



2026:CGHC:19908-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 259 of 2025

State Of Chhattisgarh Through - The Station House Officer, Police Station -
Civil Lines, Bilaspur, District Bilaspur (C.G.)

... Appellant

Versus

- 1** - Manendra Yadav S/o Radheshyam Yadav Aged About 25 Years R/o
Sinchayee Colony Akaltara, Police Station - Akaltara, District Janjgir-Champa,
(C.G.)
- 2** - Sanjay Dewangan S/o Tikaram Dewangan Aged About 26 Years R/o Purani
Basti, Janjgir, Police Station Janjgir, District Janjgir-Champa, (C.G.)
- 3** - Awadhesh Dubey S/o Tulesh Dubey Aged About 26 Years R/o Near Kanya
Shala, Akaltara, Police Station Akaltara, District Janjgir-Champa, (C.G.)
- 4** - Dharmendra Yadav S/o Radheshyam Yadav Aged About 34 Years R/o
Sinchayee Colony Akaltara, Police Station Akaltara, District Janjgir-Champa,
(C.G.)
- 5** - Satvindar Singh @ Bittu S/o Gurudit Singh Aged About 47 Years R/o
Simbal Camp Tekari, Police Station - Meer Saheb, District Jammu And
Kashmir (J And K)
- 6** - Rajeev @ Rajjan Tiwari S/o Ram Niwas Tiwari Aged About 30 Years R/o
Village Pondi, Police Station Nagaud, District Satna, (M.P.)

7 - Abdul Jabbar @ Jabbari S/o Abdul Habib Aged About 62 Years R/o 3919
Near Jagat Cinema, Urdu Bazar Delhi, Police Station Jama Masjid, Delhi

8 - Peer Arshid @ Arshad @ Aashu S/o Peer Gyasuddin Aged About 37 Years
R/o Near Noor Masjid, Nurkhwajabag, Baramula, Police Station Baramula,
District Jammu And Kashmir, (J and K)

... Respondent(s)

(Cause title Taken From Case Information System)

For Appellant/State	:	Mr. Vivek Sharma, Advocate General assisted by Mr. Soumya Rai, Deputy Government Advocate.
For Respondent No. 1, 3, 4, 5, 6 and 7	:	Mr. Amarnath Pandey, Advocate.
For Respondent No. 2	:	Ms. Sareena Khan, Advocate.
For Respondent No. 8	:	Ms. Priyanka Shukla, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

29/04/2026

- 1 Heard Mr. Vivek Sharma, learned Advocate General assisted by Mr. Soumya Rai, learned Deputy Government Advocate for the State/appellant. Also heard Mr. Amarnath Pandey, learned counsel for the respondents No. 1, 3, 4, 5, 6 and 7, Ms. Sareena Khan, learned counsel for the respondent No. 2 as well as Ms. Priyanka Shukla, learned counsel for the respondent No. 8.
- 2 Challenge in this appeal is to the judgment of acquittal dated 12.02.2024 passed by the learned Special Judge (NIA) Bilaspur, District Bilaspur, in Special Case (NIA) No. 1/2020 by which the accused/respondents, who were charged for the offences punishable under Sections 121-A/34, 122,/34, 123/34, 120-B/34, 201/34, 420 of the Indian Penal Code (*for short, the IPC*) and Section 17, 38(2), 39(1), 39(2) of the Unlawful

Activities (Prevention) Act, 1967 (*for short, the UAPA*), have been acquitted. The allegation against the respondents/accused was that with common intention, they conspired to wage war against the Government of India, collected arms, intentionally concealed the plan to wage war, caused disappearance of evidence, and raised funds for the Pakistani intelligence agency ISI to carry out terrorist activities across India, and by associating themselves with the Pakistani intelligence agency ISI, committed offences relating to membership of the said terrorist organization, furthered its activities, and assisted in its management.

- 3** The case of the prosecution, in brief, is that through Pakistani Intelligence Agency, ISI, accused Rajiv @ Rajjan Tiwari and Awadhesh Dubey got bank accounts opened in different banks in the names of several persons, and money was sent and deposited into these accounts by Pakistani agents. In opening these accounts, accused Awadhesh Dubey and Rajjan Tiwari involved accused Manendra Yadav, Sanjay Devangan, and Dharmendra Yadav. These persons opened accounts in their own names and in the names of various others, received the amounts deposited by Pakistani agents, deducted commission, and then handed over the remaining money to persons designated by the Pakistani party. The accused Satvinder Singh also, at the instance of Pakistani agents, opened an account in Punjab National Bank, Jammu, in which money used to come from outside. The account number was given to Tarsem Lal and Sanjay Devangan, and Sanjay Devangan deposited Rs.20,000 in this account. This money was provided to persons engaged in activities against India. Photographs of military camps and army activities were taken and sent to ISI. The accused persons were connected with each other and, with common intention, instigated waging war against the Government of India, gathered

persons for that purpose, and to facilitate such war, entered into criminal conspiracy and arranged funds for ISI by routing money through agents via various bank accounts. Accused Abdul Jabbar resided in Chandni Chowk, Delhi, and carried on cloth business. He received cloth from Surat and transported goods from Delhi to Kashmir under the names of his companies JSM and JBS. By doing so, customs duty on goods sent from Amritsar to Lahore was evaded. The goods were then received by accused Ashu alias Arshad, who, using letterheads of Nazir & Company and Abid Traders, showed the goods as belonging to Kashmir and sent them to Pakistan via Baramulla. The goods were unloaded at Muzaffarabad in Pakistan. Payment for the goods sent was brought by Dharmendra Yadav. He, while residing in Delhi, received money from Pakistani agents and delivered it to accused persons, also providing ATM cards for withdrawing funds. These funds were then used, through Peer Arshid alias Ashu, to finance separatists and extremists engaged in waging war against India. Accused Peer Arshid alias Ashu operated businesses in Baramulla under the names Nazir & Company and Abid Traders. He routed Abdul Jabbar's goods via Baramulla as Kashmir goods to Pakistan-occupied Kashmir to evade customs duty. The goods were sold in Pakistan at double price, and the proceeds were sent back to Abdul Jabbar through Rajju alias Rajjan Tiwari and Dharmendra Yadav. This money was used to fund ISI agents and separatists and stone-pelters engaged in anti-India activities. Being an Indian citizen, he also provided information regarding strategically important locations, military camps, and other sensitive sites to ISI agents.

- 4 When the Station House Officer of Civil Lines Police Station received this information, he interrogated suspects and verified it. Upon finding the information correct, FIR No. 288/2017 was registered on 15.04.2023

under Sections 121-A, 123, 34 IPC. During investigation, evidence was collected and, upon finding sufficient proof against the accused, charge-sheet No. 257/2017 dated 09.07.2017 was prepared. For absconding accused, it was mentioned that supplementary charge-sheets would be filed under Section 173(8) CrPC. The charge-sheet was then presented before the Chief Judicial Magistrate, Bilaspur, against accused Manendra Yadav, Sanjay Devangan, Awadhesh Dubey, Dharmendra Yadav, Satvinder Singh, Rajjan Tiwari, and Abdul Jabbar under Sections 121-A, 122, 123, 120-B/34, 201 IPC. Thereafter, a supplementary charge-sheet under Section 173(8) CrPC was filed against Peer Arshid alias Arshad alias Ashu. The Chief Judicial Magistrate, Bilaspur registered the case as Criminal Case No. 512/2017 and, on 08/08/2017, committed it to the Court of Sessions Judge, Bilaspur under Section 209 CrPC. Thereafter, proceedings commenced before the learned Special Judge (NIA).

- 5** Charges under Sections 121-A/34, 122/34, 123/34, 120-B/34, 201/34 IPC and Sections 17, 38(2), 39(2) of the UAPA were framed against the accused persons upon which they pleaded themselves to be not guilty and prayed for trial.
- 6** In order to bring home the offence, the prosecution examined witnesses including Ravindra Girolkar (PW-01), Baleshwar Ram (PW-02), Aman Kumar (PW-03), Resham Singh (PW-04), Ritesh Soni (PW-05), Head Constable Ajay Chaurasia (PW-06), Shyam Kartik (PW-07), B. Chandrashekhar (PW-08), Ramesh Suryavanshi (PW-09), Constable Rahul Chandel (PW-10), Deepak Katakwar (PW-11), Head Constable Shobhit Kenchat (PW-12), ASI Jeevan Sahu (PW-13), Mohammad Imran Qureshi (PW-14), Kaushal Kumar (PW-15), Krishna Kishore (PW-16), Ghayasuddin (PW-17), Tarkeshwar Singh Kuren (PW-18), Himayat

Rasul Pirzada (PW-19), Inspector Umesh Yadav (PW-20), Jails Anthony Khakha (PW-21), SI Vinod Sharma (PW-22), Harlal Markam (PW-23), Bilal Ahmad (PW-24), Head Constable Kishan Lal (PW-25), SP Shalabh Sinha (PW-26), SI Prabhakar Tiwari (PW-27), Mahavir Vijay (PW-28), IG Deepak Kumar (PW-29), SP Pranay Nagvanshi (PW-30), Harneet Singh Juneja (PW-31), DySP Nasar Siddiqui (PW-32), Vijay Kumar Chaubey (PW-33), and Inspector Vikram Dhruv (PW-34).

- 7 After recording prosecution evidence, statements of the accused were recorded under Section 313 CrPC, wherein the expressed ignorance to most of the questions and some of them were denied as well. They stated that they were falsely implicated in this case.
- 8 The learned trial Judge, after considering the evidence of the prosecution witnesses and the other materials available on record, acquitted the accused/respondents of the charges vide judgment dated 12.02.2024 which is sought to be challenged in this acquittal appeal.
- 9 Cr.M.P. No. 20/2025 was filed before this Court seeking leave of this Court to challenge the order dated 12.02.2024 under Section 419(1) of the Bharatiya Nagrik Suraksha Sanhita, 2023 (*for short, the BNSS*) which was allowed vide order dated 23.04.2025 and the office was directed to register the case under the head of acquittal appeal. A bailable warrant for a sum of Rs. 5000/- was directed to be issued against the accused/respondents No. 1 to 8 for their appearance before this Court on 30.06.2025. thereafter, the matter came to be listed on various dates i.e. 30.06.2025, 19.08.2025, 06.10.2025, 27.11.2025, 12.01.2026, 09.02.2026, 12.02.2026, 13.03.2026, 16.04.2026, 20.04.2026 and 23.04.2026. On 25.04.2026, during course of argument, as it was felt that the presence of the learned Advocate General was

necessary in this matter to assist the Court, the matter was directed to be listed today i.e. 29.04.2026. On the said date, Mr. Soumya Rai, learned Deputy Government Advocate as well as Mr. Amarnath Pandey, Ms. Priyanka Shukla and Ms. Sareena Khan had commenced their arguments.

- 10** Mr. Vivek Sharma, learned Advocate General appearing for the State/appellant submits that despite the fact that the investigating officer as well as other witnesses supported the case of the prosecution, but without correctly appreciating the evidence available on record, the learned trial court vide impugned judgment Annexure (A/1) has acquitted the respondents/accused of all the charges. Though the scope of interference with the order of acquittal is very much limited but on the other hand the appellate Court is vested with wide powers of re-appreciation of the evidence in the matter. It is the settled position of law that, if reappraisal of the evidence goes to show that the finding of acquittal recorded by the trial Court is unjust and perverse then the appellate Court is empowered to set aside the same and reverse the order of acquittal and convict the accused appropriately. Mere discrepancy in the statement of witness is not a sufficient ground to acquit the accused persons wherein the witness categorically deposed regarding occurrence of crime. The names of the present accused/respondents are mentioned in the memorandum statement of co-accused persons as one of the accused involved in the commission of offence. The statements of the witnesses leave no doubt about the commission of the alleged offences. In view of the section 30 of the Evidence Act, the confessional statement made by the co-accused persons who were tried jointly for the same offence may be taken into consideration by the court as against the present respondent. On the

basis of disclosure statement of made by the present respondents, seizures have made. The learned court below has further failed to consider the evidence of the IO, Vinod Sharma (PW-22) who has stated in detail about the evidence collected by the prosecution regarding involvement of the present respondent the offence in question. The learned trial court has also failed to consider that the prosecution has tendered sufficient and reliable evidence proving the confessional statement of all the co-accused persons wherein the involvement of the present respondent in the commission of offence is mentioned. There are sufficient evidentiary material available on record before it against the accused/respondents while passing the impugned judgement of acquittal of accused respondents. As such, he prays that the order of acquittal may be set aside and the respondents/accused may be convicted for the offences for which they have been charged.

- 11** On the other hand, Mr. Amarnath Pandey, learned counsel appearing for the accused/respondents No. 1, 3, 4, 5, 6 and 7, Ms. Sareena Khan, learned counsel for the respondent No. 2 as well as Ms. Priyanka Shukla, learned counsel appearing for the respondent No. 8 submit that the judgment of acquittal passed by the learned trial Court is just and proper warranting no interference. In fact, there is no material on record to connect the accused/respondents with commission of the offence in question. Merely holding multiple accounts is not sufficient for the prosecution to hold them guilty of the offences charged. Even the seizures that have been made are the passbook, ATM cards and that too have been seized from the house of the respective accused which does not make out any offence. The money has been deposited by the accused in their own accounts and who has made the withdrawals and from which specific ATM machines, has not been proved by any cogent

evidence. Hence, the story suggested by the prosecution is not complete and the accused cannot be connected to any offence whatsoever. In absence of credible evidence, the learned trial Court has rightly acquitted the accused/respondents in this case and as such, this acquittal appeal deserves to be dismissed.

- 12** We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
- 13** The case of the prosecution is that the accused/respondents, with common intention, conspired to wage war against the country, collected arms, intentionally concealed the plan to wage war, caused disappearance of evidence, and raised funds for the Pakistani intelligence agency ISI to carry out terrorist activities across India, and by associating themselves with the Pakistani intelligence agency ISI, committed offences relating to membership of the said terrorist organization, furthered its activities, and assisted in its management.
- 14** In the present case, the prosecution/investigating agency has collected various bank transaction details/statements, pass books, ATM cards, documents relating to the accused persons like PAN Card, Aadhar Card, various memos sent to the Bank Managers, telecom companies, memorandum statement of accused persons, police statement made by various witnesses, memo sent to cyber forensic lab with respect to digital evidences, phone call details, KYC details of the accused persons, whatsapp chats etc. The prosecution has exhibited total 166 exhibits and 16 Articles which are seized mobiles, documents, information relating to bank accounts etc. and the data The prosecution has collected a voluminous amount of documentary evidences.

- 15** The allegation against the accused Manendra Yadav, Sanjay Dewangan, Awdhesh Dubey, Dharmendra Dubey and Satvindar Singh is that they had opened number of bank accounts. The accused-Manendra Yadav, Sanjay Dewangan, Awdhesh Dubey and Dharmendra Yadav had opened bank accounts in Bilaspur, Janjgir, Akaltara, Champa and Naila whereas Satvindar Singh had opened bank accounts in Jammu and Kashmir. Abdul Jabbar, Peer Arshid and Satvindar Singh used to deposit money in the bank account of Manendra Yadav, Sanjay Dewangan, Awdhesh Dubey and Dharmendra Yadav. Satvindar Singh is alleged to have transferred money in the account of Rajjan Tiwari @ Rajiv, Sanjay Dewangan and Manendra Yadav. Accused Rajjan Tiwari @ Rajiv had direct connection with Abdul Jabbar, Satvindar Singh and Peer Arshid. He had asked Awdhesh Dubey and other persons for transferring illegal money as well as he received illegal money through various channels in the accounts opened by him, directly and indirectly. He is alleged to have been in contact with various neighbouring countries like Pakistan, Nepal, Bangladesh and Bhutan. So far as Satvindar Singh is concerned, already one case has been registered in Jammu and Kashmir under Crime No. 165/2016 under the NIA Act, UAPA for giving information to Pakistani agents as well as Pakistani handlers. Accused-Abdul Jabbar had relation with Pakistani nationals and Pakistani businessman. He met one Pakistani national namely Irfan and Akram in Dubai. He had planned to transfer money through Pakistani secret agency ISI to India through his transport agencies. Accused-Peer Arshid is a businessman and having business in Jammu and Kashmir and transports goods to Pakistan and Pak Occupied Kashmir. He owns a trader identity card for Pak Occupied Kashmir. The investigating agencies have found whatsapp chat and call details with the Pakistani citizens and residents

of Pak Occupied Kashmir. During the search from his house, a trade union card belonging to Islamabad was found. According to the prosecution, the investigating agencies have found certain objectionable chats with regard to liberation of Jammu and Kashmir, in Urdu language.

- 16** We have also perused the deposition made by the prosecution witnesses. From perusal of the deposition of the Manager of different banks, namely Ravindra Girokar (PW-1), Branch Manager, HDFC Bank Akaltara, Baleshwar Ram (PW-2), retired bank employee of Bank of Baroda, B. Chandrashekhar (PW-8), Branch Manager, State Bank of India, Akaltara, Md. Imran Qureshi (PW-14), of ICICI Bank, Akaltara, Kushal Kumar (PW-15), Branch Manager, Bank of Baroda, Krishna Kishore (PW-16), Senior Manager, Karnataka Bank, Bilaspur, Tarkeshwar Singh Kurre (PW-18), Branch Manager, SBI, Janjgir-Champa, Jails Anthony Khakha (PW-21), Branch Manager, Punjab National Bank, Janjgir-Champa, Harneet Singh Juneja (PW-31), Branch Manager, Punjab National Bank, Janjgir-Champa, it transpires that they have merely provided various details of bank accounts and the transactions made in those bank accounts which belong to the accused persons. From perusal of the statement of bank accounts, there is no manner of doubt that money has been deposited in the accounts of the accused persons, but there is no material on record that those money were either tainted or were acquired from any illegal sources.
- 17** Today, a specific query was put to the learned Advocate General to point out as to what is the legal flaw in the judgment passed by the learned trial Court and which are those specific evidences/materials which have been overlooked by the learned trial Court which could have been useful for convicting the accused/respondents, Mr. Sharma, learned Advocate

General fairly submits that though there is no direct evidence in the present matter to connect the accused/respondents with the offence in question, however, the circumstantial evidence and the conduct of the respondents clearly indicate towards their guilt. Mr. Sharma further submits that the accused/respondents could not tell as to from which source they earned those money which were credited in their accounts and the said amounts were later on withdrawn/debited from ATM machines in other cities/States. However, he fairly admits that there is no direct evidence against the respondents/accused.

- 18** The alleged seizure made by the investigating agency with regard to the ATM Cards, Bank Pass Book and other details relating to the Bank also does not make out any case against the respondent/accused. The bank pass book, ATM cards etc. were seized from the house of the respective accused/respondents which is a normal thing as the property belonging to the said individual would definitely be available in his own house. Pranay Nagvanshi (PW-30) is the Superintendent of Police (Anti Terrorist Squad, Madhya Pradesh). He has affirmed the memorandum of Rajjan Tiwari, Abdul Jabbar and Peer Arshid. He had also seized the passport of Abdul Jabbar as well as the Trade Union Card but this also does not prove anything against the said accused persons. The money trail has not been proved by the prosecution beyond reasonable doubt.
- 19** According to Mahavir Vijay (PW-28), the accused Manendra Yadav had taken his SBI Sipat passbook and ATM card on the pretext of some work. In a similar manner, he used to mislead other people and take their bank accounts and cards as well. He has also stated that the accused had opened accounts for him in Punjab National Bank and Allahabad Bank, and he already had an account in SBI Sipat. The accused

Manendra Yadav used to misuse his account. Thus, it is also clear that the accused Manendra Yadav had been operating Mahavir Vijay's account as well. Investigating Officer Nasar Siddiqui (PW-32) has stated that the accused Manendra Yadav opened numerous accounts in State Bank of India, ICICI Bank, Bank of Baroda, HDFC Bank, United Bank of India, Karnataka Bank, and several others. He further stated that the accused Sanjay Devangan had also opened accounts in his own name in State Bank of India, United Bank of India, Punjab National Bank, and Central Bank of India, and had handed them over to the accused Manendra Yadav for use.

- 20** The memorandum statement of accused Dharmendra Yadav (Exhibit P-21) was recorded and has been attested by Rahul Chandel (PW-10), however, in the cross-examination, nothing has emerged to show that any bank account or any suspicious article was seized from accused Dharmendra Yadav. It has also not been clarified that Dharmendra Yadav used to carry money and deliver it to any other person, such as accused -Abdul Jabbar, in Delhi. There is also no evidence on record that any ATM card or any amount of money was seized from the possession of accused Dharmendra Yadav, or that he was seen withdrawing money from any ATM in Delhi.
- 21** The IO, Nasar Siddiqui (PW-32), in paragraph 152 of his cross-examination, has admitted that no details of any bank account in the name of accused Rajiv alias Rajjan Tiwari were obtained from any bank. He has also admitted that when accused Rajjan Tiwari had already been arrested by the Bhopal ATS, he only made a formal arrest of him, and no seizure of any article was made on the basis of the memorandum of accused Rajjan Tiwari. According to Exhibit P-58, this witness has

proved that an account was opened by accused Rajjan Tiwari. The witness has also admitted that no transfer was made from the account of accused Sanjay Devangan to the account of accused Satvinder. As regards the cash deposits, it is not clear that the same were deposited by accused Sanjay Devangan himself. Kaushal Kumar (PW- 15), Branch Manager of Bank of Baroda, has admitted that if a person's account number is known, then anyone can deposit money into that account. Krishna Kishore (PW-16), Manager of Karnataka Bank, has stated that accused Manendra Yadav had an account in their branch where his salary was also deposited. From this, it is clear that the amounts deposited and withdrawn in the statement (Exhibit P-50) from 20.04.2015 to 16.04.2017 were carried out by accused Manendra Yadav himself.

Similarly, the bank accounts opened by accused Sanjay Devangan in different banks also had deposits and withdrawals, which were within his full knowledge. The accounts opened in various banks by accused Manendra Yadav were also opened with the knowledge that financial transactions would take place in them, and it is evident that amounts were deposited into his accounts on different dates, under different heads, from different persons and from different places, and were withdrawn at different times. In the account of accused Manendra Yadav in HDFC Bank, amounts of Rs.45,000/-, Rs.50,000/-, and Rs.48,000/- were deposited on different occasions between 01.10.2015 and 16.04.2017. Similarly, in his account (Exhibit P-06), deposits of Rs.50,000/- on 27.01.2015 and Rs.49,000/- on 20.09.2014 have no explanation regarding their source. According to IO, Nasar Siddiqui (PW-32), he prepared Article A-11 consisting of fifteen pages, in which it is detailed that these amounts were deposited from various bank accounts

of accused Sanjay Devangan. Out of these, Deepak Katakwar (PW-11) has denied depositing any money into his account. Similarly, on several occasions, amounts were transferred from the account of accused Manendra Yadav to the account of Sanjay Devangan, and likewise, amounts were also deposited multiple times from the account of Harlal Markam into the account of accused Sanjay Devangan; however, Harlal Markam (PW-23) has denied making such deposits. On one occasion, on 05.02.2016, an amount was also deposited from the account of accused Rajiv Tiwari into the account of accused Sanjay Devangan in State Bank of India, Janjgir-Champa. Similarly, amounts were also transferred into his account from the accounts of Nagesh, Tapas, Saboli, Ritesh Soni, Ramesh Suryavanshi, Dhaneshwar Sahu, Sakur Khan, Vijay, Shyamkartik, and Mahavir Prasad. The accused himself deposited amounts of Rs.13,000/-, Rs.25,000/-, Rs.14,000/-, Rs.12,000/-, and Rs.20,000/- respectively. Accused Sanjay Devangan also deposited Rs.21,87,440/- in his account with United Bank of India as per Article A-13, Rs.2,53,000/- in his account with Punjab National Bank, and Rs.27,000/- in Dena Bank, in respect of which Articles A-14 and 15 have been produced. Thus, it is clear that despite having no apparent source of income, accused Sanjay Devangan opened multiple accounts in different banks, and also got accounts opened in the names of other persons and operated them himself, through which transactions amounting to lakhs of rupees took place. Similarly, lakhs of rupees were received in the accounts of accused Manendra Yadav as well, and from these, amounts were deposited into the account of accused Sanjay Devangan, and by opening accounts in different banks, the money was deposited, withdrawn, and also transferred. According to IO, Nasar Siddiqui (PW-32), accused Rajiv alias Rajjan Tiwari transferred

Rs.10,000/- into the account of accused Sanjay Devangan on 05.02.2016. Tarkeshwar Kurre (PW-18), Branch Manager, has also stated that Rajiv Tiwari deposited Rs.10,000/- into the account of accused Sanjay Devangan on 05/02/2016 through ATM from his account No. 33062647021. From this, it is clear that accused Rajiv alias Rajjan Tiwari, son of Ramniwas Tiwari, resident of Satna (mobile number 9669319068), had a connection with accused Sanjay Devangan, and that accused Sanjay Devangan was aware that this amount was being given to him by Rajiv Tiwari. Against Rajiv Tiwari, Pranav Nagvanshi (PW-30), Superintendent of Police, has stated that he arrested accused Rajiv alias Rajjan Tiwari in Crime No. 02/2017 registered at STF Police Station, Bhopal. He has also stated that he arrested accused Abdul Jabbar in the said crime. He has proved the memorandum of accused Rajiv alias Rajjan Tiwari (Exhibit P-95) and the certified copy of the seizure memo of items seized from Abdul Jabbar (Exhibit P-96), and has also proved the certified copy (Exhibit P-97) of the seizure of a Samsung mobile phone along with SIM belonging to accused Rajiv alias Rajjan Tiwari. From this, it is clear that a criminal case is also registered against accused Rajiv alias Rajjan Tiwari in the ATS Bhopal. In relation to accused Abdul Jabbar, IO Nasar Siddiqui (PW-32) has stated that Abdul Jabbar used to collect money and use it in terrorist activities; however, he has admitted that Abdul Jabbar is a businessman, and that Peer Arshid is also engaged in business. Regarding Abdul Jabbar, this witness has admitted that the details of his bank account could not be obtained. It has also been stated that conversations with Abdul Jabbar took place via WhatsApp, but no document in this regard has been produced. Although his mobile number was known, still no details of his bank account have been presented. It has also been admitted that Abdul Jabbar used to

conduct business in Delhi. No evidence has been produced to show that accused Dharmendra transferred any amount to him, nor has any evidence been presented to show that accused Dharmendra went and personally handed over any money to Abdul Jabbar.

- 22** It has been stated that accused Peer Arshid was kept under surveillance on the basis of his mobile number, however, in cross-examination, this witness has admitted that no document has been produced to show that any accused transferred any amount into the account of accused Peer Arshid, nor was any such document obtained during the investigation. It has also been admitted that no bank statement of accused Peer Arshid is annexed with the case. Rather, it is accepted that accused Peer Arshid was made an accused on the basis of the memorandum statement of accused Abdul Jabbar. In cross-examination, it has also been stated that accused Peer Arshid used to receive goods sent by accused Abdul Jabbar from Delhi to Jammu & Kashmir, and that Peer Arshid, using his company's letterhead, would show the goods as destined for Jammu & Kashmir and send them to Pakistan. This was part of an Line of Control trading business, in which trade is conducted on the basis of barter (exchange of goods). Only a person having a license could conduct such trade in Kashmir; therefore, goods were sent to accused Peer Arshid by accused Abdul Jabbar, and Peer Arshid would affix his company's seal and carry out LOC trading. This is also evident from Exhibit P-89 (register). Beyond this, no further evidence has been presented. According to the IO (PW-32), in the course of business, conversations used to take place between people from Kashmir and Pakistan, and in the transcripts presented by him, it is also mentioned that the conversations with people from Pakistan were related to business matters only. In cross-examination, the witness has also admitted that

during the entire investigation, no person was identified who was involved in anti-national activities and had deposited money into the accounts of the accused persons. No evidence has also emerged against accused Dharmendra that he ever provided any funds to persons engaged in anti-national activities. Although it has been stated that he used to stay in Delhi and withdraw money from various accounts through ATM and hand it over to accused Abdul Jabbar, no CCTV footage has been produced in this regard, nor is there any witness who has proven such transactions. Although amounts of Rs.20,000/- and Rs.10,000/- were transferred from the account of accused Sanjay Devangan to the account of accused Satvinder, and it is also clear that accused Sanjay Devangan and Manendra Yadav opened accounts in several banks, some in their own names and some in the names of other persons and operated them themselves, and that money was transferred into these accounts from different places on different occasions, and the amounts so received were withdrawn and again deposited, and such deposited amounts were withdrawn from various places in Delhi and Bilaspur, however, there is no evidence that this money was provided for carrying out any anti-national activities; rather, it appears that it was used in barter-based trade transactions.

- 23** The learned trial Court has rightly observed that with respect to the confessional statement made by accused Manendra Yadav (Exhibit P-17), accused Sanjay Devangan (Exhibit P-23), accused Rajiv alias Rajjan Tiwari (Exhibit P-24), accused Abdul Jabbar (Exhibit P-27), accused Avadhesh Dubey (Exhibit P-27), and accused Peer Arshid (Exhibit P-42) in which it is mentioned that Pakistan's intelligence agency was preparing for war against India and was arranging funding to obtain information regarding places of strategic importance, however, these

confessions were made while in police custody and are therefore not admissible in evidence under Section 25 of the Indian Evidence Act, 1872. As far as Section 27 of the Evidence Act is concerned, only such information received from an accused which leads to the discovery of a fact can be proved. However, the IO, Nasar Siddiqui (PW-32), in cross-examination, has admitted that during the entire investigation, no such person was identified who was engaged in anti-national activities and had deposited money into the accounts of the accused persons. In this case also, the property seized on the basis of the statements of the accused and for which seizure memos were prepared was relevant only to that extent; beyond that, the statements mentioning that they assisted in funding for preparation of war against India by Pakistan's intelligence agency and in collecting strategic information, and that they worked for the ISI, do not fall within the ambit of Section 27 of the Evidence Act and are therefore inadmissible. Hence, the confessional statements made by the accused have rightly been held to be inadmissible in evidence.

- 24** The learned trial Court, vide paragraph 106 of the judgment has further rightly taken note of the fact that the accused persons were using the mobile numbers mentioned in Exhibit P-87, and the Call Detail Records (CDR) (Exhibits P-82, P-83, and P-87) of the seized mobile phones were provided to the Cyber Cell by the service provider companies. However, these CDRs were received by the Cyber Cell through email and then provided to the Investigating Officer. The Cyber Cell did not obtain any certificate from the service provider companies to certify that this electronic evidence was in accordance with Section 65B(4) of the Indian Evidence Act, 1872, nor did the Cyber Cell itself issue any certificate under Section 65B(4) stating that these were certified documents

generated from its computer system. Since the maintenance of these mobile records is done by the service provider companies on their servers, which constitute the primary evidence, any CDR extracted from the server is secondary electronic evidence. For such secondary evidence to be admissible, a certificate under Section 65B(4) of the Evidence Act is mandatory. Since the computer-generated CDR documents in this case constitute secondary electronic evidence, they would be admissible only if accompanied by a certificate under Section 65B(4) of the Evidence Act. In the absence of such a certificate, these documents are inadmissible as secondary evidence; therefore, the CDRs (Exhibits P-82, P-83, and P-87) could not be read in evidence. Shalabh Sinha (PW-26) has stated that accused Rajjan Tiwari was using the mobile number of Damodar Yadav; however, no certificate under Section 65B of the Indian Evidence Act, 1872 has been produced for submitting the CDR in evidence.

- 25** Deepak Kumar (PW-29), Inspector General of Police, Odisha, has deposed that under the India-Pakistan LoC trade, there existed an import-export policy in which certain terrorist activities were being carried out by some traders. Here, import and export used to take place through a barter system, in which settlements were not made in money, but goods were exchanged for goods of equivalent value. For analysis, if the testimony of this witness is considered, the amounts deposited in the accounts of accused Dharmendra Yadav, accused Manendra Yadav, and other accused persons by various individuals were not for the purpose of collecting funds for any terrorist organization; rather, the goods sent from India were exchanged with goods coming from Pakistan under the barter system as per the rules of LoC trading. The income generated from such trade was again deposited into the

accounts of different persons and used for further exchange of goods, and the savings in customs duty were earned by the traders as profit. There is no evidence on record to show that this money was provided to stone-pelters in Pakistan for carrying out anti-India activities or that it was being collected for waging war against India.

- 26** After analysis of the evidence collected by the prosecution and the cross-examination conducted by the accused persons, the learned trial Court has rightly it is found proved that accused Manendra Yadav, Avadhesh Dubey, Sanjay Devangan, and Satvinder, after coming into contact with accused Rajiv alias Rajjan Tiwari, opened and operated their own bank accounts as well as accounts of other persons. From time to time, amounts were transferred into these accounts from different places, and the accused persons also deposited these transferred amounts into each other's accounts, and withdrew some amounts for their own use. However, no evidence has been found to show that these amounts were delivered to accused Abdul Jabbar, nor has it been proved that accused Dharmendra Yadav withdrew these amounts and handed them over to Abdul Jabbar. Accused Abdul Jabbar used to send goods from Delhi in the name of his company to accused Peer Arshid, a resident of Jammu & Kashmir, for LoC trading business. Peer Arshid, in accordance with the barter system of LoC trading, would issue receipts in the name of his company and send goods to Pakistan in exchange for goods under the barter system, because trade between Kashmir and Pakistan-occupied Kashmir was permitted through such barter arrangements. If goods were instead sent via Amritsar to Lahore, customs duty would be levied; therefore, it appears that multiple accounts were opened and funds were accumulated and reinvested in the trade to avoid such customs duty. However, in the entire process, no fact has been proved showing

collection of funds for any terrorist activity, or raising funds for activities of any terrorist organization, or depositing money for anti-national activities or for waging war against the nation. It is also not established that accused Peer Arshid committed any cheating. On the basis of the above overall analysis of evidence, the learned trial Court rightly concluded that the prosecution has failed to prove its case against accused/respondents beyond reasonable doubt. Therefore, the accused were rightly acquitted of the charges.

- 27** It is settled law that suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.
- 28** The judgment passed by the learned trial Court is quite detail one. The said judgment deals with every aspect of the matter and the evidence of the prosecution witnesses have also been considered in quite detail. The learned State counsel has utterly failed to point out any illegality or irregularity in the judgment impugned herein and we hereby affirm the same. Resultantly, this acquittal appeal fails and is accordingly **dismissed**.
- 29** Before parting with the matter, this Court considers it necessary to observe that in cases involving grave allegations of terror funding and offences against the State, the investigation must meet a far higher standard of legal scrutiny. In the present case, although reliance was placed on multiple bank transactions, electronic records, and confessional statements, the prosecution failed to establish a complete and credible nexus between such material and any unlawful or terrorist

activity. The money trail and the chain of link sought to be projected by the prosecution are not at all complete, inasmuch as neither the source of funds nor their ultimate utilisation has been proved through cogent and admissible evidence. The absence of a proven financial trail, coupled with non-compliance with the mandatory requirements of Section 65B of the Indian Evidence Act in respect of electronic evidence, has materially weakened the case. It is also noteworthy that no CCTV or video footage from banks or ATM centres has been produced to demonstrate as to who actually deposited or withdrew the amounts in question, nor has any handwriting expert opinion been obtained to establish that the deposit slips were filled in by the accused persons. Further, confessional statements made in police custody, being inadmissible except to the limited extent permissible under law, could not form the basis of conviction in the absence of independent corroboration.

- 30** This Court is constrained to note that the chain of circumstantial evidence remained incomplete and failed to conclusively establish the requisite *mens rea* or any direct or indirect nexus of the accused with terrorist organisations or anti-national activities. The investigation also suffered from deficiencies such as failure to identify and examine material witnesses, lack of forensic and technical substantiation, and non-collection of primary evidence connecting the accused with the alleged offences. Mere suspicion, however strong, or the existence of financial transactions by itself cannot substitute the requirement of proof beyond reasonable doubt.
- 31** Accordingly, it is observed that in future cases of similar nature, investigating agencies must ensure a thorough and professional investigation by establishing a clear and verifiable financial trail, securing

admissible electronic and forensic evidence in strict compliance with law, and gathering independent corroborative material to substantiate allegations. Particular care must be taken to demonstrate the link between financial transactions and unlawful activities, as well as the intent of the accused, so that prosecutions in such serious matters rest on legally sustainable and credible evidence.

- 32** Registry is directed to send a certified copy of this order to Chief Secretary to the Government of Chhattisgarh, Raipur as well as the Director General of Police, Chhattisgarh, Raipur, who may circulate it to the authorities under it for information and necessary compliance, if any.
- 33** Let a certified copy of this order alongwith the trial Court records be sent back to the trial Court concerned, forthwith, for information and compliance, if any.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Head Note

In absence of a proven nexus between the accused and the alleged offence, and where the evidence only raises suspicion without establishing essential ingredients of the crime, conviction cannot be recorded and the benefit of doubt would go to the accused.