

Before the Court of \_\_\_\_\_ **Special Judge (P.C. Act) and First  
Additional Sessions Judge Raipur (C.G.)**

State

Prosecution

Vs

Shivshankar Bhatt And Others

Accused

Special Case No. 794/15

**Written arguments under Section 314 CrPC about accused Dr Alok Shukla being Innocent**

Written arguments about accused Dr Alok Shukla being innocent in the false, fabricated and malicious case of ACB and EOW officers are presented below: -

1. **Charges framed on accused Dr Alok Shukla by the Hon'ble Court** – Charges have been framed against accused Dr Alok Shukla by Hon'ble Court under Section 11, 13(1)(A) and 13(1)(d) read with Section 12 of Prevention of Corruption Act and Section 120 B of Indian Penal Code. The detailed charges framed by the Hon'ble Court are as under –

**First** – You, while being a public servant posted on the post of Chairman Nagrik Apurti Nigam (NAN) Raipur from 30/05/2014 to 16/02/2015, agreed with the organised system of corruption by the then M.D. Dr Anil Kumar Tuteja in connivance with co-accused District manager Shivshankar Bhatt, district managers posted in district offices, District Manager Raipur, Tikam Chandra Harchandani, Junior Technical Assistant Raigarh, Ksheersagar Patel, Junior Technical Assistant, Jagdalpur, Satish Kumar Kaivartya, District Manager Bilaspur, Kaushal Kumar Yadu, Company Headquarters Raipur Sandeep Agarwal, Branch Manager State Ware House Balod, Dilip Kumar Sharma, in-charge District Manager Surajpur Ravindra Nath Singh, Assistant Manager Technical Raipur Devendra Singh Kushwaha, Assistant Manager Quality Control Raipur, Ramphool Pathak, District Manager Raipur, Sudhir Kumar Bhole, District Manager Gariaband, Motilal Sahu, District Manager Balodabazar, J.P. Dwivedi, District Manager Kawardha, Dhaneshwar Ram, for collection of illegal money from rice millers in the garb of saving them from troubles and apprehensions of rejection of rice by reason of numerous rules and procedures and huge possibilities in decision making by field officers, and the need of rice millers for ease of acceptance of rice, committed Criminal Conspiracy, and thus you have committed the offence which is punishable under **Section 120 B of IPC** and for taking cognizance of which this Court has jurisdiction.

**Second** - You, while being a senior public servant posted on the post of Chairman Nagrik Apurti Nigam (NAN) Raipur from 30/05/2014 to 16/02/2015, in contravention of your official duties, by misusing your official position, obtained illegal benefit of crores of rupees from rice millers in the business of procurement of PDS rice and in this way you have committed the offense which is punishable under Section 11 of prevention of Corruption Act, and for taking cognizance of which this Court has jurisdiction.

**Third** – You, in the above said period, while being posted on the post of Chairman Nagrik Apurti Nigam (NAN) Raipur being a senior public servant, in contravention of your official duties by misusing your official position, committed criminal misconduct by obtaining

habitually illegal benefit of crores of rupees. By doing so, committed the offense under **Section 13(1)(a)** which is punishable under **Section 3(2) of Prevention of Corruption Act**, and for taking cognizance of which this Court has jurisdiction.

**Fourth** - You, in the above said period, while being posted on the post of Chairman Nagrik Apurti Nigam (NAN) Raipur being a senior public servant, in contravention of your official duties by misusing your official position, committed criminal misconduct by obtaining illegal benefit of crores of rupees. By doing so, committed the offense under **Section 13(1)(d)** which is punishable under **Section 3(2) of Prevention of Corruption Act**, and for taking cognizance of which this Court has jurisdiction.

2. That, the duration of posting of accused Dr Alok Shukla in Nagrik Apurti Nigam (NAN), given in the charges framed by the Hon'ble Court is not correct. The tenure of accused Dr Alok Shukla in charge No. 1 and 2 in Nagrik Apurti Nigam (NAN) is shown from 30/5/2014 to 16/2/2015, but accused Dr Alok Shukla had taken charge in Chhattisgarh after returning from deputation in Election Commission of India only on 01/07/2014, therefore the tenure of accused Dr Alok Shukla in Nagrik Apurti Nigam (NAN) is only from 01/07/2014 to 16/2/2015.
3. That, many other charges have been framed on other co-accused in this case, which have not been framed on accused Dr Alok Shukla—
  - 3.1. Charges have been framed on other co-accused under Sections 420/34, 409/34, 466, 467 and 468 Indian Penal Code, which have not been framed on accused Dr Alok Shukla.
  - 3.2. Other co-accused have also been charged for irregularities in procurement of salt, sugar, wheat, pulses etc., unnecessary inter-district transport of rice, payment of Rs 2,18,21,155/- for unnecessary inter-district movement of 73547 MT of rice, criminal breach of trust, issuing orders of unnecessary inter-district movement of salt, procurement of salt in lower gauge polyethene, less weight packets of salt, salt containing less than standard Iodine, not implementing the order of segregation of salt packets of less weight and thereby cheating the government and poor PDS beneficiaries and causing loss of crores of rupees to the Government, payment of Rs 92,46,865.31/- for non-standard salt and thereby committing criminal breach of trust, forging public documents, forging valuable securities and receipts etc. Accused Dr Alok Shukla has not been charged for any of the above. According to the charge framed on accused Alok Shukla by the Hon'ble Court, even the charge of criminal conspiracy under Section 120 B of Indian Penal Code on accused Dr Alok Shukla is only with respect to the alleged illegal collection from rice millers and not with respect to these other charges framed on the other co-accused.
  - 3.3. These arguments are only with respect to the charges which have been framed on accused Dr Alok Shukla.
4. There are no allegations of unnecessary transport of rice, procurement of sub-standard quality rice, procurement of sub-standard quality salt, not doing segregation of salt, causing loss to Nagrik Apurti Nigam or Government, criminal breach of trust, forging of documents etc., or of being part of a criminal conspiracy about these allegations in the charges framed by the Hon'ble Court against accused Dr Alok Shukla. The charge on accused dr Alok Shukla is only for being part of criminal conspiracy of illegal collection from rice millers and for accepting a share from illegal collection

rice millers and these charges have not been proved by the evidence presented in the trial by the prosecution.

5. In summary the allegations against accused Dr Alok Shukla in the charges framed by the Hon'ble Court are-

5.1. That, demand of illegal money was made and collection of illegal money was done from rice millers by the officers of field offices of Nagrik Apurti Nigam, by putting pressure on rice millers.

5.2. That, the field officers of Nagrik Apurti Nigam, after keeping their share with themselves, used to bring rest of the illegal money so collected from rice millers to the Headquarters of Nagrik Apurti Nigam.

5.3. That, the illegal money collected from rice millers and brought to the headquarters of Nagrik Apurti Nigam, was collected in the headquarters by manager PDS, Shivshankar Bhatt. Out of this he used to keep some money with himself and used to keep some money with other employees of the headquarters.

5.4. That, out of this alleged illegal money collected from rice millers, accused Dr Alok Shukla used to get his share and many personal expenses of accused Dr Alok Shukla were also done from this money illegally collected from rice millers.

5.5. That, accused Dr Alok Shukla was involved in the alleged criminal conspiracy of this illegal collection of money from rice millers.

6. It was necessary for the prosecution to prove by evidence that employees/officers of Nagrik Apurti Nigam made demand of illegal money and collected illegal money from rice millers. Prosecution has not only completely failed to prove this allegation, but it has been proved in the trial that neither any demand for illegal money was made nor any illegal money was collected from rice millers and therefore the entire edifice of the prosecution case has fallen-

6.1. That prosecution has examined 26 rice millers in the trial to prove the organised crime of corruption by collection of illegal money from rice millers. **All rice millers have stated in their Court Depositions that neither any employee/officer of Nagrik Apurti Nigam made any demand for illegal money nor have they given any illegal money to any person.** They have also stated in their Court depositions that the statements purportedly given by them under Section 161 CrPC were in fact never given by them. The allegation of organised crime of collection of illegal money from rice millers has been proved to be completely false by these depositions of the rice millers in Court. Court depositions of (1) PW-20 Vikas Sahu, (2.) PW-21 Subodh Kumar Taori, (3.) PW-26 Madan Kumar Mittal, (4.) PW-27 Mohan Kumar Sahu, (5.) PW-29 Brijesh Sharma, (6.) PW-55 Deendayal Agrawal, (7.) PW-69 Bhanwarlal Khatri, (8.) PW-71 Shabbeer Barbatia, (9.) PW-75 Vikas Kumar Jain, (10.) PW-76 Md. Rafiq, (11.) PW-77 Vijay Kumar Sadhwani, (12.) PW-79 M. Raju Rao, (13.) PW-80 Harish Golchha, (14.) PW-83 Gulab Chowhan, (15.) PW-85 Sandeep Dhamejani, (16.) PW-86 Md. Husain Meman, (17.) PW-87 Rajesh Bindal, (18.) PW-88 Ankit Agrawal, (19.) PW-89 Maneesh Agrawal, (20.) PW-90 Vijay

Kumar Agrawal, (21.) PW-92 Md. Ishteyaq, (22.) PW-93 Manoj Kumar Agrawal, (23.) PW-94 Md Anees Meman, (24.) PW-96 Md Ameen, (25.) PW-104 Babulal Agrawal and (26.) PW-145 Mahaveer Agrawal may please be perused.

- 6.2. Prosecution has also examined 5 transporters in the trial about illegal collection. All the transporters have denied any illegal demand or giving any illegal money to any officer/employee of Nagrik Apurti Nigam in their depositions in the Court that. The allegation of organised crime of collection of illegal money from rice millers has been proved to be completely false by these depositions. The court depositions of (1) PW-19 Laxminarayan Agrawal, (2) PW-24 Suresh Kukreja, (3) PW-25 Dalbeer Singh Alias Hora Singh, (4) PW-81 Harendra Yadav and (5) PW-82 Ashok Dubey may please be perused.
- 6.3. 13 field officers/employees of Nagrik Apurti Nigam have been examined as prosecution witnesses in the trial and all of them have completely denied any illegal collection, bringing illegal money to the headquarters of Nagrik Apurti Nigam keeping illegal money with themselves and distributing illegal money in their court depositions. The allegation of organised crime of collection of illegal money from rice millers has been proved to be completely false by these depositions. The depositions of these 13 field employees– (1.) PW-18 Dinesh Ojha, (2.) PW-22 Hardeep Singh Bhatia, (3.) PW-28 Azad Toppo, (4.) PW-30 Vikas Sinha, (5.) PW-58 Vikrant Singh Makheeja, (6.) PW-59 Ravindra Minj, (7.) PW-60 Manmohan Prasad Shukla, (8.) PW-63 Sarjuram Pipla, (9.) PW-65 Deviprasad Chandrakar, (10.) PW-74 Sujit Kumar Shrivastava, (11.) PW-91 Suresh Chandra Dwivedi, (12.) PW-102 Vishal Kumar Sinha and (13.) PW-62 Jitendra Nigam may please be perused.
- 6.4. Similarly, prosecution has also examined 5 employees posted in the headquarters of Nagrik Apurti Nigam and they have also denied collecting, keeping with themselves, or distributing any illegal money. The court depositions of (1.) PW-23 Thanuram Anant, (2.) PW-95 G.H. Trinath Reddy, (3.) PW-118 Jeetram Yadav, (4.) PW-129 Arvind Dhruv and (5.) PW-147 Kritikant Barik may please be perused. The allegation of organised crime of collection of illegal money from rice millers has been proved to be completely false by these depositions.
7. It is evident from above that no demand of illegal money was made and no collection of illegal money was done in Nagrik Apurti Nigam and there was no corruption of illegal collection in Nagrik Apurti Nigam, therefore the allegation of accused Dr Alok Shukla being involved in any organised crime of corruption is proved to be false and the allegation that accused Dr Alok Shukla received any illegal money or got his personal expenses done from illegally collected money is also proved to be false. The case of the prosecution has completely failed.
8. That, accused Dr Alok Shukla did not receive any illegal money and did not get any personal expenses done from illegally collected money is also proved by-
  - 8.1. No cash has been recovered from accused Dr Alok Shukla.
  - 8.2. The illegal cash for accused Dr Alok Shukla was allegedly give to Dr Anand Dubey but no cash is recovered even from Dr Anand Dubey.

- 8.3. The things for the purchase of which illegally collected money was allegedly used have also not been recovered from accused Dr Alok Shukla.
- 8.4. The bank drafts which were allegedly made from illegally collected money for accused Dr Alok Shukla have also not been recovered and no evidence of their being used by accused Dr Alok Shukla has been given.
- 8.5. There is no case of disproportionate assets against accused Dr Alok Shukla.
- 8.6. No departmental inquiry has been done by the Government and no proceedings for any recovery have been initiated by the Government against accused Dr Alok Shukla.
9. Since the allegation of illegal demand and illegal collection from rice millers has been proved to be false, therefore it is also proved that neither accused Dr Alok Shukla received any illegal money nor any personal expenses of accused Dr Alok Shukla were done by illegal money. It may be noted that according to prosecution money was given to accused Dr Alok Shukla only by PW-142 Girish Sharma and his personal expenses were also done by Girish Sharma. The only evidence of this produced by the prosecution is, (1) oral deposition in court of PW-142 Girish Sharma himself, (2) entries allegedly made by him in the pen drive and 4 pages computer printout seized from him and (3) transcripts of alleged intercepted telephone conversations with him. Meaning thereby that the only evidence produced by prosecution that accused Dr Alok Shukla received any kind of money from any person and that any person paid for personal expenses of accused Dr Alok Shukla is only PW-142 Girish Sharma and no other person. The statement of Girish Sharma is sought to be corroborated by his own entries in a pen drive seized from him and his own explanations of alleged telephone conversations which are not proved by CDR or mobile service provider company but have been admitted only by Girish Sharma himself. The evidence produced by the prosecution is given pointwise below along with reasons why these evidences do not prove any allegations against accused Dr Alok Shukla: -
- 9.1. Rs 20 lakh cash was allegedly seized from PA to Managing Director of Nagrik Apurti Nigam, PW-142, Girish Sharma, in the raid on Nagrik Apurti Nigam by ACB/EOW on 12.02.2015, and it is also alleged that this cash was brought to Girish Sharma by PW-129, Arvind Dhruv short time before the raid, from the money of illegal collection kept with him, and out of this Girish Sharma was to give cash Rs 10 lakh to accused Dr Alok Shukla and Rs 10 lakhs to accused Anil Tuteja, but the money was seized from him in the raid before he could give it to them. It has been explained in these arguments below that this 20 lakhs cash allegedly seized from Girish Sharma was illegally planted by ACB/EOW officers and no such money was brought to Girish Sharma by Arvind Dhruv.
- 9.2. Prosecution has alleged that one pen drive and 4 pages of computer printout were recovered from PW-142 Girish Sharma in the raid on 12.02.2015, which have entries of giving money to accused Alok Shukla and others by Girish Sharma and personal expenses of accused Dr Alok Shukla. It is explained in these arguments below that this pen drive and computer printout is not admissible in evidence because of lack of chain of custody, not establishing identification, not being password protected, and certificate under Section 65B of Indian Evidence Act not being available for them. Similarly, these entries are also neither admissible in evidence nor are credible because they have not been verified by independent investigation by ACB/EOW.

- 9.3. Prosecution has alleged that many bills of personal expenses of accused Dr Alok Shukla and Anil Tuteja were seized from PW-142, Girish Sharma. It is explained below in these arguments that no article allegedly purchased by these bills has been recovered from accused Dr Alok Shukla and Girish Sharma has admitted in his Court deposition that he did not make any payments himself and has made these entries on being instructed to do so by the Managing Director. Therefore, no expense on these articles has been proved. Moreover, all the shopkeepers etc., who have been examined by the prosecution have stated in their Court depositions that accused Dr Alok Shukla has made all payments himself for everything purchased by him and had not got payment done by any other person.
- 9.4. Prosecution has cash receipts for allegedly making bank drafts for accused Dr Alok Shukla. It is explained below in these arguments that PW-78 Parmeshwar Nayak had forged the signatures of accused Dr Alok Shukla in the application for making bank drafts and had not given bank drafts to accused Dr Alok Shukla. No investigation has been done by ACB/EOW about these alleged bank drafts and no evidence has been given that the alleged bank drafts were used by accused Alok Shukla.
- 9.5. Prosecution has claimed interception and recording of some mobile telephone calls and has presented transcripts of these alleged phone calls in Court. It is explained in these arguments below that prosecution has failed to prove these alleged phone calls to be conversations with accused Dr Alok Shukla because it has not proved his mobile phone number. Moreover, there is no proof of recording of these calls, no CDR has been produced for them and they are also not admissible in evidence because certificate under Section 65B Indian Evidence Act has not been given for them. Also, ACB/EOW has not done any investigation to verify the conversations in these alleged phone calls and all witnesses have also denied illegal transactions in their Court depositions.
- 9.6. Prosecution has examined several witnesses in Court and it has been proved by these depositions in court that all the charges against accused Dr Alok Shukla are false.
10. That, prosecution has also produced many such evidences which are not related to the charges farmed on accused Dr Alok Shukla. They are being mentioned here only to state that they are not related to accused Dr Shukla and cannot be used to prove charges farmed against accused Dr Alok Shukla-
- 10.1. Prosecution has claimed seizure of some documents in which there are entries of collection and distribution of illegal money but even the name of accused Dr Alok Shukla is not in them and most of these documents are of the period before the posting of accused Dr Alok Shukla in Nagrik Apurti Nigam.
- 10.2. Prosecution has also alleged that in the raid on office of Nagrik Apurti Nigam and in raids on offices and homes of officers/employees of Nagrik Aourt Nigam, cash and disproportionate assets worth Rs 3,46,96,965/- were recovered from Shivshankar Bhatt, Sandeep Agrawal, Devendra Singh Kushwaha, Ramphool Pathak, Sudhir Kumar Bhole, Dilip Kumar Sharma, TD Harchandani and Kaushal Kishor Yadu. There is no evidence

produced in the trial that this alleged money was illegally collected from rice millers during the tenure of accused Dr Alok Shukla in Nagrik Apurti Nigam, and therefore this alleged money cannot be linked to accused Dr Alok Shukla.

- 10.3. Many samples of rice were collected by the prosecution about quality of rice deposited in Nagrik Apurti Nigam and has produced evidence about substandard quality of these samples. Samples of rice were taken after a long time of procurement of rice and their quality could have deteriorated during storage, samples were not taken as per prescribed procedure and were not even kept securely as per prescribed procedure and they were not tested following the prescribed procedure. Even then most of the samples were found to be of standard quality in tests, therefore the procurement of substandard quality rice is not proved. Moreover, accused Dr Alok Shukla is not even charged with procurement of substandard quality rice, therefore these samples are not related to accused Dr Alok Shukla.
  - 10.4. Prosecution has taken many samples of salt and has got them tested. Many samples were taken after more than 6 months and therefore were beyond expiry date, samples were not taken following the prescribed procedure and samples were also not securely stored as per prescribed procedure. In spite of this salt of standard quality was found in most of the samples, therefore procurement of substandard quality salt is not proved. Moreover, there is no charge regarding salt against accused Dr Alok Shukla.
  - 10.5. Prosecution has also produced evidence regarding accepting salt packets of low weight and not getting segregation of low weight salt packets done properly, but there is no charge about salt against accused Dr Alok Shukla and this incident is also before the posting of accused Dr Alok Shukla in Nagrik Apurti Nigam.
  - 10.6. Prosecution has also produced evidence of unnecessary transport of salt and rice, which has been proved to be false by the depositions of witnesses. Moreover, there is no charge of unnecessary transport on accused Dr Alok Shukla.
  - 10.7. It is proved by the balance sheet of Nagrik Apurti Nigam produced in evidence that the allegation of loss to Nagrik Apurti Nigam is false, and during this period Nagrik Apurti Nigam had maximum profit. Moreover, there is no charge of causing loss to Nagrik Apurti Nigam or of criminal breach of trust against accused Dr Alok Shukla.
11. **The charge of criminal conspiracy by agreeing with other co-accused in the organised corruption of collection of money illegally from rice millers, has also not been proved** – In order to prove criminal conspiracy, it is necessary to prove agreement for commission of an illegal act or commission of an act by illegal means. Accused Alok Shukla has been charged with criminal conspiracy in the First charge framed by the Hon'ble Court and it has been stated in this charge that accused Dr Alok Shukla has committed criminal conspiracy by agreeing with other co-accused in the organised corruption of collection of money illegally from rice millers. Nothing has been said in this charge about agreement in any other criminal act except agreement in collection of money illegally from rice millers. During the trial the prosecution has not given any evidence of any conversation of accused Dr Alok Shukla with any co-accused or any other evidence of

agreement of accused Dr Alok Shukla in collection of money illegally from rice millers. It is only said that since accused Dr Alok Shukla has received share form the illegally collected money, he must be in agreement with the criminal act of collection of money illegally. However, neither any illegal demand from rice millers nor any collection of money illegally from rice millers has been proved in the trial. When no criminal act took place there is no question of any agreement with the criminal act. Moreover, it has not been proved in the trial that accused Dr Alok Shukla received any illegal money, which has been explained in detail in these arguments in the paragraphs below. Therefore, involvement of accused Dr Alok Shukla in any criminal conspiracy is not proved.

**12. The only witness, PW-142, Girish Sharma, who has deposed against accused Alok Shukla is not only not credible but is also proved to have given false statement, because-**

**12.1. ACB/EOW made his a false witness by obliging him-**

12.1.1. The name of Girish Sharma is included as accused no-8 in FIR 09/2015. Later, when charge sheet was filed in the Hon'ble Court, name of Girish Sharma was removed from the list of accused and was included in the list of witnesses.

12.1.2. Though the prosecution claims Rs 20 lakh cash was recovered form PW-142 Girish Shram, in the raid on 12-02-2015 in Nagrik Apurti Nigam, yet Girish Sharma has not been made an accused in the charge sheet.

12.1.3. EOW/ACB had also raided the home of Girish Sharam on 12-02-2015 itself in which assets disproportionate to his known sources of income were seized, yet the assets seized in this raid are not even mentioned by EOW/ACB in the final report of this case and initially no case of disproportionate assets was even registered against him. Much later the case of disproportionate assets was registered due to public and media pressure.

**12.2. Girish Sharma has been made a witness without the permission of Hon'ble Court to make him an approver under Section 306 CrPC so that sword of prosecution always keeps hanging on him and he remains afraid of EOW/ACB officers-**

12.2.1. While explaining why Girish Sharma has not been made an approver, Additional Solicitor General Tushar Mehta stated in Supreme Court in Criminal Appeal No. 339-340/2017 that prosecution can be started against him at any time. This is mentioned in paragraph 4 of the order of Hon'ble Supreme Court- "It was further submitted that the said three appellants could be separately and subsequently prosecuted in the absence of any immunity granted to them in terms of Section 306 CrPC."

12.2.2. After the matter was remanded by Hon'ble Supreme Court to Chhattisgarh High Court, it was stated while opposing making Girish Sharma accused under Section **319 CrPC that the case has only started at present and because recording of evidence has not yet started in the trial, the stage of summoning Girish Sharma as an accused under Section 319 CrPC has not yet come. This also means that Girish Sharma can be**

**summoned as an accused at any time.** Paragraph 50 of the order of Hon'ble Chhattisgarh High Court in CRR No. 403 of 2016 may please be perused -

Further in case of Hardeep Singh Vs. State of Punjab (2014) 3 SCC 92, the Constitutional Bench while interpreting the 35 provisions of Section 319 has held that the Court can exercise the power to summon any person by virtue of Section 319 of CrPC, only after the trial proceeds and commences with recording of evidence. In the facts of present case, invoking the provisions of section 319 CrPC, has not occasioned. The similar situation was also considered by Hon'ble the Supreme Court while passing the order of remand. Consequently, since the recording of statements of witnesses have started, section 319 CrPC, will not be applicable at this stage.

- 12.3. In this context paragraph 8 of the judgement of Hon'ble Supreme Court in CRIMINAL APPEAL NO. 1837 OF 2013 C.B.I vs Ashok Kumar Aggarwal & Anr on 22 November, 2013 is relevant-

"8. In Laxmipat Choraria & Ors. v. State of Maharashtra, AIR 1968 SC 938, this Court while dealing with a similar issue under the provisions of the old Code, after placing reliance on the judgment in Charlotte Winsor v. Queen, (1866) 1 QB 308 observed as under:

To keep the sword hanging over the head of an accomplice and to examine him as a witness is to encourage perjury. Perhaps it will be possible to enlarge Section 337 to take in certain special laws where accomplice testimony will always be useful and witness will come forward because of the conditional pardon offered to them."

- 12.4. **It is clear from the depositions of Girish Sharma in Court that he has given his statements as coached by officers of EOW/ACB -**

12.4.1. Statement of PW-142 Girish Sharma had been recorded in Court on 31/08/2019, 07/09/2019 and 17.06.2022 and his examination-in-chief and cross examination both had been completed. **He had not said anything about telephone interception in his statements on these dates. Suddenly on 01.07.2022 PW-142 Girish Sharma appeared once again in the Court and requested the Court that he had forgotten telling about the recording by interception on 17.06.2022, therefore the pen drive PD-1 and PD-2 of the alleged recording be played in the Court in the presence of Girish Sharma and the identification of voice in the recording be done by him and the transcripts in ExP-330 and Ex-P-331 be also exhibited by him.**

12.4.2. The deposition of Girish Sharma is not only not credible but is also inadmissible for the following reasons in paragraphs 82 and 84 of his statement -

82 - It is correct to say that I had read and signed the evidence given in Court by me on 07/08/2019. On being asked whether he had told everything which he knew on that date or he had hidden certain things, the witness stated that the things which I remembered he had told, whatever the government advocate had asked and whatever he had not asked I had not told.

84 – It is correct to say that on 07/09/2019 as well I did not make any submission in Court about some important things being left out. And on that date my evidence had finished. The witness voluntarily stated that I came to know that some important things have been left out after taking out the copy of my entire statement. I had gone to advocate for legal opinion on how to bring those things before the Court.

**12.5. The deposition of Girish Sharma is not credible because of him being an accomplice-**

12.5.1. It is mentioned in explanation (b) of section 114 of Indian Evidence Act, that-

**that an accomplice is unworthy of credit, unless he is corroborated in material particulars;**

12.5.2. It has been held in CRIMINAL APPEAL NO. 1837 OF 2013 C.B.I vs Ashok Kumar Aggarwal & Anr on 22 November, 2014 by Hon'ble Supreme Court in paragraph 11, that -

“11. Section 114 Illustration (b) and Section 133 of the Indian Evidence Act, 1872 provide for the same that an accomplice is a competent witness and that his testimony can be relied upon but depending upon the quality of the evidence. While Section 133 reads that Accomplice is a competent witness and a conviction can be maintained on his evidence, **illustration (b) of Section 114 provides for presumption that an accomplice is unworthy of credit, unless is corroborated in material particulars. Thus, in practice conviction of a person on such evidence should not take place except under very rare and exceptional circumstances. Usually, substantial corroboration is required. This provision incorporates a rule of caution to which the court must have regard.** (Vide: Sheikh Zakir v. State of Bihar, AIR 1983 SC 911; Niranjana Singh v. State of Punjab, AIR 1996 SC 3254; and State of Tamil Nadu v. Suresh & Anr., AIR 1998 SC 1044).”

**12.6. Improvements and contradiction in the Section 161 CrPC, Section 164 CrPC statement and Court depositions of PW-142, also prove that he is lying –**

12.6.1. On one hand Girish Sharma has stated that out of the cash of Rs 20 lakh illegal money seized from him, he was going to give Rs 10 lakh to accused Dr Alok Shukla and Rs 10 lakh to accused Anil Tuteja and on the other hand in paragraphs 15, 42, 44 and 98 of his court deposition he has stated that he did not know about the source of this money or about corruption in Nagrik Apurti Nigam -

15/ It is correct to say that I have written in paragraph-8 of the reply Ex.D.-14 that the cash Rs 20,00,000/- was not my personal money and I do not know whether this 20,00,000/- is official or not.

42/ It is correct to say that in the reply Ex.D.-14 I have not written about any information regarding illegal collection in NAN headquarters. The witness voluntarily said that since the office had only charged me about the Rs 20,00,000/- seized from office, therefore I had given reply only relating to who and for what purpose had given Rs 20,00,000/- in my explanation. It is correct to say that I did not know till 12.02.15 whether the 20,00,000/- which I am telling was seized from office was government money or personal money of some person.

44/ It is correct to say that on 12.02.15 I had told the ACB that I do not know whether the alleged 20,00,000/- is government money or personal money. It is correct to say that if I had known on 12.02.15 that the alleged seized 20,00,000/- is money of illegal collection, I would have immediately informed the ACB and I would have also mentioned it in the explanation given to the Department. It is correct to say that if I had known about illegal collection in the Department till 06.04.15, I would have given this information in my explanation. The witness voluntarily said that I did not have information about illegal collection in the Department before 12.02.15 and only explanation about the seized 20,00,000/- was asked from me therefore I did not mention additional things.

98/ It is correct to say that on 13/02/2015 I had told all these officers that I have no information of any corruption in NAN of before 12/02/2015. I do not remember today whether my interrogation was done again on 14/02/2015 or not. I do not know whether video recording was done of my statement of 14/02/2015 or not. It is correct to say that I had told on 14/02/2015 that I have no information of corruption in NAN.

12.6.2. Girish Sharma has stated in his Court deposition that he got the impression about illegal collection by eavesdropping on telephone calls of SS Bhatt with rice millers. This is not admissible being hearsay. Paragraph 26 of his court deposition may please be perused.

26/ ..... On being asked that what you are telling about knowledge of collection from millers when did you get that knowledge and from whom, the witness said that I got this knowledge on the basis of the impression which I got on hearing the phone conversations of SS Bhat with millers and phone conversations of Managing Director. On being asked what you are telling about getting knowledge on hearing phone conversations, when and on hearing which phone calls you got this knowledge, the witness said that I cannot tell any date and cannot tell with whom the conversation had taken place.

12.6.3. There are several entries of April-May-June 2014 in the pen drive allegedly seized from Girish Sharma about which he did not say anything in his Section 161 and 164 CrPC statements. Since the posting of accused Dr Alok Shukla and Anil Tuteja had not been done at this time, therefore on being asked about these entries in the Court, Girish Sharma told a lie that the money in the entries was of the period of Umesh Agrawal, but had come after the posting of Anil Tuteja and that he had told the EOW officers about these entries, why they have not written in his Section 161 CrPC statements, he cannot say. Paragraph 30 of his Court deposition may please be perused -

30/ It is correct to say that ACB got the information about collection related to April-May-June-2014 by the data in my pen drive. The witness voluntarily said that the data in the pen drive was got written by me by the Managing Director, the money of the tenure of the previous MD Umesh Agrawal had come after the appointment of MD Anil Tuteja, its account was got written by me by MD Anil Tuteja. The ACB had taken my statement by questioning me 3-4 times. I statement was also recorded in magistrate court. On being asked whether you had told the ACB that the money of the tenure of previous MD Umesh Agrawal which had come after the appointment of MD Anil Tuteja, its account was got written by MD Anil Tuteja when you gave your statement, the witness said that I had told this to the ACB, I do not know whether they wrote it or not. It is wrong to say that I am telling this for the first time in Court today and I did not tell this to anyone before this. The witness voluntarily said I had told to EOW.

12.6.4. Girish Sharma has stated in Court about the entries in the pen drive seized form him that he had made these entries on being asked to note them by the managing Director. Most of the transaction related to these entries did not happen in his presence. Paragraph 48 of his Court deposition may please be perused—

48/ It is wrong to say that on being asked by the ACB about the account mentioned in the all four pages of Ex.P-251A I was not able to explain it. The witness voluntarily said that I had said about each entry of the account that I had written it on it being told (नोट कराये जाने पर) by the managing director. On being asked that the give and take of the account mentioned in all four paged of Ex.P.-251A did not take place in your presence the witness said that the bills of Circuit House-15,000/-, ICH- 7,000/- on the first page and Bill of Medanta – 30,000/- and Bill of O.S. Chairasia of Babylon on the second page were deposited by me personally therefore I know about them, two-four transactions out of the remaining may be in my knowledge, rest of the transactions did not take place in front of me, they were only told to me (केवल नोट कराया गया). On being asked whether he got the bill of the money which he is telling he paid himself, the witness said that I remember Medanta and Babylon bills and do not remember the others.

- 12.6.5. Girish Sharma has stated in paragraph 49 of his Court deposition that he has no information whether the bills seized from him were related to Government accounts or they were private-

49/ On being asked whether the payment of these bills was official or private the witness said that he does not know.....It is correct to say that some bills of the accounts mentioned in Ex.P.-251A were seized from me. I cannot tell whether the bills seized from me were related to official accounts or private.

- 12.6.6. Girish Sharma had stated in his Section 161 CrPC statement that like other officers/employees of the office, he also used to get share in the illegal collection, but he changed his statement in the Court. Paragraph 52 of his Court deposition may please be perused -

52/ It is correct to say that I had not told in my statement in the Magistrate Court that I also get a share in the illegal money. The witness voluntarily said that I never got any share in illegal money. I did not tell the ACB on 18.02.15 while giving my statement that I also get some money like other officers/employees. I cannot tell the reason if this is written in my police statement Ex.D.-15.

- 12.6.7. Girish Sharma has admitted in paragraph 141 and 142 of his Court deposition that he had given false statement under Section 164 CrPC of getting Rs 40 Lakhs and 20 lakhs from Shivshankar Bhatt and giving them to Raju and Saurabh-

141 – It is correct that I had not received the money for giving 40 lakh rupees to Raju and 20 lakh rupees to Saurabh from Shivshankar Bhatt. It is correct to say that I had told in my statement Ex.D.-15 that money was given to Raju and Saurabh after receiving it from Shiv Shankar Bhatt. Voluntarily stated that since copy of the entries done by me in the pen drive were not with me at the time of giving that statement, therefore I had told that.

142 – It is correct to say that in section 164 Cr.P.C. statement Ex.P-316 I had not told that I had given 40 lakh rupees to Raju and 20 lakh rupees to Saurabh by taking money from Shiv Shankar Bhatt. Voluntarily stated that I had told whatever I remembered at the time of giving the statement.

- 12.6.8. PW-142, Girish Sharma has admitted in paragraph 144 of his Court deposition that all bill seized from him except from Exp-58C to 58F are in the name of Nagrik Apurti Nigam and the phone bill seized from him his also of official phone connection the payment for which is done by Government only. The allegation of payment of these bills from money of illegal collection has been proved false by this admission-

144 – It is correct to say that all the bills except Ex.P-58C to 58F are in the name of Nagrik Apurti Nigam. It is correct to say that the phone connection mentioned in Ex.P-58AW is official. It is correct that the bill of official phone connection is paid by the Government.

12.6.9. PW-142, Girish Sharma has also stated in paragraph 150 of his Court deposition that no bills related to payments of circuit house, ICH, Vedanta and Babylon bill of O.S. Chaurasia about which he had stated in his Court deposition have been shown to him in Court and he does not even remember whether any such bills he had given to ACB officers. This proves that no payment of bills was done by Girish Sharma -

150 – .....It is correct to say that bill of circuit house, ICH, Medanta and OS Chaurasia Babylon bill paid by me are not shown to me in Court. I do not remember today whether I had given these bills to ACB officers or not.

12.6.10. There are entries of having received money himself against his own name in the documents seized from PW-142, Girish Sharma, about which he has given a completely non credible explanation in his court deposition that he used to make entries against his own name of the money which he used to get for others.

12.6.11. PW-142, Girish Sharma had stated that on 12-02-2015 he got illegal money from Arvind Dhruv but Arvind Dhruv has denied any such money to him. No other person has admitted giving any money to Girish Sharma. Therefore, the statement of Girish Sharma is proved to be false.

12.6.12. PW-142, Girish Sharma has stated that he used to give money on the instructions of the accused persons to Thanuram Anant, Anand Dubey, Yash Tuteja, Santosh Tiwari etc., but all have them have denied having received any illegal money from Girish Sharma in their Court depositions. **Therefore, the statement of Girish of having given illegal money to these persons on the instructions of the accused persons is also proved to be false.**

12.6.13. None of the bills about which PW-142, Girish Sharma has stated that he had paid them himself are not even produced in Court. Girish Sharma has stated that he gave money to Santosh Tiwari for payment of estimate of mattress and curtains, bill of Kiraya Bhandar and bill of air ticket but the owners/managers of these shops have stated in Court that they received the money for these bills directly from accused Dr Alok Shukla, therefore the allegation of payment of these bills from money of illegal collection has been proved to be false. All other bills produced in Court are Government expenses and payment for them is also done by the Government, therefore there is no question of payment of any of these bills by Girish Sharma. The investigators have not verified payment of any of these bills by Girish Sharma in their investigation.

12.6.14. Girish Sharma has alleged getting bank drafts made for accused Dr Alok Shukla in his deposition but the investigators have not verified from the bank whether these bank drafts were actually made. No bank officer has been examined about this in Court by the prosecution. No evidence of any bank draft having been used by accused Dr Alok Shukla has been given in the trial. Parmeshwar Nayak, the person who is supposed to have made the bank drafts has stated in Court that he never had any conversation with accused Dr Alok Shukla about any bank drafts and he had written the name of accused Dr Alok Shukla in the application for making bank

drafts and had forged the signatures of accused Dr Alok Shukla on the application on being told to do so by Girish Sharma and he had given these bank drafts to Girish Sharma himself. This proves that accused Dr Alok Shukla did not get any bank drafts made and did not receive any bank drafts and illegal money was not used to get bank drafts made for accused Dr Alok Shukla.

12.6.15. PW-142, Girish Sharma has admitted in paragraphs 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139 and 140 of his Court deposition that he had not told about the illegal transactions in his police statement and in his Section 164 CrPC statement about which he has stated in his Court deposition.

13. **The Rs 20 lakhs cash shown as seized from Girish Sharma in the raid on 12-02-2015 was criminally planted by the EOW/ACB officers** – The basis of the whole case is the Rs 20 lakhs cash criminally planted by EOW/ACB officers and shown as seized from Girish Sharma, about which EOW/ACB officers got a false statement recorded by Girish Sharma that he was going to give Rs 10 lakhs to accused Dr Alok Shukla and 10 lakhs to accused Anil Tuteja out of this Rs 20 lakhs cash allegedly seized from him. This is proved by the depositions of independent seizure witnesses examined by the prosecution, the deposition of the investigators themselves and following other things.

13.1. Paragraphs 7, 8, 23 and 25 of the Court Deposition of PW-105, Ramnarayan Ram may please be perused. It is also important that PW-105 Ramnarayan Ram has not been declared hostile by the prosecution, therefore his unrebutted statement is binding on the prosecution–

7/ .....It is correct to say that Girish Sharma's room was searched and money was not found in the search from the room of Girish Sharma. It is correct to say that when money was not recovered in the search of the room of Girish Sharma then Devasthale Sahab came with a bag in his hand and said that this bag was found in the hall and it has 20 lakh rupees.

8/ .....It is wrong to say that I had not seen the place in the hall from where Devasthale Sahab had brought the bag. The witness voluntarily said that he had brought it from under the table which was kept in the meeting hall. On being asked whether there was any person in the hall at that time of the hall was vacant the witness said that at that time the hall was vacant. It is correct to say that the place below the table from where I am telling that the bag was found is in open space and there was no drawer etc. there and any person could have kept the bag there.

23/ .....It is correct to say that no money was recovered on searching the room of Girish Sharma. The witness voluntarily added that it was recovered from the adjoining hall. It is correct to say that the hall from which I am telling money was recovered. Is not connected to the room of Girish Sharma. There is no connecting way to go into the hall from there. On being asked how far is the door of the hall from the room of Girish Sharma, the witness said that the door of the hall is 3-4 steps after coming out of the room of Girish Sharma to the left.

25/ .....The witness voluntarily added that when we went into the hall the bag was found there. It is correct to say that Devasthale sahab came into the room of Girish Sharma and had said that money was found in the hall. It is correct to say that on being told by Devasthale sahab, we went into the hall. On being asked where as the money found in the hall, the witness said that it was found in a soil-coloured bag kept under the bench.

- 13.2. Paragraph 17 of the Court deposition of independent seizure witness PW-67, M.K. Rajput is may also please be perused. It is also important that PW-67, M.K. Rajput has not been decaled hostile by the prosecution, therefore his unrebutted statement is binding on the prosecution–

17/ On being asked that what you are telling about recovery of Rs 20,00,000/- from Girish Sharma, where was it recovered from the witness said that it was recovered from a hall like room adjacent to the room of Girish Sharma. ....It is correct to say that no money was recovered from the personal room of Girish Sharma.

- 13.3. PW-164 Ramprasad Yadav has also corroborated the depositions of above two witnesses in paragraph 2 of his Court deposition and his deposition has also not been rebutted–

2/ In the year 2015 I worked for MD Anil Tuteja Sahab in MD office in NAN office. In the year 2015 EOW had conducted raid in NAN office and EOW officers had gone in the toom of Girish Sharma. At that time, I was present in the office. EOW officers had sent me outside the room. EOW officers had interrogated Girish Sharma and **had brought a bag from the meeting hall of NAN office.**

- 13.4. That, investigating Officer of that time, and the officer who seized the alleged Rs 20 Lakh cash, PW-159 Ashok Joshi has admitted in paragraphs 26, 27 and 28 of his Court deposition that the seized notes were not counted. The allegedly seized cash was also not sealed on the spot, and after that he had kept the cash without being sealed in his custody for the whole night. The investigating officer of that time and the officer who allegedly seized the said cash, PW-159 Ashok Joshi has also stated in his Court Deposition that he had given the cash for depositing in bank to the accountant of his office, whose name he does not remember.

26/ witness said that I did not count separately, there notes were in bundles of 100-100. Girish Sharma had said it to be 20 lakh rupees..... It is correct to say that I did not seal on the spot the cash, pen drive, computer printout, and one mobile mentioned seized in Ex.P.-251.

27/ On being asked where did you keep the seized property mentioned in Ex.P.-251 on coming back to office on 12.02.2015 and did you hand it over to someone, the witness said that I had kept them in my custody.....on 13.02.2015 after getting the order from SP handed over the cash to the accountant.

28/ .....On being asked to tell the name of the person who deposited these notes in the bank, the witness said that it was done by the accountant, I do not remember the name today.

- 13.5. The Investigating Officer of the case PW-170, Sanjay Dinkar Devasthale has admitted in paragraphs 222, 223 and 224 of his Court deposition that he cannot tell from which place in the room of Girish Sharma, the cash was seized. He has also admitted that the denominations and numbers of the seized notes were also not written down. He has admitted that he did not receive the cash along with the case diary from Ashok Joshi and the cash has also not been produced in Court along with the charge sheet. The investigating officer PW-170 Sanjay Devasthale has admitted in his Court Statement that he did not receive any document of permission of the Court for depositing the seized cash in bank.

222 – .....I cannot tell today from which place in the room seizure of money was done. ....It is correct to say that the numbers of these notes were not noted on any paper.

223 – It is correct to say that when I had got the investigation of this case from Ashok Joshi DSP, then the Rs 20 lakhs cash which is said to be seized from Girish Sharma was not received by me. Voluntarily stated that the money was deposited in Bank.

224 – It is correct to say that no document of taking permission of the Court for depositing Rs 20 lakh was not received by me with the case diary.

- 13.6. It is noteworthy that list of seized property is attached in paragraph 11 of the charge sheet, which is a list of 17 articles. It is also noteworthy that except the Rs 20 lakhs cash allegedly seized from Girish Sharma, cash seized in the case from all others is included in this list. **Only the Rs 20 Lakhs cash allegedly seized from Girish Sharma is not included in this list.** The list of seized property in paragraph 11 of the supplementary charge sheet has 26 articles listed, but even in this list the Rs 20 Lakhs cash allegedly seized from Girish Sharma is not included. **This also proves that cash of Rs 20 Lakhs was not seized from Girish Sharma.**

- 13.7. It is also noteworthy that no deposit slip of depositing Rs 20 lakhs cash in bank is attached with the charge sheet. The investigating officer of that time PW-159 Ashok Joshi has stated in paragraph 27 of his deposition in Court that he had kept the cash seized from Girish Sharma on 12.02.2015 in his custody during the night and on 13.02.2015 had given it to the accountant of the ACB office for depositing in bank. However, there is no deposit slip dated 13.02.2015 of depositing Rs 20 lakhs cash in bank is attached in the case. Giving explanation about this the Investigating Officer of the case PW-170 Sanjay Dinkar Devasthale has stated in paragraph 367 of his Court deposition that–

376 – It is correct to say that the slip of deposit of Rs 20 lakh in bank is not produced in the case. Voluntarily stated that deposit slip of Rs 21,78,800/- of Rs 20 lakh including the money seized from the home of Girish Sharma is produced. It is correct to say that no

document of seizure of Rs 1,78,800/- from the home of Girish Sharma is produced in this case. Voluntarily stated that the documents relating to seizure are produced in the disproportionate assets case against Girish Sharma.

13.8. It is also noteworthy that no evidence of seizure of Rs 1,78,800/- cash from the home of Girish Sharma has been produced in this case and the deposit slip for depositing Rs **21,78,800/- in bank mentioned by the Investigating Officer in paragraph 376 of his court deposition is not even exhibited in this case, nor the accountant who allegedly deposited the cash or any bank officer has been examined as a witness by the prosecution. Under the circumstances, there is no evidence of depositing any cash allegedly seized from Girish Sharma, in bank, is available in this case.**

13.9. That, PW-142, Girish Sharma has given evasive replies which are not credible with respect to the cash of Rs 20 Lakhs allegedly seized from him. Paragraphs 15, 36, 42 एवं 44 f his Court depositions may please be perused—

“15/ It is correct to say that I have mentioned in paragraph 8 of my reply Ex.D-14 that the cash Rs 20,00,000/- was not my own. I do not know whether Rs **20,00,000/- was government money or not.**”

“36/ ..... It is correct to say that when the ACB officers had asked me for the first time in NAN headquarters about the **20,00,000/- I had denied having information about 20,00,000/-.**”

“42/ ..... It is correct to say that I did not know till 12.02.15 whether the 20,00,000/- which I am telling was seized from office, was Government money or private.”

“44/ ..... It is correct to say, if I had information on **12.02.15 that the allegedly seized 20,00,000/- is money of illegal collection, I would have told the ACB officers immediately and would have mentioned it in the explanation given to the Department as well. It is correct to say that if I had information about illegal collection in the Department till 06.04.15, I would have given this information in my explanation. The witness voluntarily stated that I did not have information about illegal collection being done in the department before 12.02.15 and since the Department had asked me explanation only about the seized Rs 20,00,000/-, therefore, I did not mention other things.**”

14. The allegation that the Rs 20 lakhs cash shown as seized on 12-03-2015 during the raid from Girish Sharma was the money of illegal collection kept with PW-129 Arvind Singh Dhruv and it was brought to Girish Sharma a short while before the raid by PW-129 Arvind Singh Dhruv to PW-142 Girish Sharma is also proved to be false by the following -

14.1. PW-129 Arvind Singh Dhruv has denied these allegations completely in his Court deposition. Paragraphs 8 and 9 of his Court deposition may please be perused-

8/ It is wrong to say that after that at 12 noon I came to my home in Modhapara by the pool vehicle attached in NAN and after parking the vehicle near the mosque got the bag of

20 lakh rupees by calling my nephew Ashish Singh Dhruv on phone and brought it to the office. It is wrong to say that on reaching the office I gave the bundle of cash to the PA to MD Girish Sharma as told by Shivshankar Bhat in which all notes were of 500 denominations. It is wrong to say that the notes which I gave to Girish Sharma were for Anil Tuteja.

9/ It is wrong to say that after sometime there was raid on NAN office and on being questioned by the ACB officers I told them that I had given 20 lakh rupees for the MD to his PA Girish Sharma on instructions of Shivshankar Bhat.

- 14.2. **Not only this, EOW/ACB officers have also done the criminal act of fabricating evidence and getting forged entries done in documents by PW-129 Arvind Dhruv.** PW-129-Arvind Singh Dhruv has state din paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 34 of his court deposition that ACB officers got forged entries done in his handwriting in the diary and paper slips. The detailed description of how ACB officers got these forged entries done has been given in paragraphs 40 and 41 of his Court deposition–

40. On being asked how many times the ACB had called you to the ACB office the witness said that about 20-25 times in two months. On being asked how much time did you stay when you went to the ACB office, the witness said that sometimes five hours and sometimes I was made to stay for the whole day, once or twice I was let go early as well. On being asked what you are telling about being made to write things in the diary by the ACB officers, in how many times it was got written, the witness said that certain things were got written by me on 10-15 occasions. It is correct to say that ACB officers used to write in the computer and used to tell me to write the same in the diary. It is correct to say that I used to write in the diary as told by the ACB officers.

41. It is correct to say that in paragraphs 18,19,20,21 of the examination in chief what I have told about the handwriting being mine that matter I had written in my handwriting on being told by the ACB officers.....It is correct to say that what I am telling about the matter being written in Ex.P.-201 in the ACB office as told by ACB officers, at that time as well ACB officers had put me under duress of making me accused if I do not write as told by them.

- 14.3. **EOW/ACB officers also got fabricated and false statements of PW-129 Arvind Dhruv recorded by threatening him** – PW-129 Arvind Singh Dhruv has stated in his Court deposition that ACB officers got his false statement recorded under Section 164 CrPC by threatening him. Paragraphs 38 and 41 of his Court deposition may please be perused-

38.....It is wrong to say that I had appeared in the Magistrate Court on 23-02-15 for giving my statement and I had told on being asked by the Magistrate that I was giving the statement without any fear or duress. It is wrong to say that when I expressed my desire to give statement voluntarily then Magistrate recorded whatever I had stated before her. The witness voluntarily said that I was standing outside the Court, I was called in the Court for signatures, then I had signed. It is wrong to say that I had read the statement before signing on Ex.P.-317.

41. ....Two-three officers of the ACB had brought me to the Court for statement. It is correct to say that I was neither allowed to read nor it was read over to me before I was made to sign the Section 164 CrPC Statement Ex.P.-317. It is correct to say that I had signed in the Magistrate Court under duress from the ACB. It is correct to say that ACB officers were telling me that I did not sign they will make me an accused.

14.4. **That the Magistrate has made a note in the Section 164 CrPC statement, ExP-317, of PW-129 Arvind Singh Dhruv as follows– ‘I have explained to the deponent Arvind Singh Dhruv son of Ganesh Singh Dhruv that he is not bound to give the statement, and I also asked the deponent Girish Sharma whether he is giving the statement voluntarily and without any fear or pressure or there is any pressure of police or any other person on him’’. It is interesting that this note has the name of Girish Sharma instead of Arvind Singh Dhruv, which shows that the Magistrate did not even notice whether Arvind Singh Dhruv is giving the statement or Girish Sharma is giving the statement.** This also proves that statement of Arvind Singh Dhruv of having given his Section 164 CrPC statement under threats by the police to be true.

**15. The receipt of illegal money by accused Dr Alok Shukla has been proved false by the depositions of prosecution witnesses in Court–**

15.1. The allegation of the prosecution is that most of the illegal money of the share of accused Dr Alok Shukla was given by PW-142, Girish Sharma to Dr Anand Duney, a friend of accused Dr Alok Shukla. It may be noted that no money or property has been recovered from Dr Anand Dubey and no evidence of any financial transaction between Dr Anand Dubey and accused Dr Alok Shukla has been produced by the prosecution. Interestingly Dr Anand Dubey is not even made an accused, but is made a witness in the case.

15.2. **PW-117 Dr Anand Dubey has denied even knowing Girish Sharma in his Court deposition and has also denied receiving any illegal money. Paragraphs 2, 3 and 4 of the Court deposition of Dr Anand Dubey may please be perused-**

2/ I recognize Dr. Alok Shukla. He used to study with me due to which I meet him occasionally in parties etc. 3-4 years back ACB officers had questioned me whether I know Dr. Alok Shukla, whether I know Girish Sharma then I had told them that Alok Shukla studied with me and that I do not know Girish Sharma. I don't know anything more than this.

Note: At this stage Deputy Director Mithlesh Varma declared the witness hostile and requested permission to ask the type of questions which are asked in cross examination. Permission was given after perusal of record.

3/ It is wrong to say that Dr. Alok Shukla had introduced me with Girish Sharma P.A. to Anil Tuteja, Managing Director Nagrik Apurti Nigam. It is wrong to say that Girish Sharma used to come to me to give the money of the share Dr. Shukla and used to inform me on phone about his coming. It is wrong to say that Girish Sharma used to give to me the money of the share of Dr. Alok Shukla at times 10 lakh, 9 lakh and at times 8 lakh rupees. It is wrong to say that on 11.02.15 Dr Alok Shukla wanted to send 10 lakh rupees to Delhi and Girish Sharma was to bring that money to me and he had talked with me on phone about it. It is

wrong to say that on 12.02.15 Dr. Alok Shukla had told me on phone that Nagrik Apurti Nigam has been raided then I had said don't worry.

4/ It is wrong to say that after this Dr. Alok Shukla had told me to send five lakh rupees to Delhi. It is wrong to say that Dr. Alok Shukla has studied with me and is my family friend therefore I am not telling the truth today to save him. On being read out a to a from his police statement Ex.P.-294 .....had not written any information, the witness said that he had not given such a statement to ACB officers, how they have written I cannot tell the reason.

- 15.3. An allegation is made in the charge sheet that Dr Anand Dubey had sent some money for accused Dr Alok Shukla to Delhi through a Hawala businessman Mukesh Rawal. First of all, PW-84 Mukesh Rawal had deposed in the Court before trial of accused Dr Alok Shukla had even started but unlike other witnesses, PW-84 Mukesh Rawal was not re-examined in Court after start of trial of accused Dr Alok Shukla and no opportunity of cross examination of this witness was given to accused Dr Alok Shukla, therefore his deposition cannot be used against accused Dr Alok Shukla. Secondly, PW-84 Mukesh Rawal has not even taken the name of accused Dr Alok Shukla in his Court deposition. He has stated that Dr Anand Dubey had spoken with him on telephone for sending some money **but has NOT STATED that this money was to be sent for accused DR Alok Shukla**. He has also stated in his Court deposition that because Dr Anand Dubey had asked him not to send the money, he did not send the money to Delhi–

“7/.....It is correct to say that I had a conversation with Dr Anand Dubey on mobile on the same evening when he told me that the Delhi flight is cancelled so now the money is not to be sent to Delhi after which I had told Phoolsingh not to give delivery in Delhi.”

- 15.4. It is alleged in the charge sheet about one call of Maneesh Dubey that it is a telephonic conversation between Dr Anand Dubey and some Hawala businessman. PW-144 Maneesh Dubey has stated in his Court deposition that the phone call about which EOW/ACB officers had interrogated him was conversation between him and his brother Dr Anand Dubey which is not related to this case and is their personal conversation. This also proves that ACB and EOW officers have produced personal telephone calls of people unnecessarily in the case as calls related to corruption.
- 15.5. PW-142, Girish Sharma has stated that sometimes he gave Rs 1-2 lakhs cash directly to accused Dr Alok Shukla, but this has not been verified in the investigation and no corroboratory evidence of this allegation has been produced in the case. No illegal money has been recovered from accused Dr Alok Shukla. For these reasons the allegation of giving Rs 1-2 lakhs cash directly to accused Dr Alok Shukla is also proved false.

**16. Payment of personal expenses of accused Dr Alok Shukla from illegal money allegedly collected in Nagrik Apurti Nigam is also proved false–**

- 16.1. PW-142, Girish Sharma has said that he gave cash to PW-154 Santosh Tiwari for payment of personal expenses of accused Dr Alok Shukla, but PW-154 Santosh Tiwari has stated this

to be false in his court deposition. Paragraphs 3, 4, 5 and 6 of his Court deposition may please be perused—

3- It is wrong to say that work of taking files of the Food-Minister and of booking air tickets for official tours outside was given to me by Dr Alok Shukla. The witness voluntary said that files to be taken to the Food-Minister were given to me by the office. It is wrong to say that I had knowledge that Shukla Sahab used to live alone in Raipur and his family lived in Delhi. It is wrong to say that on being asked by Shukla Ji I used to do the work of his home like, bringing groceries, giving cloths for dry-cleaning, etc. and used to give the account made for the works to him for payment.

4- It is wrong to say that for the above work Shukla ji used to tell me to go and meet Anil Tuteja Managing Director of Nagrik Apurti Nigam in his office, then I used to meet him in his office and used to give the account to him and on being told by him cash for the expenses was given by Girish Sharma which I used to pay to the concerned person on receiving from Girish Sharma. It is wrong to say that when the government house of Devendra was allotted to Shukla Ji, then new curtains, tube-lights, geyser, AC etc. were installed by me and its payment on meeting Anil Tuteja and on being given cash by his PA Girish Sharma was made by me. It is wrong to say that I had gone along with Shukla Ji to shops for purchase of this material and whatever material was chosen by him that was installed in his house.

5- It is wrong to say that the account relating to Shukla Sahab of telephone bill 1,057/-, electricity bill 2,230/-, tent house 3,600/-, mattress (Sohan Sale) 21,614/-, Curtain (Sohan Sale) 52,123/- total 80,634/- was made by me. On being shown the account Ex.P. 58AG attached with the supplementary charge-sheet, and on being asked whether this account was written by you, the witness said that it was not written by him. On being shown the bills of Ex.P.-58AH, Ex.P.-58AI, Ex.P.-58AJ, Ex.P.-58AK, Ex.P.-58AL, Ex.P.-58AM the witness said that he does not have knowledge of these bills. It is wrong to say that I had told the ACB officers of making payment after receiving cash from PA of Anil Tuteja, Girish Sharma of the amount of four bills of 27.07.2014, two of 06.08.2014, one of 23.08.2014 and of 02.09.2014, 06.09.2014, 15.09.2014, in this manner of total 29 bills which were of expenses relating to Dr Alok Shukla.

6 – It is wrong to say that whatever were the expenses of the home of Dr Alok Shukla they were paid by me by taking cash from PA to Anil Tuteja, Girish Sharma. On being shown his police statement Ex.P.-333 and on being read over from a to a “to the Food-Minister by Shukla ji..... have paid,” the witness said that I did not give such statement to ACB officers, how they have written I cannot tell the reason. It is wrong to say that I have been subordinate employee to Dr Alok Shukla therefore I am not telling the truth.

16.2. The payment for mattress and curtains from the alleged illegal collection in Nagrik Apurti Nigam is proved false. NO mattress or curtains have been recovered from accused Dr Alok Shukla. PW-143 Paramjit Singh Gumbar has stated in his Court deposition that payment for mattress and curtains was done directly by accused Dr Alok Shukla. Paragraph 2 of his court deposition may please be perused—

2/ Dr Alok Shukla had come to my shop in the year 2014-15 and had got curtains made from my shop and had purchased a mattress, the bill of which was approximately Rs 50 thousand, I do not remember the exact amount due to passage of time. The money for this curtain and mattress was paid to me directly by Dr Alok Shukla.

**16.3.** The allegation of payment of the rent for the material brought on rent from the Kiraya Bhandar for accused Dr Alok Shukla, by Girish Sharma for the alleged money of illegal collection in Nagrik Apurti Nigam is also proved to be false. The manager of the Kiraya Bhandar PW-141 Deepak Agrawal has stated in paragraph 2 of his Court deposition that–

**“2/ ..... I had put that material the total bill for which was Rs 3050/- which was paid by Dr Alok Shukla.”**

**16.4.** The allegation of payment of the air ticket purchased from Sadguru Travels for accused Dr Alok Shukla, by Girish Sharma from the money of illegal collection in Nagrik Apurti Nigam is also proved to be false. PW-148-Rajesh Gaikwad, the manager of Sadguru Travels has stated in paragraph 14 of his Court deposition that–

**14 – It is correct to say that the money for air ticket and hotel booking mentioned in ExP-325 was given personally by Alok Shukla.**

**16.5. PW-156 Valmiki Sahu has denied having seen Girish Sharma giving any money to Santosh Tiwari in paragraph 3 of this Court deposition–**

**“3- .....I do not know Santosh Tiwari. It is wrong to say that Santosh Tiwari used to meet Girish Sharma in office and Girish Sharma had given money to Santosh Tiwari two or three times in my presence. It is wrong to say that I had told ACB officers about seeing Girish Sharma giving money to Santosh Tiwari. On being shown his police statement ExP-334 and on being read over from a to a “I know Santosh Tiwari..... has given money”, the witness aid that I did not give this statement to the ACB officers, I cannot say how they have written it. It is wrong to say that I am not telling the truth today.”**

**16.6. PW-164-Ramprasad Yadav has also denied seeing Girish Sharma giving money to Santosh Tiwari in paragraph 4 of his court deposition-**

**4/ I do not know Santosh Tiwari. I do not know that Santosh Tiwari worked in SWC Raipur. It is wrong to say that I had seen Santosh Tiwari coing to meet Girish Sharma PA of Tuteja Sahab off and on. It is wrong to say that I had also seen that Girish Sharma had given money to Santosh Tiwari 2-3 times in front of me. It is wrong to say that I had told this to the ACB when they interrogated me. On reading out part a to a of his police statement Ex.P. 342 “I know Santosh Tiwari..... do not know” the witness said that I had not given such statement to ACB, how ACB officers have written, I cannot say.**

**16.7.** It is also clear from the statement of PW-142 Girish Sharma is court that he neither paid any personal expenses of accused Dr Alok Shukla, nor gave any money to Santosh Tiwari or anyone else for payment of these bills. The relevant parts of the statement of PW-142 Girish Sharma’s court deposition are in paragraphs 48 and 49 are reproduced below-

48/ It is wrong to say that on being asked by the ACB about the account mentioned in the all four pages of Ex.P-251A I was not able to explain it. The witness voluntarily said that I had said about each entry of the account that I had written it on it being told (नोट कराये जाने पर) by the managing director. On being asked that the give and take of the account mentioned in all four pages of Ex.P.-251A did not take place in your presence the witness said that the bills of Circuit House-15,000/-, ICH- 7,000/- on the first page and Bill of Medanta – 30,000/- and Bill of O.S. Chaurasia of Babylon on the second page were deposited by me personally therefore I know about them, two-four transactions out of the remaining may be in my knowledge, rest of the transactions did not take place in front of me, they were only told to me (केवल नोट कराया गया). On being asked whether he got the bill of the money which he is telling he paid himself, the witness said that I remember Medanta and Babylon bills and do not remember the others. (but none of these bills are produced in Court)

49/ On being asked whether the payment of these bills was official or private the witness said that he does not know. I do not know whether the alleged bill of Medanta of Dr Alok Shukla was reimbursed by the Department or not. It is correct to say that payment of stay, travel and medical treatment of senior officers is done by Nagrik Apurti Nigam. It is correct to say that officers of Nagrik Apurti Nigam also got their personal work done by me. It is correct to say that some bills of the accounts mentioned in ExP-251A were seized from me. I cannot tell whether the bills seized from me were related to official accounts or private.

17. The allegation that Girish Sharma got bank draft made by Parmeshwar Nayak for accused Dr Alok Shukla by giving him money out of the alleged illegal collection in Nagrik Apurti Nigam has also been proved false–

17.1. It is proved by the Court deposition of PW-78 Parmeshwar Singh Nayak that accused Dr Alok Shukla had not asked him to get any bank drafts made. Signatures of accused Dr Alok Shukla are not on the applications for making bank drafts produced in Court as Ex.DB-1 to Ex-DB-5, but PW-78 Parmeshwar Singh Nayak had written the name of accused Dr Alok Shukla as applicant and had forged the signatures of accused Dr Alok Shukla on the instructions of Girish Sharma. PW-78 Parmeshwar Singh Nayak has clearly stated in his court deposition that he had written the name of accused Dr Alok Shukla on being told to do so by Girish Sharma and had also given the bank drafts to Girish Sharma. Paragraph 4 of his Court deposition may please be perused–

4/ It is correct to say that I had no conversation or meeting with Alok Shukla about this. It is correct to say that Alok Shukla had not given any instructions for making the DD which I am telling I got made. **It is correct to say that I had filled the name of the applicant for making DD as told by Girish Sharma.**

17.2. Part Investigator of the case PW-172 Anil Baxi has stated in paragraph 24 of his Court deposition that he did not do any investigation about, whether the bank drafts were used for accused Dr Alok Shukla or not. He had not even done any investigation about

whether the bank drafts were even made on the basis of these applications or not-

24 – I had gone to the concerned bank for investigation of Article **DB1, DB2, DB3, DB4, and DB5** and had interrogated the branch manager. It is correct to say that that time I did not have the receipts in these articles with me at that time. The witness voluntarily said that the receipts in these articles were seized by me but the seizure memo is not there in the charge sheet. There is no second copy of the draft made by these receipts. This bank was computerized. I had not taken information about the work procedure of the bank. I do not remember whether any draft was made by these receipts or not and whether I had received any document about it or not. I did not investigate whether these drafts were received by Civil Services Officers Institute or not.

18. The allegations that payment of Medanta Hospital bill for accused Dr Alok Shukla or purchasing Dollars or Euros for accused Dr Alok Shukla and giving them to him, Indian Coffee House Bill, circuit house bill etc. being paid by Girish Sharma out of the alleged illegally collected money in Nagrik Apurti Nigam has also been proved false. No receipts of Medanta Hospital, Indian Coffee House, circuit house or purchase of Dollars or Euros have been produced in the case and no evidence that these things were received by accused Dr Alok Shukla has been produced in the court. Investigating Officer Sanjay Dinkar Devasthale and part investigator Ani Baxi both have admitted in their Court depositions that they did not do any investigation about these allegations and did not do any verification of these allegations.

18.1. It is clear from paragraphs 275, 311, 312, 313 and 314 of the Court deposition of PW-170 Sanjay Devasthale that there is no evidence for payment of personal expenses of accused Dr Alok Shukla from alleged illegal collection in Nagrik Apurti Nigam–

275 – It is correct to say that in **Article PDS-14, PDS-15 and PDS-16** there is entry of payment of bills of Circuit House, Indian Coffee House, Vedanta Hospital Delhi, Babylon hotel. It is correct to say that documents about payments are available in all these places. It is correct to say that I have not investigated about these entries by going to these institutions. Voluntarily stated that the then Inspector Anil Bakshi was authorised to do it. It is correct to say that Anil Bakshi has also not given to me any documents related to the confirmation of payments to these institutions.

311- It is wrong to say that I had interrogated Girish Sharma only about 4 pages. Voluntarily stated that I had also interrogated about the expenses and money of Anil Tuteja and Alok Shukla. It is correct to say that confirmation of the description of Article PDS -1 to PDS-37 has not been done by any documentary evidence. Voluntarily stated that confirmation of the description for which receipts were found was done.

312 – It is correct to say that confirmation of cash transactions could not be done. It is also correct to say that no money was recovered from Dr Alok Shukla, Anand Dubey, Anil Tuteja and Yash Tuteja.

313 – It is correct to say that sale of dollars and euros is done by vendors authorised by Government. I do not know that at the time of purchase of dollars and euros its entry is done in passport. It is correct to say that during investigation no information of selling dollar or euro to Girish Sharma was given by any vendor who sells dollar and euro.

314 – It is correct to say that during investigation I did not investigate about bank draft being made by any bank and its payment being made about the bank drafts about making which Girish Sharma had told me. Investigation about mattress and curtains purchased in the name of Alok Shukla was done by Anil Bakshi not by me. I did not investigate whether travel was done on the air ticket or not. Voluntarily stated that information of purchase of ticket was obtained. It is correct to say that anyone can buy ticket on any person's name.

- 18.2. Part Investigator PW-172 Anil Baxi had done the investigation relating to personal expenses of accused Dr Alok Shukla. It is clear for paragraphs 20, 21 and 22 of the Court deposition of part investigator PW-172 Anil Baxi there is no evidence of payment for personal expenses of accused Dr Alok Shukla being done by Girish Sharma from the alleged collection of illegal money in Nagrik Apurti Nigam–

20 – I had personally gone to the concerned institutions for investigation of the bills. I had asked for carbon copy of **Ex P-58AL and Ex P-58AM** from Sohan sales but it was told that it does not exist. It is correct to say that these bills were not compared with their carbon copy. It is correct to say that there are no signatures of any person on **Ex P-58AL and Ex P-58AM**. I did not see any register in which from whom and in what manner the payment was received was mentioned.

21 – Paramjeet Singh Gumbar had told me that there are signatures of his younger brother on **Ex P-58AL and Ex P-58AM**. It is correct to say that the signatures on **Ex P-58AL and Ex P-58AM** are different. It is correct to say that I did not interrogate the person whose signatures are on these exhibits.

22 – It is correct to say that except Ex P-58AO all other bills of Sadguru Travels are in the name of C.G. Nagrik Apurti Nigam headquarters Raipur. I did not do any interrogation by going to C.G. Nagrik Apurti Nigam, headquarters Raipur. It is correct to say that receipt Ex P-58AO does not have signatures of any person and does not have the seal of Sadguru Travels. I had asked for the second copy of this receipt which was not given to me. I did not investigate whether this Air Ticket was issued or not and whether journey was done on it or not. It is correct to say that this information could be found from the Airport.

**19. Mobile number of accused Dr Alok Shukla is not proved, therefore alleged conversations with his mobile number are also not proved–**

- 19.1. **Mobile phone or SIM card of accused Dr Alok Shukla is not seized therefore his mobile number is not proved.**

- 19.2. No evidence of mobile number being allotted by any telephone company to accused Dr Alok Shukla has been produced in Court. Paragraphs 248 and 249 of Investigating Officer PW-170 Sanjay Dinkar Devasthale may please be perused in this context-

248 – .....It is correct to say that when any person gets a mobile number from a mobile company, then he has to give to the company a filled customer application form in which the name and the mobile number of that person is mentioned by the company. It is correct to say that I did not obtain copy of the customer application form of any accused or witness from the concerned mobile company. The witness voluntarily stated that I had taken the statement by interrogating some witness about mobile number allotted to officers-employees of NAN.

249 – It is correct to say that the mobile numbers which I had got related to officers-employees of NAN, I had not verified this fact by taking out the call details of those numbers whether any conversation took place with these numbers or not.

**20. No evidence that mobile telephone calls were indeed intercepted has been produced in Court. Though orders of the competent authority are produced in Court, yet it is not proved that these orders were complied with and mobile calls were actually intercepted, because evidence of actual mobile interception can only be provided by the concerned mobile service provider company and since mobile service provider companies have not given evidence of interception it will have to be accepted that mobile phone interception has not been proved–**

20.1. The conversation recorded on the police server is intercepted mobile phone conversation can only be proved by the Call Data Records of the concerned company. However, prosecution has not produced any Call Data Records in Court. The last line of paragraph 247 of Investigating officer of this case PW-247 and paragraph 248 may please specially be perused -

**“247 ..... It is correct to say that no CDR was obtained from any mobile company.”**

**248 – It is correct to say that I did not check the alleged conversations recorded in the pen drive by obtaining CDR form mobile company whether the conversation is verified by CDR or not.”**

20.2. Nodal officers of mobile service providers companies have admitted in their Court depositions that without perusing the Call Data Records and the Customer Application Forms of the concerned mobile numbers they cannot say anything about mobile interception -

20.2.1. Nodal officer of BSNL PW-64 Amit Verma has admitted in paragraph 5 of his Court deposition that-

“5/ It is correct to say that no document about the information which was given by BSNL company about these 3 mobiles has been shown to me in Court today..... it is correct to say that without perusing the documents I cannot tell about the information which was asked by ACB about these 3 mobiles.

20.2.2. Nodal officer of Reliance Communications PW-72 Anil Verma has also stated in paragraph 5 of his Court deposition that he cannot tell anything without perusing the documents-

“5/ It is correct to say that the documents which I had given to the ACB have not been shown to me in Court today.....**it is correct to say that without perusing the documents I cannot give information about who was using mobile numbers.....**it is correct to say that I cannot give information about those mobile numbers about which I had given Section 65B certificate and customer application form, without perusing the documents.”

20.2.3. Nodal officer of Vodafone PW-128 Bhargav Sharma has also stated the same in paragraph 12 of his Court deposition -

12 – I do not remember today which officer of EOW had asked for CRD of different mobiles and customer application forms. I also do not remember today to which officer of EOW I had given CDR and customer application forms on which date. I cannot tell today whether the letter asking for CDR and customer application forms is submitted in the case or not. It is correct to say that without seeing the documents given by me to EOW I cannot tell whether these documents were given by me to EOW or not.

**20.3. The Investigating officer and even the part investigators did not know about any telephone interception–**

20.3.1. There is no mention of Mobile Phone interception in the FIR, ExP-25.

20.3.2. PW-152 Inspector RK Dubey who did secret source verification has denied any knowledge of mobile phone interception in paragraphs 28 and 29 of his Court deposition –

28 - On being asked whether he had heard the mobile conversation of some persons during source verification or whether you had done recording of made transcript of mobile conversation, the witness said that I did not do any such thing. It is correct to say that I did not write to my senior officers about the need for hearing and recording of mobile conversation of officers, employees of NAN.

29 – .....It is correct to say that I was not authorised for interception in this case. It is correct to say that I have personally not done any action of interception in this case. It is correct to say that I have not given any information by listening to mobile conversation during source verification.

20.3.3. PW-159 DSP Ashok Joshi who was investigating Officer of the case from the time FIR was registered on 12.02.2015 till 16.02.2015 also had no information about mobile phone interception, which can be seen from paragraph 16 of his Court deposition-

“16 .....On being asked whether you had seen any evidence relating to interception from while forwarding the investigation relating to FIR ExP-25, the witness said that I had not seen. It is correct to say that evidence of interception was not produced till **16.02.2015 before me.**”

20.3.4. PW-170 Sanjay Dinkar Devasthale, who was made investigating officer of the case on 17.02.2015 has also stated categorically in his court deposition that neither he did nay mobile interception, nor recommended mobile interception and he did not know about mobile interception till 18.03.2015. Paragraphs 240, 241, 246 and 257 of his court deposition may please be perused-

240 – It is correct to say that, I had not got information on 12.02.2015 from any person that in this case before 12.02.2015 or on 12.02.2015 any process of interception had been started. It is correct to say that there is no mention in First Information Report Ex P -25 of this case that any process of interception was been done in this case on 12.02.2015 or before that date. There is no mention of this fact even in the case diary that process of interception was been done by what medium, on the instructions of which officer by which officer-employee before registering First Information Report Ex P-25.

241 – The then SP ACB shri Rajnesh Singh gave me written order on 18.02.2015 that I should get relevant call details and transcripts by meeting with CMC in-charge. It is correct to say that I did not get any information as investigator of this case from 17.02.2015 to 18.03.2015 that any process of interception had been done related to this case previously and in the case diary as well there is no information about interception between 12.02.2015 and 17.02.2015.

246 – It is correct to say that in this case telephone call interception of any accused has neither been done by me nor has been done in my knowledge. It is correct to say that in this case order of telephone interception was not given by me neither I had recommended it. It is correct to say that I did not receive Call Data Report from any mobile company. It is correct to say that during investigation I did not get any information that instruction of mobile interception was given to any mobile company.

257 – .... During entire investigation I did not get information that order of mobile interception was given by our office to any mobile Company.

20.3.5. PW-153 ASI Rakesh Jat who allegedly made the transcripts has also admitted in paragraph 23 of his Court deposition that he has not done any interception-

“23/ On being asked who and when was the order of interception was given to you in this case, the witness said that I have not done any work of interception, this is the work of the service provider company.”

21. **Since the chain of custody of the alleged mobile call recordings is broken, it is not admissible in evidence** – Since both the pen drives containing the alleged mobile phone recording were not secure, there is every possibility of modification of their data- It is clearly written in the Panchnama ExP-415 of making mirror image of 16 GB pen drive and Panchnama ExP-416 of 8 GB pen drive that the seal of envelope containing both pen drives was broken in the EOW office itself, and they were taken in unsealed condition, to the cyber cell and also brought back to the EOW office in unsealed condition. **There is no mention in the Panchnama as to who in cyber cell made the mirror image by following which process.** It is clear that data of the pen drive was modified in the name of making the mirror image.

22. **Alleged recordings of mobile phone conversations and their transcripts are not admissible in evidence because Section 65B Indian Evidence Act certificate is not available** - The alleged phone recordings have been produced in this case in two pen drives. However, the 2 certificates of Section 65B Indian Evidence Act produced in the case, ExP-331 and ExP-331A are about some compact disk. No certificate of Section 65B Indian Evidence Act is attached for the 2 pen drives of 16 GB and 8 GB given by Rakesh Jat to Investigating Officer Sanjay Devasthale, therefore both these pen drives are not admissible in evidence-

22.1. Paragraphs 244 and 245 of Court deposition of PW-170 Sanjay Devasthale may please be perused about this-

244 – It is correct to say that Certificate under Section 65 B Indian Evidence Act Ex P-331 was given to me by Rakesh Jat on 18.03.2015. It is correct to say that in this certificate Rakesh Jat is mentioned to me on the post of ASI. I do not have information about who was posted on 18.03.2015 and in-charge of CMCSBPHQ (Central Monitoring Centre). It is correct to say that pen drive is not mentioned in Ex P-331. It is correct to say that Ex P-331 is not section 65B certificate about pen drive. Voluntarily stated that compact disk is mentioned in this certificate. It is correct to say that no compact disk related to interception was given to me by Rakesh Jat.

245 – On 03.04.2015 Rakesh Jat again gave to me one section 65B Indian Evidence Act certificate which is Ex P -331A. It is correct to say that my signatures are not on Ex P-331A. It is correct to say that this certificate was not prepared in front of me. It is correct to say that 16 GB and 8 GB is not mentioned in Ex P-331 and P-331A. It is correct to say that Ex P-331A is not certificate related to pen drive under section 65B Indian Evidence Act. Voluntarily stated that Ex P-331A is proforma certificate in which compact disk is mentioned.

22.2. Paragraph 14 of Court deposition of PW-153 Rakesh Jat may also please be perused in which he has said that he does not remember whether he had given call recordings in compact disk or pen drive-

14/ On being asked whether he had prepared section 65-B certificate of Ex.P.-331 himself the witness said that I have given in the proforma prescribed by my Department. It is correct to say that it is not mentioned in Ex.P.-331 that certificate of making transcript is being given. On being asked whether he had given the recordings data of all conversations in compact disc the witness said that I do not remember today whether I had given the data in compact disc or pen drive. On being asked what is a compact disc the witness said that compact disc is CD. On being asked what is the meaning of in paragraph-6 of Ex.P.-331 "The information.....said activities" the witness said that it is related with giving of content of electronic record in the Special Branch. It is correct to say that it is not mentioned in paragraph-6 of Ex.P.-331 in which electronic equipment the content was given. It is correct to say that today I have not been shown any compact disc or pen drive during examination-in chief.

22.3. Certificate of Section 65B Indian Evidence Act can be given only by such a person who has control of the computer, but PW-153 Rakesh Jat has stated in paragraphs 16 and 21 of his Court deposition that he was neither nodal officer for call interception, nor the servers of CMC were under his control. Therefore, it is clear that Rakesh Jat was not competent to give the Section 65B Indian Evidence Act certificate-

16/ .....On being asked how many computers are there in the server room of Special Police Branch the witness said that I am remembering approximately 5 but I do not remember the exact number today. It is correct to say that none of the computers out of those 5 was allotted to me. It is correct to say that I have not mentioned the number of the computer in the certificate of Ex.P.-331 from which I had made the transcript by listening to the recordings given by the service provider. On being asked in whose control the computers installed in the server are kept the witness said that they are in the control of the Nodal Officer. It is correct to say that I have not mentioned the name of the Nodal officer as having control of the computer in the certificate of Ex.P.-331.

21/ It is wrong to say that I cannot tell the name of that Nodal officer. The witness voluntarily said that his name was Rajnesh Singh..... It is correct to say that Rajnesh Singh had not given me any written order.... It is correct to say that Central Monitoring Centre Server is under the control of Nodal Officer.

22.4. The certificate of Section 65B Indian Evidence Act produced in the case is also not admissible because the essential ingredients of such a certificate are not recorded in it, which is clear from a perusal of Exp-331 and ExP-331A and which has been admitted by PW-153 Rakesh Jat in paragraph 25 of his Court deposition-

25/ On being asked whether he can tell the brand and the manufacturing date of the five computers which he has said were installed in the server room the witness said, that he cannot tell. It is correct to say that I have not mentioned the brand and manufacturing date of the computers in the certificate of Ex.P.-331. It is correct to say that I cannot tell on which occasions servicing and repairing of the computers used was done. It is correct today that it is not mentioned in the certificate of Ex.P.-331 since when the computers used were in my control. It is correct to say that I have not mentioned in the certificate

of Ex.P.-331 who other than me used the computers in the server room. I do not have knowledge whether any certificate was taken from the manufacturing company or not that the computers used work working properly. It is correct to say that it is not mentioned in the certificate of Ex.P.-331 which software was put in the computers.

**23. The voice samples taken by the prosecution and the CFSL report based on that is not admissible in evidence because Section 65 Indian Evidence Act certificate is not available about them-**

23.1. PW-170 Sanjay Dinkar Devsthale has admitted not giving Section 65B Indian evidence Act certificate in paragraph 258 of his court deposition-

258 – It is correct to say that I have not given any Section 65B Indian Evidence Act certificate about voice samples of persons taken by me in Micro SD cards.

23.2. **The officer of CFSL who had examined the voice samples PW-166 Subrat Kumar Chowdhery has also admitted in paragraphs 29 and 30 of his court deposition that he had not received section 65B Indian Evidence Act certificates of the 2 pen drives containing alleged call recordings made by interception and the transcripts -**

“29 - .....It is correct to say that section 65B Indian Evidenec Act certificates were no received for pen drives article-A and article-B.”

“30 - ..... Section 65B Indian evidence Act certificate was not received about the transcripts as well”

**24. For other reasons as well the alleged transcripts exhibited in the case are not admissible in evidence -**

24.1. **Signatures of the maker of the transcripts is not on them.**

24.2. The names of persons in the alleged conversations in the transcripts were written by PW-153, ASI Rakesh Jat without any basis. He has admitted in paragraph 12 of his Court deposition that–

“12/ ..... It is correct to say that I had types by listening to the conversation from server and at that time I did not know the names of the persons who were talking. The witness voluntarily said that the analysis officer of the concerned agency R.K. Dueby used to tell me the name of the persons talking, the names of whom I have written in the transcript and in those conversations where the person talking was telling his name I wrote the names by listening to the conversations.”

24.3. **PW-152 RK Dubey has not stated in his court deposition that he had told the names of the persons in the conversations to ASI Jat.**

24.4. Investigating officer PW-170 Sanjay Devasthale has also admitted all this in paragraphs 250, 251 and 252 of his court deposition–

**“250 - ..... It is correct to say signatures of any person were not there on copies of any transcripts which were made available to me by Rakesh Jat. It is correct to say that as per procedure the transcript of any recording should be made by the officer making the transcripts in the presence of 2 independent witnesses by making them hear the recordings and by hearing the recordings.”**

**“251 - It is correct to say that during investigation I did not get any evidence about who made the transcripts and on what basis he mentioned the names of persons having the conversation.”**

**“252 - It is correct to say that the transcripts which were given to me by Rakesh Jat is electronic evidence. It is correct to say that I have not received Section 65B Indian Evidence Act certificate with respect to any transcript.”**

25. For the following reasons even if the transcripts are read in evidence they do not prove collection of illegal money of receipt of illegal money by accused Dr Alok Shukla -

25.1. That, there is not mention of any illegal transactions in any of the alleged telephone conversation related to accused Dr Alok Shukla.

25.2. There is no mention of any rice miller in them.

25.3. There is no conversation about procurement of rice, procurement of salt or any official work in these alleged calls related to accused Dr Alok Shukla.

25.4. **These alleged calls related to accused Dr Alok Shukla are not with any co-accused and there is not even a mention of any co-accused in these calls. Therefore, no conspiracy or agreement with any co-accused about illegal collection from rice millers can be proved by them.**

26. **The alleged pen drive seized from Girish Sharma article-R, the 41 pages allegedly printed from this pen drive, Ex-P-442, 4 pages of computer printout allegedly seized form Girish Sharma, ExP-251A, and the 37 pages printed in Hon’ble Court from this alleged pen drive are not admissible in evidence -**

26.1. **They are not admissible in evidence because certificate of Section 65B Indian evidence Act has not been produced for them. PW-170 Sanjay Dinkar Devasthale has admitted in paragraphs 259, 260 and 269 of his court deposition that certificate of section 65B Indian Evidence Act is not available for them–**

**“259 - It is correct to say that the 4 pages seized from Girish Sharma in his office were all computer print-out. It is correct to say that certificate of Section 65B Indian Evidence Act was not taken from Girish Sharma about these print-outs.”**

“260/ ..... It is correct to say that certificate of Section 65B Indian Evidence Act was not taken with respect to the pen drive seized from Girish Sharma.”

“269 - I do not remember today that the computer on which the mirror image was prepared was in whose custody. It is correct to say that no certificate of section 65B Indian Evidence Act about Ex P-442 is with Ex P-442.”

- 26.2. The identity of the pen drive article-R, allegedly seized from Girish Sharma has not been proved in the Court therefore it is not admissible in evidence** – The serial number of the pen drive was not noted at the time of seizure. Therefore, the identity of the pen drive article-R has not been established in court. PW-142 Girish Sharma has admitted in paragraph 102 of his court deposition that he does not know the serial number of pen drive article R-

“102 - I have used many pen drives. It is correct to say that every pen drive has its number, But I do not know this number is of how many digits. I had not seen whether the pen drive shown to me in Court had number or not. It is correct to say that the type of pen drive which I had seen is available in the market.”

- 26.3. What data was there in the pen drive at the time of its seizure was not checked by connecting the pen drive to a computer at the time of seizure. This fact is admitted by PW-142 Girish Sharma in paragraph 46 of his court deposition -**

46/ ..... It is correct to say that the pen drive related to the print out of Ex.P.-251A was also taken by the ACB from me. On being asked whether the ACB had compared whether the things mentioned in the print out are in the pen drive or not by inserting it in a computer the witness said that they did not do it in front of me.

- 26.4. Pen drive article-R is not admissible in evidence because its chain of custody is completely broken. The pen drive was not even sealed at the time of seizure.** It was kept unsealed for a long time in the almirah of the investigators in an unsecure state. Since the pen drive itself is not admissible the pages printed from this pen drive in Hon’ble court are also not admissible-

- 26.4.1. PW-142 Girish Sharma has admitted in paragraph 35 of his court deposition that the pen drive article-R seized from him was not sealed-**

35/ It is correct to say that the ACB had kept the articles which the they had seized from me as they were without sealing them.

26.4.2. The investigating officer of the case PW-170 Sanjay Devasthale has also admitted this in paragraphs 260 and 267 of his court deposition–

260 – It is correct to say that the pen drive seized from Girish Sharma was not sealed in his office at the time of seizure. This pen drive was in the custody of Ashok Joshi from 12.02.2015 to 17.02.2015. There is no Malkhana in the office of EOW. It is correct that when not sealed any person can tamper with the pen drive and change its contents. Voluntarily stated that the pen drives are kept safe in the personal custody of investigators in their almira's.....I do not remember today whether the number of the pen drive was written in the seizure memo at the time of seizure or not.

267 – It is correct to say that when the pen drive was seized on 12.02.2015 from Girish Sharma at that time its contents were not checked by connecting it to computer. It is correct to say that I cannot tell whether the pen drive was blank or there was any evidence in it. Voluntarily stated that Girish Sharma had told that he keeps his accounts. It is correct to say that at the time of seizure there was computer in the room of Girish Sharma and we also had laptop but still we did not check the contents of the pen drive by connecting it to computer or laptop.

26.4.3. The investigator of the case at the time of seizure of pen drive has admitted in paragraph 26 of his court deposition that-

“26/ ..... It is correct to say that the cash, pen drive, computer printout and mobile mentioned in ExP-251 were not sealed by me on the spot.”

26.5. **The data of the alleged pen drive was completely unsecure. Neither the pen drive was secure nor files in the pen drive were password protected, because of which it was very easy to tamper with the data of the pen drive.** It is proved by the following -

26.5.1. When printout of the contents of the pen drive was taken in the Hon'ble Court, the pen drive and its files opened without entering any password.

26.5.2. **PW-142 Girish Sharma has stated in paragraph 147 of his court deposition that he had kept a password for his pen drive and it could be opened only by entering the password, but when the pen drive was connected to the desktop in Hon'ble Court it and its files opened without any password. This is proof that the pen drive was changed–**

147 - ..... I had kept my pen drive in password. It is correct to say that pen drive can be opened only on the basis of the password told by me. It is correct to say that when the pen drive was connected to the desktop in the Court then it was not password protected. It is correct to say that entry in the pen drive is done by a key-board. It is correct to say that key-board is connected to computer.

26.5.3. Investigating Officer PW-170 Sanjay Devasthale has also admitted in paragraph 272 of his court deposition that–

“272/ ..... I do not know whether the pen drive of Girish Sharma was password protected or not. Voluntarily stated that pend drive was connected to the computer by Ashok Joshi, I do not know whether he used password or not. It is wrong to say that no document related to Ex P-442 was ever prepared by Ashok Joshi.”

26.6. **According to IT act 2000 in order to authenticate that the data of any electronic device has not been modified, its hash value should be recorded at the time of seizure and should be compared with the hash value found at the time when it is produced in Court, but the hash value of the contents of this pen drive was not calculated and recorded at the time of seizure. Under the circumstances tampering with the pen drive cannot be ruled out. Section 3 of the IT Act, 2000 may please be perused-**

3. Authentication of electronic records–

(1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation– For the purposes of this sub-section, —hash function means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as —hash result such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally infeasible–

(a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;

(b) that two electronic records can produce the same hash result using the algorithm.

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

27. The 41 pages computer printout ExP-442 is not admissible in evidence.

27.1. Section 65B Indian evidence Act certificate is not available of it.

27.2. These 41 pages are lose sheets of paper and as held by the Hon’ble Supreme Court I in Central Bureau Of Investigation vs V.C. Shukla & Ors on 2<sup>nd</sup> March 1998 loose sheets of paper are not admissible in evidence.

27.3. There are no signatures on these 41 pages of computer printout, the date of printing them is also not written on them. No record of when and by whom they were printed has been produced. For these reasons it is impossible to verify the authenticity of these pages, and for this reason they are not admissible in evidence. No record is available, on which date, by whom and on which computer they were printed. The information of the source of this printout is not available in the case and therefore it is not admissible in evidence. The court statement of PW-170 Sanjay Devasthale may please be perused in this context-

**“265 - ..... At the time when I received the case diary for investigation on 17.02.2015 the 41 pages related to Ex P-442 were there, but it was not mentioned in the case diary that the 41 pages of Ex P-442 were attached in the case diary by whom or by what means. I did not get any information from the previous investigator Ashok Joshi about it that how the 41 pages of Ex P-442 got attached in the case diary.”**

“266 - It is correct to say that during entire investigation of this case I did not get information about who made the 41 pages related to Ex P-442 and how they were made and how they came to be in the diary.”

“I do not remember today that the computer on which the mirror image was prepared was in whose custody. It is correct to say that no certificate of section 65B Indian Evidence Act about Ex P-442 is with Ex P-442.”

27.4. The investigating officer of the case of that time PW-159 Ashok Joshi has admitted in paragraphs 49 and 50 of his court deposition that-

**“49/ ..... It is correct to say that I did not seize the 41 pages printed from pen drive seized from Girish Sharma and did not give them to the investigator.”**

“50 - It is correct to say that if pages taken out by printing from pen drive of Girish Sharma have been submitted in this case, then I will not be able to give information about them. The witness voluntarily said that the investigator who has done further investigation will tell.”

28. The 4 pages of computer printout seized from Girish Sharma ExP-251A are also not admissible in evidence because-

28.1. Certificate of Section 65B of Indian evidence Act is not available for them.

28.2. These are loose sheets of paper and not admissible as held by the Hon'ble Supreme Court in Central Bureau Of Investigation vs V.C. Shukla & Ors on 2<sup>nd</sup> March 1998.

28.3. There are no signatures of these 4 pages of computer printout, and the date of printing them is also not written. For this reason, it is not possible to authenticate them.

28.4. Neither desktop nor laptop nor any hard disk was seized from Girish Sharma during raid, so that the data of the pen drive can be modified later. It is admitted by PW-142 Girish Sharma in paragraph 129 of his court deposition that he used to take the print of the pen drive and also make entries in it by connecting it to the computer -

**“129 - ..... on being asked to give a print-out of any part of it I used to copy and again paste that part..... In order to take copy from a desk top the pen drive has to be connected to its CPU. It is correct to say that on connecting the pen drive in the CPU, I sued to take the print-out by opening the file the copy of which was needed.”**

28.5. The computer and hard disk of Girish Sharma were not seized deliberately so that modification in the data of pen drive can be proved later -

28.5.1. The investigating officer of that time PW-159 DSP Ashok Joshi has stated in paragraph 37 of his court statement that–

**“37/ .....It is correct to say that I did not seize the computer and hard disk of Girish Sharma and Arvind Dhruv.”**

28.5.2. Investigating officer PW-170 Sanjay Devasthale has also admitted in paragraph 259 of his court deposition that–

**“259/ ..... It is correct to say that verification of the 4 pages of computer printout allegedly seized from Girish Sharma was not done from his computer or hard disk.”**

**29. In addition to the pen drive article-R, computer printout 4 pages etc. not being admissible in evidence, their entries were also not verified in investigation. No investigation was done to confirm their correctness. Without verification in investigation these entries cannot be considered proof of receipt of illegal money or expenses from illegal money–**

29.1. Investigating officer PW-170 Sanjay Devasthale has admitted in paragraphs 275, 276, 309, 312, 313 and 314 of his court deposition that entries related to accused Dr Alok Shukla in alleged pen drive of Girish Sharma, computer printout 4 pages seized from Girish Sharma and pages printed from this pen drive in Court, were not verified in investigation–

**“275 - It is correct to say that in Article PDS-14, PDS-15 and PDS-16 there is entry of payment of bills of Circuit House, Indian Coffee House, Vedanta Hospital Delhi, Babylon hotel. It is correct to say that documents about payments are available in all these places. It is correct to say that I have not investigated about these entries by going to these institutions. Voluntarily stated that the then Inspector Anil Bakshi was authorised to do it. It is correct to say that Anil Bakshi has also not given to me any documents related to the confirmation of payments to these institutions”**

**“276 - It is correct to say that according to the description recorded in Article PDS-19 में there is mention of payments to Dr Farishta, Union Club, Badminton club. It is correct to**

say that during investigation information related to payments to any of these persons or institutions was not received.”

“309 - ..... It is correct to say that during investigation I did not make any effort to recover the money allegedly given to Anil Tuteja and Alok Shukla.”

“312 - It is correct to say that confirmation of cash transactions could not be done. It is also correct to say that no money was recovered from Dr Alok Shukla, Anand Dubey, Anil Tuteja and Yash Tuteja.”

“313 - It is correct to say that sale of dollars and euros is done by vendors authorised by Government. I do not know that at the time of purchase of dollars and euros its entry is done in passport. It is correct to say that during investigation no information of selling dollar or euro to Girish Sharma was given by any vendor who sells dollar and euro.”

“314 - It is correct to say that during investigation I did not investigate about bank draft being made by any bank and its payment being made about the bank drafts about making which Girish Sharma had told me. Investigation about mattress and curtains purchased in the name of Alok Shukla was done by Anil Bakshi not by me. I did not investigate whether travel was done on the air ticket or not. Voluntarily stated that information of purchase of ticket was obtained. It is correct to say that anyone can buy ticket on any person’s name.”

- 29.2. Though there are several entries of Girish Sharma himself receiving lot of money in the pen drive allegedly seized from him, yet Girish Sharma was not even interrogated about them. It is admitted by PW-170 Sanjay Devasthale in paragraph 274 of his court deposition that—

“274 – It is correct to say that in Article PDS-1 80 is written in front of the name of Girish Sharma. I had asked Girish Sharma about it but he did not tell me anything about it. It is correct to say that money was mentioned in front of the name of Girish Sharma in documents of Ex P-442. I had asked Girish Sharma about all these moneys but Girish Sharma could not give me any solid information about these entries. It is correct to say that in Article PDS-9 there is mention of district wise money being received by Girish Sharma. On being asked about the entries in Article PDS-9 Girish Sharma told me that the money which he used to get for distribution, he used to write in front of his name. It is correct to say that this is not mentioned in the statement of Girish Sharma Ex P-472. It is correct to say that if Girish Sharma had told me about it, I would have mentioned it in Ex P-472.”

- 29.3. Investigating officer PW-170 Sanjay Devasthale has also admitted paragraphs 262, 273 and 315 of his court deposition that he did not investigate and verify the entries about CM Madam, PA of Mantrijee, etc.—

“262 - It is correct to say that many names like CM madam, Minister, PA of Minister, Mishra jee, Mantralaya, home. Dhindore PA of Minister etc. are mentioned in the print outs of Ex P-442, about whom when asked, Girish Sharma was not able to give confirmed information and I had not verified it being non-specific. The witness voluntarily stated that since there were several entries in this print-out about many public servants who had nothing to do with this case, therefore I had recommended by writing a letter to senior officers about it, that the employees the description of whose transaction were found in the document, a

separate preliminary inquiry should be registered for inquiring into them, based on which, preliminary inquiry 03/2015 was registered for transaction separate from this case, the inquiry of which was done by the then DSP Vishwas Chandrakar who had given his report to the Government after completing the inquiry.”

“273 - It is correct to say that the documents of Article PDS 1 to PDS 7 are related to Ex P-442. It is correct to say that the description of section wise names of employees of Nagrik Apurti Nigam and the money allegedly distributed to them is mentioned against their names in the documents of Article PDS 1 to PDS 7, I did not interrogate all these employees of Nagrik Apurti Nigam about it. It is correct to say that even in the statement of Girish Sharma on 25.04.2015 there is no mention of giving any money to persons mentioned in Article PDS 1 to PDS 7. Voluntarily stated that about this, senior officers had ordered previously that inquiry about these entries will be done by registering a separate PE.”

“315 - It is correct to say that during investigation I did not interrogate any person other than Veerasingh mentioned in article PDS-32 and PDFS-33 about entries in them. It is correct to say that I did not interrogate Dewangan, Mishra, Aishwarya Residency, Vikasheel, Ansari, Ashok Bhatnagar, Gajbhiye, Sonu Kusre, Chandrakar jee, Chaurasia, Kamlesh Jain, P Kumar, Bahadur, Dhindore, Mantri Jee, Thakur Mantri jee etc. mentioned in 4 pages of Ex P-251A about entries related to them. Voluntarily stated that probably it was done by DSP Vishwas Chandrakar in PE 03/2015, who did not consider these entries to be sufficient for evidence.”

- 29.4. PW-142 Girish Sharma has himself stated in his court deposition that he did not have any personal knowledge about the entries in his pen drive and computer printout. He had made these entries on the basis of hearsay. Paragraph 48 of the court deposition of PW-142 Girish Sharma may please be perused –

“48/ It is wrong to say that on being asked by the ACB about the account mentioned in the all four pages of Ex.P-251A I was not able to explain it. The witness voluntarily said that I had said about each entry of the account that I had written it on it being told (नोट कराये जाने पर) by the managing director. On being asked that the give and take of the account mentioned in all four paged of Ex.P.-251A did not take place in your presence the witness said that the bills of Circuit House-15,000/-, ICH- 7,000/- on the first page and Bill of Medanta – 30,000/- and Bill of O.S. Chaurasia of Babylon on the second page were deposited by me personally therefore I know about them, two-four transactions out of the remaining may be in my knowledge, rest of the transactions did not take place in front of me, they were only told to me (केवल नोट कराया गया). On being asked whether he got the bill of the money which he is telling he paid himself, the witness said that I remember Medanta and Babylon bills and do not remember the others. (but none of these bills are attached in the case)”

30. It is clear from above that prosecution has failed miserably and has not been able to prove any of the charges of receiving illegal money or undue benefit or getting payments of personal expenses done from illegal money or being involved in the criminal conspiracy of corruption for collection of illegal money from rice millers.

**31. Arguments about the allegation of misuse of official duties and official position being false -**

**31.1.** The delegation of powers in Nagrik Apurti Nigam is given in Ex.P.-244 which was approved by the Board of Directors of Nagrik Apurti Nigam, according to which the chairman of Board of Directors has no executive duties or powers. All powers of transfer, departmental inquiry, punishment, and control over employees of Nagrik Apurti Nigam are with the Managing Director. Chairman has no role in the day-to-day functioning of Nagrik Apurti Nigam. **Final decision about procurement of rice, its transport, payments, etc. it taken by the Managing Director himself.** The chairman has no duties or powers with respect to these. Board only decides policy. These decisions are also not taken by the Chairman but are taken by the Board by a majority of vote. **All members of the board are senior Principal Secretaries and Secretaries of the State Government many of whom were senior to accused Dr Alok Shukla during the period in question.** In any case there are no allegation in this case about any board decisions.

**31.2.** **Accused Dr Alok Shukla had not such official powers which he could use to give protection to any person indulging in corruption. In any case no evidence has been given in the case in which accused Dr Alok Shukla gave protection to corruption of any person.**

**31.3.** **In this entire case the prosecution has not even mentioned which official duty was misused by accused Dr Alok Shukla and in what manner. No evidence has been given of misuse of official duty or official position by accused Dr Alok Shukla.** Paragraph 326 of Investigating officer of the case PW-170 of Sanjay Devasthale may please be perused in this context—

“326 - It is correct to say that I did not get any document about official duties of Dr Alok Shukla during investigation and did not submit it with the charge-sheet. It is correct to say that I have not submitted any document in which order has been passed by Dr Alok Shukla in the charge-sheet and have also his signatures are not there on any document.”

**32. The basis of the FIR No. 09/2015 of this case is a fabricated anonymous complaint and its fabricated verification—**

**32.1.** The FIR of this case has been registered on the basis of verification of an anonymous complaint by Inspector RK Dueby. It is said that this anonymous complaint was registered in the R-compliant register of EOW on 4-12-2014, and its verification was assigned to Inspector RK Dubey by SP EOW Rajnesh Singh on 5-12-2014, while Inspector RK Dubey was not posted in EOW but in ACB and even that posting was done on **06-12-2014. Therefore, registration of complaint by him on 4-12-2014 and assignment of the verification of complaint to him on 5-12-2014 by Rajnesh Singh, both are fabricated and false. It may be noted that FIR 06/2019 was registered in EOW about this fabrication, though EOW has**

**filed a closure report after the change in political government.** Paragraphs 1, 12 13 and 31 of the court deposition of PW-152 Inspector RK Dubey may please be perused -

**1/ I was posted on the post of Inspector in ACB office from 06.12.14 to 17.02.2018 and at present I am posted as DSP.**

12- On being asked whether you were posted on 06.12.2014 on the post of Inspector in State Economic Offences Investigation Bureau or in Anticorruption Bureau, the witness said that he was posted in Anti-corruption Bureau. On being asked when you were posted in anti-corruption bureau, who was the SP of anti-corruption bureau, the witness said that shri Rajnesh Singh was the SP. On being asked who was the SP of EOW, the witness said that shri Arvind Kujur was the SP.

13 - On being asked where and on which post were you posted before 06.12.2014, the witness said that he was posted as station house in-charge of Pandri police station. On being asked till when did you work as station house in-charge of Pandri police station, the witness said that till giving his arrival on 06.12.2014 he worked there.

31 - On being asked against whom the crime No. 6/19 of EOW was registered the witness said that it was registered against the then additional director general of police Mukesh Gupta and Rajnesh Singh. It is correct to say that crime No. 6/19 of EOW was registered on the basis that the above two police officers got the entry done of complaint about NAN in the register in back date under duress. It is correct to say that I was not posted in EOW/ACB on 04.12.2014 and neither have I entered any complaint in any register of ACB/EOW on 4.12.2014, not have put up any such complaint to the SP on 05.12.2014. It is correct to say that if any complaint relating to NAN is being said to have been entered in the register of ACB on 04.12.2014 and put up to the SP on 05.12.2014, the it is wrong.

32.2. It is also clear from the court deposition of PW-152 Inspector RK Dubey that he did not do any verification of secret source information and did not do any inquiry. He only submitted a false verification report on the basis of FIR 09/2015 was registered. It has been clearly stated in paragraphs 17, 18, 19, 20, 21, 23 and 24 of PW-152 Inspector RK Dubey that he did not open any file for the verification of secret source information, did not take any statement, did not peruse any document, and did not do any inquiry. He only made a report on the basis of whatever was told to him by the secret source. It is clear from this that no secret source verification was done, because the original anonymous complaint itself was fabricated. He has specifically admitted in paragraph 26 of his court deposition that he did not do any inquiry or verification -

26 - ..... It is correct to say that I did not do any inquiry during verification of source, but gave the source verification report on the basis of whatever was told to me by the source and registered the Dehati Nalsi also on the basis of the same. On being asked that in the Dehati Nalsi Ex.P.-328 you have written "I found that", what is the basis of it, the witness said that whatever the source told is the only basis.

**33. EOW/ACB officers have falsely implicated by making accused Dr Alok Shukla a scapegoat, in this case to save their political master –**

- 33.1. Name of accused Dr Alok Shukla was not in FIR 09/2015 as an accused. Many documents were seized in the raid by EOW/ACB for investigation of this FIR in which many had entries of the years 2011 to 2013 about CM sir and other politicians. Some of these documents which are included in the document list of the charge sheet, have deliberately not been produced in the Court.
- 33.2. That, 83 pages seized from KK Barik are shown as D-83 in the document list of the charge sheet, but document D-83 has not been attached in the charge sheet.
- 33.3. That, document D-15 in the document list of the charge sheet is shown to have 113 pages when seized, out of which only 6 pages have been produced in court being case relevant. Remaining 107 pages have disappeared. It may be noted that all entries even in the 6 pages which have been produced in court are of years between 2011 and 2013.
- 33.4. That, these documents have the detailed description of involvement of political masters of EOW/ACB officers in corruption, therefore in order to save then these documents were illegally removed from this case and a separate preliminary inquiry 03/2015 was illegally registered and after false investigation in this preliminary inquiry these officers gave a clean chit to their political masters. All this is clear from the court deposition of PW-162 Vishwas Chandrakar.

36 - It is correct to say that I had not investigated about the documents of Ex.P.-152A to 152F were made by whom and when. Voluntarily said that I had handed over the documents to the main investigator after seizure. I had not seized the photocopy of Ex.P.-152A and 152B. I had not handed over photocopy of seized documents to the main investigator. It is correct to say that the document of Ex.P.-152A is related to November-December 2012 to February 2013. It is correct to say that no year is mentioned in Ex.P.-152B. I cannot tell which year this document is related to. It is correct to say that the document of Ex.P.-152C is related to March 2012. It is correct to say that no year is mentioned in the document of Ex.P.-152D. I cannot tell to which year is this document related to. It is correct to say that the documents of Ex.P.-152E and 152F are related to the year 2012.

40 - It is correct to say that I had done preliminary inquiry about the documents seized from different persons in crime no. 9/2015. It is correct to say that the documents seized from witness Girish Sharma of crime number 9/2015 were also included in this inquiry.

41 - It is correct to say that preliminary inquiry was done by me on the basis of the documents seized in the raid of the investigation of crime no. 9/2015. I do not remember today whether that preliminary inquiry has given to me on 22.05.2015 or not. I also cannot tell whether I had submitted the report to the SP after completing the inquiry on 12.10.2018 or not. The witness voluntarily stated that I cannot tell without seeing the documents related to the preliminary inquiry on which date the inquiry was given to me and on which date I had given the report to the SP.

- 33.5. That, because news items were continuously published in the media against persons holding high political office in the then government and due to fear of defeat in the Legislative Assembly Elections due to these allegations of corruption, in spite of name of accused Dr Alok Shukla not being in the FIR, after 3 years and 10 months of registration of FIR and even after trial had already been going on for 3 years and 7 months, only for

political advantage, in the middle of election, supplementary charge sheet was filed against accused Dr Alok Shukla, making him a scapegoat on 5-12-2018.

34. **Other important points** -

- 34.1. **There was no loss to Nagrik Apurti Nigam** - It has been alleged in the charge sheet that other accused persons have caused loss to Nagrik Apurti Nigam and Government. The fact is that during the period in question Nagrik Apurti Nigam had maximum profit till date which is proved by the audited balance sheet of Nagrik Apurti Nigam produced in the trial.
- 34.2. Other co-accused persons have also been charged under Sections 420/34, 409/34, 466, 467 and 468 of Indian Penal Code, but charges under these sections have not been framed on accused Dr Alok Shukla. **The evidence given in the case about these charges is not related to accused Dr Alok Shukla.**
- 34.3. **Charges on accused Dr Alok Shukla are not proved by cash or other property seized form other co-accused persons** – In this case cash or other property has been seized from some co-accused persons. Cases of disproportionate assets have also been registered against these co-accused on the basis of these seizures. **There is no evidence that the cash or property so seized form other co-accused persons was money illegally collected from rice millers during the check period of the alleged crime. No charges on accused Dr Alok Shukla can be proved by these seizures from other co-accused persons.**

**Prayer**

It is clearly from above that no charge framed on accused Dr Alok Shukla has been proved beyond reasonable doubt. Therefore, it is prayed that accused Dr Alok Shukla be honourably acquitted of all charges in this case.

Accused Dr Alok Shukla