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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010000192001

+ CRL.A. 884/2001

SAVITA

.....Appellant

Through: Ms.Adviteeya, Mr.Sandeep Sudhakar
Deshmukh and Mr.Nishant Sharma,
Advs.

versus

STATE OF DELHI

.....Respondent

Through: Mr. Raj Kumar, APP for the State
with SI Kunal, PS J.P. Kalan.

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CNR No. DLHC010001842002

+ CRL.A. 10/2002

MEHTAB SINGH & ANR.

.....Appellants

Through: Ms. Adviteeya, Adv.

versus

STATE OF DELHI

.....Respondent

Through: Mr. Raj Kumar, APP for the State
with SI Kunal, PS J.P. Kalan.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER (ORAL)

1. Hybrid mode.
2. Challenged in this appeal is the Judgment of conviction dated 30.10.2001 and the consequent Order on Sentence dated 06.11.2001 passed by the Learned ASJ (Ms. R. Kiran Nath), New Delhi, in Sessions Case No.



97/97, arising out of FIR No. 107/96 registered at Police Station Jaffarpur Kalan, under Sections 304B/498A/498A read with Section 34 IPC. By virtue of the impugned judgment, Smt. Savita, Sh. Mehtab Singh and Sh. Jitender were convicted for the offences punishable under Sections 304B and 498A read with Section 34 IPC. All three convicts were sentenced to undergo rigorous imprisonment for ten years under Section 304B/34 IPC, and rigorous imprisonment for two years along with a fine of Rs. 10,000/- each and in default of payment of fine, to further undergo simple imprisonment for six months under section 498A. Both the substantive sentences were ordered to run concurrently, and the benefit of Section 428 of the Code of Criminal Procedure ('Cr.P.C.') was extended to them.

3. It is relevant to record that during the pendency of the present proceedings, Appellant No. 1 in CRL.A. 10/2002, namely Sh. Mehtab Singh, expired on 12.06.2011. Consequently, CRL.A. 10/2002 stands abated qua Appellant No. 1, Sh. Mehtab Singh, and survives with respect to Appellant No. 2, Sh. Jitender.

4. This Court had earlier disposed of CRL.A. 884/2001 and CRL.A. 10/2002 vide common judgment dated 28.07.2017, upholding the conviction and sentence recorded by the Learned Trial Court. Aggrieved thereby, the Appellants preferred SLP before the Hon'ble Supreme Court, registered as SLP(Crl.) No. 8529/2017 (at the instance of Smt. Savita) and SLP(Crl.) No. 8707/2017 (at the instance of Sh. Jitender). Vide order dated 25.01.2019, leave was granted in both the petitions, and the same came to be renumbered as Criminal Appeal Nos. 186/2019 and 187/2019 respectively. Vide order dated 14.10.2019 passed in the said appeals, the Hon'ble Supreme Court set



aside the order of this Court dated 28.07.2017 and remanded both the matters back to this Court, with a direction to decide the appeals afresh, on merits.

5. Upon the matter being taken up afresh pursuant to the remand, it has been submitted by the Learned Counsel for the Appellants that the Trial Court Record ('TCR') has been misplaced and submitted a list of deficient documents. Vide order dated 18.01.2020, the learned counsel for the Appellants placed on record the list of details of record which are not available in the reconstructed Trial Court Record. Learned APP upon going through the said list, had shown his inability to provide any document as mentioned in the list. On 01.07.2025, the learned counsel for the Appellants again placed on record certain documents to facilitate reconstruction of the record which stands reflected in the 'List of Documents in the Reconstructed LCR file with the Status of Availability.' Thereafter, continuous efforts have been made to reconstruct the TCR. Despite the aforesaid efforts, the Station House Officer ('SHO'), Police Station Jaffarpur Kalan, vide status report dated 10.04.2026, reported that the documents demanded by the learned Counsel for the Appellants were not available and could not be traced either in the police file or in the concerned record/vernacular record room, and are presumed to be not available on record. On 25.08.2026, this Court recorded that the issue of the missing documents persisted unabated, and that neither the State nor the Appellants were in a position to further assist the Court with any material towards reconstruction of the record.

6. A perusal of the aforesaid 'List of Documents' discloses that, apart from the deposition (examination-in-chief and cross-examination) of only three witnesses, namely Sh. Indra Singh, ASI Mahendra Singh and SI



Jaiprakash Singh, the chief and cross-examination of the remaining witnesses are not available on the reconstructed record. It further discloses that the following documents, marked as Exhibits by the Learned Trial Court, have been specifically shown as not available:

LIST OF DOCUMENTS IN THE RECONSTRUCTED LCR FILE
WITH STATUS OF AVAILABILITY

Sl. No.	Particulars	Status in File
5.	MLC – Ex. PW 4/A	Not Available
6.	DD No. 6A – Ex. PW8/A	Not Available
7.	Ex. PW1/A – Statement of father of deceased (PW1)	Not Available
9.	Ex. PW1/C – Statement of handing over dead body	Not Available
10.	Letter Marked as Ex. A	Not Available
11.	Ex. PW1/C – Notebook of deceased	Not Available
12.	Ex. PW2/A – Statement of PW-2	Not Available
13.	Ex. PW2/B – Proved statement recorded before SDM	Not Available
14.	Ex. PW3/A Statement of PW-3	Not Available
15.	Ex. PW4/A Summary of death	Not Available
17.	Ex. PW4/C MLC Proved	Not Available
18.	Ex. PW5/B1-11 –	Not



	Inquest Papers	Available
19.	Ex. PW9/A Arrest and search	Not Available
20.	Ex. PW11/A Form 25.35	Not Available
21.	Ex. PW11/B Order directing registration of case	Not Available
22.	Ex. PW12/A Report of Handwriting expert	Not Available
24.	Ex. PW15/B – DD No. 26A	Not Available
25.	Ex. P1 to P4 – Case Property	Not Available
27.	Ex. PW14/B - Endorsement	Not Available
31.	Ex. PW14/E – Copy of PW1/C taken into possession	Not Available
33.	Examination of PW-2 Bhagwan (brother of deceased)	Not Available
34.	Examination of PW-3 Phoola Devi (mother of deceased)	Not Available
35.	Examination of PW-4 Dr. Deepak Gupta	Not Available
36.	Examination of PW-5 Dr. Ashok Jaiswal	Not Available
37.	Examination of PW-6 Dr. Arun Gupta	Not Available
38.	Examination of PW-7 HC Dhani Ram	Not Available
39.	Examination of PW-8 Ct. Narender	Not Available
40.	Examination of PW-9 Ct. Raj Singh	Not Available
41.	Examination of PW-10	Not



	SI Nand Ji	Available
42.	Examination of PW-11 Parkash Chand	Not Available
43.	Examination of PW-12 CFSL Expert	Not Available
46.	313 Statements	Not Available
47.	Evidence of DW1 to DW3	Not Available

7. Reliance was placed by learned counsel for the Appellants on ***Jitendra Kumar Rode V. Union of India***, (2024) 11 SCC 559, ***Ramesh Kaushik v. State (NCT of Delhi)***, 2022 SCC Online Del 4185, ***Charanjit Singh v. Tulshi Dass & Ors.***, bearing number as Crl. A. 457/2002, decided on 17.04.2026, where the courts have reiterated the settled position governing such a situation as stated in ***State of U.P. v. Abhai Raj Singh and Anr.***, (2004) 4 SCC 6, the relevant portion whereof is reproduced hereunder:

“10. We, therefore, set aside the order of the High Court and remit the matter back for fresh consideration. It is to be noted at this juncture that one of the respondents i.e. Om Pal has died during the pendency of the appeal before this Court. The High Court shall direct reconstruction of the records within a period of six months from the date of receipt of our judgment from all available or possible sources with the assistance of the prosecuting agency as well as the defending parties and their respective counsel. If it is possible to have the records reconstructed to enable the High Court itself to hear and dispose of the appeals in the manner envisaged under Section 386 of the Code, rehear the appeals and dispose of the same, on their own merits and in accordance with law. If it finds that reconstruction is not practicable but by ordering retrial interest of justice could be better served — adopt that course and direct retrial — and from that stage law shall take its normal course. If only reconstruction is not



possible to facilitate the High Court to hear and dispose of the appeals and the further course of retrial and fresh adjudication by the Sessions Court is also rendered impossible due to loss of vitally important basic records — in that case and situation only, the direction given in the impugned judgment shall operate and the matter shall stand closed. The appeals are accordingly disposed of.”

8. Applying the aforesaid principles to the facts of the present case, it is evident that despite repeated efforts undertaken by the Registry, the concerned trial court, the prosecuting agency and both the parties, the Trial Court Record has neither been reconstructed nor traced and continues to remain unavailable and untraceable. The deficiency, as noted above, extends to the depositions of the material witnesses, the statements of the accused recorded under Section 313 Cr.P.C. and the entire defence evidence, all of which constitute the very foundation of the adjudicatory process. In the absence of such material, this Court is unable to examine and adjudicate on the correctness of the findings returned by the Trial Court and is deprived from appreciating the evidence that was led, and from scrutinising the reasoning forming the basis of the Impugned Judgment.

9. It is trite that adjudication of a criminal appeal necessarily and essentially requires a complete and effective scrutiny of the Trial Court Record, and any determination in its absence would amount to a decision rendered without any evidentiary substratum, which is impermissible under the law. Moreover, having regard to the fact that the alleged occurrence took place in the year 1996, the trial concluded and conviction was recorded in the year 2001, and nearly three decades have since elapsed, this Court is of the considered view that a direction for retrial would not be a feasible or



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meaningful exercise, particularly when the foundational material required for such retrial is itself unavailable.

10. In these circumstances, when the reconstruction of the record is not possible so as to enable this Court to hear and dispose of the appeals on merits, the only course open, in terms of the law laid down by the Hon'ble Supreme Court in "***State of U.P. v. Abhai Raj Singh and Anr.***" (supra), is to allow the appeal. The Judgment dated 30.10.2001 and the Order of Sentence dated 06.11.2001 are hereby set aside.

11. The present appeals being CRL.A. 884/2001 and CRL.A. 10/2002, stand disposed of in the aforesaid terms.

VIMAL KUMAR YADAV, J

SEPTEMBER 7, 2026/VS