

**In the Supreme Court of Bangladesh
High Court Division
(Criminal Appellate Jurisdiction)**

Present:

Mr. Justice Md. Shohrowardi

Criminal Appeal No. 10168 of 2022 with

Criminal Appeal No. 10302 of 2022

Putul Rani Boiragee and others

..Appellants in Cril. A. No. 10168 of 2022

Wajed Sarder and another

..Appellants in Cril. A. No. 10302 of 2022

-Vs-

The State and another

**Mr. Nitai Roy Chowdhury, Senior Advocate with
Mr. Md. Tariqul Islam, Advocate**

... For the appellants in Cril. A. No. 10168 of 2022

Mr. Alok Mumar Bhomik, Advocate

.. For the appellants in Cril. A. No. 10302 of 2022

Mr. Md. Omar Faruk, Senior Advocate, Advocate

...for the respondent No.2 in all the appeals

Mr. Md. Akhtaruzzaman, DAG with

Mr. Sultan Mahmood Banna, AAG with

Mr. Mir Moniruzzaman, AAG

... for the State

Heard on, 02.03.2025, 04.03.2025,

05.03.2025,20.04.2025 and 21.04.2025.

Judgment delivered on 04.05.2025

The above-mentioned criminal appeals have arisen out of the impugned judgment and order passed by the trial Court. Therefore, all the appeals were heard analogously and disposed of by this single judgment.

The appellants were convicted by impugned judgment and order dated 25.9.2022 passed by Divisional Special Judge, Khulna in Special Case No. 28 of 2017 under sections 409/420/467/468/109 of the Penal Code, 1860 and section 5(2) of the Prevention of Corruption Act, 1947 and they were sentenced to suffer rigorous imprisonment for 7(seven) years and fine of Tk. 10,000, in default, to suffer imprisonment for one month.

The prosecution case, in short, is that at the time of investigation of Shyemnagor Police Station Case No. 297 of 2005, it was found that the name of Khotezan Bibi, wife of Jeher Ali Sarder, Luxmikhali under Shyemnagor Thana, was inserted in S.A. Khatian Nos. 104 and 194, tempering the register of Mutation Case No. 158/65-66 and 163/65-66. Total 7.38 acres of land was recorded, tempering with the records of the said mutation case. In the original record of the Mutation Case No. 158/65-66, 163/65-66 of the Upazila Land Office, Shyemnagor, the name of Khotezan Bibi was not found. Those mutation cases relate to Mouza No. 168, Issakura and Mouza No. 79, Kultukai. During the inquiry, it was found that the CC Case No. 3621/61-62, CC Case No. 150/59-60, and Land Release Case No. 7/73-74 were forged by the FIR named 9 accused persons in connivance with each other from 27.01.2003 to 26.01.2004. The original copy of Khatian No. 104 and 194 was taken out of the record room of DC, Satkhira, and illegally inserted the name of Khotezan Bibi, mother of Abdul Majid Sardar,

forging the original record of the said Khatian. Subsequently, the certified copy of the amended record was collected from the record room of the Deputy Commissioner, Satkhira. The accused persons, in connivance with each other to grave the government property forged the documents.

S.I. Khandaker Khaled Hossain was appointed as the investigating officer of the case. Subsequently, the case was taken up by the Anti-Corruption Commission, and ABM Abdus Sobur, DAD, Anti-Corruption Commission, Combined District Office, Khulna, was appointed as the investigating officer of the case. He visited the place of occurrence, seized the documents, and recorded the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898. During the investigation, he found the prima facie truth of the allegation made against the accused Abdul Mazid Sarder, Wazed Sarder, Mohammad Ali Sarder, Abdur Razzak Gazi, Sheikh Mahabubur Rahman, Putul Rani Bairagi, Shyemol Kumar Acharjee, Begum Jesmin Naher, Md. Samsuzzaman and Md. Afsar Uddin and submitted charge sheet on 25.03.09 against them under sections 409/109 of the Penal Code, 1860, and section 5(2) of the Prevention of Corruption Act, 1947. The investigating officer submitted a final report in favour of the FIR-named accused Sirajul Islam Mollah, Abul Kalam, Ranjit Kumar Sarkar, and Tarapada.

During the trial, charge was framed against the accused persons under sections 409/420/467/468/471/109 of the Penal Code, 1860, and section 5(2) of the Prevention of Corruption Act, 1947, and they pleaded not guilty to the charge and claimed to be tried following the law. The prosecution examined 18 witnesses to prove the charge against the accused persons, and the defence cross-examined those

witnesses. After examination of the prosecution witnesses, the accused persons were examined under section 342 of the Code of Criminal Procedure, 1898, and the defence declined to adduce any DW. After concluding the trial, the trial court, by impugned judgment and order, convicted the accused persons and sentenced them as stated above, against which they filed instant appeals.

P.W.1 S.I. Khandaker Khalid Hossain stated that he was the investigating officer of the case. On 01.12.2006 at 9:30 am, he, along with his team, visited the place of occurrence, prepared the sketch map and index. He proved the sketch map as exhibit-1 and his signature on the sketch map as exhibit-1/2. Thereafter, he sent the case to the CID for investigation. During cross-examination, he stated that he was the first investigating officer of the case. He did not record the statement of witnesses under section 161 of the Code of Criminal Procedure, 1898. He denied the suggestion that he did not visit the place of occurrence, and he also did not prepare the sketch map and index. He stated that he was not aware of the enquiry done by Magistrate Saidur Rahman.

P.W. 2 Md. Robiul Islam was tendered by the prosecution and declined by the defence.

P.W. 3 Md. Raja-E-Rabbi was the Officer-in-Charge of the Record Room, Office of the Deputy Commissioner, Satkhira. He stated that now he is the Additional Deputy Commissioner, Jessore. From June 2005 to August 2008, he was posted in the Office of the Deputy Commissioner, Satkhira. He also discharged his additional duty as Officer-in-Charge of the record room. Following the instruction of the Deputy Commissioner, Satkhira, he canceled the record of SA Khatian Nos. 318, 312, 304, 317, 306, 222, 194, and 104 of the Purshemary Mouza, of Shyemnagor, Satkhira. The original records of the cancelled

Khatians were seized in GR No. 367 of 2005. Subsequently, on 03.12.2007, under the instruction of the Deputy Commissioner, Satkhira, he sent a letter on 03.12.2007 regarding the cancellation of the records of those Khatians to the Assistant Commissioner (Land), Shymnagor. He proved the photocopies of 8 items of documents as exhibit-3 series, which were lying with the records of GR No. 367 of 2005. During cross-examination, he stated that he was the Officer-in-Charge of the records room following the instruction of the DC, Satkhira. He did not submit the office order regarding discharging his additional duty. He affirmed that the mutation of SA Khatina Nos. 318/312/304/317/306/222/194/109 had been cancelled. In GR No. 367 of 2005, the documents are lying. He stated that he did not hear the parties, but following the instruction of the Deputy Commissioner, Satkhira, he canceled the records.

P.W. 4 Haripada Biswas is the Inspector of Police(retired), CID. He stated that at the time of the occurrence, he was posted in the Office of the CID, Satkhira. In Serial No. 3 of the charge sheet, inadvertently, he wrote Khulna in place of Satkhira. He took up investigation of Satkhira PS Case Nos. 73 and 74. This case relates to the Satkhira P.S. Case No. 73 dated 30.11.2006. The case was filed regarding the forgery of the records. He applied to the DC regarding the inspection of the record room, Satkhira. He issued a letter for the cooperation of the employees. The Deputy Commissioner, Satkhira, instructed orally to examine the records and interrogate the employees. When he visited the records room, Peon Mahabub did not cooperate. After that, the Anti-Corruption Commission took up the investigation of the case, and he handed over the records to the Anti-Corruption Commission. He admitted that the application filed with the Deputy Commissioner for

approval of the DC is not lying with the records. He admitted that the case regarding Razzak has been stayed.

P.W. 5 Sheikh Shamim Hasan is the ADC (retired). He stated that on 03.07.2012, he discharged his duty as ADC(revenue), Satkhira. At that time, he was also in charge of the record room, DC, Satkhira. At that time, he sent a list of the employees of the record room who discharged their duty in 2004-2005 vide Memo No. 1497 dated 03.07.2012 to the Anti-Corruption Commission. He proved the attested copy of the said letter and the forwarding as Exhibit- 4 series. He admitted that in the list of employees, there are 7 staff. The Anti-Corruption Commission instructed them to send the names of those persons. He is not aware of the occurrence.

P.W. 6 Md. Saidur Rahman was the DS, Office of the Prime Minister. He stated that on 23.08.2005, he was discharging his duty as Magistrate, First Class, Satkhira. At that time, following the instruction of the DC, Satkhira, he conducted the inquiry regarding the forgery of the records of the Mutation Case Nos. 162/65-66 and 114/65-66 regarding SA Khatian Nos. 312 and 318 of Mouza-Pershemary under Shyemnagor Thana. After an inquiry, he found that MLSS Mahbub of the records room was involved in the forgery. He admitted his guilt to him. Accordingly, he submitted the report on 08.03.2006. He proved the report as exhibit-5. During cross-examination, he admitted that he did not make any recommendation to take action against any employee except Mahabub. Initially accused Mahabub was not accused. He was an MLSS of that section. During the investigation, Mahabub admitted, and the staff Hussain was present there. Possibly, he recorded the statement sitting in the LA Section. He denied the suggestion that Mahabub did not make any confession to him, and he did not record

any statement of Mahabub. He denied the suggestion that he submitted a false report and deposed falsely.

P.W. 7 Mohammad Aliuzzaman is a Sepoy of the Anti-Corruption Commission. He stated that on 27.06.2012 at 1.00 pm, Officer Abdus Sabur of Anti-Corruption Commission seized documents, and he signed the seizure list. On that day at 10.30 pm, he again seized documents. He proved the seizure list as Exhibit 6(Ka). He proved his signature as Exhibit- 6(Ka)/1. He signed the Zimmanama. He proved his signature on the Zimmanama as exhibits 7 (Ka) and 7(Ka)/1. During cross-examination, he stated that he is not aware of the content of the seizure list. He signed the seizure list following the instructions of Abdus Sabur. The office of the LA section, Satkhira, and the office of the Anti-Corruption Commission, Khulna are situated in different places. He signed the seizure list sitting in the Office of the Khulan.

P.W. 8 Md. Ruhul Amin is the Office Assistant, Office of the Deputy Commissioner, Satkhira. He stated that on 03.07.2012 at 3.15 pm, the Officer of the Anti-Corruption Commission seized documents from the records room of the VP Office, Satkhira, regarding Mouza No. 3, Purshemari, Upazilla-Shyemnagor, and those documents were handed over to the custody of record keeper Abul Hossain. He proved his signature on the seizure list as Exhibit-6 (G)a and 6(Ga)/1. He proved his signature on the Zimmanama as exhibits 7(Ga) and 7(Ga)/1. During cross-examination, he stated that the seized documents are not available in court.

P.W. 9 Md. Nazrul Islam is the Office Assistant, Office of the Deputy Commissioner, Satkhira. He stated that on 03.07.2012 at 3.15 pm, the officer of the Anti-Corruption Commission seized documents

from the records room of the office of the Deputy Commissioner, Satkhira. He signed the seizure list. He proved his signature on the seizure list as Exhibit- 6(4)/2. The officer of the Anti-Corruption Commission handed over the documents to the custody of record keeper Abul Hossain. He proved his signature on the Zimmanama as Exhibit- 7(Ga)/2. During cross-examination, he stated that the seized documents are not available in court.

P.W. 10 Md. Abdul Ahad is the Office Assistant, Office of the Deputy Commissioner, Satkhira. He stated that on 03.07.2012 at 4.30 pm, the documents were seized from the office of the ADC(Revenue). He signed the seizure list. The documents were handed over custody. He signed the Zimmanama. During cross-examination, he stated that the Officer of the Anti-Corruption Commission took his signature. He is not aware of the Zimmanama and the seized documents.

P.W. 11 Sheikh Sahadatul Karim was an employee of the VP Section, Office of the Deputy Commissioner, Satkhira. He stated that while he was discharging his duty in the office of the Collectorate, Satkhira on 03.07.2012, the officer of the Anti-Corruption Commission seized the Census list, Misc case, register, etc. He signed the seizure list. Subsequently, those documents were handed over to his custody. He signed the Zimanama. He proved his signature on the seizure list as Exhibit 6 (Ga)/2. He proved his signature on the Zimmanama as exhibit-6(Ga)/2. During cross-examination, he stated that he produced the documents and took custody of those documents. Now he is discharging his duty in the VP section.

P.W. 12 Md. Abu Hossain is the former Record Keeper, Record Room, Satkhira. He stated that now he is discharging his duty as Office Assistant, Office of the Collectorate, Narail. On 03.07.2012, he

discharged duty as Office Assistant, Office of the Collectorate, Satkhira. On that day, as per the instruction of the Officer of the Anti-Corruption Commission, he produced the volume of the Khatian No. 3, Mouza-Purshemary, Shyemnagaor. He seized documents and handed over those documents to his custody. He proved his signature on the seizure list as exhibit-6(Ga)/3 and the signature on the Zimmanama as exhibit-7(Ga)/3. He proved the seized alamats as material exhibit 8. During cross-examination, he stated that the investigating officer seized the documents. After transfer, he kept those documents in the office. He discharged his duty in the record room for 3 years. He denied the suggestion that documents were not seized and handed over to his custody.

P.W. 13 Paritush Kumar Roy is the former Copyist-Cum-Bench Assistant, Office of the Settlement, Shyemnagaor, Satkhira. He stated that on 27.06.2012, he discharged his duty as Copyist-Cum-Bench Assistant, Office of the Settlement, Shyemnagaor. As per the instructions of the higher authority, he produced documents to the Officer of the Anti-Corruption Commission. The officer of the Anti-Corruption Commission seized the documents, prepared the seizure list, and handed over those documents to his custody. He signed the seizure list and the Zimmanama. He proved his signature on the seizure list as exhibit-6(Ka)/2 and his signature on the Zimmanama as exhibit-7Ka/2. He proved the seized documents as Exhibit 9. During cross-examination, he stated that he is not aware of the case. On 02.07.2012, a paper was handed over to him to deliver documents to the officer of the Anti-Corruption Commission, possibly in the morning. He received the documents and went to the office of the Anti-Corruption Commission at about 1.00 pm. He denied the suggestion that he did not produce the documents. At the time of transfer, he handed over the

documents to the Branch Assistant. Now he is discharging his duty in the office of the Settlement Zonal Office.

P.W. 14 Nur Mohammad is the former Copyist-Cum-Bench Assistant, Office of the Settlement, Shyamnagar Upazilla, Satkhira. He stated that on 27.06.2012, he was posted as Copyist-Cum-Bench Assistant in the Office of the Settlement, Shyamnagar. At that time, Paritush produced documents to the Officer of the Anti-Corruption Commission. Those documents were handed over to the custody of Paritush. He signed the seizure list. He proved his signature on the seizure list as exhibit- 6(Ka)/3. He proved his signature in the Zimmanama as exhibit- 7(Ka)/3. He could not say anything about the nature of the documents seized. He is not aware of the content of the seizure list.

P.W. 15 Motiur Rahman is a Sepoy of the Anti-Corruption Commission (retired). He stated that on 20.06.2012 at 4.30 pm, he went to the office of the Khulna. On that day, the I.O. Mr. Sabur seized documents which had been produced by the Office Assistant Mozammel Kabir. Those documents were handed over to the custody of Mozammel Kabir. He proved his signature on the seizure list as exhibit- 7(Gha). He proved his signature on the Zimmanama as exhibit- 6(Gha)/1. He signed as per the instructions of the Anti-Corruption Commission Officer Sabur. He is not aware of the content of the seizure list. He only signed the seizure list. Mozzammel is known to him. He was an employee of the land office.

P.W. 16 Mohammad Muklesur Rahman is a Constable of ACC, Khulna. He stated that on 20.06.2014, he discharged his duty as Constable of the Anti-Corruption Commission. On that day at 6.30 pm, in his presence, Mofazzal Kabir produced documents to the Anti-

Corruption Commission Officer Sabur. Those documents were sized and subsequently handed over to the custody of Mofazzal Kabir, who produced those documents. He signed the seizure list and Zimmanama. He proved his signatures as exhibit-6(Gha)/2 and 7(Gha)/2. During cross-examination, he stated that he followed the instructions of his officer Abdus Sabur. He signed the seizure list and the Zimmanama. He is not aware of the content of the documents. He is not aware of the documents seized.

P.W. 17 ABM Abdus Sabur is the DAD, Anti-Corruption Commission, Combined District Office, Khulna. He stated that from 2012 to 2013, he was posted in the Office of the Anti-Corruption Commission, Khulna, as DAD. On 13.05.2012, he was appointed as the investigating Officer of the case. He perused the FIR and seized documents on 20.06.2012 at 4.30 pm and on 03.07.2012 at 4.30, on 27.06.2012 at 10.00 am, on 03.07.2012 at 15.15, on 27.06.2012 at 10.30. He prepared the seizure list. He handed over those documents to the persons who presented them. He recorded the statement of witnesses and perused the documents. After investigation, he found the prima facie truth of the allegation made against the accused, namely Mozid, Wazed, Mohammad Ali, Razzak, Putul, Shyemol, Jesmin, Mahabub, Afsar, and Shamsuzzaman. On 14.03.2013, he got the sanction, and on 25.03.2013, he submitted charge sheet. He proved his signature on the seizure list dated 20.06.2012 as exhibit-5. During cross-examination, he stated that 5 accused persons, including accused Putul, were not named in the FIR. He is aware of the names of the staff who discharged duty in the office in 1974-75. He admitted that in the confession, the accused Mahabub stated that he, along with Razzak, committed the offence. Magistrate Saidur Rahman recorded his statement. In the internal inquiry report by the Deputy Commissioner, it

has been mentioned that someone of the staff was involved in the occurrence. He denied the suggestion that there is no specific allegation against 5 accused persons, including Putul. He denied the suggestion that he submitted the charge sheet against those accused persons despite the fact that there is no evidence against them. Wazed, Mazid, and Mohammad Ali are government employees. There is an allegation against them under sections 409/109 of the Penal Code, 1860. He denied the suggestion that he did not investigate the case properly. He also denied the suggestion that due to the political influence, he submitted the final report in favour of the real accused persons and submitted the charge sheet against the innocent persons. He admitted that, as per the instruction of the local Member of Parliament, he submitted a false charge sheet. He denied the suggestion that he deposed falsely.

P.W. 18 Nawsher Ali is the ASP(retired). He stated that on 30.11.2006, while he was discharging his duty as Officer-in-Charge, Sadar Thana, Satkhira, he recorded the FIR. ASP Mostafa Abdul Halim of Khulna Zone, CID, lodged the FIR. He proved the FIR as exhibit-10 and his signature on the FIR as exhibit-10/1. In the meantime, the informant, Mostafa Abdul Halim died. His signature is known to him. He proved the signature of Mostafa Abdul Halim as exhibit-11 and his signature on the FIR as exhibit- 11/1. During cross-examination, he affirmed that in the record, there is a report that accused Mahabubur Rahman died, and the proceeding against the accused Abdur Razzak has been stayed by the High Court Division.

The learned Senior Advocate Mr. Nitai Roy Chowdhury, appearing along with learned Advocate Md. Tariqul Islam, on behalf of the appellants in Criminal Appeal No. 10168 of 2022, submits that the

appellants were not named in the FIR and none of the prosecution witnesses mentioned the name of the appellants in their evidence regarding the alleged offence. He further submits that in the inquiry report (exhibit-5), it has been mentioned that co-accused Mahabubur Rahman and Abdur Razzak were involved in the alleged forgery of the records, and co-accused Mahabubur Rahman in his statement recorded under section 164 of the Code of Criminal Procedure, 1898 also did not mention the name of the appellants. He also submits that regarding the alleged forgery in the said office, the trial court convicted the appellants Shyamal Kumar Achargee, Begum Jesmin Nahar, and Md. Afsar Uddin and the High Court Division acquitted them in Criminal Appeal No. 9967 of 2022 setting aside the judgment and order passed by the trial court. The prosecution totally failed to prove the charge against the appellants beyond all reasonable doubt, and the trial court, without any evidence, convicted the appellants. Therefore, he prayed for the setting aside of the impugned judgment and order passed by the trial court.

The learned Advocate Mr. Alok Kumar, appearing on behalf of the appellants Wajed Sarder and Mohammad Ali Sarder in Criminal Appeal No. 10302 of 2022, submits that the accused Wajed Sarder and Mohammad Ali Sarder are sons of Nurun Nessa and Jeher Ali Sarder and step sons of Khotezan Bibi and no evidence was adduced by the prosecution to prove that the appellants produced the alleged forged documents knowing that those were forged, and none of the prosecution witnesses mentioned the name of the appellants in their evidence, and the trial court illegally passed the impugned judgment and order without any legal evidence. He prayed for the setting aside the impugned judgment and order passed by the trial court.

The learned Senior Advocate Mr. Md. Omar Farook appearing on behalf of respondent No. 2, Anti-Corruption Commission in both the appeals submits that the appellants of Criminal Appeal No. 10168 of 2022, are the staff of the records room of the Office of the Deputy Commissioner, Satkhira and they are officially responsible for the forgery committed in the records room of Deputy Commissioner, Satkhira. He further submits that the accused Wazed Sarder and Mohammad Ali Sarder are the sons of Khutezan Bibi, and the record of the SA section of the Deputy Commissioner, Satkhira, was forged in favour of Khutezan Bibi, and they are the beneficiaries of the offence. The prosecution proved the charge against the accused persons beyond all reasonable doubt, and the trial court, considering the evidence of the prosecution witnesses, legally passed the impugned judgment and order. He prayed for the dismissal of the appeals.

I have considered the submission of the learned Senior Advocate Mr. Nitay Roy Chowdhury and learned Advocate Mr. Alok Kumar Bhomik who appeared on behalf of the appellants and the learned Senior Advocate Mr. Omar Farook who appeared on behalf of the respondent No. 2 in both the appeals, perused the evidence, impugned judgment and order passed by the trial court and the records.

At the very outset, it is noted that accused Putul Rani Boiragee is the UDA and Record Keeper of the SA section, and accused Shyamal Kumar Acharjee is the Office Assistant, accused Begum Jesmin Nahar is the Office Assistant (Copy examiner), accused Md. Shamsuzzaman is the Certificate Assistant and accused Md. Afsar Uddin is the Office Assistant, VP Department. All of them discharged their duty in the records room of the SA Section, Office of the Deputy Commissioner, Satkhira.

On perusal of the evidence, it appears that after the occurrence, a departmental inquiry was conducted by P.W. 6 Md. Saidur Rahman, at the instance of the Deputy Commissioner, Satkhira. He submitted the report on 08.06.2006 (exhibit-5). In the inquiry report (exhibit-5), it has been stated that the accused Mahabubur Rahman in connivance with co-accused Abdur Razzak forged the documents of the record room of SA section of the Deputy Commissioner, Satkhira. P.W. 6 stated that during the inquiry, he found that Mahabubur Rahman is involved in the alleged offence, and he admitted the same. He admitted that he did not make any recommendation to take action against any other employee except accused Mahabubur Rahman. During the investigation, statement of accused under section 164 of the Code of Criminal Procedure, 1898 was not recorded. None of the prosecution witnesses mentioned the name of the appellants in their evidence.

It is found that the records were forged inserting the name of Khotezan Bibi in records. No evidence was adduced by the prosecution that the accused Wazed Sarder and Mohammad Ali Sarder forged those documents. No evidence was adduced by the prosecution to prove that the accused Wazed Sarder and Mohammad Ali Sarder used the forged documents or produced forged documents before any authority knowing that those documents were forged. The defence is entitled to rely on any admitted document of the prosecution, although those documents were not proved by the prosecution. In the charge sheet, it has been mentioned that the accused Mazid Sarder produced the forged documents. None of the prosecution witnesses stated that the accused Wazed Sarder and Mohammad Ali Sarder produced the forged documents. Admittedly, co-accused Mahabubur Rahman and Abdur Razzak forged the documents (exhibit-3 series). During cross-examination, the investigating officer P.W. 7 admitted that co-accused

Mahabubur Rahman died during the trial of the case, and the proceedings so far relate to accused Abdur Razzak has been stayed by the High Court Division.

In view of the above evidence, facts and circumstances of the case, findings, observation, and the proposition, I am of the view that the prosecution failed to prove the charge against the accused persons beyond all reasonable doubt.

In find merit in the appeal.

In the result, both appeals are allowed.

The impugned judgment and order passed by the trial court against the accused persons, namely, Putul Rani Boiragee, Shyamal Kumar Acharjee, Begum Jesmin Nahar, Md. Shamsuzzaman, Md. Afsar Uddin, Wajed Sarder, and Mohammad Ali Sarder are hereby set aside.

Send down the lower Court's record at once.

However, there will be no order as to costs.