



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**Criminal Appeal No. 880 of 2022**

(1) Sheikh Gaffar @ Abdul Gaffar  
S/o Sheikh Mussa,  
Age about :- 45 Years,  
Occupation :- Nil  
R/o Bhai Pathar, Tah. Jiwati,  
Dist. Chandrapur.

(2) Sheikh Sattar S/o Sheikh Mussa,  
Age about :- 32 Years,  
Occupation :- Nil  
R/o Bhai Pathar, Tah. Jiwati,  
Dist. Chandrapur.

... Appellants

- Versus -

State of Maharashtra  
through Police Station Officer,  
A.T.S. Mumbai.

... Respondent

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Mr. A. R. Rawlani, Advocate for the appellant no. 1 with  
Mr. S. R. Kadam, Advocate for the appellant no. 2  
Mr. P. K. Sathianathan, Special PP with Mr. D. M. Mehta, Advocate for  
the respondent  
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**with  
Criminal Appeal No. 281 of 2023**

(1) Mir Anwarul S/o Mir Hussain,  
Aged about : 37 years, Occ. : Nil  
R/o : Meera Gram, Tah. Meera Gram,  
District : Malda, West Bengal

(2) Mohd. Obedulla @ Abdul Haq  
s/o Sakir Ali,  
Aged about : 40 years, Occ. : Nil  
R/o : Village Laxmipur, P.S. Kaliachak,  
District : Malda,  
West Bengal.

... Appellants

- Versus -

The State of Maharashtra  
through its Police Station Officer,  
A.T.S. Mumbai.

... Respondent

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Ms. S. S. Gandhi with Mr. R. S. Akbani, Advocates for the appellants  
Mr. P. K. Sathianathan, Special PP with Mr. D. M. Mehta, Advocate for  
the respondent  
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**CORAM : ANIL L. PANSARE AND  
NIVEDITA P. MEHTA, JJ.**

**Date : 26-02-2026**

**ORAL JUDGMENT** (Per : ANIL L. PANSARE, J.)

The appellants, original accused nos. 1 to 4 have assailed the judgment and order dated 14-11-2022 passed by the Additional Sessions Judge-4 and Judge, Special Court, ATS, Nagpur in Sessions Trial Case No. 69/2016 whereby accused no. 1 - Mir Anwarul S/o Mir Hussain (appellant no. 1 in Criminal Appeal No. 281/2023), accused no. 2 - Sheikh Gaffar @ Abdul Gaffar S/o Sheikh Mussa (appellant no. 1 in Criminal Appeal No. 880/2022) and accused no. 3 - Sheikh Sattar S/o Sheikh Mussa (appellant no. 2 in Criminal Appeal No. 880/2022) were convicted for the offences punishable under Sections 489-B, 489-C, 120-B read with Section 489-B and 120-B read with Section 489-C of the Indian Penal Code (IPC) and under Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967 (for short 'UAPA Act').

The trial Court imposed punishment maximum of which is 12 years and total fine of Rs. 16,00,000/- for different offences.

Accused no. 4 - Mohd. Obedulla @ Abdul Haq S/o Sakir Ali (appellant no. 2 in Criminal Appeal No. 281/2023) was convicted for the offences punishable under Sections 120-B read with Section 489-B and 120-B read with Section 489-C of the IPC and under Section 18 of the UAPA Act and the trial Court imposed punishment maximum of which is 12 years and total fine of Rs. 15,00,000/- for different offences.

2. The prosecution's case is that on 4-10-2015, the ATS Nagpur received reliable information that a person aged about 30-32 years wearing a red T-shirt and carrying a black sack was coming to Nagpur from Malda by Shalimar Express carrying counterfeit Indian Currency Notes for distribution in Nagpur city. Accordingly ATS Nagpur laid a trap on Platform No.7 at Nagpur Railway Station and at about 1.15 p.m. the accused no. 1 Mir Anwarul was detained after being pointed out by the informant. On search of his sack bag in presence of panchas, bundles of currency notes wrapped in cloth and polythene were found. He was unable to give satisfactory explanation. He was taken to GRP Police Station and detailed checking of the bag revealed 620 counterfeit currency notes of Rs. 1000/- denomination and 582

counterfeit currency notes of Rs. 500/- denomination totaling to Rs. 9,11,000/-.

Crime was then registered under Sections 489-B and 489-C of the IPC and the accused was arrested. The fake currency notes were sent for examination to Currency Note Press, Nashik and the report confirmed that all the currency notes were high quality counterfeit notes and, therefore, offences under Sections 15, 16 and 18 of the UAPA Act were added and investigation was taken over by ATS Mumbai.

During investigation, it was revealed from documents and bank statements that accused No. 2 Abdul Gaffar Sheikh frequently deposited cash in the bank account of accused No.1 and he was going to handover fake currency notes to accused No. 2. On 18-11-2015, ATS Nagpur received information that accused No.2 along with another person was present near waiting room at Nagpur Railway Station and both were detained and identified as Abdul Gaffar Sheikh (Accused No. 2) and Sheikh Sattar (Accused No.3). In personal search of accused No. 2, 20 counterfeit currency notes of Rs. 500/- denomination were found and in the bag of accused No. 3, 124 counterfeit currency notes of Rs. 1000/- denomination and 752 counterfeit currency notes of Rs. 500/- denomination totaling to Rs. 5,10,000/- were found. The seized notes were sent for expert opinion and the report confirmed that all the notes were high quality counterfeit notes.

Investigation further revealed that accused No.1 and accused No.4 Mohammad Obedullah had maintained bank accounts for receiving money for supplying counterfeit currency notes and accused No.1 used to procure fake currency notes and hand them over to accused Nos.2 and 3 for circulation. Bank statements and mobile call records showed frequent transactions and communication between the accused persons and total counterfeit currency notes seized from accused Nos.1 to 3 were valued at Rs. 14,21,000/-.

Charge sheet was initially filed against accused Nos. 1 to 3 and the case was committed to Sessions Court while further investigation continued against accused No.4. He was later arrested in another fake currency case and was brought to Nagpur on production warrant. Investigation revealed that accused No.4 was supplying counterfeit currency notes to the remaining accused persons. After obtaining necessary sanction supplementary charge sheet was filed against accused No.4.

The accused persons/appellants pleaded not guilty. Prosecution examined 31 witnesses. The trial Court, after taking into consideration the material placed before it and upon hearing both sides, held the appellants guilty of offence. This finding is challenged by the appellants.

3. Learned counsels for the appellants submit that the appellants are in jail for more than ten years and, therefore, are not really challenging the judgment on facts. The argument is that the trial Court committed error of law in imposing sentence of twelve years for the offence punishable under Section 489-B of the IPC. The counsels have invited our attention to Section 489-B of IPC, which reads thus :-

*[489-B. Using as genuine, forged or counterfeit currency-notes or bank-notes.-Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing of having reason to believe the same to be forged or counterfeit, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]*

As could be seen, the offence is punishable with imprisonment for life or with imprisonment of either description for a term which may extend to ten years and is also liable to fine.

4. The argument is that Section 489-B of IPC does not provide for sentence of imprisonment for 12 years. The trial Court could either has imposed sentence of imprisonment for life or of imprisonment up to 10 years.

5. We find substance in the aforesaid submission. The punishment provided under Section 489-B is either with life imprisonment or for a term which may extend to ten years. The trial

Court chose to not impose the punishment of imprisonment for life. The other option that was available was, therefore, to impose punishment of imprisonment up to ten years. The trial Court, however, imposed sentence of imprisonment for twelve years, which is not provided for. Order to that extent is apparently illegal. Accordingly, the sentence will have to be reduced to ten years.

6. Another argument is that ingredients of Section 15 of the UAPA Act are not established to punish the appellants under Section 16 or 18 of the UAPA Act. The trial Court has held the appellants guilty of offence as spelt out under Section 15(1)(a)(iiia) of the UAPA Act, which reads thus :-

*[15. Terrorist act.-[(1)] Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, [economic security] or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,-*

*(a) by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances (whether biological radioactive, nuclear or otherwise) of a hazardous nature or by any other means of whatever nature to cause or likely to cause-*

*(i) death of, or injuries to, any person or persons, or*

*(ii) loss of, or damage to, or destruction of, property; or*

*(iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country;*

*or*

*[(iia) damage to, the monetary stability of India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, coin or of any other material; or]*

*(iv) damage or destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or*

*(b) .....*

7. The trial Court considered the case in the light of above provisions and rendered following findings.

*“90] As per Section 489 (B) trafficking is punishable in addition to other act and under Section 489(C) possession of counterfeit currency notes is punishable. The definition of Terrorist Act under Section 15 of UAPA includes doing any Act to threaten or likely to threaten the unity, integrity, security, (economic security) of India by any other means whatever nature to cause or likely to cause damage to the monetary stability of the India by way of production or smuggling or circulation of high quality counterfeit Indian paper currency. As per explanation (b) to Section 15(1) high quality counterfeit Indian currency means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features as specified in the Third Schedule. As per Third Schedule security features to define high quality counterfeit Indian currency notes are Watermarks, Security thread and any one of the following features :-*

*(a) Latent image, (b) See through registration, (c) Print quality sharpness, (d) Raised effect, (e) Fluorescent characteristics, (f) Substrate quality, (g) Paper taggant, (h) Colour shift effect in OVI, (i) Colour shift effect in security thread.*

*91] Then as per sub Section 2 of Section 15 the Terrorist Act includes an Act which constitutes an offence within the scope*

*of, and as defined in any of the treaties specified in the Second Schedule.*

*92] The investigation of high quality counterfeit Indian currency offences Rules 2013 are made by the Central Government by virtue of power conferred on it as per Section 52 of UAPA. It consist of eight rules. Rule 5 clarifies what is damage to the monetary stability of India. The rule 5 reads as under :-*

*Damage to the monetary stability of India, referred to in section 15 by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, shall be deemed to have been caused, if in addition to other considerations :-*

*(a) seizure is of high quality counterfeit Indian currency of face value of such threshold amount as may be decided by the Central Government from time to time, not being less than rupees one lakh.*

*Provided that the said threshold limit shall not apply when the counterfeit Indian currency has been intercepted at the international border, international airport or Immigration Check Post.*

*(b) the seized counterfeit currency includes any one of the three highest denominations issued by the Reserve Bank of India and in circulation at such point in time.*

*93] The meaning of Terrorist Act will have to be understood for the purpose of punishment under Section 16 of UAPA in light of provisions of Section 15, Third Schedule and under Rule 5 of the above Rules of 2013. So counterfeit currency seized should be from amongst three highest denomination in circulation and it is fact of common knowledge that in 2015 the currency notes of Rs. 1000/- and Rs. 500/- were amongst first to highest denomination in circulation in India. The threshold amount as per Rule 5-a is not less than Rs.1,00,000/- and apparently no other higher threshold amount has been decided by the Central Government.*

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*103] Similarly as the currency notes were having face value of Rs.9,11,000/-, they are high quality counterfeit currency notes meeting the key security features as specified in the third Schedule of UAPA, they are worth more than Rs. 1 Lakh face value i.e. the threshold limit prescribed under Rule 5 (a)*

*and of first two highest denomination as per Rule 5 (b) of the Rule of 2013 supra. They fit in the definition of terrorist Act. This terrorist Act is to threaten economic security of India and likely to cause damage to the monetary stability of India by way of circulation of high quality counterfeit paper currency is also established from the evidence discussed below point No. 7 and 8 i.e. conspiracy and to avoid repetition it is not reproduced here.”*

8. Thus, the trial Court held that to attract ingredients of Section 15 of UAPA Act, the counterfeit currency seized should be from amongst highest denominations in circulation. The currency under question was Rs. 1,000/- and Rs. 500/- denominations, which undisputedly were of highest denominations at the relevant time. The trial Court held that the face value of threshold amount as per Rule 5(a) of the Investigation of High Quality Counterfeit Indian Currency Offences Rules, 2013 (for short ‘Rules of 2013’) is not less than rupees one lakh and no other higher threshold amount has been decided by the Central Government. The trial Court then held that the seized currency notes had a face value of Rs. 9,11,000/- which is more than rupees one lakh as prescribed under Rule 5(a) and, therefore, it will fit in the definition of ‘terrorist act’, which is an act to threaten economic security of India and is likely to cause damage to the monetary stability of India.

9. The argument is that in absence of decision by the Central Government, the trial Court committed an error by presuming the threshold amount at rupees one lakh.

10. As against, learned Special Public Prosecutor submits that the trial Court finding does not require any interference on this count in as much as the Central Government is not under obligation to decide the threshold amount because the word 'may' is used in clause (a) of Rule 5 of the Rules of 2013.

11. To understand rival submissions, we deem it appropriate to reproduce Rule 5 of the Rules of 2013. It reads as under :-

***5. Damage to the monetary stability of India.*** - *Damage to the monetary stability of India, referred to in section 15 by way of production or smuggling or circulation of high quality counterfeit Indian paper currency, shall be deemed to have been caused, if in addition to other considerations, -*

*(a) seizure is of high quality counterfeit Indian currency of face value of such threshold amount as may be decided by the Central Government from time to time, not being less than rupees one lakh:*

*Provided that the said threshold limit shall not apply when the counterfeit Indian currency has been intercepted at the international border, international airport or Immigration Check Post;*

*(b) the seized counterfeit currency includes any one of the Inotes of denomination of One hundred rupees and above issued by the Reserve Bank of India, and in circulation at such point in time.*

Thus, Rule 5 refers to damage to the monetary stability by way of production or smuggling or circulation of high quality counterfeit Indian paper currency. It provides that such damage shall be deemed to have been caused, if in addition to other considerations, seizure is of

high quality counterfeit Indian currency of face value of such threshold amount as may be decided by the Central Government from time to time. It further provides that the threshold amount should not be less than rupees one lakh.

12. Clause (a) of Rule 5 provides that the threshold amount of seized counterfeit currency should not be less than rupees one lakh, which in a way indicates that the amount lesser than rupees one lakh has no potential to damage the monetary stability of India. In the circumstances, it is only when the Central Government takes a decision, which may vary from time to time, to fix threshold amount in context with monetary stability of India, the investigating agency and in turn, the Court will be in a position whether the amount seized is capable of damaging the monetary stability, of course for the purpose of attracting Section 15 of the UAPA Act. In this context, clause (a) of Rule 5 only provides that it should not be less than rupees one lakh, meaning thereby, it can be anything more than rupees one lakh, which decision is to be taken by the Central Government.

13. The decision on this point is important to attract ingredients of Section 15 of the UAPA Act which defines ‘Terrorist act’, which is an offence punishable for a terms not less than five years but which may extend to imprisonment for life, and shall also be liable to

fine. It is thus a stringent provision and therefore, prosecution will have to establish a case strictly in terms of the provisions. It was thus obligatory for the prosecution to place on record the decision of the Central Government on threshold amount at the relevant time. The argument of prosecution that the decision is not mandatory is, therefore, unsustainable and is accordingly rejected. It did not produce it before trial Court and despite giving opportunity before us also.

14. Further, the judgment of the trial Court does not suggest that while invoking Section 15 of the UAPA Act read with Rule 5 of the Rules of 2013, it has considered any other additional material. The guilt is attributed to the appellants only on the count that the amount of counterfeit currency seized was more than rupees one lakh. The trial Court thus failed to consider importance of the value of the threshold amount, having potential to cause damage to the monetary stability of India to attract ingredients of Section 15 of the UAPA Act. The conviction to that effect viz. conviction under Section 15 read with Sections 16 and 18 of UAPA Act is, therefore, unsustainable.

15. Learned counsels for the appellants then submit that fine amount may be reduced. According to the appellants, they are labourers and, therefore, leniency should be shown.

16. We are not inclined to show leniency. Learned Special Public Prosecutor is correct in contending that the appellants were found in possession of high quality counterfeit currency notes valued at about Rs. 14,00,000/-. The amount is frequently deposited in the bank account. Thus, they have handled huge amount, which labourers would not. In any case considering their role, which is detailed in the judgment of the trial Court, we are not inclined to reduce the amount of fine. Further, the reversal of finding of trial Court on conviction under Section 16 and 18 will reduce the amount of fine imposed under said provisions, which in itself is a substantial amount (Rs. 6,00,000/- each). Thus, relief of reduction in fine amount is even otherwise granted. Further reduction is not justified.

17. For the above reasons, the appeals are partly allowed. The conviction of appellants under Sections 16 and 18 of the UAPA Act is quashed and set aside. The appellants are hereby acquitted for the offence punishable under Sections 16 and 18 of the UAPA Act. The sentence imposed by the trial Court for the offence punishable under Section 489-B of the IPC is reduced to ten years. Rest of the order stands intact.

18. The appeals are disposed of in terms of above.

**(NIVEDITA P MEHTA, J.)**

**(Anil L. Pansare, J.)**

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