaon, Dist.-Haryana, at present, posted as Station Engineer, Doordarshan Maintenance Centre, Koyla Nagar, Dhanbad, P.O.-Koyla Nagar, P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand

**... .... .... Appellant**

Versus

The State of Jharkhand through C.B.I. **.... .... .... Respondent**

**With**

**Cr. Appeal (S.J.) No. 452 of 2015**
**------**

Satyendra Prasad Sinha, Son of Late Hanuman Prasad, Resident of Bhardwaj House, Jharudih, Dhanbad, P.O. & P.S.-Dhanbad, Dist.-Dhanbad, Jharkhand

**... .... .... Appellant**

Versus

The Union of India through C.B.I. **.... .... .... Respondent**

**------**

For the Appellants : Mr. Indrajit Sinha, Advocate
Mr. Ankit Vishal, Advocate
[Cr. A. (S.J.) No. 448 of 2015)]
Mr. R.S. Mazumdar, Sr. Advocate
Mrs. J. Mazumdar, Advocate
Mr. Aniket Jaiswal, Advocate
Ms. Divya Choudhary, Advocate
[Cr. A. (S.J.) No. 452 of 2015)]

For the C.B.I. : Mr. Deepak Kumar Bharati, Adv.

**CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

**JUDGMENT**

**C.A.V. on 22.07.2026** **Pronounced on 05.10.2026**

1. Heard the arguments of learned counsel for the appellants as well as learned counsel appearing for the C.B.I. in both these appeals.

2. The instant criminal appeals are directed against the judgment and order of conviction and sentence dated 19.06.2015 passed by learned Addl. Sessions Judge-XI-cum- Special Judge, C.B.I.,

Dhanbad in R.C. Case No. 12A/1999D whereby and whereunder, the appellant-Shekhar Prasad in Cr. A. (S.J.) No. 448 of 2015 has been held guilty for the offence under Sections 420 and 120B of the I.P.C. and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and sentenced to undergo R.I. for three years and a fine of Rs. 3,000/- along with default stipulation for the offence under Sections 420 and 120B of the IPC each and further sentenced to undergo R.I. for three years and a fine of Rs. 3000/- along with default stipulation for the offence under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act and the appellant Satyendra Prasad Sinha in Cr. A. (S.J.) No. 452 of 2015 is held guilty for the offence under Section 420, 120B, 467, 468 and 471 of the IPC and sentenced to undergo R.I. for three years along with a fine of Rs. 3,000/- with default stipulation for the offence under Section 420, 120B and 467 of the IPC each and R.I. for two years with a fine of Rs. 2,000/- for the offence under Section 468 and 471 of the IPC each with default stipulation. All the sentences were directed to run, concurrently.

***Factual Matrix:-***

3. The factual matrix giving rise to these appeals is that on the basis of confidential information, C.B.I. Officers, Dhanbad conducted a surprise check in the office of Doordarshan Maintenance Centre, Dhanbad on 15.07.1999. It is alleged in

the F.I.R. lodged by C.B.I. Inspector that Shekhar Prasad while working as Station Engineer at Dhanbad Doordarshan Maintenance Centre by abusing his official position entered into a criminal conspiracy with M/s Ruby Enterprises, Saraidhela, Dhanbad, M/s Techno Services, Saraidhela, Dhanbad, M/s Associated Marketing, Saraidhela Dhanbad and other unknown during the period of 1994-1998 and in pursuance of the said conspiracy fraudulently and dishonestly passed the fake bills produced by above firms for mock hiring charges of diesel generator sets at T.V. Relay Centre Dhanbad, Giridih, Dumka and Deoghar worth Rs. 7,28,403 and thereby caused wrongful loss of the amount to Doordarshan Maintenance Centre, Dhandbad corresponding wrongful gain to themselves. It is alleged that during raid conducted by the C.B.I. Officials at Dhanbad Doordarshan Maintenace Centre, the fake bills of the aforesaid firms were recovered from the possession of accused Shekhar Prasad. After verification of the said bills, it was found that the D.G. Sets purportedly supplied by the said firms were never installed at the T.V. Relay Centre Dhanbad. The investigation further revealed that the T.V. Relay Centre was already receiving the electricity supply from B.C.C.L and was also equipped with two diesel generator sets. Despite the availability of these power sources, the false requirement for additional D.G. Sets on hire was allegedly

created during period 1994-1998, at hire charges ranging from 195 to 215 per day and bills amounting to Rs. 1,31,715/- were fraudulently passed for payment by the accused Shekhar Prasad. Similarly, T.V. Relay Centre Dumka already had a electricity connection from the Bihar State Electricity Board and one diesel generator set, nevertheless a fictitious requirement for another D.G. Set was created during the same period and the bills amounting to Rs. 1,70,765/- were fraudulently processed and paid. Likewise, in respect of T.V. Relay Centre at Giridih and Deoghar, all the existing power arrangements were particularly false and requirements for hire D.G. Sets were allegedly created resulting in fraudulent payments of Rs. 1,31,885/- and Rs. 1,54,380/- respectively.

4. On the basis of aforesaid allegation, F.I.R. was registered against the accused Shekhar Prasad and firms M/s Ruby Enterprises, Saraidhela, Dhanbad, M/s Techno Services, Saraidhela, Dhanbad, M/s Associated Marketing, Saraidhela Dhanbad and other unknown persons for the offence under Section 120B, 420, 467, 468, 471 of the IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

5. After investigation, chargesheet was submitted against the accused Shekhar Prasad, Station Engineer and Satyendra Prasad Sinha on 30.04.2001 for the aforesaid offence. M/s Ruby

Enterprises, Saraidhela, Dhanbad, Techno Services, Saraidhela, Dhanbad, M/s Associated Marketing, Saraidhela Dhanbad were not set up for trial.

6. The appellants did not plead guilty and claimed to be tried.

7. In the course of trial, altogether 21 witnesses were examined by the prosecution:-

| | |
|---|---|
| P.W.-1 | Sunil Das |
| P.W.-2 | Praduman Kumar |
| P.W.-3 | Bipul Biswas |
| P.W.-4 | Tapan Kumar Chattopadhyay |
| P.W.-5 | Gurupado Biswas |
| P.W.-6 | Bijeshwar Xess |
| P.W.-7 | Arjun Prasad Barnwal |
| P.W.-8 | Murlidhar Rai |
| P.W.-9 | Sachinath Thakur |
| P.W.-10 | Baliram Prasad |
| P.W.-11 | Ajai Kumar Jha |
| P.W.-12 | Surendra Kumar Arora |
| P.W.-13 | Shashank Kumar Augusti |
| P.W.-14 | Guru Sadai Ghosh |
| P.W.-15 | Kshetramohan Patro |
| P.W.-16 | Uttpal Biswas |
| P.W.-17 | Subhash Chandra Chaurasia |
| P.W.-18 | Amrit Lal Yadav |
| P.W.-19 | Anshuman Saha |
| P.W.-20 | Ashish Prasad |
| P.W.-21 | Bhakti Pad Mishra |

8. Apart from oral testimony of the witnesses, the prosecution has also examined following documentary evidence:-

| | |
|---|---|
| Ext.-1 to 1/9 | Ten Bills |

| | |
|---|---|
| Ext.-2 to 2/7 | Entry Bill Nos. |
| Ext.-2/8 to 2/9 | Entry Bill Nos. |
| Ext.-3 | Signature of P.W.-1 on statement u/s 164 Cr.P.C. |
| Ext.-3/1 to 3/2 | Signature of P.W.-3 on seizure memo |
| Ext.3/3 to 3/4 | Signature of Shekhar Prasad on Memo |
| Ext.-4 | Writing on communication message register |
| Ext.-3/5 | Signature of D.K. Choudhary |
| Ext.-3/6 | Signature of D.K. Choudhary on Sanction |
| Ext.-3/7 | Signature of D.K. Choudhary on invoice |
| Ext.-5 | Letter dated 19.04.2000 |
| Ext.-6 | Surprise Check Memo dated 15.07.1999 |
| Ext.-7 | Seizure Memo dated 29.05.1999 |
| Ext.-8 | Receipt Memo |
| Ext.-9 to 9/1 | Statement |
| Ext.-10 to 10/6 | Signature of P.W.-9 on surprise check memo |
| Ext.-10/7 to 10/697 | Signature of PW.9 on bills and other documents |
| Ext. 10/698 to 10/704 | Signature of P.W.10 on surprise check memo |
| Ext.-11 | F.I.R. |
| Ext.-12 | Sanction Order dated 27.03.2001 |

| | |
|---|---|
| Ext.-13 | Statement of P.W.-13 u/s 164 Cr.P.C. |
| Ext.-14 | Statement of P.W.-14 u/s 164 Cr.P.C. |
| Ext.-15 | Statement of P.W.-15 u/s 164 Cr.P.C. |
| Ext.-16 | Statement of P.W.-16 u/s 164 Cr.P.C. |
| Ext.-13/1 to 13/3 | Statement u/s 164 Cr.P.C. of G.S. Ghosh, K.M. Patro & Praduman Kumar |
| Ext.-17 | Statement of Sunil Das u/s 164 Cr.P.C. |
| Ext.-18 to 18/6 | Signature of P.W.-19 on Surprise Check Memo |
| Ext.19 to 30 | Seizure Memo |
| Ext.31 to 31/1 | Seizure Memo dated 03.06.2000 and signature on it. |
| Ext.32 to 32/1 | Seizure Memo dated 23.05.2000 and signature on it. |
| Ext.33 to 33/2 | Seizure Memo dated 22.06.2000 and signature on it. |
| Ext.34 to 34/1 | Seizure Memo dated 25.05.2000 and signature on it. |
| Ext.35 to 35/1 | Seizure Memo dated 06.06.2000 and signature on it. |
| Ext.36 to 36/1 | Seizure Memo dated 27.07.2000 and signature on it. |
| Ext.37 to 37/1 | Seizure Memo dated 08.07.2000 and signature on it. |

| | |
|---|---|
| Ext.38 | Seizure Memo dated 19.05.2000 |
| Ext.-39 | Charge-sheet |
| Ext.-40 | Signature of P.W.21 on letter No. 3688/12A/99D |
| Ext.-40/1 | Signature of S.P. Saxena on letter No. 3688/12A/99D |
| Ext.-40/2 | Signature of Syed Ahmad on letter No. 3688/12A/99D |
| Ext.-40/3 | Signature of VGS Bhatnagar on Opinion |
| Ext.40/4 | Signature of S.K. Saxena on forwarding |
| Ext.41 | Entire expert opinion |
| Ext.42 | LPO 2582 along with reason for opinion DXC-96/2000 |

9. The prosecution has also exhibited following material documents:-

| | |
|---|---|
| Ext. No. I-I/1 | Two Bills Register of two financial year |
| Ext. No. II | Log Book |
| Ext. No. III | Technical Log Book of Doordarshan |
| Ext. No. I/A | Generator Log Book |
| Ext. No. IV | Specimen Handwriting |
| Ext. No. V | Admitted Writing |
| Ext. No. V/1 | Admitted writing in message book |
| Ext. No. VI | Questioned documents and sub markings |

10. On the other hand, no oral evidence has been examined on behalf of defence. However, some documentary evidence has been adduced on behalf of the defence:-

Ext.-A to Ext.-A/1Two Register of Generator Logbook

11. The learned trial Court after evaluating the oral as well as documentary evidence arrived at conclusion that prosecution has proved the charges leveled against the accused persons without any doubt and convicted and sentenced them as stated above.

**Submissions on behalf of appellants: -**

12. Assailing the impugned judgment, learned counsel for the appellant-Satyendra Prasad Sinha, proprietor of M/s Techno Services who also happens to be own brother of the co-accused Shekhar Prasad submitted that in the F.I.R., appellant Satyendra Prasad Sinha was not named but subsequently he was charge sheeted in this case and concern firms were not sent up for trial. It is further submitted that all the witnesses examined by the prosecution except the enquiry witness who happens to be C.B.I. Officials who visited the place of occurrence once on the date of check i.e. 15.07.1999. All other witnesses have categorically stated that there was erratic electric supply in the concerned areas and additional D.G. Set was installed at TVRC for smooth functioning. It is also proved that additional D.G. Sets were installed by the concerned firms

and logbook were also maintained for hiring the services of D.G. Sets from firms, proper tender were issued and legally approved thereafter services of the concerned firms were taken. The prosecution has miserably failed to prove through any cogent and reliable evidence about the commission of any forgery of any kind either in inviting tenders, raising of bills and its payments. The matter regarding payment of bills is cumulative for four years i.e. 1994-98 but the Doordharshan Authority has raised no objection for taking services of private firms for installation of additional D.G. Sets at the T.V. Relay Centre. The prosecution has also failed to offer any valid explanation for lodging F.I.R. after inordinate delay of about five years. It is further submitted that P.W.01 Sunil Das who has proved the impugned bills but failed to utter the same to be forged one. He has also not disputed the log book maintained in respect of additional D.G. Set on the basis of which the bills were paid. It is further submitted that additional documents were also produced by the appellant and admitted by this Hon'ble Court without raising any dispute by the Opp. Party. The gate pass which could not be brought on record, has been produced as additional evidence. It is further submitted that the prosecution has also failed to prove the impugned bills to be forged and fabricated documents and to whom the appellant Satyendra Prasaid

Singh has cheated particularly in absence of any objections raised on behalf of Doordarshan Dept. against the processed bills. It is further submitted that in the course of investigation, statement of some of the witnesses were recorded under Section 164 Cr.P.C. but they have not supported their earlier version recorded under Section 164 Cr.P.C. Hence, conviction of the appellants only on the basis of statement recorded under Section 164 Cr.P.C. cannot be sustained.

It is further submitted on behalf of appellant-Shekhar Prasad that since he is real brother of co-appellant Satyendra Prasad Sinha and with a view to provide him illegal favour using his official position, the appellant has been dragged in this case. It is further submitted that although his brother was proprietor of one of the firms M/s Techno Services but it is clearly proved that proper tender was issued and procedures were adopted before hiring the services of private firms for the purpose of installing additional D.G. Sets on TVRC. The process of tender has not been challenged or doubted by the prosecution by adducing any reliable evidence. Therefore, simply because of the firm relating to his brother is itself not sufficient to raise presumption that he has misused his official position for providing undeserving favour or reward in favour of his own brother. It is further submitted that the learned trial Court has absolutely ignored the material evidence of

witnesses who have categorically proved that the D.G. Sets were properly installed after inviting tenders and bills were also passed for genuine and reasonable demand for additional D.G. Sets due to previous installed D.G. Sets being out of order or insufficient in number for smooth functioning of the TVRC. Therefore the confidential information received by the CBI team itself was malicious and the CBI officials have also acted maliciously without any reasonable cause and sufficient documentary evidence for prosecution of the appellants. The learned trial Court has swayed upon contradictory and unreliable evidence of witnesses and without any documentary support to prove charges leveled against appellants and recorded wrong findings about the guilt of the appellants. Therefore, impugned judgment of conviction and sentence of the appellants is liable to be set aside and these appeals may be allowed.

**Submissions on behalf of the C.B.I.**

13. Learned counsel appearing on behalf of the C.B.I. opposing the contentions raised on behalf of the appellants contended that the prosecution has been able to prove its case against the appellants that from 1998-99, no hired DG set was installed in TVRC Dhanbad even after that 10 fake bills of Rs. 67,940/-for hiring of DG Set in the name of Techno Services of the accused Satyendra Prasad Sinha was fraudulently passed by

the accused Shekhar Prasad being a public servant by entering into criminal conspiracy with him causing wrongful loss of Rs. 67,940/- to the government and corresponding wrongful gain to the accused Satyendra Pd. Sinha and therefore, accused Shekhar Prasaid is held guilty under Section 420 and 120B of the IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and the co-accused Satyendra Pd. Sinha is held guilty under Sections 420, 467, 468, 471, 120B of the IPC.

**Analysis, reasons and decision**:

14. I have gone through the record of case along with impugned judgment in the light of contentions raised on behalf of respective parties.

15. The only point for determination in this appeal is "as to whether the impugned judgment of conviction and sentence of the appellants suffers from any error of law, which requires any interference in this appeal?"

16. Before imparting my verdict on the above point, it is pertinent to take brief resume of the evidence available on record for proper adjudication.

**PW 1 Sunil Das** was posted as UDC in the year 1998 in TVRC Dhanbad and the accused Sekhar Prasad was station Engineer at that time. He has further deposed that the TVRC Dumka, Deoghar, Giridih and Dhanbad as well as Bokaro had a DG

Set each and except TVRC Bokaro, all the other TVRC's were given one hired DG set each in case of mechanical defect in the Govt. DG set and its payment was made through TVRC Dhanbad. Satyendra Pd. Sinha, the proprietor of M/s Techno Services who is also brother of co-accused Shekhar Prasad, Station Engineer had given a DG set in each on the TVRC's. This witness has proved 10 bills, the payment of which has been made to M/s Techno services firm. All the bills were processed by this witness and passed by the accused Shekhar Prasad, St. Engineer who was also DDO. All the above bills were supported with TR 30 form under the writing and signature of this witness (Ext. 1-1/9). All the 10 bills were entered in two bill registers that he has proved material exhibit 1 & 1/1. He has further stated that at the time of raid by the CBI in his office on 15.07.1999 he was at Calcutta and when he returned from there the accused Shekhar Prasad got prepared a gate pass on 01.06.1999 for hired generator set in the name of Utpal Biswas (PW 16) to take the same out on which Utpal Biswas had also put his signature. This witness has further stated in paragraph 17 of his deposition that he put his initial on the gate pass but he had not seen any DG set being taken out of the office. He has also admitted that his statement was recorded u/s 164 Cr.P.C before the Court on 06.06.2000 on which he has also put his signature (Ext. 3). In

cross-examination he has admitted that the power supply was very erratic in Dhanbad and it created interruption in relay of the TVRC programme. From 1994-1998 and upto 2000, the power position at all the stations except Bokaro was not good and the condition of the divisional generator was not good, it was always in need of repair. This caused disruption in the relaying of Doordarshan Programs, leading to disconnection among the local public. Since the power situation in Bokaro was good, Shekhar Prasad never gave the tender for installing extra generators there. In the above four centers where the power situation was not good, arraignments for extra generators were made through tender. Despite M/s Techno Services, generator was also installed by M/s Associated Marketing and M/s U.B. Sales. After transfer of the accused his successor has also invited tender for installing a generator of 5 KV in Deoghar.

**P.W.2 Praduman Kumar** deposed that in 1998, he was posted as technician at Dhanbad TVRC and as per his information, whether any generator was installed or not he has no knowledge as he was not under a duty to maintain the record and after 13.06.98 he has not made entry in register regarding generator. He further deposed that he cannot remember how many generators were there in office.

In his cross-examination, he deposed that it was not his duty to maintain register, further he deposed that it is correct that usually due to power shortage, hired generator were used.

**PW 3 Bipul Biswas** was posted in Low power transmitter at Dhanbad in the year 1999. He has admitted that the entries in the log book regarding hired DG set was not of his period. Further deposed that CBI had seized register from him, which had no entries regarding payment nor about hired DG set. He has proved his signature on seizure list (Ext. 3/1 & 3/2). He has further proved the payment receipt dt. 01.05.1999 that is also not of his period which was paid to Techno services (Ext. 3/3 & 3/4) and bears the signature of Shekhar Prasad.

In his cross-examination, he has admitted that he has no knowledge as to how many DG set were hired before his joining in Dhanbad.

**PW 4 Tapan Kumar Chattopadhyay** was Asstt. Engineer in TVRC, Dhanbad at the relevant time and he has also stated in his deposition that as far as he remembers no hired D.G set was installed in his TVRC Dhanbad. He has further deposed that previously there was a 5 KVA generator and thereafter in June 1998 other D.G.Set of 12.5 KVA was installed.

In his cross examination, he deposed that in 1992-1994 he was not posted in Dhanbad doordarshan, it is true that on

16.06.1998 neither he has written regarding hire generator nor he has mentioned regarding generator to be of departmental or hired one. He further deposed that hired diesel generator was brought **in use and confirms that power supply was problematic.**

**PW 5, Gurupado Biswas** who was posted as Engineer in the office of Chief Engineer, East Zone on 19.4.2000 in Doordarsan, Calcutta has deposed that Shekhar Prasad was St. Engineer in D.M.C. Dhanbad. He has proved the letter dt. 19.4.2000 written by him addressed to one Ansuman Saha. Sub-Inspector, CBI. Dhanbad (Ext.5).

In cross-examination, he has admitted that he was never posted at Dhanbad, further deposed that power supply was poor during 1998-1999 and there was difficulty in relay due to power crisis and confirms that station engineer had power to make arrangement for smooth relay and for that no permission was required.

**PW 6 Bijeshwar Xess**, was accountant on 15.7.99 in TVRC, Dhanbad and Shekhar Prasad was St. Engineer at that time. He has proved the Surprise check memorandum dt. 15.07.1999 that was conducted from 11 a.m in the morning till 4 p.m in the evening. He has also admitted that the same was typed by Murlidhar Rai. He has proved his signature. The entire surprise check memorandum has been marked as Ext.

6. He has further proved the seizure list dt. 29.5.2000 prepared in 5 sheets that was seized by Ansuman Saha and signed by Sunil Das (Ext. 7).

In his cross-examination, he has admitted that the surprise check memorandum was prepared in his presence and that was typed by Murlidhar. He has further admitted that since he had joined in July he cannot say about hire of DG set in the month of April. **He has deposed that after transfer of Shekhar sir, one generator was hired in Deoghar on rate of 250 per day regarding which he had also signed on the document.**

**P.W.7 - Arjun Pd. Barnwal** was Sr. Manager in Canara Bank. Saraidhela on 31.5.2000 and he has proved the receipt memo dt. 31.5.2000(Ext.8). He has further testified that this detail was with regard to the cheque or draft relating to the current account of Techno services (Ext. 9). He has further proved the second statement of UB sales current account (Ext. 9/1).

In his cross examination, he has also admitted that in Ext. 8 specific contents has not been mentioned.

**PW 8 Murlidhar Rai** is LDC in DMC Dhanbad and he has admitted in his evidence that the bills of M/s Techno Services were passed by St. Engineer Shekhar Prasad.

In cross-examination he has admitted that he does not know whether the bill was related to DG set.

**P.W.9 - Sachinath Thakur** is Sr. Inspector Vigilance BCCL, Dhanbad who has deposed that he along with others went for surprise check at DMC Dhanbad. He has further deposed that surprise check memorandum was prepared in regard to irregularity of supply of D.G. sets in T.V. Centre. He has proved his signature on seizure list.

In his cross-examination, he deposed that he had not read documents and there was issue related to electricity in Dhanbad.

**P.W.10 Bali Ram Prasad** was Sr. Inspector, Vigilance, BCCL in July, 1999 who proved the surprise check and verified his signature on memorandum. In his cross-examination, he deposed that he has no knowledge that the bill which was seized, was manipulated or not.

In his cross-examination, he has admitted that he had not scrutinized bills and during the surprise check the DG set was not found available there.

**P.W.11 Ajai Kumar Jha** is CBI Inspector and he has proved his signature on the surprise check memo dated 15.07.1999 and has also proved F.I.R that was prepared on his dictation.

**P.W.12 - Surendra Kumar Arora** is Dy. Secretary who has proved the sanction order dated 27.03.2001.

In his cross-examination **deposed that there was requirement of additional generator due to power crisis**. He

has further deposed that no enquiry conducted by him and sanction order was prepared by Vigilance Dept. and he had only signed the sanction order.

**P.W.13 - Shashank Kumar Agasti** was Sr. Asst. Engineer since 1996 to 2000 who has in his cross-examination admitted that there was much more power interruption. He has admitted that he had written a letter dated 26.10.1998 about the problem of generator which required urgent repair.

**P.W.14 - Gurusadai Ghosh** was also a employee of TVRC Dhanbad who has in his cross-examination admitted that log book does not find mention regarding any hired D.G. Set and he had not seen any hired D.G. Set in the generator room.

**P.W.15 - Kshetramohan Patro** deposed after installion of 12.5 K.V.A. generator he never saw hired generator, in para 4 of his cross-examination he deposed that in June new generator was installed. Further says he never gave statement to CBI that hired generator was not installed.

**P.W.16 - Utpal Biswas** deposed that he appeared in the departmental proceeding conducted for the same allegation wherein on 04.03.2005, he has denied the statement to the extent that he was not pressurized by the appellant to sign the gate pass and he actually received the D.G. Set and took the same out of Doordarshan premises for repair work.

**P.W.17 Subash Chandra Chourasia, Judicial Magistrate** who had recorded the statement of witnesses under Section 164 Cr.P.C. and proved the same.

**P.W.18 Amritlal Yadav** was the then Judicial Magistrate, Dhanbad who had recorded the statement of Sunil Das under Section 164 Cr.P.C.

**P.W.19 Ansuman Saha** was posted as Sub-Inspector of C.B.I., A.C.B., Dhanbad and proved surprise memo, seizure memo, He further testified that it was revealed during the investigation that fake bills of Rs. 67,940/- was passed by the accused Shekhar Prasad that was raised by M/s Techno Services of Sri Satyendra Prasad, He has further admitted that he had handed over the charge of further investigation to Sri Ashish Prasad. CBI Inspector, Dhanbad who had filed the charge-sheet in this case.

In his cross-examination, he has admitted that he knew that Rs. 67,940/- was defalcated but he could not file charge-sheet because he was transferred.

**P.W.20-Ashish Prasad** deposed that although he filed charge-sheet but did not conducted investigation.

**P.W.21 - Bhaktipad Mishra** was posted as Asst. Govt. Examinder Calcutta and proved the writing of accused Shekhar prasad, Satyendra prasad Sinha, Dhiraj kr Choudhary, Jawaharlal vishakarma.

In cross-examination, he deposed that he has no degree of expert examination and he has not mentioned the instrument. He also deposed that it has not been possible to express a definite opinion regarding the authorship of the rest of writings.

17. Before adverting to evaluate the aforesaid evidence available on record, it appears pertinent to extract the relevant provisions of the Prevention of Corruption Act, 1988.

(Prior to Amendment in the year 2018)

***"13. Criminal misconduct by a public servant.-***

*(1) A public servant is said to commit the offence of criminal misconduct,-*

*(a)……..*

*(b)……..*

*(c)……..*

*(d)if he –*

*(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*

*(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*

*(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or*

*Explanation.-……*

*(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine."*

***<u>Indian Penal Code</u>***

***"120-B. Punishment of criminal conspiracy.-(1)*** *Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for*

*the punishment of such a conspiracy be punished in the same manner as if he had abetted such offence.*

**(2)** *Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.*

***420.Cheating and dishonestly inducing delivery of property.-****whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

***467. Forgery of valuable security, will, etc.-*** *Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

***468. Forgery for purpose of cheating.-****Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description a term which may extend to seven years, and shall be liable to fine.*

***471. Using as genuine a forged document or electronic record.-****whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record."*

18. In order to substantiate the aforesaid charges, the prosecution must prove the following common factual ingredients:-

(1) The prosecution must establish that the accused is a public servant and involved and acted in his official capacity or abused his official position to carry out an illegal act or a lawful act by illegal means

(2) The accused created, used or caused the use of false/forged documents or records and those documents were used to induce someone dishonestly or fraudulently resulting in delivery of property, money or some other pecuniary consequence.

(3) The public servant by corrupt/illegal means or by abuse of position, obtained for himself or another person a valuable thing or pecuniary advantage by using forged documents as genuine with the requisite knowledge or reason to believe that they were forged.

19. In the instant case, it is an admitted fact that appellant Shekhar Prasad, St. Engineer at Doordarshan Maintenance Centre was the brother of Satyendra Prasad Sinha (Proprietor of M/s. Techno Services). It is also an admitted fact that Doordarshan has never filed any complaint that Shekhar Prasad has ever misappropriated any fund. Moreover, if the C.B.I. doubts that Shekhar Prasad has processed any fake bills for its payment by Doordarshan Maintenance Centre,

Dhanbad, the C.B.I. must have to implead D.M.C., Dhanbad as one of the parties in this case to substantiate the question of processing fake bills of installing D.G. Sets on hire basis by Shekhar Prasad through a criminal conspiracy abusing his official duty. It has also been submitted by the learned counsel for the appellants that proper tender was issued and after completing all the due process, M/s. Techno Services was given the tender to install the D.G. sets on hire basis due to erratic power supply and interruption caused to TVRC. So far as installation of D.G. sets in the premise of DMC, Dhanbad is concerned, a log book was maintained as per the testimony of the prosecution witnesses. It is also an admitted fact that M/s. Techno Services has not been sent up for trial to substantiate that the D.G. set which was to be installed on hire basis in the premise of D.M.C. Dhanbad was actually not installed. It appears that the learned trial Court without evaluating the aforesaid admitted positions has only swayed upon the fact that Shekhar Prasad may have given illegal favour to his brother Satyendra Prasad Sinha by abusing his official duty but no any other TVRC situated at Dumka, Giridih, Deoghar have come forward to state that M/s. Techno Services has been given illegal favour by his brother Shekhar Prasad. It has been alleged by the C.B.I. that fake bills were processed for payment, then, the question arises here

that if there were fake bills, then, how it was passed and DMC, Dhanbad has never lodged any complaint that any fake bills were passed. Hence, it appears that no reliance can be placed on the document submitted by the C.B.I. claiming to be forged documents in absence of any proof that fake bills were passed and only the proprietor of M/s. Techno Services who had to install the D.G. Sets being the brother of the Shekhar Prasad cannot be presumed that it was a conspiracy to make illegal favour by abusing official duty by Shekhar Prasad which has not been proved by any substantial evidence by the prosecution. Therefore, impugned judgment is not sustainable in the eye of law and the same is hereby **set aside**. The appellants are acquitted from the charge leveled against them.

20. The appellants are on bail, hence, they are discharged from the liabilities of bail bonds. Sureties are also discharged.

21. In result, **these appeals are allowed.**

22. Pending I.A(s), if any, is also disposed of, accordingly.

23. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

**(Pradeep Kumar Srivastava, J.)**

Jharkhand High Court, Ranchi
Dated: 05/10/2026
Basant / **NAFR**
**Uploaded On: 06/10/2026**