IN THE COURT OF SHRI DHEERAJ MOR
SPECIAL JUDGE, (PC ACT) (CBI), (COAL BLOCK CASES)-01,
ROUSE AVENUE DISTRICT COURT : NEW DELHI

CNR No.	DLCT11-001100-2019
CBI Case No.	CBI/92/2023
RC No.	219 2014 (E) 0018
Branch	CBI/EO-I/New Delhi dated 07.08.2014
Under Section	120-B read with Section 420/471 IPC & Section 13(2) read with Section 13(1)(d) PC Act, 1988

CENTRAL BUREAU OF INVESTIGATION

…. Prosecution

Versus

1. **M/s R.K.M. Powergen Pvt. Ltd.**
Regd. Office at 16, 1st Canal Cross Road,
Gandhi Nagar, Adyar, Chennai &
Corporate Office at New No. 14 Old No. 54,
Dr. Giriappa Road, T. Nagar, Chennai.

2. **Dr. Andal Arumugam** W/o Dr. S. Arumugam
Managing Director- M/s. RKM Powergen Pvt. Ltd.
R/o 52/101, Chamiers Road, RA Puram, Chennai.

3. **Sh. T.M. Singaravel** S/o Dr. T.R. Muthurangam
Director- M/s. RKM Powergen Pvt. Ltd.
R/o 16, 1st Canal Cross Road, Gandhi Nagar, Adyar, Chennai.

4. **Sh. Harish Chandra Gupta** S/o Late K.L. Gupta
Then **Secretary,** Ministry of Coal & **Chairman**, 35th Screening Committee (Since Retired)
R/o 273, Sector-15A, Gautam Budh Nagar, Noida, UP.

5. **Sh. Kuljeet Singh Kropha** S/o Sh. Sukh Das Kropha
Then **Joint Secretary**, Ministry of Coal & **Convener**, 35th Screening Committee (Since Retired)
R/o D-1/39, Bharti Nagar, New Delhi.

….Accused Persons

31.10.2025

ORDER ON CHARGE

1. Arguments on charge have been heard at length. The charge-sheet, documents annexed therewith and the written arguments filed on behalf of all the accused persons have been carefully perused.

FACTUAL MATRIX AS ALLEGED IN THE FIR

2. Based upon preliminary inquiry no. 219 2012 E0002 initiated by CBI on the reference of Central Vigilance Commission vide its letter no. 012/COL/020/1716 dated 13.04.2014, the present FIR/RC No. 219 2014 E 0018 dated 07.08.2014 was lodged under Section 120B read with Section 420 of Indian Penal Code, 1860 (hereinafter referred to in short as 'IPC') and under Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 (hereinafter referred to in short as 'PC Act') against M/s. R.K.M. Powergen Private Limited Company (hereinafter referred to in short as 'RKMPPL'), its Promoters/Directors, Members of 35th Screening Committee constituted by Ministry of Coal and unknown public servants of Ministry of Coal in the matter of allocation of Fatehpur East Coal Block to the said company by Ministry of Coal.

3. In the FIR, it was asserted that since 1993, Ministry of Coal used to identify the coal blocks which could be allocated for captive mining in consultation with other stakeholders to the eligible private sector companies for end use of coal extracted from the said blocks in their respective Power, Iron & Steel and Cement Industries. A Screening Committee was constituted to recommend for allocation of coal blocks to the shortlisted applicants based upon the guidelines issued by Ministry of

Coal from time to time. The said guidelines were determining factor for evaluating the claims of the applicant companies. The present case relates to the recommendation of Fatehpur East Coal Block by 35th Screening Committee to RKMPPL.

4. According to FIR, on 13.11.2006, Ministry of Coal, Government of India invited applications from the registered companies for allocation of 38 coal blocks for captive mining out of which 15 were reserved for Power Generation Companies and 23 were reserved for companies engaged in the production of Steel & Cement. Pursuant to the said advertisement, RKMPPL submitted its application dated 13.11.2006 to the Ministry of Coal for allocation of Fatehpur East Coal Block in the State of Chhattisgarh, earmarked for power sector, for its proposed 1200 MW Thermal Power Plant to be set up at District Janjgir-Champa, Chhattisgarh. In the said application, RKMPPL mentioned its net worth as Rs.306.14 Crores only. Subsequently, the said company filed amended/modified application on 19.12.2006 wherein it mentioned its net worth as Rs.2,752.192 Crores as on 31.03.2006. On 22.06.2007, RKMPPL submitted the latest status of End Use Plant (EUP) in the feedback form to the Ministry of Coal and also gave presentation before the 35th Screening Committee. In the said feedback form, RKMPPL mentioned its net worth as Rs.2,963.37 Crores as on 31.03.2007.

5. As per FIR, Ministry of Power was the Administrative Ministry in this case and it entrusted examination of the applications to the Central Electricity Authority (CEA). The CEA had adopted net worth and project capacity as criteria for pre-qualification in the cases of Ultra Mega Power Project (UMPP). As per the said criteria and guidelines approved for

UMPP, the net worth of a company was required to be Rs.0.50 Crores per MW of the maximum capacity and the project capacity for the Coal Block was laid at minimum of 500 MW. Further, as per guidelines of Ministry of Power approved for the UMPP, applicant company could be given the benefit of 100% financial capability of its parent or affiliates for the purpose of bid evaluation provided the consortium members had at least 26% equity directly or indirectly in the bidding/applicant company.

6. As per FIR, total 187 applicants including RKMPPL had applied for the Fatehpur East Coal Block. However, only 115 applicants could pre-qualify as per the said criteria and finally after further shortlisting CEA/Ministry of Power recommended name of RKMPPL for allocation of the said coal block to the Screening Committee.

7. In the FIR, it was alleged that RKMPPL was got incorporated by the promoters of M/s R.K. Powergen Private Ltd. (hereinafter referred to in short as 'RKPPL') on 15.12.2004. It had claimed its net worth of Rs.2,752 Crores in its subsequent application by adding the net worth of Rs.171.12 Crores of M/s Mudajaya Corporation Berhad, Malaysia (hereinafter referred to in short as 'MJC'), Rs.2,414.71 Crores of M/s Mulpha International Berhad, Malaysia (hereinafter referred to in short as 'MIB') which was holding 22.8% shares of MJC, and Rs.142.86 Crores of M/s TCP Limited. None of the aforesaid companies had any equity participation in RKMPPL i.e. the applicant company as on the date of application or on the date of allocation and therefore, the benefit of their net worth could not be given to the company as per the guidelines of Ministry of Power. Thus, the net worth of the applicant company was Rs.21.51 Crores only inclusive of its net worth of Rs.0.01 Crores and net

worth of its promoter RKPPL of Rs.21.50 Crores, as on 31.03.2006. However, as per the guidelines of Ministry of Power, the minimum requirement of net worth for 1000 MW for which the block has been allocated to the RKMPPL was Rs.500 Crores. Accordingly, it was not eligible for allotment of any coal block as it did not meet the minimum eligibility criteria of net worth.

8. In the FIR, it was further alleged that the members of the 35th Screening Committee by ignoring the aforesaid facts, in its meeting held on 13.09.2007, recommended allocation of Fatehpur East coal block to RKMPPL jointly with M/s Vandana Vidyut Ltd, M/s JLD Yavatmal Energy Ltd, M/s Visa Power Ltd. and M/s Green Infrastructure Pvt. Ltd. Final allocation letter to the allocattee companies was issued by the Ministry of Coal on 23.01.2008.

9. It was also alleged that after allocation of the coal block, RKMPPL issued 26% shares of the company to MJC at a whopping premium of Rs.240 per share in comparison to the premium of its shares issued to the other promoter RKPPL. Thus, after allocation of coal block to RKMPPL, its Indian promoter RKPPL was substantially benefited in terms of the value of the shares of the RKMPPL company held by it.

THE ALLEGATIONS IN THE FIR IN NUTSHELL

10. In essence, following allegations have been made in the FIR:-

(a) RKMPPL misrepresented its net worth to be Rs.306.14 Crores in its application dated 13.11.2006, Rs.2,752.192 Crores in its modified application dated 19.12.2006 and Rs.2,936.37 Crores in its feedback form dated 22.06.2007 to Ministry of Coal for allocation of Fatehpur

East Coal Block for its proposed EUP of 1200 MW Thermal Power Plant to be set up at District Janjir-Champa, Chhattisgarh, though its net worth was only Rs.21.51 Crores and so it was ineligible for allocation of coal block as per the guidelines of Ministry of Power;

(b) The members of 35th Screening Committee and the officials of Ministry of Coal deliberately violated the guidelines of Ministry of Power and the guidelines for allocation of coal block in granting undue favour to RKMPPL by recommending the allocation of Fatehpur East coal block jointly to ineligible RKMPPL on 13.09.2007; and

(c) After allocation of coal block, RKMPPL issued its 26% shares to MJC at a whooping premium of Rs.240 per share whereas its Indian promoter i.e. RKPPL got its shares at much lower price. In the said transaction, the Indian promoter got substantial undue advantage.

OUTCOME OF INVESTIGATION

11. During investigation, IO examined the relevant witnesses including members of 35th Screening Committee, officials of Ministry of Coal, officials of Ministry of Power, officials of Chhattisgarh State Government, Officials of PMO, Directors/officials of RKMPPL, MJC, MIB & TCP, officials of Power Finance Corporation (PFC) and Officials of Coal India Ltd. (CIL). He also seized the relevant documents including files of the Ministry of Coal, 35th Screening Committee, Ministry of Power and Chhattisgarh Government related to the allocation of Fatehpur East Coal Block to RKMPPL which contained the application form, modified application form & feedback form of RKMPPL and the guidelines of *inter-*

se priority for allocation of a block amongst competing applicants for a captive block.

12. The following relevant facts were revealed during investigation in this case:

(a) In response to the advertisement of Ministry of Coal for allocation of 38 coal blocks including Fatehpur East Coal Block located in the State of Chhattisgarh reserved for Power Generation companies, RKMPPL submitted its application dated 13.11.2006 to Ministry of Coal for allocation of Fatehpur East Coal Block for its proposed 1200 MW IPP at District Janjgir-Champa, Chhattisgarh wherein it claimed its net worth as Rs.306.14 Crores;

(b) Subsequently, the RKMPPL submitted the amended application dated 19.12.2006 wherein it claimed its net worth as Rs.2,752.19 Crores for the year 2005-06 by adding the net worth of MJC and MIB, who were its principals. The applicant also claimed to have signed MOU with Government of Chhattisgarh;

(c) The Government of Chhattisgarh vide its letter dated 18.06.2007 had recommended allocation of coal block to RKMPPL for its 1200 MW Captive Power Plant for which the government had executed an MOU with the company;

(d) On 22.06.2007, RKMPPL through its Directors Smt. Dr. Andal Arumugam and Sh. T.N. Singaravel submitted a feedback form and gave representations before the 35th Screening Committee of Ministry of Coal wherein it claimed its net worth to be Rs.2,963.37 Crores inclusive of its said principals, as on the said date;

(e) On 30.07.2007, CEA/Ministry of Power recommended allocation of Fatehpur East Coal Block to RKMPPL jointly with 03 other companies after it analyzed the claims regarding net worth and preparedness for setting up of the power plant as mentioned in the feedback form/presentation of the applicants;

(f) The net worth of the RKMPPL was got calculated by the Ministry of Coal with the assistance of two experts of CIL and the verifications of the claims regarding the preparedness was got done through the concerned State Government;

(g) The experts of CIL gave the net worth verification report of RKMPPL to the effect that it was calculated as Rs.36.50 Crores only as on 31.03.2006. However, during investigation it was found that the said experts were not aware about the guidelines of Ministry of Coal that in case of a newly JV/SPV, the net worth of the principals were also to be included and so, they did not include the net worth of the principals of RKMPPL while calculating its net worth. Accordingly, their calculation/report of net worth of RKMPPL was not in consonance with the guidelines of Ministry of Coal;

(h) Government of Chhattisgarh vide its letter dated 05.09.2007 submitted a positive report regarding the preparation of RKMPPL in setting up of the proposed EUP;

(i) Thereafter, in the meeting of the 35th Screening Committee held on 13.09.2007 comprising of Sh. H.C. Gupta, the then Secretary, Coal as Chairman, Sh. K.S. Kropha, the then Joint Secretary, Coal as Member Secretary and representatives of the Administrative Ministry of Power and the concerned State of Chhattisgarh, it was

recommended that the Fatehpur East Coal Block be allocated to RKMPPL jointly with four other companies, based upon the relevant information furnished by RKMPPL through its applications and feedback form as well as on the strength of recommendations of Ministry of Power and State of Chhattisgarh in favour of RKMPPL;

(j) RKPPL promoted by Smt. Dr. Andal Arumugam was registered on 02.05.2002 with ROC, Chennai and it was engaged in the business of Power generation at Karnataka;

(k) In the year 2004, promoters of RKPPL and the officers of MJC decided to form an SPV company by the name of RKMPPL for setting up a thermal power plant in India and accordingly, RKMPPL was got registered with ROC, Chennai on 15.12.2004;

(l) On 16.03.2005, an MOU was executed between RKPPL and MJC whereby they agreed to associate themselves for the purpose of setting up of Independent Power Producer Plants in India through their Joint Venture Company 'RKMPPL';

(m) On 13.07.2005, M/s RKPPL and M/s MJC executed a Joint Venture Agreement whereby they agreed to collaborate with each other and to subscribe as shareholders in the share capital of RKMPPL as the Special Purpose Vehicle (SPV) for the purpose of undertaking the establishment of a coal fired power plant (ranging between 300 MW to 1260 MW) in the State of Chhattisgarh, India;

(n) On 13.07.2005 itself, MJC made general announcement vide reference no.MG-050713-50132 at Kuala Lumpur Stock Exchange to the effect that it had entered into Joint Venture agreement with RKPPL for setting up of a power plant in India. It was further

announced that the shareholding and equity participation in the JV Company i.e. RKMPPL shall at all times be in proportion of 26% of MJC & Subsidiaries and 74% of RKPPL & Associates;

(o) Subsequently, on 08.02.2007 RKPPL and MJC got executed shareholders Agreement whereby percentage of shareholding in the paid up capital of RKMPPL was earmarked in the same proportions as announced by MJC in its aforementioned reference i.e. 26% of MJC & Associates and 74% of RKPPL & Associates;

(p) In terms of aforesaid agreements, 06 Directors of RKMPPL including Sh. T.M. Singaravel and Smt. Dr. Andal Arumugam were appointed during the year 2006-2007 and 2007-2008, who remained its Directors up to the year 2013-2014;

(q) As per the existent policy of Government of India which allowed 100% FDI in Power Generation Sector, RKMPPL obtained FDI either directly from MJC or its 100% subsidiary companies to the tune of Rs.1,430.33 Crores between 27.07.2006 to 26.09.2013 and accordingly, proportionate shares in RKMPPL were allotted to MJC against the said investment;

(r) RKPPL and its associate companies also invested in RKMPPL and they were also allotted shares in the said company against their investments;

(s) Till the date of presentation by RKMPPL before 35th Screening Committee i.e. 22.06.2007, total amount of around Rs.13.48 Crores and till the date of its recommendation by the said Committee i.e. 13.09.2007 total amount of Rs.97.61 Crores had been invested by MJC in RKMPPL;

(t) As per investigation, RKMPPL is an SPV of RKPPL and MJC. Therefore, as per the guidelines of the Ministry of Coal, RKMPPL was eligible to take the benefit of net worth of its said principals. Furthermore, as per Annual accounts of MIB for the year 2006, it held 24% stake in MJC. The statement of the Chairman of MIB in its balance sheet for the year 2006 makes it abundantly clear that MJC was undertaking the present project with the consent of MIB and it was supporting the project. Thus, MIB was also one of the promoters of the present project;

(u) Thus, as per the guidelines of the Ministry of Coal, RKMPPL was eligible to take the benefit of the net worth of its Principals i.e. RKPPL, MJC and MIB. On summing up of the net worth of RKMPPL and its said principals, the net worth of the group is calculated as Rs.2,869.506 Crores as on 31.03.2007;

(v) Considering the 1200 MW capacity of the power plant of the company it was eligible for allocation of coal block even if the criteria of net worth of 0.5 per MW of Ministry of Power is applied;

(w) The RKMPPL had applied for financial assistance for its 1200 MW Power Plant to M/s. Power Finance Corporation (PFC) vide its letter dated 07.10.2005 wherein it had clearly mentioned that it being a Joint Venture Company of RKPPL and MJC was setting up a coal based 1200 MW Thermal Power Station in Chhattisgarh; and

(x) In respect of allegations of sale of its shares to MJC at a premium of Rs.240 per share by RKMPPL on account of coal block allocation, it was concluded after investigation that the agreement

for subscribing of the said shares was executed in March, 2005 i.e. even before the advertisement for coal block allocation. Therefore, the said transaction was found to be a *bona fide* business decision unrelated to the coal block allocation.

SUMMARY OF THE INVESTIGATION REPORT

13. Based upon the investigation, closure report dated 21.09.2017 was filed by CBI with the conclusion that the allegations in the FIR were not substantiated.

14. In the closure report, the CBI concluded as follows:-

(a) The RKMPPL is a JV/SPV of RKPPL and MJC;

(b) MIB held 24% stake in MJC and MJC was undertaking the present project of RKMPPL with the consent of MIB which was supporting the project. Therefore, MIB was also one of the promoters of this project of RKMPPL;

(c) As per the guidelines of Ministry of Coal, RKMPPL was entitled to take the benefit of net worth of its Principals i.e. RKPPL, MJC and MIB;

(d) Accordingly, RKMPPL correctly claimed its net worth by including the net worth of all its said Principals. Thus, its claim of net worth in its application and feedback form for allocation of coal block was found to be correct;

(e) The allegations of misrepresentation against RKMPPL in its application/feedback form for allocation of coal block qua its financial strength including its net worth were found to be incorrect; and

(f) The allegations of sale of its shares at undue and lofty premium by RKMPPL to MJC was found to be a *bona fide* business decision unrelated to coal block allocation as it was found to have been transacted in March, 2005 even before the advertisement for allocation of coal block.

ORDER FOR FURTHER INVESTIGATION

15. This Court was not satisfied with the investigation report/closure report and raised queries if other claims of the RKMPPL company in its application submitted to the Ministry of Coal or at any subsequent stage regarding land, water or environment clearance, etc. during the processing of its application in Ministry of Coal leading to allocation of the impugned coal block were verified during investigation. After finding the closure report to be silent on all such aspects, it directed the CBI to conduct further investigation on the said aspects vide its order dated 27.09.2017.

FINAL POLICE REPORT UNDER SECTION 173(8) CRPC AFTER CONCLUSION OF FURTHER INVESTIGATION

16. After conclusion of further investigation, supplementary final police report dated 30.08.2023 under Section 173(8) CrPC was filed in the Court against RKMPPL (Accused No.1) & its two Directors namely Smt. Dr. Andal Arumugam (Accused No.2) and Sh. T.M. Singaravel (Accused No.3) and two public servants i.e. Sh. H.C. Gupta, the then Secretary, Ministry of Coal (Accused No.4) and Sh. K.S. Kropha, the the Joint Secretary, Ministry of Coal (Accused No.5) with the allegations of committing the offence punishable under Section 120B read with Sections

420/471 IPC and under Section 13(2) read with Section 13(1)(d) PC Act and substantive offence thereof.

17. In the supplementary final police report/charge-sheet, CBI concluded that accused no.1 company and its two Directors i.e. accused nos.2 and 3 (Smt. Dr. Andal Arumugam and its CMD and Sh. T.M. Singaravel, its Director and CEO) obtained Fatehpur East Coal Block allocation by making false claims regarding its preparedness in setting up of the proposed power plant and submitted false/forged documents and thereby cheated the Government of India. Accused no.4 (Sh. H.C. Gupta, the then Secretary, Ministry of Coal), accused no.5 (Sh. K.S. Kropha, the then Joint Secretary, Ministry of Coal) and Sh. K.C. Samria, the then Director, Ministry of Coal in connivance with the aforesaid officers of accused no.1 company processed its incomplete application without scrutinizing the same and allocated coal block in violation of the guidelines issued by Ministry of Coal in this regard. They also misled the Minister of Coal through PMO that the allocations were made on merits and thereby committed criminal misconduct.

18. Vide order dated 17.08.2023, the Competent Authority accorded sanction under Section 19 of PC Act for the prosecution of Sh. H.C. Gupta, the then Secretary, Ministry of Coal and Sh. K.S. Kropha, the then Joint Secretary, Ministry of Coal but declined to accord sanction for the prosecution of Sh. K.C. Samria, the then Director, CA-I Section, Ministry of Coal.

DETAILS OF FURTHER INVESTIGATION

19. During further investigation, the IO recorded supplementary statements of some of the witnesses who had already been examined

during investigation of this case and also recorded statements of other relevant witnesses who were required to be examined for comprehensive probe of this case from all the possible angles.

20. IO collected additional documents including copies of alleged forged consent letters/agreements (*iqrarnama*) purportedly signed by Sh. Santosh Patel and Sh. Anand Ram Marar both residents of Village Kikirda near Birra under Jaijaipur Block of District Janjgir-Champa which were used by accused no.1 company and its Directors to misrepresent in their application to Ministry of Coal that they have entered into an agreement with the said two villagers to obtain land for establishment of EUP at the said village. The said two copies of consent letters/agreements along with specimen signatures of the said two persons were sent to the CFSL, CBI for seeking opinion of the handwriting expert who opined that the purported signatures of the said two persons on the said consent letters/agreements are forged.

21. During further investigation, the IO obtained the report of Power Finance Corporation (PFC) and M/s A.R. & Company Chartered Accountants regarding the calculation of net worth of accused no.1 company (RKMPPL).

22. The IO collected Detailed Project Reports (DPRs) of EUP purportedly prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd., Chennai which were annexed with the application for allocation of coal block and with the application for financial assistance furnished to PFC. He examined officials of M/s Fitchner Engineers India Consulting Pvt. Ltd., Chennai to ascertain if the said reports were prepared by them.

The IO also collected all the relevant documents from PFC in relation to financing of EUP of RKMPPL.

23. The following details surfaced during further investigation of this case:-

(a) As per advertisement and guidelines for allocation of captive blocks and conditions of allotment through the Screening Committee, Audited Annual Accounts/Reports of last three years of the applicant company were required to be enclosed and the applications without it had to be treated as incomplete and was required to be rejected at the outset;

(b) The application of accused no.1 company was incomplete as it only enclosed balance sheets of three years of its promoters/ principals i.e. RKPPL, MJC, MIB and TCP and not its own balance sheet(s)/Audited Annual Accounts despite the fact that its balance sheet(s) for the FYs 2004-05 and 2005-06 were already finalized on 01.05.2005 and 02.06.2006 respectively;

(c) Both Ministry of Power and Government of Chhattisgarh independently recommended to the Screening Committee the allocation of Fatehpur East Coal Block, Chhattisgarh to RKMPPL for EUP of 1200 MW Power Plant Capacity;

(d) After presentation of all the applicants were over, the next meeting of the 35th Screening Committee was held on 30.07.2007. In the said meeting, Ministry of Power had also informed that their recommendation was based on the information provided by the applicant companies in the feedback form & presentations and therefore, the same may be got verified before allocation.

Accordingly, the Screening Committee decided that the State Governments may be asked to carry out a quick verification of the data used by the Ministry of Power for techno economic evaluation of end use projects;

(e) Accordingly, Sh. K.C. Samria, Dy. Secretary, Ministry of Coal issued letter no.38011/1/2007-CA-I dated 02.08.2007 to the Chairman, Coal India Ltd., Kolkata (CIL) for providing the services of its two senior financial experts. Similarly, he wrote letter no.38011/1/2007-CA-I dated 02.08.2007 to the Chief Secretary, Government of Chhattisgarh for verification of the claims of the applicant companies in terms of acquisition/possession of land, quantity of water already allotted by the State Government, Status of Civil Construction (in terms of percentage) and status of environment clearance in respect of end use plant;

(f) Thereafter, two officers of CIL namely Sh. Samiran Dutta and Smt. Sushmita Sengputa both Senior Managers (Finance) of Coal India Ltd. reported to accused no.5 (Sh. K.S. Kropha, Joint Secretary, Ministry of Coal) and Sh. K.C. Samria, Director, CA-I Section, Ministry of Coal. As per the directions of accused no.5 (Sh. K.S. Kropha) and Sh. K.C. Samria, they verified the net worth of applicant companies from the balance sheet etc. submitted by the applicant companies along with their applications and submitted a report. During investigation, one report regarding net worth verification/calculation of the applicant companies was collected from the Ministry of Coal which bears the scribbles in the hand writings of accused no.5 (Sh. K.S. Kropha). As per said report, the

net worth of accused no.1 company was calculated as Rs.36.50 Crore only as on 31.03.2006 against its claim of Rs.2,963.37 Crore made in the feedback form. The said two financial experts of CIL, however, did not confirm the genuineness of the said documents as these do not bear their signatures;

(g) In pursuance of letter no.38011/1/2007-CA-I dated 02.08.2007 of Sh. K.C. Samria, for verification of the status of land, environment clearance, Civil Construction etc vide letters dated 07.08.2007 and 08.08.2007 Sh. Debasish Das, Special Secretary, Energy Department, Government of Chhattisgarh requested accused no.1 company to submit the details/documents regarding the latest status of their project;

(h) Accordingly, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3) vide letter dated 13.08.2007, submitted the requisite information along with supporting documents including consent letters from the land owners (including alleged forged two consent letters/agreements of Sh. Santosh Patel and Sh. Anand Ram Marar of Village Kikirda), NOC dated 21.09.2006 from Kikirda Village Panchayat and NOC dated 19.03.2007 from Uchipinda & Sandhapalli Village Panchayats;

(i) As per report of PFC dated 20.12.2018, the net worth of accused no.1 company was calculated to be Rs.2,788.10 Crores as on March, 2006 and Rs.3,205.34 Crores as on March, 2007 inclusive of its all four principals i.e. RKPPL, MJC, MIB and TCP. However, the investigating agency was not satisfied with the said report of

Government Institution for the reasons not disclosed in the charge-sheet;

(j) Therefore, the CBI got the net worth of accused no.1 company re-calculated from a private Chartered Accountant namely M/s A.R. & Company Chartered Accountants, which was selected by due process out of the list of Chartered Accountants/Auditors empaneled with Comptroller and Auditor General of India (CAG). The said Chartered Accountants gave its report dated 05.05.2020 to the effect that the stand alone net worth of accused no.1 company as on 31.03.2006 was about Rs.1,699.41 Crores inclusive of its all the said four Principals and its consolidated net worth inclusive of all the said Principals was Rs.2,855.78 Crores. The said report stated that as per the guidelines of Ministry of Coal, all the aforementioned four companies could be treated as Principals of accused no.1 company. However, their stand alone net worth and other financials (excluding their subsidiaries) and not consolidated net worth could be claimed by accused no.1 company;

(k) Thus, based upon the said report of Chartered Accountant Institution, in the charge-sheet it is concluded that accused no.1 company has wrongly claimed its net worth as Rs.2,752.19 Crores in its application and Rs.2,963.37 Crores in its feedback form whereas the same was Rs.1,699.41 Crores only;

(l) Two of the sale agreements (*Iqrarnama*) purportedly executed by Sh. Santosh Patel and Sh. Anand Ram Marar both of Village Kikirda of the land in the said village in favour of accused no.1 company and which were submitted by the said company through its Director,

Sh. T.M. Singaravel (accused no.3) vide his letter dated 13.08.2007 to the Government of Chhattisgarh were forged;

(m) In its application dated 13.11.2006 and modified application dated 19.11.2006, accused no.1 company had mentioned in Column No.21 under head 'DPR for the end use projects' that the DPR was prepared and was under appraisal by FI. Further in Column No.23 under head 'Finance' it had mentioned the requirement of finance as Rs.5,100 Crores and also applied to the sources;

(n) Vide letter dated 07.10.2005 addressed to GM, Project, RKMPPL (accused no.1 company) had requested PFC to sanction financial assistance for their 4 x 300 MW Thermal Power Plant to be set up at Chhattisgarh. The said letter was merely an expression of interest shown by the company to PFC without enclosing any documents. The company submitted its proper application on the PFC format on 22.11.2006 and applied for the financing of Rs.1,190 Crores for their 1 x 350 MW Power Project only. Along with its application, the company submitted a DPR for 1 x 350 MW dated 25.11.2006 only. PFC sanctioned Rs.520 Crores only for the said project on 02.08.2007;

(o) For the tie up of remaining amount of the loan for 1 x 350 MW project for the first phase, accused no.1 company had applied to Rural Electrification Corporation Ltd. (RECL) vide their application dated 26.02.2007 for financial assistance of Rs.446.25 Crores. RECL sanctioned Rs.270 Crores on 10.03.2008. Similarly, the company had also applied to HUDCO for financial assistance of

Rs.500 Crores on 28.02.2007 but only Rs.200 Crores was sanctioned by HUDCO vide sanction letter dated 04.04.2008;

(p) Later, accused no.1 company vide its application dated 27.02.2008 applied for sanction of additional Rs.3,570 Crores for their 3 x 350 MW power project. Out of that, PFC sanctioned Rs.1,250 Crores on 17.12.2008 which was subsequently enhanced to Rs.1,480 Crores;

(q) Till November/December, 2006 i.e. till submission of application for allocation of coal block, accused no.1 company had not submitted any DPR for 4 x 300 MW Power Project to PFC and the same was never under appraisal by the FI. By that time, the company had applied for Rs.1,190 Crores only for 1 x 350 MW power plant and had submitted a DPR for 1 x 350 MW power plant which was under appraisal. Therefore, the claim of the company that it had applied for financing of Rs.5,100 Crores was incorrect;

(r) The DPR submitted by accused no.1 company company to Ministry of Coal along with its application is dated 28.03.2005 and the location therein is mentioned as Birra, Janjgir. In this DPR, the capacity of the power plant is mentioned as 4 x 300 MW on the front page but on the 'Table of Contents' and several sheets the capacity is mentioned as 1 x 300 MW only. Thus, the DPR which the company had submitted to the Ministry of Coal is not the same which was submitted to PFC and it was a fabricated DPR;

(s) M/s Fitchner Engineers India Consulting Pvt. Ltd., Chennai has denied to have prepared the DPR dated 28.03.2005 which was submitted by accused no.1 company to the Ministry of Coal along

with its application. Furthermore, the company had applied for the financial assistance of Rs.1,190 Crores only and not Rs.5,100 Crores as claimed in its application;

(t) The NOC of Gram Panchayat of Village Kikirda dated 21.09.2006 and NOC of Village Ghiwara Dhobhanipalli Panchayat dated 04.08.2007 whereby permission to accused no.1 company was purportedly given for setting up of power plant in the said respective villages were issued in violation of Rule 3 of Chhattisgarh (Gram Panchayat Sarpanch and Deputy Sarpanch, Janpad Panchayat and Zila Panchayat Powers and Duties Rules, 1944). The said NOCs were enclosed by accused no.3 (Sh. T.M. Singaravel) vide his letter dated 13.08.2007 on behalf of accused no.1 company to the Special Secretary, Energy Department, Chhattisgarh in response to his letters dated 07.08.2007 and 08.08.2007 for verification of *inter alia* status of land furnished by accused no.1 company in its application to Ministry of Coal for allocation of coal block;

(u) In the Minutes of the 35th Screening Committee which was prepared under the instructions of accused no.5 (Sh. K.S. Kropha) and Sh. K.C. Samria and was subsequently shown to accused no.4 (Sh. H.C. Gupta) before putting up in the file, it is falsely mentioned that verification reports from most of the State Governments as requested, were received and the information received was complied and placed before the Screening Committee. Financial strength of applicant companies was scrutinized independently with the help of financial experts from CIL. However, no such reports were provided to the members of the Screening Committee for perusal. The

Minutes of the Meeting was also intentionally not circulated to any members for their confirmation/perusal/objection, if any;

(v) In Para No.8 of the Minutes of 35th Screening Committee, it was falsely mentioned that "*Based on the data furnished by the applicants and the feedback received from the State Governments and the Ministry of Power, the Committee assessed the applications having regard to matters such as techno-economic feasibility of end-use project, status of preparedness to set up the end-use project, past track record in execution of projects, financial and technical capabilities of applicant companies, recommendations of the State Governments and the Administrative Ministry concerned etc.*";

(w) In Para No.13 of the Minutes of 35th Screening Committee, it was again falsely mentioned that *"The Screening Committee, thereafter, deliberated at length over the information furnished by the applicant companies in the application forms, during the presentations and subsequently. The committee also took into consideration the views/comments of the Ministry of Power, Ministry of Steel, State Governments concerned, guidelines laid down for allocation of coal blocks, and other factors as mentioned in paragraph 10 above"*; and

(x) No *inter se* merit of the applicant companies were assessed by the Screening Committee as no comparative chart was prepared by the Ministry of Coal and provided to the members of the Screening Committee during the meeting.

ALLEGATIONS IN THE CHARGE-SHEET IN BRIEF

24. In nutshell, the following allegations have been leveled against the accused persons in the charge-sheet:-

(a) The accused no.1 company made following misrepresentations in its application dated 13.11.2006, modification application dated 19.11.2006 and feedback form dated 22.06.2007:-

(I) In application form, modification application and feedback form, accused no.1 company claimed its net worth to be Rs.306.14 Crores as on 31.03.2006, Rs.2,752.19 Crores as on 31.03.2006 and Rs.2,963.37 Crores as on 31.03.2007 respectively, though as per the calculation of M/s A.R. & Company Chartered Accountants, it was Rs.1,699.41 Crores only as on 31.03.2006;

(II) The Detailed Project Report (DPR) dated 28.03.2005 for 4 x 300 MW Birra Coal Fired Power Project which was enclosed with the application dated 13.11.2006 of the accused no.1 company is bogus on the following counts:-

(i) In several of its pages including the contents, the capacity of power plant was mentioned as 1 x 300 MW only;

(ii) The DPR was purportedly prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. but their officials denied to have prepared it; and

(iii) The DPR dated 28.03.2005 submitted by accused no.1 company along with its application dated 13.11.2006 for allocation of coal block is different from the DPR dated

22.11.2006 submitted by it to PFC for financial assistance as the later is in respect of 1 x 350 MW project only, which leads to conclusive inference that the former DPR dated 28.03.2005 for setting up of 4 x 300 = 1200 MW power plant is false misrepresentation.

(III) In Column Nos.23 of its application dated 13.11.2006 and in its modified application dated 19.11.2006, accused no.1 company has wrongly claimed that it has already applied to the sources for requisite financial assistance of Rs.5,100 Crores that is required for setting up of EUP and it is under appraisal;

(b) The 35th Screening Committee in its meeting dated 30.07.2007 deferred the decision regarding recommendation of allocation of Fatehpur East Coal Block awaiting verification of the claim of status of land etc. in the application of the applicants including accused no.1 company from Government of Chhattisgarh. Accordingly, Special Secretary, Energy Department, Government of Chhattisgarh vide his letters dated 07.08.2007 and 08.08.2007 requested accused no.1 company to submit details/ documents regarding the latest status of its project. In response, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3) sent a letter dated 13.08.2007 along with supporting documents. In the said letter, the following *inter alia* documents were annexed:-

(I) Two forged consent letters/agreements (*iqrarnama*) of land at Village Kikirda purportedly signed by Sh. Santosh Patel and Sh. Anand Ram Marar both residents of Village Kikirda;

(II) NOC dated 21.09.2006 from Kikirda Village Panchayat;

(III) NOC dated 19.06.2006 from Uchpinda and Sandhapalli Village Panchayat; and

(IV) NOC dated 04.08.2007 from Domnapalli and Ghiwara Village Panchayat.

All the above said three NOCs were in violation of Rule 3 of Chhattisgarh (Gram Panchayat Sarpanch and Deputy Sarpanch, Janpad Panchayat and Zila Panchayat Powers and Duties Rules, 1944);

(c) The allegations against the two private accused persons is that they were the Directors of accused no.1 company and they were responsible for all the acts committed by it in commission of the present offences;

(d) The allegations against the public servants are as follows:-

(I) As per 'Guidelines for Allocation of Captive Blocks and Conditions of Allotment through the Screening Committee', the incomplete applications were required to be rejected at the outset. However, accused nos.4 and 5 being Chairman and Convener/Member Secretary respectively of the 35th Screening Committee processed application dated 13.11.2006 of accused no.1 company for allocation of coal block despite being incomplete for the want of its individual Audited Annual Accounts/Reports of last three years;

(II) They did not compile and place before the Screening Committee, financial strength of the accused no.1 company which was got scrutinized independently with the help of financial experts from CIL;

(III) The Minutes of Meeting were not circulated to any Members of the Screening Committee for their confirmation/ perusal/objection, if any; and

(IV) Neither *inter se* merit of the applicant companies were assessed by the Screening Committee nor their comparative chart was prepared and provided to the members of the Screening Committee during the meeting but still it was falsely claimed in the Minutes of 35th Screening Committee that the committee assessed all the applications with regard to all the requisite parameters including status of preparedness to set up the EUP and financial capabilities of the applicant companies._

ARGUMENTS OF CBI

25. Sh. N.P. Srivastava, Ld. DLA for CBI assisted by the IO Sh. Manoj Kumar, Deputy Superintendent of Police, CBI has contended that there is sufficient material available on record to frame charge against all the five accused persons for which they have been charge-sheeted. He has contended that accused no.1 company through its two Directors i.e. accused nos.2 and 3 dishonestly made misrepresentations in its application dated 13.11.2006 **(D-3/D-23)**, modified application dated 19.11.2006 **(D-4/D-56)** and feedback form dated 22.06.2007 **(D-5/D-25)** for seeking allocation of Fatehpur East Coal Block in relation to its net worth/financial strength, land, Detailed Project Report (DPR) & finance and thereby dishonestly induced the Screening Committee to recommend the allocation of the said coal block in its favour in its meeting held on 13.09.2007. He has contended that accused no.1 company exaggerated the claim of its net

worth to be Rs.2,752.19 Crores as on 31.03.2006 though it was only Rs.1,698.41 Crores as on the said date. He has contended that accused no.1 company was allowed to claim its stand alone net worth only. However, it wrongly claimed its consolidated net worth which was impermissible as per the guidelines of Ministry of Coal. He has contented that the said fact is corroborated by the report dated 05.05.2020 **(D-81)** of M/s A.R. & Company Chartered Accountants regarding the calculation of net worth of accused no.1 company.

26. In respect of misrepresentation qua DPR in the application of accused no.1 company, Ld. DLA for CBI submits that the DPR dated 28.03.2005 enclosed by accused no.1 company along with its application dated 13.11.2006 for allocation of coal block is fabricated document as even though the capacity of power plant mentioned on its front page is 4 x 300 MW but on its other several pages it is mentioned as 1 x 300 MW. He has contended that the said DPR was purportedly prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd., Chennai but its officials PW-50 Sh. Jayaram Rangan, PW-51 Sh. S. Shriram and PW-52 Sh. N. Chandrashekharan, in their respective statements under Section 161 CrPC, denied its preparation. He has contended that PW-50 Sh. Jayaram Rangan has stated in his statement that accused no.1 company appointed their company in the year 2006 for providing consultancy for their 4 x 300 MW power plant at Chhattisgarh vide letter dated 28.06.2006 which was to be implemented in two phases i.e. 1 x 300 MW & 3 x 300 MW and so there is no question of preparation of even draft DPR for the same by his company on 28.03.2005. He has further contended that the said DPR is further falsified by the letter dated 14.12.2020 **(D-90)** of Sh. Narendra Kumar, M/s

Fitchner Engineers India Consulting Pvt. Ltd. to the CBI along with copy of DPR for 1 x 350 MW and another DPR for 3 x 350 MW Coal Based Power Plant of accused no.1 company prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. in the year 2010.

27. In respect of claim of finance of accused no.1 company in its applications and feedback form, Ld. DLA for CBI has contended that in Para No.23 of the application form dated 13.11.2006 **(D-3/D-23)** against the heading of 'Finance', the said company has falsely claimed that it has applied for finance. He has contended that accused no.1 company had perfunctorily sent a letter dated 07.10.2005 **(D-94)** to Power Finance Corporation (PFC) for sanction of financial assistance for their 4 x 300 MW power plant to be set up at Chhattisgarh. However, the requisite documents for sanction of financial assistance were not enclosed with the said application. Therefore, PFC reverted to accused no.1 company vide its letter dated 26.10.2005 with a request to submit the requisite documents including DPR for preliminary appraisal of its project for consideration of financial assistance by PFC. However, accused no.1 company did not furnish requisite documents qua its proposed 4 x 300 MW power plant project. Instead, it submitted its application to PFC on the proper format on 22.11.2006 wherein it applied for the financial assistance of Rs.1,190 Crores for their 1 x 350 MW power project only. He has contended that the said conduct of accused no.1 company clearly reflects that they did not intend to set up 4 x 300 MW power project (EUP) as claimed in their applications and feedback form. Thus, their representation/claim qua finance in the applications and feedback form for allocation of coal block is established to be false and dishonest.

28. He has, therefore, contended that there is sufficient material available on record to *prima facie* presume that accused no.1 company and its both the Directors (accused nos.2 and 3) have committed the offence of cheating punishable under Section 420/34 IPC by dishonestly misrepresenting the facts related to land, DPR and finance in its application, modification application and feedback form thereby dishonestly inducing 35th Screening Committee to allocate Fatehpur East Coal Block in its favour.

29. Ld. DLA for CBI has further argued that the 35th Screening Committee in its meeting held on 30.07.2007 requested the Administrative Ministry, in this case Ministry of Power, and State Governments to quickly verify the data given by the applicants in their application forms. In pursuance thereof, a letter dated 02.08.2007 was written to Government of Chhattisgarh for carrying out verification of the status of land, environment clearance, civil construction, etc. In compliance thereof, letters dated 07.08.2007 and 08.08.2007 were written by Sh. Debashish Das, Special Secretary, Energy Department, Government of Chhattisgarh requesting accused no.1 company to submit the details/documents regarding the latest status of their project. In response to the said letters, accused no.1 company through accused no.3 Sh. T.M. Singaravel sent letter dated 13.08.2007 **(D-64)** to Government of Chhattisgarh along with supporting documents including copies of two consent letters/agreements (*iqrarnama*) purportedly signed by Sh. Santosh Patel and Sh. Anand Ram Marar agreeing to sell their respective land in Village Kikirda to accused no.1 company and copies of NOCs of Kikirda Village Panchayat, Uchipinda & Sandhapalli Village Panchayat and Domnapalli & Ghiwara

Village Panchayat. He has contended that during investigation, the said documents were seized from Government of Chhattisgarh. Further, accused no.3 on behalf of accused no.1 company also sent the copies of the said documents to the CBI during investigation. Thus, the private accused persons have conceded that they had enclosed/submitted the said documents to the Government of Chhattisgarh in response to its letter for verification of details/documents regarding the latest status of their project.

30. Ld. DLA for CBI has further argued that the said two consent letters/agreements (*iqrarnama*) along with the specimen signatures of their purported sellers i.e. Sh. Santosh Patel and Sh. Anand Ram Marar were sent to the CFSL, CBI for their comparison by the handwriting expert. In the report of handwriting expert of CFSL, CBI dated 16.09.2019 **(D-98)**, he opined that their signatures on the said two documents are forged. He has further argued that the aforementioned three NOCs submitted by accused no.1 company through its Director (accused no.3) on 13.08.2007 **(D-64)** to Government of Chhattisgarh are found to be in violation of Rule 3 of Chhattisgarh (Gram Panchayat Sarpanch and Deputy Sarpanch, Janpad Panchayat and Zila Panchayat Powers and Duties Rules, 1944). He has, therefore, argued that on the basis of material available on record, *prima facie* there is sufficient ground to presume that accused no.1 company and its both the Directors (accused nos.2 and 3) have committed the offence of forgery by using the aforementioned five forged documents [two consent letters/agreements (*iqrarnama*) and three NOCs] as genuine and therefore, they are liable to be charged for the offence punishable under Section 471/34 IPC.

31. In respect of public servants (accused nos.4 and 5), Ld. DLA for CBI has fairly conceded that neither there is any evidence of bribe or *quid pro quo* against them nor there is any evidence of their meeting of minds with the private accused persons (accused nos.1 to 3). However, he has contended that the offence under Section 13(1)(d)(iii) PC Act is attracted against them as they being Chairman (accused no.4) and Convener/ Member Secretary (accused no.5) of 35th Screening Committee were responsible for obtaining valuable thing or pecuniary advantage in the form of recommendation for Fatehpur East Coal Block in favour of ineligible accused no.1 company without any public interest. He has argued that both the accused public servants (accused nos.4 and 5) violated 'Guidelines for Allocation of Captive Blocks and Conditions of Allotment through the Screening Committee'. He has argued that one of the conditions for filing of application was that the applicant should enclose its Audited Annual Accounts/Reports of last three years. However, accused no.1 company did not furnish their individual audit reports/balance sheets of last three years despite availability of its balance sheets of last two financial years at the time of filing of application **(D-3/D-23)** on 13.11.2006. He has contended that as per the advertisement for allocation of coal block issued by Ministry of Coal, processing of application forms for checking the eligibility and completeness of the applicants was the responsibility of the Screening Committee. He has contended that as per the statements under Section 161 CrPC of officials of Ministry of Coal including PW-1 Sh. Vijay Singh Rana, the then Under Secretary, Ministry of Coal and PW-2 Sh. R.N. Singh, the then Section Officer, CA-I Section, Ministry of Coal, the applications were not checked to see eligibility and

completeness before sending the same to Administrative Ministry & concerned State Governments and the said fact was brought to the knowledge of the Senior Officers. He has, therefore, contended that accused nos.4 and 5 deliberately allowed the processing of incomplete application of accused no.1 company and thereby violated the guidelines of Ministry of Coal for allocation of captive blocks.

32. Ld. DLA for CBI has further argued that accused public servants (accused nos.4 and 5) deliberately concealed the CIL Financial Report (more relevantly CIL Report prepared by its two experts of the net worth of accused no.1 company) and State Financial Report of the applicants from the Screening Committee and thereby deprived the other Members of the Screening Committee to take the informed and conscious decision on the allocation of Fatehput East Coal Block. He has argued that the said fact has been corroborated in the statements under Section 161 CrPC of Members of Screening Committee including PW-7 Sh. A.K. Devnath, the then CMD, CMPDI and PW-10 Sh. B.K. Sinha, the then CMD, SECL. He has further argued that 35th Screening Committee under the Chairmanship of accused no.4 neither prepared *inter se* merit of the applicant companies nor their comparative chart for the objective assessment by the Screening Committee but in the Minutes of 35th Screening Committee it was falsely claimed that the assessment of all the applications have been done comprehensively after taking into account all the relevant parameters including views/comments of Administrative Ministries and State Governments.

33. In support of his submissions, Ld. DLA for CBI has placed reliance upon the following judgments:-

(i) Dipakbhai Jagdishchandra Patel Vs. State of Gujarat & Anr. (2019) 16 SCC 547; (ii) Bhawna Bai Vs. Ghanshyam & Ors. AIR 2020 SC 554; (iii) State of Rajasthan Vs. Ashok Kumar Kashyap LL 2021 SC 210; (iv) State of NCT of Delhi Vs. Shiv Charan Bansal & Ors. (2019) 12 JT 454; (v) Central Bureau of Investigation Vs. Prem Bhutani & Anr. in Crl. Rev. P. No.406 of 2019 decided on 04.04.2022; (vi) Jagdish Kumar Arora Vs. CBI in Crl. M.C. No.3505/2017 & Crl. M.A. No.14279/2017, 241/2018 & 242/2018 decided on 25.03.2024; and (vii) State of U.P. Vs. Ranjit Singh AIR 1999 SC 1201.

ARGUMENTS ON BEHALF OF ACCUSED NO.1 COMPANY (RKMPPL)

34. Ld. Sr. Advocate Sh. B. Kumar assisted by Ld. Counsels Sh. Ramachandra, Sh. M. Yogesh Kanna and Ms. Megha Aggarwal for accused no.1 company has argued that as per Press Publication of Chhattisgarh State dated 13.12.2011 and State of Chhattisgarh Gazette Notification bearing no.43 dated 22.10.2021, Fatehpur East Coal Block has been shown as a Reserved Forest Grade-I and it is in 'No Go' area. Therefore, none including the State Government can grant any license for exploration or mining of coal in the said block. He has contended that the Hon'ble Madras High Court in **Writ Petition No.2470 of 2021 dated 08.06.2022** titled as '**R.K.M. Powergen Pvt. Ltd. Vs. The Assistant Director, Directorate of Enforcement & Anr.' 2022 (3) MLJ (Criminal)** and **Writ Petition No.4297 of 2025 dated 15.07.2025** titled as '**R.K.M. Powergen Pvt. Ltd. Vs. The Assistant Director, Directorate of Enforcement**

& Anr.' has categorically observed that Fatehpur East was Grade-I Reserved Forest in Chhattisgarh where no non-forest activity much less mining activity could be undertaken.

35. He has further argued that a judicial notice under Sections 56/57 Evidence Act, 1872 can be taken of the said Press Publication and Gazette Notification to arrive at the conclusion that Fatehpur East was at all times forest land and therefore, excavation or mining of coal in the said block/area is impermissible. Hence, recommendation of allocation of Fatehpur East Coal Block to accused no.1 company is forbidden by law as contained in Forest Conservation Act, 1980 and therefore, any agreement in that regard is *void ab initio* under Section 23 of Contract Act, 1872. He has further argued that even the Screening Committee was unaware of the said fact that Fatehpur East Coal Block cannot be recommended for allocation. As both the parties i.e. Screening Committee and accused no.1 company were mistaken as to matter of the said fact, allocation of Fatehpur East Coal Block is even void under Section 20 of Contract Act, 1872. He has contended that accused no.1 company along with other four allottees had furnished bank guarantee of Rs.100 Crores to the Central Government at the time of allocation of Fatehpur East Coal Block. However, the Central Government returned the original bank guarantee on accepting of the fact that no coal mining is permissible in that area. He has further argued that accused no.1 company did not obtain anything valuable by the recommendation of allocation of Fatehpur East Coal Block in its favour.

36. He has further contended that the offence of cheating punishable under Section 420 IPC is not attracted in this case as neither any valuable property has been delivered to accused no.1 company nor the Screening

Committee was capable of delivering any valuable property as Fatehpur East Coal Block was legally impermissible for being used for excavation or mining of coal. He has further contended that even the offence of attempt to cheat in this case is not attracted as the alleged bid to obtain valuable right in Fatehpur East Coal Block based upon alleged misrepresentation was an impossible act.

37. In respect of alleged misrepresentation of net worth of accused no.1 company, he has argued that the figures of net worth of the said company as reflected in its modified application dated 19.11.2006 and feedback form dated 22.06.2007 are correct and therefore, there is no question of misrepresentation in that regard. He has contended that as per Para No.9 of the guidelines **(D-37)**, it was permitted for applicant company to include the net worth of its Principals. Accordingly, accused no.1 company took the net worth of its Principals i.e. RKPPL, TCP, MJC and MIB for calculating its net worth. In the closure report dated 21.09.2017, the CBI concluded that the claim of accused no.1 company qua its net worth was correct. He has contended that during further investigation, IO got calculated the net worth of accused no.1 company from the Statutory Corporation of Central Government i.e. PFC and vide its report dated 20.12.2018 **(D-119)**, PFC corroborated the claim of accused no.1 company regarding its net worth. However, being unsatisfied with the report of PFC for unknown and unjustified reasons, IO got its net worth re-calculated from a private Chartered Accountant namely M/s A.R. & Company Chartered Accountants. The said Chartered Accountant vide its report dated 05.05.2020 **(D-81)**, calculated the stand alone net worth of accused

no.1 company as Rs.1,699.41 Crores and its consolidated net worth as Rs.2,855.78 Crores, as on 31.03.2006.

38. He has contended that the said private Chartered Accountant has unreasonably concluded that accused no.1 company should have mentioned its stand alone net worth and not consolidated net worth in its application for allocation of coal block. However, the Guidelines **(D-37)** nowhere states that the net worth of the applicant has to be stand alone and not consolidated. He has contended that the stand alone financial statements provide the figures of the parent company alone whereas the consolidated financial statements also add the assets and liabilities of the subsidiaries controlled by the parent company as well as the proportionate shares of the associate companies. He has contended that the consolidated financial statements provide a true sense of the size and worth of the company. Thus, due to this reason, PFC calculated its net worth as per the consolidated financial statements. Accordingly, the aforementioned conclusion of the said private Chartered Accountant is baseless and unreasoned as the guidelines for the allocation of captive block did not provide any instructions as to how the net worth of the applicant was to be computed.

39. He has further argued that even otherwise, if its net worth is assumed to be Rs.1,699.41 Crores as calculated by the private Chartered Accountant, the accused no.1 company was eligible for allocation of coal block for its captive use in the proposed Power Plant of 1200 MW in accordance with the criteria of net worth of Rs.0.50 Crore per Mega Watt of Ministry of Power.

40. In respect of allegations related to land in claim of accused no.1 company, he has contended that initially, it intended to set up its power project in Villages Kikirda and Birra, Distt. Janjgir Champa, Chhattisgarh and mentioned in its application dated 13.11.2006 that they have entered into agreement with land owners for the said project. However, no such agreement was ever annexed with the application. He has contended that neither in its application nor modified application nor feedback form, it claimed that it had acquired land. He has contended that on 29.06.2007, accused no.1 company decided to change the location of its project from Birra and Kikirda Villages to Uchipinda and Bandhapalli Villages and accordingly, obtained NOC from Gram Panchayat of Uchipinda. He has contended that on 07.07.2007, it applied to SIPB for allotment of Government land in Uchipinda and on 13.08.2007, in response to the letters dated 07.08.2007 and 08.08.2007 of Government of Chhattisgarh, accused no.1 company disclosed about setting up of its power project at an alternative site in the same District of Janjgir Champa at Villages Uchipinda/Ghiwara. He has contended that PW-21 Sh. Vivek Kumar Chand, Principal Secretary, Energy Department, Chhattisgarh in his statement under Section 161 CrPC has stated that the company did not require any prior permission to change its location from one village to another under the same district.

41. He has contended that accused no.1 company neither claimed to have acquired any land nor submitted any document related to land in its application form, modified application form or feedback form. Further, the change in the location of the plant from one village to another village

under the same district was permissible and in that regard, no prior permission was required.

42. He has argued that after lawful decision of change of location of project in the same district, accused no.1 company through its Director Sh. T.M. Singaravel (accused no.3) vide its letter dated 13.08.2007 **(D-64)** replied to the letters dated 07.08.2007 and 08.08.2007 of Energy Department, Chhattisgarh whereby accused no.1 company was requested to submit the details of the project with respect to land requirements. In the said letter dated 13.08.2007, the two alleged forged copies of consent letters/agreements (*iqrarnama*) of land owners namely Sh. Santosh Patel and Sh. Anand Ram Marar of Village Kikirda along with copies of NOCs of Panchayats of Villages Kikirda, Uchipinda and Ghiwara. He has contended that accused no.1 company had dropped its intention of setting up its project in Village Kikirda and decided to set it up at Village Uchipinda. He has further contended that thereafter, it was pursuing its application for allocation of coal block for setting up of power plant at Village Uchipinda and got the recommendation in accordance thereof only. The alleged forged documents of Village Kikirda were irrelevant for consideration of recommendation for allocation of Fatehpur East Coal Block in favour of accused no.1 company and accordingly, the same were never considered in that regard.

43. He has further argued that original alleged forged documents were never obtained and therefore, opinion of an expert on their photocopies is irrelevant. He has further argued that the admitted signatures of Sh. Santosh Patel and Sh. Anand Ram Marar of the contemporaneous period as that of the documents were not collected and compared with their

purported signatures on the forged documents. Their respective statements under Section 161 CrPC were recorded as PW-54 and PW-55 after nearly a decade of the alleged preparation of documents and their specimens for comparison were also obtained after the said inordinate passage of time. The opinion of the handwriting expert is not credible as he did not get an opportunity to compare the contemporaneous signatures thereby ruling out the possibilities of variation in handwriting/signature on account of long efflux of time. He has further contended that even otherwise, the opinion of an handwriting expert is a weak piece of evidence as it is based upon imperfect science.

44. He has further argued that PW-110 Sh. Sunil Ingle was the employee of accused no.1 company and he was assigned the job of identifying land and obtaining consent of land owners for sale of their land. In his statement under Section 161 CrPC, PW-110 has categorically stated that he had meetings with the villagers and agents for the sale of land and a few days later, obtained the signed consent letters from the agents. It is contended that as per the case of the prosecution, the alleged forged consent letters/ agreements (*iqrarnama*) were collected by PW-110 who handed them over in the office of accused no.1 company. As per his own statement, he was not aware that the said agreements were forged and therefore, there is no occasion for him to convey the same to his employer/accused no.1 company or its Directors (accused nos.2 and 3). He has contended that even as per the case of prosecution including statement of PW-110, the knowledge of forgery of the said consent letters/agreements cannot be attributed to accused no.1 company or its Directors (accused nos.2 and 3). In absence of the basic ingredient of *mens rea*, the offence of using forged

documents punishable under Section 471 IPC cannot be attracted against either of them.

45. In respect of Detailed Project Report (DPR), he has argued that the DPR **(D-56)** annexed with the application form of the accused no.1 company was in substance a detailed project report for a power plant of 4 x 300 MW capacity only. He has contended that 1 x 300 MW mentioned in certain of its pages is purely on account of typographical error. He has argued that as per the guidelines, DPR was not required to be got prepared from any expert or an outside accredited agency. Therefore, it is not relevant whether it was prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. or not. He has further argued that there is sufficient material available on record including Certificate of Auditor and Invoice No.6464 **(D-197)** to show that accused no.1 company had engaged M/s Fitchner Engineers India Consulting Pvt. Ltd. between the year 2004 and 2006 for preparation of its 4 x 300 MW power project. He has argued that firstly, the said consultant prepared a Feasibility Report **(D-197)** for 4 x 300 MW power project followed by the DPR **(D-56)**. Both the said reports are same in structure, content and language with the exception of certain greater technical details pertaining to machinery. He has also relied upon the statement under Section 161 CrPC of founder of the said consultant namely Sh. Chandrashekhar wherein he has stated that the discrepancy in the DPR is probably due to error in cutting and pasting while modifying the initial DPR 1 x 300 MW power plant to 4 x 300 MW power plant. He has further contended that M/s Fitchner Engineers India Consulting Pvt. Ltd. has accepted that it prepared the DPR dated January, 2010. Comparison of DPR dated January, 2010 and DPR annexed with the

application form dated 13.11.2006 reveals that their contents are largely same.

46. He has vehemently argued that there is sufficient evidence on record that accused no.1 company always wanted to set up a power plant of 4 x 300 MW in two phases and not plant of 1 x 300 MW only. The DPR enclosed with the application of accused no.1 company for execution of MOU with the Government of Chhattisgarh on 03.04.2006 **(D-3, Page No.399)** is for the capacity of 4 x 300 MW power plant. The Chhattisgarh Government tabulated the representations **(D-29, Page No.3931)** of all the applicants after due verification. In the said representation at Srl. No.154, it is categorically mentioned that accused no.1 company signed MOU with State Government on 03.04.2006 for implementation of 1200 (4 x 300 MW) power plant. He has contended that the *bona fide* intention of accused no.1 company is evidenced from the fact that it ultimately established and is operating a 1440 (4 x 360 MW) power plant in Village Uchipinda. He has, therefore, contended that there is no misrepresentation regarding DPR of 4 x 300 MW power plant in the claim or application of accused no.1 company for allocation of coal block.

47. In respect of finance, he has contended that on 07.10.2005 **(Annexure-7 of D-197)**, accused no.1 company requested PFC to sanction financial assistance for 4 x 300 MW coal based power plant in Chhattisgarh and to act as a lead Financial Institution (FI) for the said project. On 26.10.2005 **(Annexure-8 of D-197)**, PFC replied to the said letter asking whether the proposed project was to be implemented unit wise and if so, whether financial closure was also envisaged to be achieved unit wise. On 31.10.2005 **(Annexure-9 of D-197)**, accused no.1 company

confirmed that the proposed project would be implemented unit wise and would avail unit wise financial closure. Thus, its representation in the application form and feedback form regarding applying to the source of finance in affirmation is correct. The other documents like Chhattisgarh Energy Department's Status Report dated 05.09.2007 to Ministry of Coal showing preparedness of projects in its annexure **(PDF Page No.3932; D-29)** and recommendation of Chhattisgarh State Government to the Screening Committee corroborates the said claim of accused no.1 company. He has further contended that the State Government was aware that accused no.1 company intended to set up its project in two phases and State Government made recommendation based on the sanction of financial assistance for Phase-I. Further, the Screening Committee did not include applying for finance as a criterion for the shortlisting. Therefore, the charge of misrepresentation against accused no.1 company in relation to financing is totally misconceived.

48. He has further argued that there is no dispute that accused no.1 company fulfilled all the essential conditions for allocation of coal block. The IO got data based preparation/compilation of all the applicant companies for Fatehpur East Coal Block from PW-29 Sh. A. Ravi Shankar, the then Chief Manager (Geo Systems), Exploration Division, CMPDIL in the year 2013. The said witness in his statement under Section 161 CrPC has stated that on comparison of various quantifiable parameters such as net worth, turnover, profit and non-quantifiable parameters such as land, water, equipment, etc., by using filter/sorting option in the Excel Sheet (where data is saved), accused no.1 company figures at the top of the list of

11 companies that are found deserving on maximum number of parameters.

49. With these submissions, he has argued that there is not even an iota of credible material available on record to *prima facie* presume that accused no.1 company has committed any of the offences as alleged in the charge-sheet. Accordingly, it is entitled to be discharged.

50. In support of his submissions, he has placed reliance upon the following judgments:-

(i) Parminder Kaur Vs. State of Uttar Pradesh & Anr. 2009 SCC OnLine SC 1741; (ii) Dr. Vimla Vs. Delhi Administration 1962 SCC OnLine SC 172; (iii) Mohammed Ibrahim & Ors. Vs. State of Bihar & Anr. (2009) 8 Supreme Court Cases 751; (iv) Poddar Steel Corporation Vs. Ganesh Engineering Works & Ors. (1991) 3 Supreme Court Cases 273; (v) Shanmugam & Ors. Vs. Inspector of Police & Anr. 2019 SCC OnLine Mad 2667; (vi) Mariam Fasihuddin & Anr. Vs. State by Adugodi Police Station & Anr. 2024 SCC OnLine SC 58; and (vi) R.K.M. Powergen Private Limited, Represented by its Director, T.M. Singaravel Vs. Assistant Director, Directorate of Enforcement, Government of India & Anr. 2025 SCC OnLine Mad 3272.

ARGUMENTS ON BEHALF OF ACCUSED NOS.2 AND 3

51. Ld. Sr. Advocate Sh. Abhimanyu Bhandari assisted by Ld. Counsel Sh. Aarav Pandit for accused nos.2 and 3 has argued that the claims of accused no.1 company were duly verified by the State Government of Chhattisgarh and after their verification, it sent a letter dated 05.09.2007

(PDF Page No.3932; D-29) for recommendation of Fatehpur East Coal Block to accused no.1. He has argued that the *bona fide* intention of accused no.1 company to set up 4 x 300 MW power plant as per its claim in its application and feedback form is evident from the fact that it applied for the financial assistance for establishment of 1 x 360 MW power plant in its Phase-I vide its letter dated 22.11.2006 and got its sanction on 02.08.2007. Further, it sent a letter dated 23.01.2008 to PFC for availing further financial assistance for its Phase-II of 3 x 360 MW power plant and got it sanctioned. Moreover, after availing the said loan facilities from PFC and other financial institutions, accused no.1 company finally set up its power plant of 4 x 360 MW in two phases i.e. 1 x 360 MW in Phase-I and 3 x 360 MW in Phase-II at Village Uchipinda, District Jajgir Champa, Chhattisgarh.

52. In respect of the alleged forged copies of consent letters/agreements (*iqrarnama*), he has argued that PW-110 Sh. Sunil Ingle in his statement under Section 161 CrPC has claimed to have obtained the said signed documents from PW-58 Sh. Chinilal. PW-58 has also admitted that he gave the said signed documents to PW-110. However, PW-58 has not claimed that he was aware that signatures on the said documents are forged or that he told PW-110 that they are forged documents. PW-110 deposited the said documents in the office of accused no.1 company after receiving the same from PW-58 though he was not aware if they were forged. In these circumstances, there is no evidence on record to attribute knowledge of forgery of the said documents to accused no.1 company or its two Directors (accused nos.2 and 3).

53. He has further argued that the DPR annexed with the application dated 13.11.2006 of accused no.1 company in substance is a report for 4 x 400 MW power plant, even though there are certain typographical errors in its few pages where 1 x 300 MW is wrongly mentioned. He has contended that the DPR filed with PFC was modified as accused no.1 company intended to set up the project in two phases i.e. Phase-I of 1 x 360 MW and Phase-II of 3 x 360 MW and the application to PFC in the year 2006 was only in respect of seeking financial assistance for Phase-I. Later, the Phase-II of 3 x 360 MW was also got financed from PFC. He has further contended that there was no requirement for the applicant to file DPR through any consultant. The invoice dated 30.06.2006 of 4 x 300 MW **(Annexure-2 of D-197)** reflects that consultation fees was paid by accused no.1 company to M/s Fitchner Engineers India Consulting Pvt. Ltd. and the same validates the claim of accused no.1 company that the DPR dated 28.03.2005 was prepared by the said consultants only. Even otherwise, subsequent establishment of 4 x 360 MW power project by accused no.1 company manifests that they had *bona fide* intention from very inception to set up 1200 MW power plant as claimed in its applications and feedback form.

54. In respect of accused no.2, he has contended that she did not sign any document except attendance sheet of the presentation attended by her on behalf of accused no.1 company before the Screening Committee on 22.06.2007. There are no specific allegations or evidence against accused nos.2 and 3 of active participation in any of the alleged offence. There is not even an iota of evidence to suggest their active culpable intention for misleading the Screening Committee. They made presentation and accused

no.3 signed applications and feedback form based on the accurate and correct facts with a *bona fide* understanding of the requirement for allocation of coal block.

55. In support of his submissions, he has placed reliance upon the following judgments:-

(i) Sunil Bharti Mittal Vs. CBI (2015) 4 SCC 609; (ii) Keki Hormusji Gharda Vs. Mehervan Rustom Irani (2009) 6 SCC 465; and (iii) Sharon Michael Vs. State of Tamil Nadu (2009) 3 SCC 375.

ARGUMENTS ON BEHALF OF ACCUSED PUBLIC SERVANTS (ACCUSED NOS.4 AND 5)

56. Sh. Rahul Tyagi, Ld. Counsel assisted by Sh. Mathew M. Philip, Ld. Counsel for accused nos.4 and 5 has contended that accused no.4 was Secretary, Ministry of Coal and accused no.5 was Joint Secretary, Ministry of Coal at the time of alleged offence. Accused no.4 was Chairman of 35th Screening Committee for allocation of coal block and accused no.5 was its Convener/Member Secretary consisting of 17 to 20 Members. The Screening Committee comprised of representatives of Ministry of Coal, concerned Administrative Ministries including Ministry of Power, concerned State Governments including Government of Chhattisgarh, CMPDIL, SECL and CIL. It was a collective group/body of all the concerned departments and ministries in which the decisions were taken either by consensus or unanimously. The Chairman or Member Secretary did not have any Veto Power to change the collective decision of the Committee.

57. He has contended that there is no allegation of nexus or prior meeting of minds between the accused public servants and any representative of accused no.1 company. He has argued that admittedly, there is no evidence on record to suggest that the accused public servants gained any unlawful consideration in any form in recommendation for allocation of Fatehpur East Coal Block in favour of accused no.1 company. He has contended that there is no allegation of *mens rea* against either of the accused public servants in the present case.

58. He has argued that in admitted absence of *mens rea*, demand or acceptance, the best case of the prosecution against the accused public servants can be for the offence punishable under Section 13(1)(d)(iii) PC Act. However, in the given facts and circumstances, there is not an iota of evidence to attract even the said offence against them. He has contended that in absence of any allegation of *quid pro quo* or nexus with accused no.1 company, the alleged acts of accused public servants would be at best amount to errors of judgment for which criminal liability cannot be attracted.

59. He has contended that as per the approved guidelines **(D-37)** containing details of how the processing of application had to be done, the duty of checking of applications was of CA-I Section, Ministry of Coal headed by Section Officer under supervision of Under Secretary. He has argued that the allegations of the prosecution that accused public servants deliberately allowed the process of incomplete application of accused no.1 company for allocation of Fatehpur East Coal Block is against the official records. As per notings in the official files of Ministry of Coal, the applications were checked in CA-I Section and on the basis of noting of

Sh. Vijay Singh Rana, the then Under Secretary, Ministry of Coal dated 19.02.2007, they were dispatched to different State Governments and Administrative Ministries for evaluation and recommendation. The said files are conspicuously silent about the aspect of incompleteness of applications being brought to the notice of the accused public servants who were Senior to Sh. Vijay Singh Rana in hierarchy.

60. He has argued that during investigation, two statements each under Section 161 CrPC of PW-1 Sh. Vijay Singh Rana, the then Under Secretary, Ministry of Coal and PW-2 Sh. R.N. Singh, the then Section Officer, CA-I Section, Ministry of Coal were recorded. Firstly, they were recorded on 03.11.2014 and in the said statements, they have stated that as per the guidelines, the applications after being checked for eligibility and completeness were sent to the Administrative Ministry/State Government concerned for their evaluation and recommendation. In their said statements, they further stated that the application of accused no.1 company was complete in all respects. However, in their supplementary statements dated 03.03.2020, during further investigation, they stated that the applications were not checked for eligibility and completeness before sending them to Administrative Ministry and concerned State Governments. He has contended that the said PWs have nowhere stated that they brought it to the knowledge of accused public servants. Therefore, the allegations of prosecution that accused public servants deliberately allowed the processing of incomplete application of accused no.1 company for allocation of Fatehpur East Coal Block is unsubstantiated.

61. He has contended that none of the ingredients of Section 13(1)(d)(iii) PC Act are satisfied. Prosecution has not specified what valuable thing was got obtained by the accused public servants in favour of accused no.1 company. The recommendations of the Screening Committee headed by accused no.4 were only recommendatory in nature as final allocation of coal block was subject to approval of Minister of Coal only. The recommendations of Screening Committee were not binding upon the final authority i.e. Minister of Coal and therefore, the said recommendations cannot be held to be any valuable thing in favour of accused no.1 company. The allocation of coal block could only be granted to the applicant after the approval by the Minister of Coal and not based upon the recommendations of Screening Committee alone.

62. He has further contended that even if the recommendation of Screening Committee is considered to be a valuable thing, the accused public servants cannot be individually held responsible for the collective decision of the Screening Committee. A committee consisting of several members acts as a homogeneous body and its views are expressed either unanimously or through votes. Its decision cannot be attributed to any individual person from within the view. In the instant case, the Screening Committee had taken a unanimous decision based upon the recommendations of both the concerned State Government and Administrative Ministry in favour of accused no.1 company. Each and every member of the committee had signed on the recommendation sheet as a token of their acceptance to the Screening Committee's decision. None of the members of the Screening Committee objected to or gave dissenting opinion to the said recommendation.

63. He has argued that recommendation for allocation of Fatehpur East Coal Block to accused no.1 company was not without any public interest as the said decision was towards the furtherance of policy decision taken up upon the specific instructions of 7th Energy Coordination Committee (ECC) and the PMO, which clearly shows that the Government perceived public interest in the said exercise. He has argued that meaning of phrase 'without any public interest' has been interpreted by Hon'ble Supreme Court in case titled as **J. Jayalalitha Vs. State MANU/TN/1423/2001** wherein it is held that it means the acts of the public servants has to be without any public interest or zero public interest. In the instant case, the public interest involved in allocation of coal blocks earmarked for the power sector was the establishment of power plants so as to augment the power generation capacity of the nation and meet the growing power demands. In this case, the accused no.1 company established its EUP at the claimed location and for the claimed power generation capacity, which is serving the public interest.

64. In respect of allegations of non-placing of CIL financial report of accused no.1 company by accused public servants before the Screening Committee, he has argued that the same was placed before the Screening Committee and the Minutes of the Committee **(Para No.9/D-29)** corroborates the same. He submits that the Minutes of the Committee records that the information received from the State Government and the financial strength of applicant companies scrutinized by the CIL experts were compiled and placed before the Screening Committee. The compilation chart **(D-50)** shows that in it the net worth of accused no.1 company is at Srl. No.154 wherein its figures are mentioned as calculated

by the CIL experts. He has argued that the version of the Members of the Screening Committee, who have been cited as prosecution witnesses, that the verification reports were not placed before the Screening Committee is bizarre as its meeting dated 30.07.2007 was adjourned only on account of non-receipt of verification reports and if in the meeting held on 13.09.2007, the verification reports were not placed before the Screening Committee, its Members would have certainly objected to purpose of adjournment of meeting dated 30.07.2007. He has further contended that one of the Members of the Screening Committee namely PW-11 Sh. N.R. Dash in his statement under Section 161 CrPC has stated that the chart containing details of the applicant companies was circulated to all the Members. Thus, his said statement falsifies this claim/ allegation of the prosecution.

65. He has further argued that the allegation of the prosecution that the Minutes of 35th Screening Committee were not correctly recorded and were not circulated amongst its Members is incorrect. He has contended that all the Members who attended the meeting of 35th Screening Committee had duly signed on the recommendation of Screening Committee and the said fact is recorded in the files of Ministry of Coal **(Para No.15, Page No.20/n, D-32)**. Further, the minutes were uploaded on the website of Ministry of Coal which were accessible to all the Members of the Screening Committee. However, none of the Members raised any issue regarding any information being wrongly recorded in the minutes, either during the relevant period or even in their statements under Section 161 CrPC during the investigation when they were shown the minutes by CBI.

66. He has contended that *inter se* priority/merit of the applicant companies was the responsibility of the Administrative Ministry i.e. Ministry of Power in this instance. The guidelines in that regard were laid down by the Screening Committee in its 18th Meeting and the said fact has been noted by Hon'ble Supreme Court in case titled as **Manohar Lal Sharma Vs. The Principal Secretary MANU/SC/0727/2014**. Based upon the said guidelines, Ministry of Power carried out the exercise for *inter se* priority. In the letter dated 30.07.2007 **(D-27)**, sent by Ministry of Power to Screening Committee, whereby Ministry of Power recommended accused no.1 company for allocation of coal block indicates that it carried out the evaluation of applicant companies based upon the *inter se* priority and merit before submitting its said recommendation. Similar exercise was undertaken by State Government of Chhattisgarh and on its basis, it sent the recommendation for *inter alia* accused no.1 company to the Screening Committee. He has contended that the representatives of Administrative Ministries and the State Governments were part of the Screening Committee and therefore, the exercise carried out by them independently for determining the *inter se* priority was also considered in their presence at the time of taking collective and unanimous decision by the Screening Committee for allocation of Fatehpur East Coal Block to accused no.1 company. In these circumstances, accused public servants cannot be singled out as scape goat for the collective decision of the Screening Committee that was taken unanimously in accordance with assessment of relevant verification reports including comparison charts and recommendations of the concerned Administrative Ministry and State Government.

67. In support of his submissions, Ld. Counsel for accused nos.4 and 5 has placed reliance on the following judgments:-

(i) Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi) MANU/SC/ 1617/2022; (ii) A. Sivaprakash Vs. State of Kerala MANU/SC/ 0541/2016; (iii) Madhu Koda Vs. State MANU/DE/ 1079/2020; (iv) Rajiv Kumar & Ors. Vs. State of U.P. & Ors. MANU/SC/0932/ 2017; (v) Niranjan Singh Karam Singh Punjabi & Ors. Vs. Jitendra Bhimraj Bijja & Ors. MANU/SC/0337/1990; (vi) Onkar Nath Mishra & Ors. Vs. State (NCT of Delhi) & Ors. MANU/SC/0134/ 2008; (vii) State of Bihar & Ors. Vs. Kripalu Shankar & Ors. MANU/SC/0166/1987; (viii) Manohar Lal Sharma Vs. The Principal Secretary MANU/SC/0727/2014; (ix) Sethi Auto Service Station & Ors. Vs. Delhi Development Authority & Ors. MANU/ SC/8127/2008; (x) Saju Vs. State of Kerala MANU/SC/0688/2000; (xi) Ravi Yashwant Bhoir Vs. District Collector, Raigad & Ors. MANU/SC/0186/2012; (xii) R. Sai Bharathi Vs. J. Jayalalitha & Ors. MANU/SC/0956/2003; (xiii) Center for PIL & Ors. Vs. Union of India (UOI) & Ors. MANU/SC/0179/2011; (xiv) State of Madhya Pradesh Vs. Mahendra Gupta & Ors. MANU/SC/ 0097/2018; (xv) Dileepbhai Nanubhai Sanghani Vs. State of Gujarat & Ors. MANU/ SC/0273/2025; (xvi) Jupally Lakshmikantha Reddy Vs. State of Andhra Pradesh & Anr. 2025 INSC 1096; (xvii) Runu Ghosh Vs. CBI MANU/DE/6909/2011; (xviii) J. Jayalalitha Vs. State MANU/ TN/1423/2001; (xix) Grasim Industries Ltd. & Ors. Vs. Agarwal Steel MANU/SC/1763/2009; (xx) C. Chenga Reddy & Ors. Vs. State of Andhra Pradesh MANU/SC/0928/1996; (xxi) Mathu Vs.

Cherchi MANU/SC/0515/1989; and (xxii) C. Surendranath & Anr. Vs. State of Kerala & Anr. 2024 SCC OnLine Ker 210.

ARGUMENTS OF CBI IN REBUTTAL

68. Sh. N.P. Srivastava, Ld. DLA for CBI assisted by the IO Sh. Manoj Kumar, Deputy Superintendent of Police, CBI has argued that Section 57 Evidence Act, 1872 cannot be invoked for taking judicial notice that Fatehpur East Coal Block falls under the 'No Go' zone being a Reserved Grade-I Forest. He has contended that as Hon'ble Supreme Court canceled all the coal blocks in the year 2014, no investigation was conducted in that regard to ascertain if it was a Reserved Grade-I Forest. However, on the basis of the Press Publication dated 13.12.2011 and Gazette Notification of Government of Chhattisgarh annexed with the application under Sections 56/57 Evidence Act of accused no.1 company, it is evident that entire Fatehpur East Coal Block was not under Reserved Grade-I Forest and its major portion fell under non-forest area. Thus, Section 23 Contract Act does not apply to the present case. He has contended that the present case relates to allocation of coal block based upon forged documents and misrepresentation for seeking allocation of coal block. The status of Fatehpur East Coal Block irrespective of it falling in Reserved Forest Area or not is irrelevant in this case.

69. He has further contended that PFC has financed the project of accused no.1 company and hence, it is an interested party. Therefore, the office of CAG was requested to provide the list of Chartered Accountants/ Auditors empaneled with CAG for seeking independent opinion regarding the financial strength/net worth of the accused no.1 company. Based upon

the list provided by the CAG and after adopting due process, M/s A.R. & Company Chartered Accountants was assigned the job of re-calculating the net worth of accused no.1 company.

70. He has admitted that there was no requirement as per the advertisement of Ministry of Coal for furnishing of DPR prepared by the consultant. However, accused no.1 company by depicting that the said DPR was prepared by an expert i.e. M/s Fitchner Engineers India Consulting Pvt. Ltd. misled the Screening Committee to believe that it was better prepared to establish its power plant project. He has argued that the DPR furnished with the application dated 13.11.2006 was of for 4 x 300 MW power plant project but the DPR dated 25.11.2006 furnished to the PFC for availing financial assistance was only for 1 x 350 MW power plant project. Thus, the representation of accused no.1 company in its application dated 13.11.2006 that the finance for its 4 x 300 MW power plant project was under appraisal by financial institution was incorrect.

71. He has further contended that no DPR was filed by accused no.1 company with the Ministry of Coal in respect of EUP at the changed location. He has further contended that the forged documents/two consent letters/agreements (*iqrarnama*) were not withdrawn by accused no.1 company. Rather, they were even sent by accused no.3 on behalf of accused no.1 company to CBI reflecting that they relied upon the said documents. The accused no.1 company cannot avoid its criminal responsibility qua the said documents merely because they were deposited by one of its employees as it was its bounden duty to verify them before using them for furnishing to the Government of Chhattisgarh.

APPLICABLE LAW AT THE STAGE OF CHARGE

72. The Hon'ble Apex Court in case titled as **Sajjan Kumar Vs. CBI 2010 (9) SCC 368** has summarized the law applicable at the time of consideration on the charge and it is reproduced as under:-

> *"17) Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C. On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:-*
>
> *(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*
>
> *ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.*
>
> *iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but* ***has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc.*** *However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*
>
> *iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.*
>
> *v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.*
>
> *vi) At the stage of Sections 227 and 228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the*

prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

vii) ***If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused*** *and at this stage, he is not to see whether the trial will end in conviction or acquittal." (Emphasis supplied)*

73. The above summarized principles shall serve as guiding lamp post for adjudication on the point of charge in this case.

ANALYSIS OF FACTS AND EVIDENCE

74. The admitted facts of this case are delineated as under:-

(i) Since 1993, Ministry of Coal used to identify the coal blocks which could be allocated for captive mining to the private companies engaged in production of power, steel and cement for end use of extracted coal from the said coal blocks in their respective companies;

(ii) A Screening Committee constituted by Ministry of Coal used to recommend for allocation of the coal blocks to the shortlisted applicant companies jointly or singly as the case may be;

(iii) The constitution of Screening Committee and guidelines for the Screening Committee for evaluating the claims of the applicant companies used to be changed from time to time by Ministry of Coal;

(iv) 35th Screening Committee comprised of the Coal Secretary as Chairman, Joint Secretary, Coal as Member Secretary, Representative of the Administrative Ministries (Ministry of Power in this case), Representative of concerned State Governments

(Government of Chhatisgarh in this case), Director (Technical), CIL, Kolkata, Chairman-cum-Managing Director, CMPDIL, Ranchi and CMD of concerned subsidiary company of CIL (SECL in this case);

(v) On 06.11.2006, Ministry of Coal uploaded an advertisement on its website inviting applications from the companies registered under the Indian Companies Act, 1956 for allocation of total 38 coal blocks for captive mining, 15 coal blocks including Fatehpur East Coal Block located in the State of Chhattisgarh under the command area of South Eastern Coalfields Ltd. (SECL), reserved for power generation companies;

(vi) In response to the said advertisement, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3), submitted its application dated 13.11.2006 **(D-3/D-23)** to the Ministry of Coal for allocation of Fatehpur East Coal Block located in the State of Chhattisgarh and earmarked for power sector for its proposed 1200 MW IPP at District Janjgir Champa, Chhattisgarh wherein its following relevant details were mentioned:-

Srl. No.	Head	Claim
10.	Net Worth as on 31.03.2006	Rs.306.14 Crores
12.	Proposed Capacity of EUP	1200 MW
16.	Location (District, State)	Janjgir Champa, Chhattisgarh
18.	Land	Identified and Entered into Agreement with Land Owners but not Acquired Yet
21.	DPR for the End Use Project	Yes and Under Appraisal by FI; Enclosed therewith
23.	Finance	Rs.5,100 Crores Required and for that Applied to the Source

(vii) Thereafter, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3), submitted its modified/revised application dated 19.11.2006 **(D-4/D-56)** wherein its following relevant details were mentioned:-

Srl. No.	Head	Claim
10.	Net Worth as on 31.03.2006	Rs.2,752.19 Crores
12.	Proposed Capacity of EUP	1200 MW
16.	Location (District, State)	Janjgir Champa, Chhattisgarh
18.	Land	Identified and Entered into Agreement with Land Owners but not Acquired Yet
21.	DPR for the End Use Project	Yes and Under Appraisal by FI
23.	Finance	Rs.5,100 Crores Required and for that Applied to the Source

(viii) On 22.06.2007, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3), submitted its feedback form **(D-5/D-25)** and gave presentation before the 35th Screening Committee wherein its following relevant details were mentioned:-

Srl. No.	Head	Claim
2.	Location with Capacity of End Use Plant	Birra, Janjgir Champa 4 x 350 MW
4.	Net Worth	Rs.2,963.37 Crores
5.	Land	1500 Acres Land Required but Not Acquired Yet
8.	DPR for End Use Projects	Yes and Under Appraisal by FI
10.	Finance	Rs.5,950 Crores Required and Appraisal at an Advance Stage

(ix) Vide its letter dated 18.06.2007 **(Page No.131 in D-27)** written by Special Secretary, Energy Department, Government of Chhattisgarh to Secretary, Ministry of Coal conveyed its recommendation for allotment of coal block to accused no.1 company for its 1200 MW project;

(x) Vide letter dated 26.06.2007 **(Page No.69/C in D-45)**, Ministry of Power asked Central Electricity Authority (CEA) to evaluate the applications as per the parameters indicated in the letter dated 20.06.2007 **(Page No.136 in D-27)** written by Secretary, Ministry of Coal to Ministry of Power;

(xi) Vide its letter dated 30.07.2007 **(Page No.215 in D-27)**, Secretary, Ministry of Power addressed to Secretary, Ministry of Coal conveyed recommendation of coal blocks. In the said letter, it was mentioned that CEA has shortlisted the companies as per the annexure enclosed. In the said annexure, the name of accused no.1 company was at Srl. No.154 for recommendation of its project of 1200 MW at District Janjgir Champa, Chhattisgarh;

(xii) The Meeting dated 30.07.2007 of 35th Screening Committee was adjourned as it was observed that the authenticity of data/comments of the applicants had not been verified. The said fact is evidenced from Minutes of 35th Screening Committee Meeting **(D-29)**;

(xiii) On 02.08.2007, Ministry of Coal wrote letter **(Page No.157 in D-27)** to State Government of Chhattisgarh for verification of the preparedness of the applicant companies in terms of land, water, status of civil construction, status of environment clearance, etc.;

(xiv) On 02.08.2007, Ministry of Coal wrote another letter **(Page No.151 in D-27)** to Coal India Limited (CIL) to get verified financial details/net worth of each application through two senior officers from CIL;

(xv) In accordance with aforementioned letter dated 02.08.2007 of Ministry of Coal, on 07.08.2007 and 08.08.2007, Government of Chhattisgarh wrote letters **(PDF Page Nos.9377 & 9430 and Page Nos.398 & 451 respectively in D-61)** to accused no.1 company to submit details/documents regarding the latest status of their project;

(xvi) In response to the said letters of Government of Chhattisgarh, accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3) vide its letter dated 13.08.2007 **(D-64)**, submitted the requisite information along with the supporting documents including three consent letters/agreements (*iqrarnama*) of the land owners of Village Kikirda namely Sh. Santosh Patel, Sh. Anand Ram Marar & Sh. Manoj Kumar Gupta and three NOCs of Panchayats of Villages Kikirda, Uchipinda & Sandhapalli and Domnapalli & Ghiwara;

(xvii) Vide its letter dated 05.09.2007 **(PDF Page No.3932; D-29)** of State Government of Chhattisgarh to the Secretary, Ministry of Coal recommended allocation of coal block to accused no.1 company for its EUP at Uchipinda/Ghiwara in District Janjgir Champa, Chhattisgarh. As per annexure of the said letter, name of accused no.1 company was at Srl. No.154 with the following remark "*MOU signed with Energy Department, Govt. of C.G. on 3.4.06 for 1200 MW. Implementation Agreement signed on 22.5.07. LOI for design and detail engineering of civil work issued on 13.6.07. LOI issued for supply of Boiler Turbine and Generator package for unit No. 1 of 4x350 MW Power Plant to M/s. MIPP International Ltd. Mauritius on 30.5.07. PFC Ltd. sanctioned financial assistance for 350 MW*

Unit on 2.8.07. PPA signed with CSEB and same is under process with CSERC";

(xviii) 35th Screening Committee in its meeting dated 13.09.2007 Chaired by Sh. H.C. Gupta (accused no.4) and attended by the representatives of Administrative Ministries, concerned State Governments, CIL, CMPDIL and SECL, recommended the allocation of Fatehpur East Coal Block to accused no.1 company jointly along with four other companies; and

(xix) The Hon'ble Supreme Court of India in case titled as **Manohar Lal Sharma Vs. The Principal Secretary MANU/SC/ 0727/2014** canceled the allocation of the coal blocks based on recommendations made in all the 36 Screening Committee Meetings including present joint allocation of Fatehpur East Coal Block to accused no.1 company on the ground that they were allocated illegally and arbitrarily. Significantly, till the cancellation of allocation of coal block, accused no.1 company did not derive any benefit from the same as no mining was done from it.

ANALYSIS ON CHARGE QUA THE PRIVATE ACCUSED PERSONS (ACCUSED NOS.1 TO 3)

75. The allegations against the private accused persons are that accused no.1 company through its two Directors (accused nos.2 and 3) entered into a criminal conspiracy to cheat Government of India and pursuant to the said conspiracy, they falsely misrepresented to the Screening Committee on certain aspects in applications and feedback form on behalf of accused no.1 company and thereby dishonestly induced the Screening Committee

to recommend its name for the allocation of Fatehpur East Coal Block. The said certain aspects are as follows:-

(i) Land;

(ii) Net Worth;

(iii) Detailed Project Report (DPR); and

(iv) Finance.

76. The other allegation against accused no.1 company and its Directors are that they entered into a criminal conspiracy to use forged documents as genuine and pursuant to the said conspiracy, Sh. T.M. Singaravel (accused no.3) on behalf of accused no.1 company responded to the letters dated 07.08.2007 and 08.08.2007 of Government of Chhattisgarh by way of his letter dated 13.08.2007 for submitting details/information regarding the latest status of their project. Significantly, the said letters of Government of Chhattisgarh were sent in pursuance of request made by Screening Committee/Ministry of Coal as Screening Committee in its meeting held on 30.07.2007 had desired to get verified the status of preparedness of the applicant companies be got verified before taking any decision for allocation of coal block. As per allegations, in the said letter dated 13.08.2007 **(D-64)** of accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3) following forged and fabricated documents were enclosed:-

(i) Copies of two consent letters/agreements (*iqrarnama*) purportedly signed by Sh. Santosh Patel and Sh. Anand Ram Marar for sale of their respective land in Village Kikirda; and

(ii) Copies of three NOCs of Panchayats of Villages Kikirda, Uchipinda & Sandhapalli and Domnapalli & Ghiwara.

77. In the following paragraphs, the aspects related to the alleged false representation of accused no.1 company and forged documents used by it shall be discussed one by one in succession.

LAND

78. In its application form dated 13.11.2006 **(D-3/D-23)**, accused no.1 company claimed that it has identified and entered into an agreement with land owners for EUP but not acquired yet. Similar claims qua land were made by accused no.1 company in its modified application form dated 19.11.2006 **(D-4/D-56)**. However, in its feedback form dated 22.06.2007 **(D-5/D-25)**, no claim regarding agreement with land owners or acquisition of land for EUP was made by accused no.1 company. Significantly, in neither application forms nor feedback form, accused no.1 company claimed to have already acquired land for the purpose of setting up of its proposed EUP.

79. The application dated 13.11.2006 **(D-3/D-23)** and modified application dated 19.11.2006 **(D-4/D-56)** were sent along with above mentioned respective application forms of even date as their covering letters/applications. In the said applications, accused no.1 company has proposed to set up its thermal power project (EUP) near Village Birra, District Janjgir Champa in Chhattisgarh. Thus, it is evident that at the time of applications, accused no.1 company intended to set up its project near Village Birra and therefore, its any claim qua land in the said applications has to be assessed in relation to Village Birra and its neighbouring villages. Significantly, Village Birra and Village Kikirda are adjoining villages in the same District of Janjgir Champa, Chhattisgarh. The claim of accused

no.1 company qua land in the said applications is to be tested by ascertaining if they had entered into any agreement for purchase of land with land owners of Village Birra or neighbouring villages before the date of application. During investigation, copies of three letters of consent/ agreements (*iqrarnama*) were seized purportedly signed by Sh. Satosh Patel (PW-54), Sh. Anand Ram Marar (PW-55) and Sh. Manoj Kumar Gupta (PW-73). The veracity of the copies of consent letters/agreements (*iqrarnama*) was disputed by PW-54 and PW-55. Thereafter, the opinion of handwriting expert of CFSL, CBI was obtained upon them and he opined that signatures on the said documents were forged. The said aspect of forgery would be discussed in detail in later part of this order. However, for adjudication on the present aspect of representation qua land by accused no.1 company in its applications and feedback form, the said two consent letters are ignored and deemed to be non-existent.

80. Even after ignoring the said two alleged forged consent letters/ agreements (*iqrarnama*), there exists a valid consent letters/agreements (*iqrarnama*) signed by Sh. Manoj Kumar Gupta (PW-73) whereby he has agreed to sell his land at Village Kikirda to accused no.1 company. PW-73 in his statement under Section 161 CrPC has confirmed his signatures on the said document and has categorically stated that in June-July, 2006, he had agreed to sell his land at Village Kikirda to accused no.1 company. Similarly, PW-74 Sh. Ashok Kumar Gupta in his statement under Section 161 CrPC stated that in the year 2006, he had agreed to sell his land in Village Kikirda to accused no.1 company. Furthermore, PW-58 Sh. Chinilal of Village Kikirda has stated in his statement under Section 161 CrPC that in the year 2006, Sh. Sunil Ingle, employee of accused no.1

company approached him with an intention to purchase land in his Village Kikirda for setting up of power plant. He has further stated that he contacted several of his villagers for the said purpose and about 36 persons got ready to sell their around 38 acres of land to accused no.1 company. He has further stated that thereafter, he obtained their signatures on the printed agreement form and handed the signed agreement forms to Sh. Sunil Ingle. In view of the categorical statements of the said witnesses, it is conclusively evident that some of the the land owners had indeed agreed to sell their lands in Village Kikirda to accused no.1 company in the year 2006 and voluntarily signed on the printed agreement forms for sale of their respective land.

81. Thus, the claim of accused no.1 company in its application form and modified application form that they have entered into agreement with the land owners is apparently correct and by no stretch of imagination, the same can be termed as false or misrepresentation.

82. On the basis of the documents collected and placed on record by the CBI, it is evident that from the date of the first application dated 13.11.2006 till filing of the feedback form on 22.06.2007, accused no.1 company intended to set up its Power Plant Project (EUP) near Village Birra, District Janjgir Champa, Chhattisgarh. However, after deciding change of location of the project from Village Birra & Kikirda to Village Uchipinda & Bandhapalli in the same district of Janjgir Champa, on 04.07.2007, accused no.1 company submitted a common application form **(PDF Page No.14824; D-152)** for new location to State Investment Promotion Board (SIPB) of Chhattisgarh and on 07.07.2007, applied **(PDF Page No.14847; D-153)** to SIPB for allotment of Government land in

Village Uchipinda, which was allotted to it on 04.08.2007 **(PDF Page No.9862; D-64)**. Subsequently, in response to letters dated 07.08.2007 and 08.08.2007 **(PDF Page Nos.9377 & 9430 and Page Nos.398 & 451 respectively in D-61)** of State Government of Chhattisgarh, accused no.1 company through its Director (accused no.3) sent a letter dated 13.08.2007 **(D-64)** wherein it disclosed about taking up of alternate site near Village Uchipinda and giving up their intention to set up project at Village Kikirda. Based upon the said letter dated 13.08.2007 of accused no.1 company and after due verification, State Government of Chhattisgarh vide its letter dated 05.09.2007 **(PDF Page No.3932; D-29)** recommended to the Ministry of Coal for allocation of Fatehpur East Coal Block to accused no.1 company for its 4 x 350 MW project at Village Uchipinda. Thereafter, in the meeting of Screening Committee held on 13.09.2007 in the presence of representatives of Ministry of Power and State Government of Chhattisgarh, Fatehpur East Coal Block was recommended to be jointly allocated to accused no.1 company along with four other companies.

83. As per evidence placed on record, setting up of power plant project at a specific village as claimed in the application was not sacrosanct for recommendation of allocation for coal block. Rather, no prior permission was required to be taken from the concerned authorities for change of its location from one village to another under the same district. The said fact is supported by the statement of PW-21 Sh. Vivek Kumar Chand, Principal Secretary, Energy Department, Chhattisgarh and it is profitably reproduced as under:-

> "*Therefore the company did not require any prior permission to change its location from one village to another under the same district. The company was only required to give an intimation to the*

effect to SIPB and nothing else. The requirement of water was also to be fulfilled from the same Mahanadi River at both the locations".

At the cost of repetition, it is clarified that Village Birra & Kikirda and Village Uchipinda & Bandhapalli are in the same district i.e. District Janjgir Champa, Chhattisgarh. Thus, no prior permission was required to be taken by accused no.1 company for changing its intended location of power project from Village Kikirda to Village Uchipinda and it was within its rights to change the location depending upon several extraneous factors including economic viability and retraction of the consent of land owners to sell their land. In these circumstances, no fault or culpability can be attributed to accused no.1 company for initially claiming their intention to set up power project at Village Kikirda and later, changing its location to Village Uchipinda in the same district.

84. In view of the above discussion, the initial claim of accused no.1 company qua land at specific location and subsequent change to different location along with respective claims were correct and *bona fide* at the time when they were respectively made. Thus, there is no reason to *prima facie* presume that accused no.1 company and its Directors (accused nos.2 and 3) ever made any false claims qua land in any of their communications including application forms and feedback form with Government Departments including Ministry of Coal, Ministry of Power and State Government of Chhattisgarh for seeking allocation of Fatehpur East Coal Block.

NET WORTH

85. The prosecution has admitted that as per the guidelines of Ministry of Coal, accused no.1 company was within its right to include the net

worth of its Principals for calculation of its net worth. Further, the prosecution has conceded that RKPPL, MIB, MJC and TCP were Principals of accused no.1 company and therefore, it could include their net worths for claiming its net worth in the application for allocation of coal block. Further, it is an admitted fact that as per the criteria of Ministry of Power/CEA and guidelines approved for UMPP, the net worth of a company was required to be Rs.0.50 Crores per MW of the maximum capacity and the project capacity for the Coal Block was laid at minimum of 500 MW.

86. After conclusion of investigation, closure report was filed by the CBI to the effect that the net worth mentioned by the accused no.1 company in its applications and feedback form were correct and it was eligible for allocation of coal block even if the criteria of the net worth of Rs.0.50 Crores per MW of Ministry of Power is applied. However, after conclusion of further investigation, CBI filed the charge-sheet and recanted its earlier conclusion qua net worth of accused no.1 company.

87. During further investigation, the net worth of accused no.1 company was firstly got calculated through PFC and it gave its report dated 20.12.2018 **(D-119)** wherein it corroborated the claim of accused no.1 company qua its net worth in its applications and feedback form for allocation of coal block. However, Ld. DLA for CBI contended that they were not satisfied with the said report as PFC is an interested party because it is the lead financer of accused no.1 company. Therefore, they got the net worth of accused no.1 company re-calculated from empaneled Auditor/ Chartered Accountant of CAG i.e. M/s A.R. & Company Chartered Accountants. As per its report dated 05.05.2020 **(D-81)**, the stand alone net

worth of accused no.1 company was Rs.1,699.41 Crores as on 31.03.2006 but it claimed its net worth in its modified application dated 19.11.2006 (D-4/D-56) as Rs.2,752.19 Crores.

88. Admittedly, CBI is not bound by the conclusion arrived by it in its investigation report, if during further investigation, any new credible evidence surfaces to contradict its opinion in first investigation report. However, the said evidence has to be conclusive enough to unsettle the previous opinion. The reasons advanced by the CBI to dump the report of Statutory Government Organization i.e. PFC are not sustainable and therefore, the said report cannot be held to be nullity or non-existent. As per the said report, the claim of net worth made by accused no.1 company in its applications and feedback form are correct. There seems to be no reason to discard the said detailed report.

89. Furthermore, the report dated 05.05.2020 (D-81) of the private Chartered Accountant i.e. M/s A.R. & Company Chartered Accountants also fails to falsify the claim of net worth of accused no.1 company in its applications and feedback form. As per the said report, the total stand alone net worth of accused no.1 company was Rs.1,699.41 Crores and its consolidated net worth was Rs.2,855.78 Crores as on 31.03.2006. Accused no.1 company has claimed its net worth as Rs.2,752.19 Crores as on 31.03.2006. Therefore, the claim of accused no.1 company qua its net worth would be false only if accused no.1 company was allowed to claim its stand alone net worth and not consolidated net worth. As per the said report, only stand alone net worth of accused no.1 company was permissible to be claimed in the application for allocation of coal block and the reasoning for the same, as given in the said report is as follows

"*Although, since the consolidated financial statements are not prepared for a single legal entity, the same have not been considered as relevant and valid financial figures for the purpose of representation before the Ministry of Coal.*"

90. Pertinently, no instructions have been provided in the guidelines of Ministry of Coal for allocation of captive blocks as to how the net worth of the applicant companies was to be computed. In absence of any guidance in that regard, accused no.1 company cannot be faulted for giving its consolidated net worth instead of its stand alone net worth. The stand alone financial statements provide the figures of the parent company alone whereas the consolidated financial statements also add the assets and liabilities of the subsidiaries controlled by the parent company as well as the proportionate shares of the associate companies. The consolidated financial statements provide a true sense of the size and worth of the company. Thus, due to this reason, the calculation of net worth of accused no.1 company carried out by PFC seems to be more reasonable and credible than the subjective opinion of M/s A.R. & Company Chartered Accountants in its report. Further, the said subjective opinion of the Chartered Accountant is not corroborated by any of the officials of Ministry of Coal. In these circumstances, the said subjective opinion cannot be held to be in consonance with the intention of the Ministry of Coal that had sought details of net worth in the application form through its advertisement. The guidelines for allocation of captive blocks are also conspicuously silent about the specific nature of net worth of the applicants that was sought to be provided in the application. Rather, it was a general query that left the applicants in the quandary to give information

of net worth based upon their subjective comprehension. In these obscure circumstances lacking requisite clarity, no fault can be imputed to the applicants for giving their consolidated net worth instead of stand alone net worth in their applications.

91. Be that as it may, even if the report of M/s A.R. & Company Chartered Accountants is accepted to be correct, the accused no.1 company was still eligible for allocation of coal block as per the criteria laid down by Ministry of Power. As per the criteria laid down by Ministry of Power, company having net worth of Rs.0.50 Crores per MW was eligible for allocation of coal block. In the instant case, the capacity of the power plant of accused no.1 company was 1200 MW and as per the criteria, it was eligible for allocation of coal block if its net worth was Rs.600 Crores which is way beyond and at least Rs.1,000 Crores more in comparison to Rs.1,699.41 Crores, as computed by the said Chartered Accountant. Besides, there is no evidence on record to suggest that if accused no.1 company had claimed its stand alone net worth instead of consolidated net worth, it would not have been allotted Fatehpur East Coal Block.

92. In view of the above discussion, there is no justifiable reason to presume that the claim of accused no.1 company qua its net worth in its application for allocation of coal block was incorrect or it was made with any dishonest intention. Hence, the said claim qua net worth cannot be held to be misrepresentation by any stretch of reasonable imagination.

DETAILED PROJECT REPORT (DPR)

93. Accused no.1 company in its applications and feedback form claimed that Detailed Project Report (DPR) for the End Use Project (EUP)

for its power plant project having capacity of 4 x 300 MW has been prepared and it is under appraisal by Financial Institution (FI). The DPR dated 28.03.2005 **(PDF Page No.7904; D-56)** was enclosed by the applicant in support of the said claim. As per allegations, the said DPR was fabricated on the following two counts:-

(i) On the front page of the said report, 4 x 300 MW is mentioned but on its several other pages, 1 x 300 MW only is mentioned; and

(ii) The same is purported to be prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. but its officials denied to have prepared the same.

94. Admittedly, the DPR was not required to be prepared by the consultant or any accredited agency. Therefore, the said DPR was not imperatively required to be prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. Further, it is not the claim of the prosecution that the contents of the said DPR are in respect of 1 x 300 MW. The only allegations are in relation to mentioning of '1 x 300 MW' on few of its pages. It is a settled principle of law that substance of a document is material rather than its form. The substance of the said DPR is for a power plant of 4 x 300 MW capacity, as depicted from the statistics qua various parameters mentioned in it including total project cost, fuel requirement for each unit and total requirement of water. Further, the fact that it is mentioned in it that the project will be implemented unit wise for four units of 1 x 300 MW each manifests that in substance it was a DPR for 4 x 300 MW Power Plant only.

95. PW-50 Sh. Jayaram Rangan was examined under Section 161 CrPC on 20.07.2018 to the effect that he has been working as Managing Director

of M/s Fitchner Engineers India Consulting Pvt. Ltd. for the last 12 years. Thus, he was not working with the said company on 28.03.2005 i.e. the purported date of the impugned DPR. He has claimed that accused no.1 company appointed their company in the year 2006 for providing consultancy for their 4 x 300 MW Power Plant vide letter of accused no.1 company dated 28.06.2006. He has claimed that the first order from the said company was given vide letter dated 28.06.2006 and therefore, there is no question of preparation of any draft/final DPR for 4 x 300 MW Power Plant dated 28.03.2005 by their company.

96. PW-52 N. Chandrashekharan in his statement under Section 161 CrPC has claimed that he is one of the founders of M/s Fitchner Engineers India Consulting Pvt. Ltd. which was founded in the year 1987 but he sold his shares in the said company in June, 2006. He has stated that his company had association with accused no.1 company since the year 2002-03 and after his retirement in June, 2006, accused no.1 company officially appointed his said company as a consultant for 4 x 300 MW Power Plant at Chhattisgarh. He clarified in his statement under Section 161 CrPC about the discrepancy in DPR **(D-56)** stating that it probably occurred due to error in cutting and pasting while modifying the initial DPR of 1 x 300 MW Power Plant to 4 x 300 MW Power Plant. He has further stated that the projects of accused no.1 company were being handled over by Sh. M. Ramaswami, Managing Director of M/s Fitchner Engineers India Consulting Pvt. Ltd. and only he could confirm as to how these mistakes happened in the impugned DPR but he has expired.

97. During investigation, accused no.1 company sent a letter dated 16.10.2020 **(D-197)** to the IO regarding clarification of dates of DPR and

changing capacity of power project. In the said letter, it claimed that they engaged M/s Fitchner Engineers India Consulting Pvt. Ltd. in the year 2004 for carrying out all preliminary works for its thermal power projects. Certain relevant invoices of the year 2004-2006 were annexed with the said letter including invoice reference nos.CNT 6464/INV/8938 dated 29.12.2004, CNT 6464/INV/1749 dated 31.05.2005 and CNT 7506/INV/ ES-01 dated 30.06.2006 towards the fees paid by accused no.1 company to M/s Fitchner Engineers India Consulting Pvt. Ltd. for their services rendered for their thermal power project. Further, the feasibility report **(PDF Page No.19973; D-197)** of January, 2005 purportedly prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. for their 4 x 300 MW Power Project at Village Birra in District Janjgir Champa, Chhattisgarh was also enclosed with it. As per the said letter, the said feasibility report and the invoices indicate that the impugned DPR **(D-56)** was also prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. The said feasibility report and DPR are same in structure, content and language with the exception of certain greater technical details pertaining to machinery. The said feasibility report and invoices were never confronted by the IO with the officials of the said company though, the same has been filed along with the charge-sheet and reliance has been placed upon the said documents by the prosecution.

98. In the above facts and circumstances, the version of PW-50 Sh. Jayaram Rangan that there is no question of preparation of any draft/final DPR for 4 x 300 MW by M/s Fitchner Engineers India Consulting Pvt. Ltd. is not credible. Firstly, he himself was not working with the said company in the year 2005 i.e. the year of preparation of impugned DPR

(D-56). Secondly, the invoices and feasibility report **(D-197)** manifest that the said company was working as consultant of accused no.1 company for its proposed power project of 4 x 300 MW at Chhattisgarh. Thirdly, PW-52 Sh. N. Chandrashekharan who was actually working with the said company in the year 2005 has not denied the possibility of DPR **(D-56)** being prepared by their company. However, he has stated that the same must be in the knowledge of its erstwhile Managing Director, Sh. M. Ramaswami who has since expired. Thus, there is no grave suspicion to presume that DPR **(D-56)** was not prepared by M/s Fitchner Engineers India Consulting Pvt. Ltd. Rather, in the given facts and circumstances, the most reasonable and probable conclusion is that the impugned DPR was indeed prepared by the said consultant and the error of 1 x 300 MW in it seems to have crept in it due to cutting and pasting of documents.

99. Even otherwise, as per guidelines of Ministry of Coal, there was no requirement for the DPR to be prepared by any consultant or outside accredited agency.

100. The accused no.1 company can be held accountable only if it made false claim regarding setting up of proposed power project of 4 x 300 MW though, it did not intend to establish the same. Admittedly, as per the guidelines of Ministry of Power and Ministry of Coal, priority for allocation of coal block had to be accorded to the projects with more than 500 MW capacity only. Therefore, had accused no.1 company intended to set up a power project of 1 x 300 MW, it would have been ineligible for allocation of coal block. Therefore, in the succeeding paragraphs, it would be ascertained if the accused no.1 company intended to set up power project of 1 x 300 MW but falsely misrepresented by way of DPR **(D-56)**

of 4 x 300 MW in its application to mislead Screening Committee in recommending it for allocation of coal block or from very inception, it intended to set up power plant project of 4 x 300 MW only and so DPR **(D-56)** is true representation of its intention.

101. The following facts reveal that accused no.1 company intended to construct 4 x 300 MW Power Plant and had no intention to construct 1 x 300 MW Power Plant only:-

(i) The DPR that was enclosed by accused no.1 company with an application for execution of MOU **(PDF Page No.399; D-3)** with Government of Chhattisgarh on 03.04.2006 **(D-3, Page No.399)** was for a capacity of 4 x 300 MW only;

(ii) No Objection **(PDF Page No.7893; D-56)** accorded by Energy Department, Government of Chhattisgarh to accused no.1 company vide its letter dated 03.07.2006 was for power project for 1200 MW only at near Village Birra, District Janjgir Champa, Chhattisgarh in continuation of afore mentioned MOU dated 03.04.2006 **(D-3, Page No.399)**;

(iii) After due verification, the Chhattisgarh Government vide its recommendation dated 05.09.2007 **(PDF Page No.3932; D-29)** with enclosed table of all the applicants including accused no.1 company at Srl. No.154 **(PDF Page No.3947; D-29)** stated that accused no.1 company has signed MOU with State Government of Chhattisgarh on 03.04.2006 **(D-3, Page No.399)** for implementation of 1200 (4 x 300) MW Power Plant; and

(iv) Admittedly, accused no.1 company ultimately established and is presently operating a 1440 (4 x 360) MW Power Plant in Village Uchipinda, Chhattisgarh.

102. Intention is not a physical object and therefore, it cannot be perceived or construed physically. It can only be ascertained or inferred on the basis of the facts and surrounding circumstances. In the instant case, it is apparent that accused no.1 company always intended to establish its power plant project in District Janjgir Champa, Chhattisgarh for a capacity of 1200 MW or more. Therefore, there was no occasion for it to have furnished DPR of 1 x 300 MW Power Plant to the Ministry of Coal. Even otherwise, the said DPR **(D-56)** in substance and essence is in respect of the power plant project of 4 x 300 MW only which had been prepared at the time of filing of application and which was later executed with slight modification of 4 x 360 MW.

103. In view of the above discussion, there is no reason to presume that the accused no.1 company made any false claim qua DPR to the Ministry of Coal or any other concerned Ministry or State Government.

FINANCE

104. In its applications and feedback form, accused no.1 company had claimed that it has already applied for the sources for finance. During investigation, it was found that accused no.1 company had sent a letter dated 07.10.2005 **(Annexure-1 of D-94)** to Power Finance Corporation (PFC) to sanction financial assistance for its 4 x 300 MW Coal Based Power Plant in Chhattisgarh and act as lead Financial Institution (FI) for the project. In response, PFC vide its letter dated 26.10.2005 **(D-94)**, asked

accused no.1 company to submit requisite information as detailed in the said letter for completion of appraisal process at the earliest and to clarify, if the project is being implemented unit wise and whether financial closure is also envisaged to be achieved unit wise.

105. As per allegations, accused no.1 company did not respond to the said reply of PFC till filing of application dated 13.11.2006 and modified application dated 19.11.2006 and therefore, their claim qua finance in the said applications is false. The accused no.1 company submitted its proper application on the PFC format on 22.11.2006 and applied for the financing of their 1 x 350 MW Power Project only along with DPR dated 25.11.2006 for the said project. Later, vide its application dated 27.02.2008, accused no.1 company applied for sanction of finance for their 3 x 350 MW Power Project.

106. In essence, it is alleged as no DPR for 4 x 300 MW Power Project was furnished to PFC along with its application dated 07.10.2005 by accused no.1 company before filing of application and modified application with Ministry of Coal for allocation of coal block, its claim in the said applications that its finances are under appraisal by Financial Institution is incorrect.

107. The said allegations, on the face of it, are preposterous as admittedly, the accused no.1 company had already written to PFC for seeking financial assistance of its 4 x 300 MW Power Project on 07.10.2005 i.e. prior to the applications dated 13.11.2006 and 19.11.2006. The PFC had not rejected the said application of accused no.1 company till the dates of applications and it was still pending consideration for appraisal. Therefore, the claim of accused no.1 company in the said

applications regarding finances for its proposed power plant project to be under appraisal by Financial Institution is correct and cannot be termed as false misrepresentation.

108. Even otherwise, the intention of accused no.1 company can be determined from previous and subsequent facts and its conducts. The accused no.1 company intended to establish its 4 x 300 MW Power Project in two phases and the same is evident from the facts and circumstances that shall be discussed hereinafter. There was no condition of Ministry of Coal in its guidelines that the proposed EUP cannot be established in multiple phases or that it has to be set up in a single phase. Therefore, it was not mandatory to inform or mention in the applications by the accused no.1 company that it proposes to establish its power plant project in two phases of 1 x 300 MW and 3 x 300 MW.

109. The facts and circumstances (before allocation of Fatehpur East Coal Block to accused no.1 company on 13.09.2007) that lead to inference that accused no.1 company intended to set up its power plant project in phases are as follows:-

(i) The statement of the Chairman of M/s Mulpha International Berhad (MIB) **(PDF Page No.1142; D-14)** i.e. the Principal of accused no.1 company in its balance sheet/annual report for FY 2005 indicates that it had entered into an agreement with RKPPL to set up accused no.1 company which shall undertake a coal fired power project of 1200 MW in State of Chhattisgarh in phases of 300 MW each. The said statement is reproduced as under:-

"during the year, the MGB Group (Mudajaya Corporation Berhad) entered into an agreement with R K Powergen Pvt.

Limited to set up R. K. M. Powergen Pvt. Ltd. to undertake a coal fired independent power producer Project with a nominal capacity of 1200 MW in the State of Chhattisgarh, India in phases comprising of four operating units with a nominal capacity of 300 MW each. The MGB group will have a 26% equity interest in RKM. A power purchase agreement has been signed between RKM and Chhattisgarh State Electricity Board for a period of 20 years for the first operating unit. RKM has also entered into a Memorandum of Understanding with PTC India Limited for the purchase of power from the balance three phases of operating units for a period of 25 years. The MGB group has also been awarded the contract worth about RM660 million for engineering and procurement for the first phase of the IPP Project. The IPP Project will provide the MGB group with significant construction work and upon the commencement of operations of the IPP Project. The MGB group will have a steady source of income over the long-term. There may be more opportunities to pursue similar ventures in the future as MGB shifts its business model to a developer rather than builder of infrastructure projects in the region."; and

(ii) After due verification, the Chhattisgarh Government vide its recommendation dated 05.09.2007 **(PDF Page No.3932; D-29)** with enclosed table of all the applicants including accused no.1 company at Srl. No.154 **(PDF Page No.3947; D-29)** stated that accused no.1 company has proposed to set up 1200 MW Power Plant Project in District Janjgir Champa, Chhattisgarh in phased manner and for the

first phase of 1 x 350 MW, PFC has sanctioned financial assistance to it on 30.05.2007.

110. Furthermore, as per the guidelines for allocation of captive coal block, applying for finance was neither an eligibility criterion for allocation of coal block to the applicants nor it would have reflected upon the preparedness of the applicants to set up EUP.

111. The *bona fide* intention of accused no.1 company to establish EUP from the finances obtained from PFC is evident from the fact that it has since then constructed and operating 4 x 360 (1440) MW Power Plant in Uchipinda, District Janjgir Champa, Chhattisgarh financed by PFC and other financial institutions.

112. Therefore, the allegations of the prosecution that accused no.1 company gave misleading information or claimed false facts qua the aspect of finance are unfounded. Rather, the said claim is established to be genuine and correct which has been buttressed by the afore discussed subsequent conduct of accused no.1 company.

FORGERY QUA TWO CONSENT LETTERS/AGREEMENTS (*IQRARNAMA*) PURPORTEDLY SIGNED BY SH. SANTOSH PATEL AND SH. ANAND RAM MARAR (BOTH RESIDENTS OF VILLAGE KIKIRDA, DISTRICT JANJGIR CHAMPA, CHHATTISGARH)

113. The copies of the said letters/agreements (*iqrarnama*) were admittedly sent by accused no.1 company through its Director, Sh. T.M. Singaravel (accused no.3) along with its letter dated 13.08.2007 **(D-64)** to Special Secretary, Energy Department, Government of Chhattisgarh in response to letters dated 07.08.2007 and 08.08.2007 of Government of

Chhattisgarh **(PDF Page Nos.9377 & 9430 and Page Nos.398 & 451 respectively in D-61)** to accused no.1 company to submit details/ documents regarding the latest status of their project. Based upon the information sent by accused no.1 company vide letter dated 13.08.2007 and after verification of the claims made by it, State Government of Chhattisgarh vide its letter dated 05.09.2007 **(PDF Page No.3932; D-29)** along with annexures showing preparedness of project of applicants sent recommendation to Ministry of Coal for allocation of coal block to accused no.1 company.

114. The purported author of the said two consent letters/agreements (*iqrarnama*) were examined as PW-4 Sh. Satosh Patel and PW-55 Sh. Anand Ram Marar who categorically denied to have signed the said letters. Their specimen signatures were obtained and they along with the alleged forged documents were sent to CFSL, CBI for opinion of handwriting expert. The handwriting expert vide his report dated 16.09.2019 **(PDF Page No.13131; D-98)** opined that the signatures on the said documents are forged.

115. Admittedly, the originals of the said documents were never seized. Further, the contemporaneous signatures/handwriting of the purported authors was not collected and compared with the handwriting/signatures on the said photocopied documents to rule out or reconcile the variations in them due to afflux of long period of more than ten years. Besides, the science of comparison of handwriting is not a perfect science. In these circumstances, there is sufficient doubt regarding the credibility in the opinion of handwriting expert. However, this cannot be the ground for discharge of the accused persons.

116. Nevertheless, if one of the essential ingredients of the offence of forgery in the form of *mens rea* is found to be missing, it would certainly be ground for discharge. On this aspect, PW-110 Sh. Sunil Ingle was examined and his statement under Section 161 CrPC was recorded to the effect that he was employee of accused no.1 company and was assigned the job of obtaining consent for the sale of land from the villagers of Kikirda and other neighbouring villages for setting up of power plant project in the said villages. Accordingly, in the year 2006, he met the villagers through some influential people in the villages with the said proposal for procurement of land. During meetings, 25-30 villagers agreed to sell their land to accused no.1 company. Accordingly, after meeting, he gave format of obtaining consent forms to the agents for obtaining the consent of the land owners and after few days, the agents provided him signed 30-35 consent forms duly signed by the villagers. PW-58 Sh. Chinilal (Village Kikirda) has been identified as one of the said agents. He was examined under Section 161 CrPC and he gave his statement to the effect that he obtained the signatures of 36 persons on the printed agreement forms and thereafter, gave the said signed agreements to PW-110 Sh. Sunil Ingle.

117. The said two forged agreement forms including the other agreement forms were deposited by PW-110 Sh. Sunil Ingle in the office of accused no.1 company. Admittedly, he did not know that they were forged forms. Therefore, there was no occasion for him to have conveyed the said fact to other officials of accused no.1 company including its Directors (accused nos.2 and 3). Further, there is no evidence on record that anyone in accused no.1 company or any of its two Directors (accused nos.2 and 3) were

aware that they were forged documents. Thus, even though they had enclosed the said documents with letter dated 13.08.2007 of accused no.3 on behalf of accused no.1 company but none of them was aware that they were forged documents. In these circumstances, one of the essential ingredients of *mens rea* or knowledge or dishonesty is conspicuously missing against either of the accused persons for the offence punishable under Section 471 IPC.

118. Furthermore, the accused no.1 company had changed its plan to establish power plant from Village Kikirda to Village Uchipinda in August, 2007 as evident from the letter dated 13.08.2007 **(D-64)** of accused no.1 company to Government of Chhattisgarh. Thus, no fruitful purpose would have been served in enclosing the consent letters of the land owners of Village Kikirda along with the said letter as accused no.1 company had already given up its plan of establishing its power plant project in the said village. Accused no.1 company was not supposed to gain any benefit, whatsoever, by enclosing the said alleged forged consent letters/ agreements. This further indicates that accused no.1 company or its Directors (accused nos.2 and 3) did not have even reason to believe that the said letters/agreements were forged. In absence of one of the essential ingredients of the offence of forgery in the form of *mens rea* or knowledge or reason to believe, there is no *prima facie* reason to presume that either of the accused persons committed the offence of forgery punishable under Section 465 IPC or the offence of using a forged document as genuine punishable under Section 471 IPC.

THREE NOCs

119. There is no allegation that any of the said three NOCs of Panchayats of Villages Kikirda, Uchpinda & Sandhapalli and Domnapalli & Ghiwara are forged or they are not signed by the persons purported to have signed them. The said NOCs were also sent along with letter dated 13.08.2007 **(D-64)** by accused no.1 company to the State Government of Chhattisgarh. During investigation, it was found that they were issued in violation of Rule 3 of Chhattisgarh (Gram Panchayat Sarpanch and Deputy Sarpanch, Janpad Panchayat and Zila Panchayat Powers and Duties Rules, 1944). Similar to the afore mentioned two consent letters/agreements, three NOCs were also obtained by PW-110 Sh. Sunil Ingle from the respective Sarpanches or agents/villagers assuming them to be genuine in accordance with law. Thereafter, he deposited the said three NOCs in the office of accused no.1 company without disclosing any illegality in them. Thus, similar to the aforementioned forged consent letters/agreements, the knowledge of any illegality or irregularity in the said NOCs cannot be attributed to accused no.1 company or its two Directors (accused nos.2 and 3). In absence thereof, no culpability or criminality can be attracted against them for using them oblivious of any illegality or irregularity attached to them.

OFFENCE OF CHEATING PUNISHABLE UNDER SECTION 420 IPC

120. The offence of cheating punishable under Section 420 IPC is reproduced as under for the ready reference:-

> *"**420. Cheating and dishonestly inducing delivery of property.**—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed*

or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

121. This Section deals with certain specified classes of cheating. It deals with the cases of cheating whereby the deceived person is dishonesty induced:

(1) to deliver any property to any person; or

(2) to make, alter or destroy

(a) the whole or any part of a valuable security; or

(b) anything which is signed or sealed and which is capable of being converted into a valuable security.

122. The offence of cheating is made up of two ingredients, deception of any person and fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property. To put it differently, the ingredients of the offence are that the person deceived delivers to someone a valuable security or property and he was dishonestly induced to do so in consequence of having been deceived by the accused.

123. In **Dr. Sharma's Nursing Home Vs. Delhi Admn. & Ors. (1998) 8 SCC 745**, the Hon'ble Supreme Court held mere deception by itself would not constitute cheating unless the other essential ingredient, i.e., dishonest inducement is established. It held as follows:-

"…both the learned courts have rested their findings on deception only and did not go into the question whether the complaint and its accompaniments disclosed the other essential ingredient of the offence under Section 420 IPC, namely, dishonest inducement. "Dishonesty" has been defined in Section 24 IPC to mean deliberate intention to cause wrongful gain or wrongful loss; and when with such intention, deception is practised and delivery of property is

induced then the offence under Section 420 IPC can be said to have been committed…".

124. The Hon'ble Supreme Court in case titled as **Jupally Lakshmikantha Reddy Vs. State of Andhra Pradesh & Anr. 2025 INSC 1096** concluded that dishonest use of fake NOC from the Fire Department to obtain recognition/renewal of affiliation to run the Education Institution is not sufficient to attract the offence of cheating unless the said document was necessary for grant of such recognition/renewal as in its absence, the said NOC cannot be held to have induced the Education Department to grant recognition/renewal. The relevant portion in the said judgment is reproduced as under:-

> "*16. It is strenuously argued the appellant had used a fake NOC from the Fire Department and thereby held out a false representation that he possessed a valid NOC to obtain recognition/renewal of affiliation for his institution. Uncontroverted allegations in the charge sheet including the order in the writ proceedings, unequivocally show NOC from the Fire Department was not necessary for grant of such recognition/renewal of affiliation as the height of the appellant's building was below 15 metres. Given this situation, the representation of the appellant that he possessed a valid NOC cannot be said to have induced the Education Department to grant recognition or renew the affiliation.* ***To attract penal consequences, it must be shown that the false representation was of a material fact which had induced the victim to either part with property or act in a manner which they would not otherwise do but for such false representation. In the absence of such vital link between the alleged false representation and the issuance of recognition/renewal of affiliation, the essential ingredient of offence is not satisfied****." (emphasis supplied)*

125. Thus, it is apparent that dishonest misrepresentation is not sufficient to attract the offence of cheating punishable under Section 420 IPC unless

the said representation is material and induced the deceived person to part away with the property.

126. In the present case, as discussed above, it is established that accused no.1 company did not make any false representation in its applications or feedback form. Thus, one of the essential ingredients for the offence of cheating punishable under Section 420 IPC is glaringly missing. For the sake of arguments, if it is presumed that allegation of the prosecution is established that any of the aspects of the representation of accused no.1 company in the form of land, net worth, DPR or finance was false, there is no evidence on record to suggest that any of the said alleged misrepresented facts was material and led to the inducement of the Screening Committee in recommending the allocation of Fatehpur East Coal Block to it. The prosecution has not examined any witness including any Member of the Screening Committee or official of Ministry of Coal to the effect that accused no.1 company would not have been recommended for allocation of Fatehpur East Coal Block had it not made alleged false claim on any of the said aspects. Further, except for net worth of the applicant company and capacity of EUP, there is no other minimum criterion in the guidelines for allocation of captive coal blocks that was necessary or imperative for recommendation of allocation of coal block. In these circumstances, even the second ingredient of dishonest inducement for the offence of cheating is not satisfied in this case.

127. Accordingly, there is no material available on record to presume that either of the accused persons committed the offence of cheating punishable under Section 420 IPC in this case.

OFFENCE OF FORGERY PUNISHABLE UNDER SECTION 471 IPC

128. In the instant case, the accused persons have also been charged for the offence of forgery punishable under Section 471 IPC and the said provision reads as under:-

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

129. *Mens rea* i.e. dishonest intention to cause wrongful loss is an essential constituent of the said offence. Therefore, one of the pre-requisite for invoking the said offence is that the accused had knowledge or reason to believe that the forged document is not genuine. The Hon'ble Apex Court in case titled as **Vandana Vs. State of Maharashtra 2025 INSC 1098** has reinforced the paramount importance of the ingredient of *mens rea* for invoking the offence punishable under Section 471 IPC. Its relevant portion is reproduced as under:-

> *"7. It is apposite to note that to attract offence of Section 468 IPC, the prosecution must establish that the accused made a false document within the meaning of Section 464 IPC, with intent to cheat. Likewise, Section 471 IPC requires proof that the accused used a forged document as genuine, knowing or having reason to believe it to be forged at the time of its use.*
>
> *xxxx xxxx xxxx*
>
> *11. Thirdly, even assuming the prosecution theory to be true namely, that documents were deployed to secure admission to BSW-III course, record do not establish the mens rea which is pre-requisite for Section 471 IPC (knowledge/reason to believe) or for attempt to cheat under Section 420 read with Section 511 IPC being present. The documents were stamped by college authorities and passed through administrative scrutiny. In the absence of evidence that the appellant had dishonest intention to either make the false document*

or knew of its falsity while submitting it, the mental status or mens rea remains unproved."

130. In the instant case, in the preceding paragraphs, it is concluded that accused no.1 company or its two Directors (accused nos.2 and 3) neither had knowledge nor had reason to believe that the alleged forged consent letters/agreements (*iqrarnama*) purportedly executed by Sh. Santosh Patel and Sh. Anand Ram Marar were forged. They used the same believing them to be genuine. Thus, the essential ingredients of the offence of forgery punishable under Section 471 IPC is not attracted against them in this case and they are entitled to be discharged for the said offence.

OFFENCE OF CRIMINAL CONSPIRACY PUNISHABLE UNDER SECTION 120B IPC

131. The office of criminal conspiracy is defined under Section 120-A IPC and it reads as under :

"120-A - Definition of criminal conspiracy.- When two or more persons agree to do, or cause to be done,—
(1) an illegal act, or
(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:
Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof."

132. In the instant case, the prosecution has failed to establish that any of the act of private accused persons (accused nos.1 to 3) in relation to the present case is illegal. In absence thereof, there is neither any evidence on record nor any justifiable reason to infer that they entered into criminal

conspiracy to commit any illegal act including the offence of cheating or forgery. Therefore, they are entitled to be discharged for the said offence.

ANALYSIS ON CHARGE QUA THE ACCUSED PUBLIC SERVANTS (ACCUSED NOS.4 AND 5)

133. Accused no.4 Sh. H.C. Gupta was Chairman of 35th Screening Committee and accused no.5 Sh. K.S. Kropha was its Member Secretary/ Convener consisting of 17 to 20 Members. The Screening Committee comprised of representatives of Ministry of Coal, concerned Administrative Ministries including Ministry of Power, concerned State Governments including Government of Chhattisgarh, CMPDIL, SECL and CIL. The Screening Committee was constituted to recommend for allocation of the coal blocks to the shortlisted applicant companies jointly or singly, as the case may be, based upon the guidelines of Ministry of Coal.

134. In the instant case, the allegations against the accused public servants are regarding the illegality committed by them in recommending the allocation of Fatehpur East Coal Block to accused no.1 company jointly with four other companies. The said recommendation was done in its meeting held on 13.09.2007.

135. Admittedly, there are no allegations of meeting of minds between accused public servants and the private accused persons for commission of the alleged offence. Further, there are no allegations of any *quid pro quo* or acquiring any undue advantage by the accused public servants for the recommendation made by the Screening Committee for allocation of Fatehpur East Coal Block in favour of accused no.1 company. There is no

evidence that the accused public servants were aware of any alleged misrepresentation made by accused no.1 company to the Screening Committee/Ministry of Coal at the relevant time or it used any forged document as genuine.

136. The accused public servants have been charge-sheeted for the offence punishable under Section 13(2) read with Section 13(1)(d) PC Act.

137. For convenience and ready reference, the provision under Section 13(1)(d) PC Act is reproduced as under:-

> *"13. Criminal misconduct by a public servant.—*
>
> *1[(1) A public servant is said to commit the offence of criminal misconduct,—*
> *xxxx*
> *xxxxx*
> *xxxxx*
> *(d) if he, —*
> *(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*
> *(ii)by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or*
> *(iii)while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;"*

138. In absence of allegations or evidence of *mens rea*, demand or acceptance, the offence punishable under Section 13(1)(d)(i) and 13(1)(d)(ii) PC Act are not at all attracted against the accused public servants.

139. The allegations against the accused public servants are summarized as under and they shall be discussed in detail in subsequent paragraphs:-

(i) They processed the incomplete application of accused no.1 company in violation of guidelines for allocation of captive coal blocks and thereby enabled the said ineligible company to

participate in the coal block allocation proceedings resulting in recommendation of Fatehpur East Coal Block to it;

(ii) The financial report of accused no.1 company prepared by two experts of CIL was not placed before the Screening Committee in its meeting held on 13.09.2007;

(iii) False Minutes of Meeting dated 13.09.2007 of 35th Screening Committee were prepared and they were intentionally not circulated to its Members; and

(iv) *Inter se* merit of the applicant companies and their comparative chart were not prepared and they were not provided to Members of 35th Screening Committee.

ALLEGATION OF PROCESSING INCOMPLETE APPLICATION

140. Admittedly, accused no.1 company did not furnish its individual Annual Audit Accounts/Reports for the last three years. The said reports were required to be enclosed with the application as per the advertisement and guidelines for allocation of captive blocks. Thus, in its absence, the said application should have been treated as incomplete and should have been rejected.

141. The following instructions regarding processing of application forms in the Ministry of Coal were mentioned in the advertisement under the heading 'Processing of Application':-

> *"The applications received in the Ministry of Coal in five copies, after being checked for eligibility and completeness, would be sent to the Administrative Ministry/State Government concerned for their evaluation and recommendations. After receipt of the recommendations of the Administrative Ministry/State Government concerned, the Screening Committee would consider the applications and make its recommendations. Based on the recommendations of*

Screening Committee, Ministry of Coal will determine the allotment."

142. Thus, the applications received in the Ministry of Coal were required to be checked for eligibility and completeness in the Ministry of Coal. Before adverting to the possible role of accused public servants in failing to properly check the application of accused no.1 company, it is desirable to note the hierarchy of the officials in Ministry of Coal. The hierarchy of the officials in the Ministry of Coal in descending order from top to bottom is as follows:-

(a) Secretary;

(b) Additional Secretary;

(c) Joint Secretary;

(d) Director;

(e) Deputy Secretary;

(f) Under Secretary;

(g) Section Officer; and

(h) Dealing Hands of Section.

143. As per the procedure, the applications for allocation of coal block were to be dealt by the officials of CA-I Section, Ministry of Coal under the supervision of Section Officer. The Under Secretary was the immediate Supervisory Officer of Section Officer.

144. The prosecution examined two relevant officials of Ministry of Coal i.e. PW-1 Sh. V.S. Rana, the then Under Secretary and PW-2 Sh. R.N. Singh, the then Section Officer of CA-I Section to establish the present dereliction against accused public servants. They were examined twice i.e. firstly, on 13.11.2014 & 18.02.2015 respectively and secondly, on

03.03.2020 & 16.12.2020 respectively during further investigation of this case. In their first statements, they consistently stated that the application of accused no.1 company was complete. However, in their subsequent statements, they consistently stated that the applications were not checked before they were dispatched to the Administrative Ministries and concerned State Governments. They further consistently stated that the said fact was brought to the knowledge of senior officers. However, they did not specify the names of the said senior officers. Thus, their statements are not sufficient to indict the accused public servants for the present alleged discrepancy.

145. Besides, their version is apparently contradictory to the notings in the files of Ministry of Coal. The following noting dated 19.02.2007 **(PDF Page No.5836; D-40)** was made by the dealing assistant:-

> *"Application received for allocation of 39 coal blocks in response to advertisement published through newspaper are ready to dispatch to CMPDIL, different State Governments and Administrative Ministries namely Ministry of Power, Ministry of Steel and Ministry of Industries and Commerce, Department of Industrial Policy and Promotion. Accordingly, draft letters are placed before for approval. DFA."*

Thereafter, it was put up before the Section Officer who marked it to the Under Secretary, who in turn approved the same.

146. Thus, as per the said notings, no instructions or orders were taken either orally or in writing from accused public servants to dispatch the applications to the concerned quarters. The same was done at the level of the Under Secretary only. In these circumstances, no fault for allegedly allowing processing of incomplete application of accused no.1 company can be attributed to either of the accused public servants. The afore

mentioned version of the said two witnesses in their subsequent statements is in contradiction to the official records that too sans any allegations against accused public servants. Thus, it cannot be relied to indict either of them for the alleged discrepancy.

147. There is a palpable and considerable difference between illegality and irregularity. The irregularities in absence of any established *mens rea* or dishonest intention cannot be given the tone of criminality. Thus, even if it is assumed that there is an evidence against either of the accused public servants in processing incomplete application of accused no.1 company, no criminality can be attributed to them due to admitted absence of *mens rea*.

ALLEGATION OF CONCEALING NET WORTH REPORT OF TWO EXPERTS OF CIL FROM THE OTHER MEMBERS OF SCREENING COMMITTEE AND ALLEGATION OF FALSELY PREPARING MINUTES OF 35TH SCREENING COMMITTEE

148. The Minutes of Meeting held on 30.07.2007 **(PDF Page No.3615; D-29)** of 35th Screening Committee reflect that the committee headed by accused no.4 Sh. H.C. Gupta adjourned it after it was brought to its notice that the data provided by the applicant companies have not yet been verified. Thus, it is evident that accused public servants were not inclined to take any decision in haste without getting them properly verified from the concerned quarters including State Governments and CIL.

149. As per Minutes of subsequent Meeting dated 13.09.2007 of 35th Screening Committee **(Para No.9, PDF Page No.3616; D-29)**, the information received was compiled and placed before the Screening

Committee and financial strength of applicant companies was scrutinized independently with the help of financial experts from CIL.

150. A compilation chart titled 'Informations Furnished by the State Governments' **(D-50)** was prepared that incorporated the information provided by the State Governments and the CIL experts. The said compilation chart records the net worth of accused no.1 company at Srl. No.154 in accordance with the calculation done by CIL experts.

151. Furthermore, the prosecution itself in its closure report concluded that the net worth report of accused no.1 company by two experts of CIL was irrelevant and incorrect as they did not calculate the same as per the guidelines of Ministry of Coal. Therefore, even if the same was not placed before the Members of the Screening Committee, it was inconsequential for its decision.

152. As per case of the prosecution, PW-7 Sh. A.K. Devnath, the then CMD, CMPDI and PW-10 Sh. B.K. Sinha, the then CMD, SECL were the Members of the Screening Committee and in their statements under Section 161 CrPC they stated that no such compilation chart containing net worth of accused no.1 company calculated by CIL experts was placed before them or circulated during the 35th Screening Committee in its meeting held on 13.09.2007. Similarly, some other Members of the said Screening Committee were examined and they also corroborated the said fact. However, they all despite being senior bureaucrats never objected to alleged non-circulation of the minutes or any false claim in them till they were examined during investigation of this case after almost a decade of the said meeting. Further, they all signed on the recommendation sheets without any objection or dissenting opinion.

153. Even otherwise, when the Meeting dated 30.07.2007 of 35th Screening Committee was adjourned due to absence of verification report of the data provided by the applicants, it is not reasonably expected for its responsible and highly educated members at senior positions in the different Government Departments to have perfunctorily signed on the recommendation sheets without demanding the verification report in its next meeting on 13.09.2007. Thus, the statements of the Members of 35th Screening Committee whereby they claimed not to have seen the compilation chart during its meeting held on 13.09.2007, seems to be a convenient way of passing on the buck to the vulnerable Chairman and Member Secretary of the Screening Committee after investigation was lodged in it. Their implausible version seems to be a measure to distance themselves from any possible enrobe in the prosecution. Thus, their exists no grave suspicion to presume the afore mentioned dereliction against the accused public servants.

154. Besides, the Screening Committee was a collective group/body of all the concerned departments and ministries in which the decisions were taken either by consensus or unanimously. The Chairman or Member Secretary did not have any Veto Power to change the collective decision of the Committee. Therefore, only two of them cannot be arbitrarily made scape goat for the informed and conscious decision taken by the committee collectively.

155. Thus, the allegations against the accused public servants qua the present aspect under consideration are also not substantiated. Further, even if the said dereliction is established, it cannot be brought within the

purview of criminality due to admitted absence of *mens rea* against accused public servants.

WITHOUT ANY PUBLIC INTEREST

156. The recommendation of Fatehpur East Coal Block in favour of accused no.1 company jointly with four other companies by the 35th Screening Committee cannot be held to be against the public interest. The decision to carry out the exercise of allocating coal blocks was a policy decision taken upon the specific instructions of 7th Energy Coordination Committee (ECC) and the Prime Minister's Office (PMO). The said decision was taken in public interest after due deliberations for the valid reasons including optimum utilization of coal reserves for providing thermal energy to primary industries of power, cement and iron & steel.

157. The investigating agency examined an expert namely PW-29 Sh. A. Ravishankar, Chief Manager (Geo Systems), Exploration Division, CMPDIL. He has stated in his statement under Section 161 CrPC that CMPDIL prepared data base in 'Excel' format on the basis of data provided with the applications to Ministry of Coal. He further stated that the said data can be utilized for comparison of various quantifiable parameters such as net worth, turn over, profit, etc. and not quantifiable parameters such as land, water, equipment, etc. On the basis of the said data base by using filter/sorting option, he prepared list of companies **(D-208)** in order of merit based on *inter se* comparison of 10 parameters for Fatehpur East Coal Block. As per the said list, accused no.1 company was ranked on top of all the applicants after fulfilling 09 criteria out of total 10 parameters. Thus, it is evident that accused no.1 company was the

most deserving company for the allocation of Fatehpur East Coal Block out of all the applicants.

158. In these circumstances, the recommendation of 35th Screening Committee for allocation of Fatehpur East Coal Block to the most meritorious and deserving company i.e. accused no.1 company is an act in public interest. Therefore, there is not even an iota of material available on record to suggest that the act of accused public servants was without public interest. Hence, the essential ingredient of offence punishable under Section 13(1)(d)(iii) PC Act is conspicuously missing. Accordingly, both of them are entitled to be discharged for the said offence.

CONCLUSION

159. Considering the above detailed discussion, all the five accused persons namely **(i) M/s R.K.M. Powergen Pvt. Ltd.; (ii) Smt. Dr. Andal Arumugam; (iii) Sh. T.M. Singaravel; (iv) Sh. Harish Chandra Gupta; and (v) Sh. Kuljeet Singh Kropha (accused nos.1 to 5 respectively)** are entitled to be discharged for the respective offences alleged against them in the charge-sheet. Accordingly, they all are ordered to be discharged.

Announced in the open Court on 31.10.2025.

DHEERAJ MOR

Digitally signed by DHEERAJ MOR
Date: 2025.10.31 18:38:33 +0530

(Dheeraj Mor)
Special Judge, (PC Act) (CBI)
(Coal Block Cases)-01, RADC
New Delhi: 31.10.2025