

Present
Justice Sk. Tahsin Ali

Criminal Appeal No. 1568 of 2022

Md. Saidur Kabir @ Mukul and others
Convict-Appellants

-Versus-

The State and another

----- Respondents.

Mr. Mohammad Jamalur Rahim Khan with

Ms. Shammi Akther, Advocate

.... for the convict-appellants

Mr. Md. Mizanur Rahman, DAG with

Mr. Md. Ahidul Islam, AAG

Mr. Abdullahil Maruf Fahim, AAG

Ms. Nasima Khatun, AAG

----- For the State

**Heard on: 16.06.2026, 17.06.2026,
 18.06.2026, 23.06.2026 and
 Judgment on: 30.06.2026**

Supplementary Affidavit do form part of the main petition.

This appeal was directed against the judgment and order of conviction and sentence dated 09.02.2022 passed by the learned Special Judge, Faridpur in Special Case No. 29 of 2016 arising out of Special Case No. 10 of 2016 (Madaripur) corresponding to Petition Case No. 31 of 2014 dated 21.08.2011 of the learned Senior Special Judge Court, Madaripur convicting the convict-appellants under Section 467 of the Penal Code 1860 and sentencing them to suffer rigorous imprisonment for a period of

2 years and fine of Tk. 50,000/- (fifty thousand), in default to suffer imprisonment for a period of 3(three) months more and further convicting the appellants under Section 471 of the Penal Code, 1870 and sentencing them to suffer rigorous imprisonment for a period of 2(two) years and fine of Tk. 50,000/- (fifty thousand), in default to suffer imprisonment for a period of 3(three) months more.

The prosecution case, in short is that the appellants are all full brothers to each other and sons of one Abdus Salam @ Lal Miah who is not biological son of Complainant's father late abdus Samad Sardar. That Abdus Salam @ Lal Miah was brought-up by his step mother Hasmatunnesa, who was issueless, and his father. When the father of the appellant was grown up, the complainant's step-mother Hasmatunnesa made a gift of land for the quantum of 49.50 decimals by Hebadeed No. 3013 dated 17.05.1967 with office Kalkini Sub-Registrar and the complainant was the identifier in the said Deed No. 3013. The full brothers and sisters of the complainant used to live in Dhaka and as a result the father of the appellant's was given the responsibility to maintain the properties in all respects. When the SA record was prepared, the father of the appellants put his name as son of the complainant's father and prepared the SA Khatian

to that effect. The father of the appellants never claimed that he was heir of the properties of the father of the complainant. The instant appellants in connivance with the personnel of the Kalkini Sub-registrar office prepared a forged certified Deed No. 3013 dated 23.08.2011 in which the word “Palok Putor” was replaced with the words “Apon Putro” and the said Deed No. 3013 was submitted by the appellants to the 1st Joint District Judge Court of Madaripur in Title Suit No. 96 of 2013 by which the appellant claimed that their father Abdus Salam @ Lal Miah was the biological son of the father of complainant. The main copy of the said Deed No. 3013 was submitted to the learned 1st Joint District Judge Court of Madaripur along with a certified copy of the same dated 28.04.2014 which contains that appellant is the brought up son. The complaint came to know about the forged certified copy on 27.08.2024 in the Title Suit No. 96 of 2013. The appellants tried establishing them to be the heirs of the properties of complainant’s father by using the forged certified copy being Deed No. 3013 dated 17.05.1967 and hence, committed the offence under Section 467, 468 and 471 of the Penal Code, 1860 and the hence the case.

During pendency of the trial, the prosecution produced as many as 7(seven) witnesses for proving the charge against the convict-appellants.

On 27.02.2022 the convict-appellant enlarged on bail by this Hon'ble court in Criminal Appeal No. 1568 of 2022 for a period of 1(one) year and thereafter, the earlier bail order extended till disposal of the appeal on 19.02.2023. The Lower Court Records (L.C.R) was attached with this appeal on 17.02.2025.

Ms. Shammi Akther, learned Advocate appearing on behalf of the convict-appellant while Mr. Md. Mizanur Rahman, DAG with Mr. Md. Ahidul Islam, AAG, Mr. Abdullahil Maruf Fahim, AAG, Ms. Nasima Khatun, Assistant Attorney General appeared on behalf of the state.

The learned advocate Ms. Shammi Akther, appearing on behalf of the convict-appellants submits that after investigation the Anti-Corruption Commission submitted an inquiry report on 05.11.2015 against the appellants along with others 3(three) accused persons, all of whom were Office Assistant of the Record Room office committed offence under Section 467, 468, 471 and 109 of the Penal Code, 1860 read with Section 5(2) and 109 of the Prevention of Corruption Act, 1947. She further

submits that after hearing both sides during trial, the learned Special Judge, Madaripur acquitted the 3(three) co-accused whom are the staff of Record Room did not prove their involvement with the occurrence in accordance with law. She further submits that it is apparent from the face of the record that the original deed kept in the Balam Boi was manipulated. She further submits that the convict-appellants produced the said deed during the trial of Civil Suit No. 96 of 2013 before the learned Joint District Judge, Faridpur. She further submits that the convict-appellants during trial voluntarily surrender before the trial court on 14.06.2016 and was granted bail by this Hon'ble court on 29.06.2016 and remaining in jail near about 15(fifteen) days. Subsequently, on 09.02.2022 after pronounce of the judgment by the learned Special Judge, Faridpur the convict-appellant again sent to jail. Thereafter, the convict-appellants were granted bail by this Hon'ble Court on 27.02.2022. Since, the convict-appellants have been enjoying the privilege of bail till date.

Mr. Md. Mizanur Rahman, learned Deputy Attorney General appeared on behalf of the state opposes the appeal and submits that the appellants are beneficiary of the manipulation of the deed in question. He further submits that, granting them bail

at this stage it may prejudice the proper determination of the identity of the genuine sons and legal heirs of the deceased father.

Heard the learned advocate for the convict-appellants and Deputy Attorney General for the state. It appears that from the record that the Anti-Corruption Commission submitted a charge-sheet against 7(seven) accused persons, including the present convict-appellants under the relevant provision of law. The Anti-Corruption Commission found allegations against all the accused, after conclusion of trial, the learned Special Judge acquitted 3(three) accused persons all of them are the staffs of the record room and convicted the present convict-appellants. It further appears that 7(seven) prosecution witnesses were examined before the trial court and none of them did not prove the allegations against them beyond all reasonable doubt. The learned Special Judge without considering the evidence on record and depositions of the witnesses and merit of the case, convicted the convict-appellants without having applied his proper judicial mind.

If the convict-appellants were involved with the manipulation of the deed in question but it appears from the record that the convict-appellants have no access to enter the

record room. There is nothing to show that the convict-appellants were involved in such manipulation and none of the prosecution witnesses in their depositions before the learned Special Judge, that the convict-appellants were involved with the alleged manipulation of the deed in question.

The involvement of the convict-appellants in the offence is very cloudy and the prosecution has utterly failed to prove the involvement of the convict-appellant. The prosecution witness failed to implicate the involvement of the convict-appellant with the manipulation of the deed in question, which was found in the Balam Boi, while the same was called for by the Court of Sessions. Until and unless the trial court acquitted other 3(three) co-accused persons, whom are main participator in the occurrence bears the position in the record room of the deed in question where manipulation has been took place. In such circumstances, the convict-appellants stand on the better footing rather than the acquitted 3(three) co-accused.

Considering the above facts and circumstances of the case, it appears from the record that the convict-appellants have already been served the portion of the sentence and conviction. I am of the view that the justice would be best served if I exonerate this appellants from rest of the sentence.

In the result, the appeal is allowed in part. The judgment and order dated 09.02.2022 passed by the learned Special Judge, Faridpur in Special Case No. 29 of 2016 is hereby modified with above contention to exonerate this appellants from the rest of the conviction and sentence.

Send down the Lower Courts Record.

Communicate the judgment and order at once.

Shokat (B.O.)(F)