2026:CGHC:12373-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 175 of 2018

State of Chhattisgarh Through- The Superintendent of Police, Special Police Establishment, Lokayukt Office, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

... Appellant

versus

1 - A.E. Gabriyal S/o E. Gabriyal Aged About 80 Years The Then Regional Officer State Housing Cooperative Federation, Raipur, R/o- New Shanti Nagar, Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2 - Vinay Mitra S/o N.D. Mitra Contractor, R/o House No. E/9, Adarsh Nagar, Durg District Durg Chhattisgarh

3 - Shankar Sharma S/o Jhumuklal Sharma Aged About 66 Years The Then Revenue Inspector, Nandghat, District Durg C. G. R/o Shankar Nagar Durg District Durg C. G.

4 - Gendlal Guru S/o Khurju Ram Guru Aged About 66 Years The Then Revenue Inspector, Office Of The Assistant Settlement Officer, Dhamtari C. G. R/o Village And Post Pawari, Tahsil Gurur, District Balod C. G.

... Respondents

For State/Appellant	:	Mr. Avinash Singh, G.A.
For Respondent No. 1 and 2	:	None present

For Respondents No. 3 and 4	Ms. Vartika Shrivastava, Advocate on behalf of Mr. P.R. Patankar, Advocate.

Hon'ble Smt. Justice Rajani Dubey, J.

Hon'ble Shri Justice Radhakishan Agrawal, J.

Judgment on Board

16.03.2026

Per, **Rajani Dubey, J.**

1. The present appeal has been preferred by the appellant/State against the judgment dated 18.07.2017 passed by learned Special Judge (Prevention of Corruption Act, 1988), Durg, District- Durg in Special Case No. 01/2001, whereby the learned trial Court acquitted the accused/respondents No. 1, 3 and 4 of the charges under Sections 120 (B), 420 and 467 of IPC and Section 13 (1) (d) read with Section Section 13 (2) of the Prevention of Corruption Act and respondent No. 2 acquitted of offence under Sections 120 (B), 420 and 467 of IPC.

2. The brief facts of the prosecution case are that on the basis of a written complaint lodged by the complainant- Basarat Khan, an offence bearing Crime No. 40/1999 came to be registered by the Special Police Establishment, Bhopal against the present respondents/accused persons. It was alleged in the complaint that the respondents, in furtherance of a criminal conspiracy and in collusion with other co-accused persons, had illegally and fraudulently sold the land belonging to *Chhattisgarh Vikas Griha Nirman Sahkari Samiti* situated at Village Padumnagar, Charoda, Tahsil Patan, District- Durg (Chhattisgarh), admeasuring 6.53 acres to about 14 purchasers. The prosecution case is that the said land was wrongfully represented and shown as agricultural land, despite the fact that it belonged to the said cooperative society and could

not have been legally transferred in the manner in which it was done. By misrepresenting the nature and status of the land and abusing their official position, the accused persons allegedly facilitated the illegal sale, thereby causing wrongful loss to the society and corresponding wrongful gain to themselves and the purchasers. On the basis of the said complaint, the Special Police Establishment registered the aforementioned crime and initiated investigation into the matter. During the course of investigation, the investigating agency collected relevant documentary evidence, records relating to the land in question and statements of witnesses. Upon scrutiny of the material so collected, the investigating agency found *prima facie* involvement of the present respondents in the commission of the alleged offences. After completion of investigation, a charge-sheet was filed before the learned Special Court against the respondents/accused persons for offences punishable under Sections 120-B, 420 and 467 of the Indian Penal Code and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. The learned Special Judge, after conducting the trial and upon appreciation of the oral as well as documentary evidence available on record, by the impugned judgment acquitted accused/respondents No. 1, 3 and 4 of the charges under Sections 120-B, 420 and 467 of the IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and acquitted respondent No. 2 of the offences punishable under Sections 120-B, 420 and 467 of the IPC. Being aggrieved by the judgment of acquittal passed by the learned Special Judge, the State/Appellant has preferred the present appeal challenging the legality and correctness of the impugned judgment and seeking reversal of the order of acquittal passed in favour of the respondents.

3. Learned counsel appearing for the appellant/State submits that the impugned judgment of acquittal passed by the learned Trial Court is contrary to law and facts on record and therefore the same deserves to be set aside. It is contended that the learned Trial Court has failed to properly appreciate the oral as well as documentary evidence adduced by the prosecution and has recorded findings which are not borne out from the material available on record. It is further submitted that the prosecution has successfully established the ingredients of the offences punishable under Section 420 of the IPC as well as the provisions of the Prevention of Corruption Act, by leading cogent, reliable and consistent evidence. The evidence brought on record clearly demonstrates that the accused/respondents, in furtherance of a criminal conspiracy, misrepresented the nature and status of the land belonging to *Chhattisgarh Vikas Griha Nirman Sahkari Samiti* and dishonestly facilitated the sale of the said land to various purchasers by projecting it as agricultural land. Such acts of the accused persons amount to cheating and dishonestly inducing innocent purchasers to part with money, thereby causing wrongful loss to the concerned society and corresponding wrongful gain to themselves and others. Learned counsel further submits that the prosecution witnesses have clearly supported the prosecution case and the documentary evidence collected during the course of investigation, including the relevant land records and documents pertaining to the transactions,

sufficiently establish the role and involvement of the accused/respondents in the commission of the alleged offences. It is argued that the learned trial Court, while passing the impugned judgment, has ignored material pieces of evidence and has adopted a hyper-technical approach in evaluating the prosecution case. It is also contended that the learned trial Court has failed to consider that the respondents, being public servants had abused their official position and acted in a manner which falls squarely within the ambit of Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, by obtaining pecuniary advantage for themselves or for others through illegal and dishonest means. The prosecution evidence clearly indicates that the acts of the accused were not merely irregular administrative actions, but were deliberate acts committed with dishonest intention, thereby attracting the provisions of the aforesaid statute. The Trial Court has failed to consider the cumulative effect of the entire evidence on record and has erroneously granted the benefit of doubt to the accused persons despite the prosecution having proved its case beyond reasonable doubt. It is therefore argued that the impugned judgment suffers from serious legal infirmities and has resulted in miscarriage of justice. In view of the evidence available on record and the established legal position, the findings recorded by the learned Trial Court are unsustainable in law. Therefore, looking to the facts and circumstances of the case, the judgment and finding of the learned trial Court is perverse and is liable to be set aside.

4. None present for respondent Nos. 1 and 2, despite service of notice.

5. *Ex adverso,* learned counsel for the respondents No. 3 and 4/accused supporting the impugned judgment submits that the learned trial Court minutely appreciated the oral and documentary evidence and rightly acquitted the respondents/accused of the aforesaid charges. Therefore, the impugned judgment does not suffer from any irregularity or infirmity warranting interference by this Court in the instant appeal.

6. We have heard learned counsel for both the parties and perused the material available on record.

7. It is evident from the record of the learned Trial Court that it framed charges against the respondent Nos. 1, 3 and 4 for offence under Sections 120 (B), 420 and 467 of IPC and Section 13 (1) (d) read with Section Section 13 (2) of the Prevention of Corruption Act, 1988 and against respondent No. 2 for offence under Sections 120 (B), 420 and 467 of IPC and after appreciation of oral and documentary evidence available on record, the learned Trial Court acquitted the respondents of all the aforesaid charges on this ground that the prosecution has failed to prove its case beyond reasonable doubt against the respondents/ accused.

8. It is undisputed that at the time of incident, respondent No. 1- A.E. Gabriyal was posted as Co-operative Inspector and In-charge of the Chhattisgarh Housing Co-operative Society, Charoda, District Durg; respondent No. 2, Vinay Mitra was a contractor; respondent Nos. 3 and 4, Gendlal Guru and Shankar Sharma, were posted as Revenue Inspectors. It is further not in dispute that certain sale deeds were executed by Vinay Mitra.

9. As per the prosecution case, all the accused persons, in furtherance of a criminal conspiracy, illegally sold land belonging to *Chhattisgarh Vikas Griha Nirman Sahkari Samiti*, situated at Village Padumnagar, Charoda, Tahsil Patan, District- Durg (Chhattisgarh), admeasuring 6.53 acres to about 14 purchasers by misrepresenting the land as agricultural land.

10. PW-1 Surekha Deshlehara deposed that land bearing Khasra No. 433/8, admeasuring 40 decimal was purchased on 16.01.1995 for a consideration of Rs. 12,000/-. She further stated that the said transaction was carried out by her husband with the seller, though she was not aware of the name of the seller. In her cross-examination, she stated that at the time of execution of the sale deed, the market value of the land was the same as the price at which it was purchased.

11. PW-2 Pukhraj Jain has stated that land bearing Khasra No. 433/9, admeasuring 40 decimal was purchased on 16.02.1995 for a consideration of Rs. 12,000/- from *Chhattisgarh Vikas Griha Nirman Sahkari Samiti* situated at Padumnagar, Charoda. His wife Kalpana had also purchased a land bearing Khasra No. 432 admeasuring 30 decimal for a consideration of Rs. 9,000/-. He further stated that a case regarding payment of deficient stamp duty in respect of the said land was registered against his wife before the Collector, Durg, and pursuant to the Collector's order, an additional stamp duty of Rs. 16,784/- was paid. In his cross-examination, he admitted this suggestion of defence that Collector of every district determines the guideline rates for registration of land in all villages and areas every

year and irrespective of the actual sale consideration, the stamp duty is required to be paid on the basis of the value fixed by the Collector. According to the Collector's guideline rate, he was required to pay an additional stamp duty of Rs. 10,400/-.

12. PW-4 Mohini Bai Kochar has stated that she purchased land from *Chhattisgarh Vikas Griha Nirman Sahkari Samiti* for a consideration of Rs. 15,000/- and She further stated that she was not aware of the notice issued by the office of District Registrar regarding deficiency in stamp duty and also did not know whether the police had recorded her statement or not. The prosecution declared her hostile and cross-examined her; however, she stated that she was not aware whether the land bearing Khasra No. 430/2 admeasuring 0.49 decimal, situated at Padumnagar was purchased and further expressed ignorance as to whether she had deposited stamp duty of Rs. 821/- on 20.03.1996 after receiving notice from the District Registrar. She herself stated that it may be deposited by her nephew.

In para 6 of her cross-examination, she stated that the land purchased by her is still in her possession.

13. PW-5- B. S. Naik, District Registrar produced sale-deed of all land which was executed by the society and stated that he produced 14 cases before Lokayukta, Raipur. Memo is Ex. P/4 and all cases are Ex. P/5 to Ex. P/18. The prosecution declared him hostile and cross-examined him, then in para 7, he denied this suggestion that he is involved with the accused in the crime in question and that for

the purpose of protecting them, he is refusing to depose before the Lokayukta, Raipur regarding the document marked as Ex. P/19.

He admitted the defence's suggestion that the stamp duty was paid based on the value of the land fixed by the Collector.

In para 11 of his cross-examination, he admitted that the amounts shown in Ex.P/5 to Ex.P/18 were paid by the respective purchasers.

14. PW-7 Chandrahas Pandey stated that on 06.08.1985 he was working as an Accountant in *Chhattisgarh Vikas Griha Nirman Sahkari Samiti Maryadit*. He further stated that the Anti-Corruption Bureau seized certain files in accordance with the seizure memo (Ex.P/20), wherein admitted his signature on B to B part. He stated in para 2 that " प्रकरण के अभिलेख में मैंने जप्ती दिनांक 04.08.1999 को द्वारा प्रस्तुत करने पर प्रदर्श पी-20'बी' के अनुसार आदेश दिनांक 10.02.1994 की सत्य प्रमाणित प्रतिलिपि की जप्ती की गई थी। एसीबी के अधिकारियों द्वारा दिनांक 04.08.1999 को मेरे द्वारा प्रस्तुत करने पर प्रदर्श पी-20 सी. के अनुसार कुर्की आदेश की असल की जप्ती की गई थी। मैंने जप्ती दिनांक को एसीबी के अधिकारियों को प्रदर्श पी-20'डी', जो कि संस्था की असल संपत्ति की कुर्की करने हेतु आदेश की सूचना दिया था, जिसकी असल प्रति प्रकरण के अभिलेख में संलग्न है। प्रदर्श पी-20'ई. निरीक्षण प्रतिवेदन की असल प्रति है।"

15. PW-8 Vishambar Pradhan deposed that he was posted as Collector of Stamp, District Registrar Office, Durg, and had issued notices to the purchasers. He admitted his signatures on orders Ex. P/5 to Ex. P/17.

In para 07 of his cross-examination, he stated as under:-

“7.साक्षी से यह पूछने पर कि उप पंजीयक दुर्ग द्वारा स्टाम्प शुल्क कम होने के संबंध में कोई रिफरेंस, नहीं किया गया था, कथन करता है कि उसके द्वारा जो भी लिखित में आदेश पारित किया गया उसमें उल्लेख किया गया है। स्वतः कहा कि स्वप्रेरणा से भी जिला पंजीयक कार्यवाही करने में सक्षम है यह आवश्यक नहीं है कि उप पंजीयक के रिफरेंस पर कार्यवाही किया जावें। "

In para 08 of his cross-examination, he admitted as under:-

“8. यह कहना सही है कि मेरे द्वारा पारित आदेश प्रदर्श पी-5 से प्रदर्श पी-17 में कृषि भूमि मानकर उसका स्टाम्प शुल्क का मूल्यांकन किया गया हैं। यह कहना सही है कि शासन द्वारा निर्धारित बाजार मूल्य तथा पक्षकारों के मध्य तय की गई विकय की राशि को आधार मानकर स्टाम्प शुल्क की गणना की जाती है। "

16. PW-6 Rakesh Bhatt deposed that in June 1999, while posted as Inspector in the Lokayukta Office Raipur, he enquired into the complaint dated 04.05.1999 filed by Basrat Khan. He seized documents vide seizure memo (Ex. P/20) and admitted his signature on A to A part. He also prepared memo (Ex. P/21) and seized a typed copy of the Additional Collector’s order (Ex. P/22).

In para 18 of his cross-examination, he admitted as under:-

“18. यह कहना सही है कि जॉच में मैंने पाया था कि आरोपी विनय मित्रा ने छ.ग. गृह निर्माण सहकारी समिति के भवनों का निर्माण ठेकेदार के रूप में किया था तथा उसके बकाया का भुगतान उक्त संस्था के द्वारा किया जाना था। यह कहना सही है कि बकाया राशि के वसूली के लिए विनय मित्रा ने उप-पंजीयक दुर्ग के न्यायालय में वाद प्रस्तुत किया था। इस वाद में विनय मित्रा के पक्ष में 10,02416 रूपये का अवार्ड पारित हुआ था। इस राशि का भुगतान करने में गृह निर्माण समिति असमर्थ रही थी। यह कहना भी सही है कि इस स्थिति में बकाया

के भुगतान के लिए उप पंजीयक सहकारी संस्था दुर्ग ने संस्था को अपनी जमीन बेचकर भुगतान करने का आदेश दिया था। "

In para 23 of his cross-examination, he also admitted as under:-

"23. यह कहना सही है कि बशारत खान की शिकायत पर ए.के. (अमल कुमार) बैनर्जी की जांच रिपोर्ट दिनांक 24-10-1996 को अभियोग पत्र के साथ संलग्न की गई है। यह कहना सही है कि उक्त जांच रिपोर्ट की कंडिका-5 में श्री ए. के. बैनर्जी द्वारा लेख किया गया है कि शिकायतकर्ता द्वारा लगाया गया आरोप निराधार व द्वेषवश लगाया गया प्रतीत होते हैं, जो कि न्यायालयीन अवार्ड के परिपालन में समस्त संव्यवहार किये गये हैं......।"

17. It has been held by Hon'ble Supreme Court in the matter of ***Jupally Lakshmikantha Reddy Vs. State of Andhra Pradesh and another***[1] held in paras 18 to 20 as under:-

> 18. "18. We are unable to accept her submission on this score too. There is nothing on record to show the appellant had manufactured the alleged fake document which is a sine qua non to attract Section 465 IPC [punishment for forgery]. In fact, the original fabricated document had not been recovered.
>
> 19. 19. In Sheila Sebastian v. R. Jawaharaj [(2018) 7 SCC 581, para 25], this Court held to attract Section 464 IPC [Making a false document], the prosecution must establish that the accused had made the fake document. No material connecting the appellant to the making of the fake document has been adduced in the impugned charge sheet.

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1 2025 SCC OnLine SC 1950

> 20. 20. Similarly, offences under Section 468 IPC [forgery for purpose of cheating] and Section 471 IPC are not attracted, as the requisite mens rea, i.e., dishonest intention to cause wrongful loss to the Education Department and wrongful gain to himself has not been demonstrated as the issuance of the recognition was not dependent on the production of the alleged forged NOC."

21. Further in the matter of ***Vishal Noble Singh Vs. State of Uttar Pradesh and another;***[2]**.**, the Hon'ble Supreme Court held in paras 17 to 21 and 24 as under:-

> 17. On a reading of the FIR as well as the charge-sheet, we do not find that the offences aforestated is made out at all. We do not find any criminal breach of trust nor any cheating by impersonation. There is also no cheating and dishonestly inducing delivery of property, nor has any documents referred to any forgery or security or any forgery for the purpose of cheating. There is no reference to any document which has been forged so as to be used as a genuine document and much less is as there any criminal conspiracy which can be imputed to the appellants herein in the absence of any offence being made out vis-a-vis the aforesaid Sections.
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> 18. In this regard, our attention was drawn to paras 42-44 and 46 of Inder Mohan Goswami v. State of Uttaranchal,

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2 2024 SCC OnLine SC 1680

(2007) 12 SCC 1, dealing with Sections 420 and 467 IPC, which are extracted hereunder with regard to Section 420 IPC, it was observed thus:

> "42. On a reading of the aforesaid section, it is manifest that in the definition there are two separate classes of acts which the person deceived may be induced to do. In the first class of acts he may be induced fraudulently or dishonestly to deliver property to any person. The second class of acts is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived In the first class of cases, the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but need not be fraudulent or dishonest. Therefore, it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had a fraudulent or dishonest intention at the time of making the promise From his mere failure to subsequently keep a promise, one cannot presume that he all along had a culpable intention to break the promise from the beginning.
>
> 43. We shall now deal with the ingredients of Section 467 IPC.
>
> 44. The following ingredients are essential for commission of the offence under Section 467 1PC:
>
> 1. the document in question so forged;
>
> 2. the accused who forged it;

3. the document is one of the kinds enumerated in the aforementioned section.

* * *

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. <u>Inherent jurisdiction of the High Courts under Section 482 CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is Justified by the tests specifically laid down in the statute itself and in the aforementioned cases</u>. In view of the settled legal position, the Impugned judgment cannot be sustained.

(emphasis by us)

19. On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the Accused-Appellants herein is made out. In fact, we find that the allegations of criminal intent and other allegations against the Accused-Appellants herein have been made with a malafide intent and therefore, the Judgment of this Court in the case of Bhajan Lal and particularly sub-paragraphs 1, 3, 5 and 7 of paragraph 102, extracted above, squarely apply to the facts of these cases. It is neither expedient nor in

the interest of justice to permit the present prosecution to continue.

20. This Court, in Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692, reasoned that the criminal process cannot be utilized for any oblique purpose and held that while Entertaining an application for quashing an FIR at the initial stage, the test to be applied is whether the uncontroverted allegations prima facie establish the offence This Court also concluded that the court should quash those criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution. The aforesaid observations squarely apply to this case.

21. We find that in recent years the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission having an adverse impact on the fabric of our society must be nipped in the bud.

24. We also find that the reliance by the High Court upon the judgment of this Court in Neeharika Infrastructure is not apposite. The facts in the aforementioned case and the present case are quite different. The aforementioned case concerned a special leave petition filed by a

complainant aggrieved by an interim order of the Bombay High Court that granted protection to the applicant therein from ‘coercive steps’. The grievance of the complainant in that case was that one-and-half-years after securing protection from arrest from the Sessions Court, the accused had filed a Writ Petition before the Bombay High Court to quash the FIR. Accordingly, this Court had quashed the interim order of 'no coercive steps’ and cautioned against the practice of directing 'no coercive steps’ while dismissing applications under Section 482 of CrPC. This Court had also clarified that it was not expressing any view on merits of the application for quashing of the FIR in the said case. Therefore, the High Court ought not to have relied upon the said judgment to deny the relief to the present Accused-Appellants.”

22. In the light of the aforementioned judgments and a close and careful scrutiny of the testimony of all prosecution witnesses reveals nothing beyond the fact that certain sale deeds were executed by the accused/respondent No. 2- Vinay Mitra in favour of PW-1 Surekha Deshlahra, PW-2 Pukhraj Jain and other purchasers. The core allegation of the prosecution is that the accused persons/respondents, in connivance with each other, deliberately misrepresented the disputed land as an agricultural land for their self enrichment. However, this allegation stands materially contradicted by the prosecution’s own witness i.e., PW-8 Vishambar Pradhan, the then Collector of Stamp, who unequivocally admitted that in all orders Ex. P/5 to Ex. P/17, stamp duty was assessed and

demanded treating the land as agricultural. This admission strikes at the very foundation of the prosecution story and renders the allegation of misrepresentation wholly unsubstantiated. There is a complete absence of cogent, reliable, and legally admissible evidence to demonstrate (i) any prior meeting of minds constituting conspiracy, (ii) any act of fabrication of documents, or (iii) any misuse of official position by the accused persons for wrongful gain. Mere execution of sale deeds, by itself, does not constitute proof of criminal intent or establish the existence of a conspiracy. The prosecution has thus failed to establish the essential ingredients of the alleged offences beyond reasonable doubt. The chain of circumstances is not only incomplete, but fundamentally deficient, giving rise to serious doubts which must necessarily ensure to the benefit of the accused. The learned trial Court upon a thorough and meticulous appreciation of both oral and documentary evidence, has rightly concluded that the prosecution failed to prove the charges of conspiracy, fabrication or abuse of official position. The finding of acquittal is well-reasoned, legally sound, and does not suffer from any perversity or misappreciation of evidence, warranting no interference in appeal.

23. The Hon'ble Apex Court vide its judgment dated 12.02.2024 passed in ***Mallappa and Ors. Versus State of Karnataka***[3] has held in para 36 as under:-

> "36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of

3 (2024) AIR SC 1252

criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive--inclusive of all vidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

24. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in **Mallappa** (supra) and the view which has been taken by the learned trial Court appears to be plausible and possible view and in the absence of any patent illegality or perversity this Court is not inclined to interfere with the impugned judgment.

25. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE

Sd/-

(Radhakishan Agrawal)
JUDGE

AMIT PATEL