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

+ **CRL.A. 1279/2015**

BALKESHWAR

.....Appellant

Through: Mr. M.L. Yadav, Mr. Prashant and Mr.
Piyush Saini, Advs. with Appellant in
person

versus

STATE

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav & Mr. Lalit Luthra,
Advs.
Insp Dharmendra Kumar PS Ashok
Vihar
Mr. Ramkishan, and Mr. Pramod,
Advs. for Victim

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+ **CRL.A. 12/2016**

VISHNU YADAV

.....Appellant

Through: Mr. Himanshu Anand Gupta, Ms.
Gurpreet Singh Parwanda, Ms. Mansi
Yadav, Mr. Shekhar Anand Gupta,
Mr. Mike Desai, Ms. Navneet Kaur,
Ms. Shivani Rampal, Advs. with
Appellant in person

versus

STATE

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav & Mr. Lalit Luthra,
Advs.
Insp Dharmendra Kumar PS Ashok
Vihar



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CRL.A. 41/2016

JITENDER KUMAR

.....Appellant

Through: Mr. Harsh Prabhakar (DHCLSC), Mr.
Dhruv Chaudhry, Mr. Vijit Singh, Mr.
Shubham Saurav, Advs. with
Appellant in person

versus

STATE

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav & Mr. Lalit Luthra,
Advs.
Insp Dharmendra Kumar PS Ashok
Vihar

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

ORDER

% **24.03.2026**

1. This hearing has been done through hybrid mode.
2. The order of the Supreme Court dated 29th April, 2019 in '**Kayum Khan v. State & Anr.**', **Criminal Appeal Nos. 772-775/2019** has been handed over to the Court. *Vide* the said order, the judgment passed on 30th January, 2018 in the present three appeals have been set aside and the matter was remanded for fresh hearing in the following terms:

"Leave granted. The challenge by the appellant is against the Judgment of the High Court by which two of the accused, namely, Balkeshwar and Jitendra Kumar, both respondent No. 2 in Criminal Appeal No. 772/2019 and Criminal Appeal No. 774/2019 respectively have been acquitted of the offence punishable under Section 302/34 of the Indian Penal Code ("IPC" for short) and the two



remaining accused, namely, Pramod Kumar and Vishnu Yadav, both respondent No. 2 in Criminal Appeal No. 773/2019 and Criminal Appeal No. 775/2019 respectively have been found guilty of the offence punishable under Section 304 Part-I/34 IPC instead of Section 302/34 IPC as held by the trial court. Accordingly, the High Court has modified the sentence awarded to Pramod Kumar and Vishnu Yadav from imprisonment for life to rigorous imprisonment for a period of six years. Aggrieved, the complainant is in appeal before us. He submits that there are contradictions in the judgment and has drawn our attention to paragraphs 25 and 26 and has submitted that the final findings recorded both with regard to common intention and for modification of conviction to Section 304 Part-I IPC are flawed. We have considered the matter.

We have read the judgment of the High Court under challenge in the present appeals. Save and except to record that the judgment of the High Court leaves us dissatisfied, we would refrain from expressing and giving detailed reasons in view of what we propose to do. As the factual matrix of the case and evidence on record has not been discussed in the reasoning portion of the judgment, it would not be appropriate for us to record any specific finding in the facts of the case. Having expressed our dissatisfaction in the manner in which the High Court had proceeded to consider the matter, we set aside the order of the High Court and remit the matter for a fresh consideration by the High Court on the merits after giving all the parties opportunity of hearing. The High Court, undoubtedly, would consider the evidence and material on record and arrive at a fresh finding in accordance with law as expeditiously as possible.

This remit order would not apply to the accused-



Pramod Kumar, who was a juvenile on the date of the occurrence, an aspect on which there is no dispute, having regard to the fact that he has served out the maximum possible period of detention/sentence that can be imposed on a juvenile. The appeals are allowed in the above terms.

3. Considering the order passed by the Supreme Court, the matters would have to be heard finally afresh.
4. The Trial Court Record (hereinafter, 'TCR') and paperbook are on record.
5. Let Id. Counsels for the parties obtain the copy of the entire electronic Court record including the TCR as also the paperbook from the Registry, upon request, and make their submissions on the next date of hearing.
6. The parties shall file their written submissions at least two weeks before the next date of hearing.
7. Registry is directed to requisition the physical TCR to the Court by the next date of hearing.
8. All the Appellants are present in the Court today. The Appellants had been in custody till the decision of the Predecessor Bench dated 30th January, 2018 had been passed and they were released pursuant to the pronouncement of the said judgment. However, the said judgment has now been set aside by the Supreme Court.
9. In effect the Appellants are not in custody, but the appeals would have to be heard afresh. Under these circumstances, the Court is of the opinion that the Appellant ought to furnish proper bail bonds, etc. Accordingly, it is directed that the Appellants shall furnish fresh personal bonds to the tune of



Rs. 10,000/- and surety of the like amount to the satisfaction of the Joint Registrar.

10. List the matter before the Joint Registrar on 4th May, 2026.
11. List before Court for hearing on 14th July, 2026.

PRATHIBA M. SINGH, J.

MADHU JAIN, J.

MARCH 24, 2026/ys/ck