



2025:CGHC:212

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 862 of 2022

Order reserved on 04.10.2024

Order delivered on 02.01.2025

- Suraj Shah S/o Laxman Shah Aged About 51 Years R/o Solhapara, Dongargarh, District Rajnandgaon Chhattisgarh

---- **Applicant**

versus

- State Of Chhattisgarh Through SHO Police Station, Dongargarh, District Rajnandgaon Chhattisgarh

---- **Respondent**

CRR No. 903 of 2022

- Pranay Jain S/o Santosh Jain Aged About 44 Years R/o Bhagat Singh Chowk, Dongargarh, District Rajnandgaon, Chhattisgarh.

Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

---- **Respondent**

For Applicants : Mr. B.P. Singh, and Mr. Vidya Bhushan Soni,
Advocates

For Respondent : Mr. Neeraj Sharma, Dy. Advocate General

Hon'ble Shri Justice Narendra Kumar Vyas

C A V Order

1. Both the criminal Revisions arise out of the same incident therefore, they are heard analogously and are being disposed of by this common order.
2. The applicants filed instant Criminal Revision under Section 397 read with section 401 of CrPC assailing the judgment passed by the Sessions Judge, Dongargarh, District Rajnandgaon passed on 21.07.2022 in Criminal Appeal No. 05/2022 whereby the learned Sessions Court has set-aside the judgment dated 31.12.2021 passed by the learned Judicial Magistrate First Class Dongargarh by which the accused have been acquitted of the charges under Sections 120B, 420, 467, 468 and 471 of the IPC and remanded back the matter to learned trial Court to consider the documentary evidence already on record and, if necessary, he may call the witnesses for examination.
3. Prosecution case, in brief is that on 04.02.2011 complainant Tulsi Mishra made a written complaint before Sub Divisional Officer alleging that Surendra Kumar who belonged to Kanwar (Adiwasi) has changed his caste to sell out the agricultural lands from Tribal to Non-tribal. It is alleged that the applicants in collusion with the then Patwari hatched criminal conspiracy, manipulated the caste of seller in the revenue record showing it

as the lands belonged to non-tribal to earn illegal profit. It is alleged that the Patwari after manipulating in the record has provided copy of khasra No. 168, area 1.7, 0.555 hectares rin pustika No. P-2190170. On the complaint of complainant, Sub Divisional Officer has conducted an enquiry and directed Tahsildar Dongargarh to register FIR against the accused which was registered as Crime No. 167/12 by the Police Station Dongargarh. The prosecution during investigation, Tahsildar, Dongargarh recorded the statements of the witnesses and seized the documents, thereafter, registered the Crime No. 940/2012 under Sections 420,467, 468, 471, 120B/34 of the IPC and filed the challan before the Court.

4. The prosecution to prove its case has examined the witnesses Indra Kumar Sahu (PW-1), Prafull Gupta (PW-2), Gangadhar Deshmukh (PW-3), Dudeshwar Bichhode (PW-4), Omkar Sahu (PW- 5), Ashok Kumar (PW-6), Rajkishore Narware (PW-7), Brijesh Singh (PW-8), Tilakchand (PW-9), Surendra Kanwar (PW-10), Rajkumar Netam (PW-11), Tulsi Mishra (PW-12), Mukesh Sahu (PW-13), Sundarlal Dhritlahare (PW-14), Bisen Kanwar (PW-15), Bismat (PW- 16), Jaiprakash Maurya (PW-17). The accused persons have not examined any witness but they were examined under Section 313 CrPC and exhibited memo dated 16.04.2012 (Ex.D-1), memo dated 17.04.2012 (Ex.D-2), notice dated 29.03.2012 (Ex.D-3), reply dated 30.03.2012 (Ex.D-4).
5. Learned trial court after considering the evidence, material on record has acquitted the applicants of the charge under Sections 120-B,

420,467,468,471 of the IPC. The learned trial Court while acquitting the accused has recorded its finding that the seizure witness has not supported the case of the prosecution, as he has refused to seizure made by the Police. The trial court has also considered the evidence of (PW-17) Jaiprakash Maurya and has recorded its finding that information regarding manipulation in the document has been informed by Manakchand Jain Patwari, but he has admitted that he has not conducted enquiry regarding fabrication in the document. He has also recorded its finding that in the report Ex.P-23, he has mentioned about an agreement but neither agreement has been annexed nor he has seen the agreement and only on the statement of Surendra Kumar he has mentioned about the agreement. Lastly, he has recorded its finding that the witnesses have admitted that in Ex.P-23 there is no document which can establish the manipulation in the document when the document was in possession of the accused Jagdeo Prasad Kunte. Learned Trial Court has also considered the evidence of Tulsi Mishra (PW-1) who was the complainant and has taken into consideration the statement that he has denied that he has given any statement before the Court and also denied any such document from which it can be seen that there is manipulation in the sale of the land and recorded the finding that the prosecution has failed to prove the case beyond reasonable doubt. Learned trial Court has also recorded its finding that the prosecution has failed to prove that fabrication in the document was done with an intention to use the fabricated document as original or

the documents which have been fabricated with intention to commit fraud. It has also recorded its finding that there were irregularities in the enquiry proceedings conducted by the then SDO Jaiprakash Maurya though the entire case is based on this report and accordingly, it has recorded its finding that the entire case of the prosecution is doubtful, as such the accused are acquitted from the charges.

6. Being aggrieved with the order of acquittal, State has preferred an appeal before the appellate Court being Criminal appeal No. 5 of 2022 wherein the learned appellate Court after considering the evidence, material on record has set-aside the judgment dated 31.12.2021 passed by the learned Judicial Magistrate First Class Dongargarh and remanded back the matter under Section 386(a) of CrPC by directing the trial Court to consider the case on the basis of material available on record again and if it is necessary then the witnesses may be called upon and pass reasoned order in accordance with the law. Being aggrieved with the order of learned Appellate Court, the applicants have filed the Criminal Revision before this Court.
7. Learned counsel for the applicants would submit that the Appellate Court should have appreciated the evidence on its own merits; instead it erred in remitting the matter back to the trial court to proceed afresh and the order for *denovo* trial will cause serious prejudice to the accused-applicants. Even if the entire prosecution story is to be believed, no ingredients of the offence is made out against the applicants. He would further submit that

role of the applicants being a document writer is very limited because the party concerned contacted to document writer and as per their direction the same was typed, therefore, it cannot be blamed that the applicants have typed the documents for gaining illegal benefit. He would further submit that learned lower court has already acquitted the applicants after facing trial about 9 years, as such the appellate Court has committed illegality in remanding the matter to decide the case afresh to fill up the lacuna in the case of the prosecution. He would further submit that the order passed by learned appellate Court is contrary to well settled position of law.

8. He would further submit that the purpose of Section 386(a) of the Cr.P.C that the retrial should be allowed in very exceptional case and not unless the appellate court is satisfied that the court trying the proceedings has no jurisdiction to try it or that the trial was vitiated by the serious illegalities or irregularities or on account of misconception of the nature of the proceedings and on that account in substance there had been no trial or that the prosecutor or an accused was, for reasons over which he has no control, prevented from leading or tendering evidence material to the charge. He would further submit that de novo trial is not allowed in the present facts of the case. To substantiate his submission, he would rely on the judgment of Hon'ble Supreme Court in the case of **Bhupatbhai Bachubhai chavda and another vs. State of Gujrat reported in 2024 SCC online SC 523** would refer to paragraph 6 of the judgment.

9. On the other hand, learned counsel for the State would submit that on the basis of cogent evidence and material on record learned appellant Court has rightly passed the remand order which does not suffer from perversity, irregularity or jurisdictional error which warrant interference by this Court. He would further submit that the Appellate Court has rightly passed the remand order which is within the parameter set out under Section 386(a) CrPC which the Appellate Court enjoys and would pray for dismissal of revisions.
10. This Court vide its order dated 24.08.2022 has stayed the proceedings till the next date of hearing which is being continued till today.
11. I have heard learned counsel for the parties and perused the record.
12. From the submission made by the parties and the record of the trial Court the point emerges for determination is whether the order of remand dated 21.07.2022 passed by the Appellate Court suffers from perversity, illegality which warrants interference by this Court in exercise of power of Revision by this Court or not.
13. To appreciate this point, it is expedient for this Court to first examine the legal proposition which has been set out by the Hon'ble Supreme court in various cases regarding Appellate Court's power to remand the case for re-trial as per power conferred upon the Appellate Court under Section 386 CrPC.

14. The Hon'ble Supreme Court (three Judges Bench) in the case of **Nasib Singh And Ors vs State Of Punjab And Another reported in 2022(2) SCC 89** wherein the Hon'ble Supreme Court has considered the power of appellate Court to direct for retrial as under:-

“Analysis A. Power to Direct Retrial

Section 386 of the CrPC defines the powers of the Appellate Court and is extracted below:

"386. Power of the Appellate Court. After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may-

(a) in an appeal from an order or acquittal, reverse such order and direct that further inquiry be made, or that the accused be re- tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction-

(i) reverse the finding and sentence and acquit or discharge the accused, or order him to be re- tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or

(ii) alter the finding, maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the Same;

(c) in an appeal for enhancement of sentence-

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be re- tried by a Court competent to try the offence, or

(ii) alter the finding maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, so as to enhance or reduce the same;

(d) in an appeal from any other order, alter or reverse such order;

(e) make any amendment or any consequential or incidental order that may be just or proper; Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal." (emphasis supplied) Under clause (a), the Appellate Court is empowered inter alia in an appeal from an order of acquittal:

- (i) To reverse such order and direct that a further inquiry be made; or
- (ii) That the accused be re-tried or committed for retrial; or
- (iii) Find him guilty and pass sentence on him according to law.

The power of the Appellate Court to order a retrial is also recognized in clause (b)(i) in the context of an appeal from a conviction and in clause (c) (i) in an appeal for enhancement of sentence.

20. The scope of the power of the Appellate Court to direct a re-trial has come up before this Court for interpretation in several decisions. The judgment of a Constitution Bench in *Ukha Kolhe v. State of Maharashtra*⁹ has dealt with the issue extensively. In that case, the appellant was tried before the Judicial Magistrate for the offence of rash and negligent driving while under the influence of liquor thereby causing the death of one person and injuries to four others and for offences under the Motor Vehicles Act. The Trial Judge held that the evidence was not sufficient to prove that the appellant was driving the motor vehicle at the time of the mishap and acquitted him of the offences under the Motor Vehicles Act and the Penal Code. But he held that the evidence established that the appellant had consumed illicit liquor and committed an offence punishable under Section 66(b) of the Bombay Prohibition Act. The appellant was convicted and sentenced to imprisonment for three months and was directed to pay fine. On appeal, the Sessions Court set aside the order of the trial court and ordered a retrial on the ground that a "fair and full trial" had not taken place. The revision was summarily dismissed by the High Court which led to the appeal to this Court.

21. Justice J.C. Shah, speaking for the Constitution Bench observed:

"11. An order for retrial of a criminal case is made in exceptional cases, and not unless the appellate court is satisfied that the Court trying the proceeding had no jurisdiction to try it or that the trial was vitiated by serious illegalities or irregularities or on account of misconception of the nature of the proceedings and on that account in substance there had been no real trial or that

the Prosecutor or an accused was, for reasons over which he had no control, prevented from leading or tendering evidence material to the charge, and in the interests of justice the appellate court deems it appropriate, having regard to the circumstances of the case, that the accused should be put on his trial again. An order of re-trial wipes out from the record the earlier (1964) 1 SCR 926 proceeding, and exposes the person accused to another trial which affords the prosecutor an opportunity to rectify the infirmities disclosed in the earlier trial, and will not ordinarily be countenanced when it is made merely to enable the prosecutor to lead evidence which he could but has not cared to lead either on account of insufficient appreciation of the nature of the case or for other reasons.”

22. The Court in Ukha Kolhe case held that though undoubtedly the trial before the Magistrate suffered from irregularities and the evidence led was deficient on important aspects; that could by itself not be a sufficient ground for directing a retrial. If additional evidence was to be brought on the record, a retrial was not required and the procedure prescribed by Section 428(i) of the 1898 Code could have been resorted to.

23. The above extract emphasizes that a retrial would not be ordered unless the Appellate Court is satisfied that:

23.1. The court trying the proceeding had no jurisdiction;

23.2 The trial was vitiated by serious illegalities and irregularities or on account of a misconception of the nature of the proceedings as a result of which no real trial was conducted; or

23.3 The prosecutor or an accused was for reasons beyond their control prevented from leading or tendering evidence material to the charge and that in the interest of justice, the Appellate Court considers it appropriate to order a retrial.

23.4. Another feature which emerges from the above decision is that an order of retrial wipes out from the record the earlier proceeding and exposes the present accused to another trial. It is for that reason that the court has affirmed the principle that a retrial cannot be ordered merely on the ground that the prosecution did not produce proper evidence and did not know how prove their case.

28. A three Judge Bench of this Court in Mohd Hussain v. State (Government of NCT of Delhi), 14 dealt with the question of retrial under Section 386 CrPC. In that case, a foreign National was subjected to trial for causing a bomb blast in a public transport vehicle. The trial Court convicted the accused and imposed the death sentence. On appeal, the High Court dismissed the appeal,

confirming the sentence. However, the two judge Bench of this Court observed that the trial was vitiated. While one of the learned judges ordered the accused person's release, the other ordered for a time-bound retrial. A larger Bench confirmed the second view directing a retrial, however, observing that the power must be exercised by the appellate Court in exceptional situations. It was observed that keeping in view the gravity of the offence and the denial of due process, a retrial was warranted:

"41. The appellate court hearing a criminal appeal from a judgment of conviction has power to order the retrial of the accused under Section 386 of the Code. That is clear from the bare language of Section 386(b). Though such power exists, it should not be exercised in a routine manner. A de novo trial or retrial of the accused should be ordered by the appellate court in exceptional and rare cases and only when in the opinion of the appellate court such course becomes indispensable to avert failure of justice. Surely this power cannot be used to allow the prosecution to improve upon its case or fill up the lacuna. A retrial is not the second trial; it is continuation of the same trial and same prosecution. The guiding factor for retrial must always be demand of justice. Obviously, the exercise of power of retrial under Section 386(b) of the Code, will depend on the facts and circumstances of each case for which no straitjacket formula can be formulated but the appeal court must closely keep in view that while protecting the right of an accused to fair trial (2012) 9 SCC 408 and due process, the people who seek protection of law do not lose hope in legal system and the interests of the society are not altogether overlooked."

15. Recently the Hon'ble Supreme Court in the case of **P. Manikandan vs Central Bureau of Investigation and Others in SLP (Cri.) No. 8700 of 2023 decided on 19th December, 2024** has held as under:-

15. The Constitution Bench, while dealing with such an issue, that when such power should be exercised by the Appellate Court in *Ukha Kolhe v. State of Maharashtra AIR 1963 SC 1531* , observed that:

"11. An order for retrial of a criminal case is made in exceptional cases, and not unless the appellate court is satisfied that the Court trying the proceeding had no jurisdiction to try it or that the trial was vitiated by serious illegalities or irregularities or on account of misconception of the nature of

the proceedings and on that account in substance there had been no real trial or that the Prosecutor or an accused was, for reasons over which he had no control, prevented from leading or tendering evidence material to the charge, and in the interests of justice the appellate court deems it appropriate, having regard to the circumstances of the case, that the accused should be put on his trial again. An order of re-trial wipes out from the record the earlier proceeding, and exposes the person accused to another trial which affords the prosecutor an opportunity to rectify the infirmities disclosed in the earlier trial, and will not ordinarily be countenanced when it is made merely to enable the prosecutor to lead evidence which he could but has not cared to lead either on account of insufficient appreciation of the nature of the case or for other reasons. "

(Emphasis supplied)

16. In the "Best Bakery Case (2004) 4 SCC 158 ", wherein the Trial Court directed the acquittal of the accused person in a case of mass killings, the same was upheld by the High Court of Gujarat while dismissing the criminal appeal, this Court, after considering the facts and circumstances of the case, directed the de novo trial of the accused person by observing that:

"73. We are satisfied that it is a fit and proper case, in the background of the nature of additional evidence sought to be adduced and the perfunctory manner of trial conducted on the basis of tainted investigation a retrial is a must and essentially called for in order to save and preserve the justice-delivery system unsullied and unscathed by vested interests. We should not be understood to have held that whenever additional evidence is accepted, retrial is a necessary corollary. The case on hand is without parallel and comparison to any of the cases where even such grievances were sought to be made. It stands on its own as an exemplary one, special of its kind, necessary to prevent its recurrence. It is normally for the appellate court to decide whether the adjudication itself by taking into account the additional evidence would be proper or it would be appropriate to direct a fresh trial, though, on the facts of this case, the direction for retrial becomes inevitable."

17. A Three Judge Bench of this Court in Mohd. Hussain v. State (Govt. of NCT of Delhi) 2012 (9) SCC 408, held that:

“41. The appellate court hearing a criminal appeal from a judgment of conviction has power to order the retrial of the accused under Section 386 of the Code. That is clear from the bare language of Section 386(b). Though such power exists, it should not be exercised in a routine manner. A de novo trial or retrial of the accused should be ordered by the appellate court in exceptional and rare cases and only when in the opinion of the appellate court such course becomes indispensable to avert failure of justice. Surely this power cannot be used to allow the prosecution to improve upon its case or fill up the lacuna. A retrial is not the second trial; it is continuation of the same trial and same prosecution. The guiding factor for retrial must always be demand of justice. Obviously, the exercise of power of retrial under Section 386(b) of the Code, will depend on the facts and circumstances of each case for which no straitjacket formula can be formulated but the appeal court must closely keep in view that while protecting the right of an accused to fair trial and due process, the people who seek protection of law do not lose hope in legal system and the interests of the society are not altogether overlooked.”

(Emphasis supplied)

18. While relying upon the decision of the Constitution Bench in Ukha Kolhe 2017 (12) SCC 699 this court discussed the scope of Section 386 of Cr.P.C in Ajay Kumar Ghoshal v. State of Bihar, to the effect that:

"10. Section 386 CrPC deals with the powers of the appellate court. As per Section 386(b) CrPC in an appeal from a conviction, the appellate court may: (i) reverse the finding and sentence and acquit or discharge the accused, or order him to be retried by a court of competent jurisdiction subordinate to such appellate court or committed for trial, or (ii) alter the finding, maintaining the sentence, or (iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same.

11. Though the word "retrial" is used under Section 386(b)(i) CrPC, the powers conferred by this clause is to be exercised only in

exceptional cases, where the appellate court is satisfied that the omission or irregularity has occasioned in failure of justice. The circumstances that should exist for warranting a retrial must be such that where the trial was undertaken by the court having no jurisdiction, or trial was vitiated by serious illegality or irregularity on account of the misconception of nature of proceedings. An order for retrial may be passed in cases where the original trial has not been satisfactory for some particular reasons such as wrong admission or wrong rejection of evidences or the court refused to hear certain witnesses who were supposed to be heard.

12. "De novo" trial means a "new trial" ordered by an appellate court in exceptional cases when the original trial failed to make a determination in a manner dictated by law. The trial is conducted afresh by the court as if there had not been a trial in first instance. Undoubtedly, the appellate court has power to direct the lower court to hold "de novo" trial. But the question is when such power should be exercised."

(Emphasis supplied)

16. In light of the above stated legal position, now this Court has to consider the facts of the case and to record its finding whether the order of remand passed by the appellate Court in the given facts is justifiable or not.
17. To appreciate this point, to analysis the finding of the trial Court, this Court has to examine whether the prosecution has brought the material to prove its case or not and the trial Court has considered it or ignored it. If the material, evidence of such quality is available on record still the trial Court has ignored it then only order of remand can be held justified.
18. The prosecution witness Jai Prakash Mourya (PW-17) who has conducted the enquiry in his evidence has stated that the documents were prepared by Gayendra, Pranay Jain and Patwari Jaidev Prakash Khunte. But they have not mentioned the caste despite the knowing the caste of Surendra

Kanwer. He has also stated that in the agreement the caste was mentioned as Kanwar which is Scheduled Tribe but in the sale deed the caste has not been mentioned as *Nai Thakur* and both the persons have signed their signatures in the sale deed as witnesses, as such their involvement in fabrication of document was very much there. He has further stated that seller Surendra Kanwar has submitted photocopy of the sale deed wherein the original caste was mentioned as Kanwar. The witness has also stated the pages of khasra panchasala had been changed and the caste was concealed which was done by Jaideo Prasad Khunte. He has also stated that he has examined B-1 of 2007-08 of village Accholi wherein in account No. 201 the caste of Pitambar has been mentioned which has been erased by Patwari Khunte as the caste cannot be seen. From perusal of account no. 471 it is clear that the pages of the account has been changed. It has been further stated in his evidence that the previous pages was black and ink of the change pages is blue. He has adduced the evidence to demonstrate that fabrication in the document has been done. He has also stated that in Namantran Panji at column No. 4, there was an attempt to erase the caste but it was not properly erase as some letters still reflected in it. In detailed he has narrated the incident as to how the fabrication was made in the document but in the cross examination, it was not diluted on the contrary in the evidence it was re-affirmed that some erase work was done in the records. This witness has further stated that involvement of document writer Suraj Saah is also reflected as the agreement dated

06.06.2011 and sale deed dated 31.08.2011 has been typed by Suraj Saah. He has also stated that in the agreement dated 06.06.2011 he has mentioned the sale deed of seller Surendra Kumar as Kanwar caste. He has also stated that seller Surendra has stated that he is illiterate person and has not read the agreement. He has also stated that agreement was prepared by Gyanendra. In the cross examination, it has not been brought on record that there is no manipulation in the document still the trial Court has committed illegality in acquitting the accused.

19. In light of the above evidence, the order of the appellate court has to be examined by this Court from perusal of the order it is quite vivid that Learned Appellant Court in his paragraph-21 recorded its finding that the accused persons was charged for commission of offence under Sections 120 B, 420, 467, 468 and 471 of the IPC. The offence pertaining to 467 of the IPC, relates to forgery of valuable security, Will etc. This section provides that any document purporting to be receipt for the delivery of any property or valuable security. Section 468 of the IPC provide forgery for purpose of cheating and section 471 of the IPC provide using as genuine a forged document or electronic records. Section 470 of the IPC, provides forged document or electronic records. The witness Jaiprakash Mauriya (PW-17) in his evidence has categorically stated that in the original sale deed no caste was mentioned and in the photocopy the caste was being mentioned and also narrated the fact that as to how the document was

manipulated which are genesis to commit such fraudulent act by the applicants and other accused person.

20. The evidence discussed above clearly demonstrate that there was sufficient material was placed on record by the prosecution which has been ignored by the learned trial Court so lightly without considering the real controversy involved in the case merely on the basis of oral evidence whereas the case of fraudulent act can be proved on the basis of documentary evidence which was already available on record and duly supported by the evidence of Jaiprakash Maurya (PW-17).
21. The learned trial Court has ignored the vital evidence which is already on record and also failed to consider that the accused have not taken any defense regarding non existence of forged document which has been rightly rectified by the Appellate Court while remanding the matter to the learned trial Court for adjudication as per its direction. Thus, the order of the learned Appellate Court is in conformity with the power conferred upon the Appellate Court while exercising its power under Section 386(a) of the CRPC.
22. So far as judgment referred to by the applicant in case of Bhupatbhai (supra) it is quite vivid that Hon'ble Supreme Court has held that Appellate Court can interference with the order of acquittal only if it is satisfied after re-appreciating the evidence that only possible conclusion was that the guilt of the accused has been established only beyond reasonable doubt. The applicants have not been able to establish that the order of remand

passed by the Appellate Court is on erroneous finding or on a non permissible ground as per the power conferred on the Appellate Court or despite the entire evidence on record is taken into consideration, there is no possibility of conviction of the applicant. In absence of such submission with regard to the quality of evidence already brought on record can lead conviction of the applicants, I am of the view that the Appellate Court has not committed any illegality or irregularity which warrants interference by this Court. Accordingly, the revisions are dismissed.

23. It is made clear that the learned trial Court will decide the case on its own merits without being influenced from any of the observation made by this Court while deciding the revision petitions. It is further clarified that the observation made by this Court are only made to consider the points raised in the revision petitions and will have no bearing on the trial Court.
24. Interim order passed by this Court on 24.08.2022 is vacated.

Sd/-

(Narendra Kumar Vyas)
JUDGE

Santosh