REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2023
(ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL) NO. 2044 OF 2022)

STATE OF RAJASTHAN ..... APPELLANT

VERSUS

ASHARAM @ ASHUMAL ..... RESPONDENT

J U D G M E N T

SANJIV KHANNA, J.

Leave granted.

2. The present appeal preferred by the State of Rajasthan takes exception to the judgment dated 10.02.2022 passed by the High Court of Rajasthan at Jodhpur[1], allowing the application[2] filed by the respondent – Asharam @ Ashumal under Section 391 of the Code of Criminal Procedure, 1973[3], and directing summoning and recording of evidence of Ajay Pal Lamba, who was posted as Deputy Commissioner of Police (West), Jodhpur, Rajasthan in August 2013 and has written a book *"Gunning For The Godman:*

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Date: 2023.04.17 18:02:59 IST
Reason:

[1] For short, 'the High Court'.
[2] D.B. Criminal Misc. Application No. 1 of 2021 in D.B. Criminal Appeal No. 123 of 2018.
[3] For short, 'Cr.P.C.'.

The True Story Behind Asaram Bapu's Conviction"[4].

3. The respondent – Asharam @ Ashumal was charge-sheeted on 06.11.2013, and after a trial lasting almost five years, *vide* judgment dated 25.04.2018 passed by the Magistrate, Special Court, Protection of Children from Sexual Offences Act, 2012[5], Jodhpur, Rajasthan, he has been convicted for the offences under Sections 370(4), 342, 354-A, 376(2)(f), 376-D, 506, 509/34 and 120-B of the Indian Penal Code, 1860, Sections 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000[6], and Sections 5(f)/6, 5(g)/6, and 8 of the POCSO Act. He stands sentenced to undergo rigorous imprisonment for different periods, and life imprisonment for the remainder of his natural life, with fine and default stipulations.

4. Earlier, the victim had given a handwritten complaint (Exhibit P-4) on the intervening night of 19/20.08.2013 at 11:55 p.m., pursuant to which 'Zero' F.I.R. dated 20.08.2013 (Exhibit P-11) was registered at Police Station Kamla Market, Central District, Delhi at 2:50 a.m. The victim was spoken to and had interacted with a Non-Governmental Organization[7], and a report dated 20.08.2013

[4] For short 'the Book'.
[5] For short, 'POCSO Act'.
[6] For short, 'JJ Act'.
[7] For short, 'N.G.O.'.

(Exhibit D-4) was prepared by the N.G.O. On the same day, the victim had appeared before the Metropolitan Magistrate in New Delhi, and her statement under Section 164 of the Cr.P.C. (Exhibit P-7) was recorded. As the offence was committed in Jodhpur, the investigation was transferred to the Police Station of competent jurisdiction and, consequently, F.I.R. No. 122 of 2013 (Exhibit P-106) was registered at Police Station Mahila Pashchim, Jodhpur District, Rajasthan on 21.08.2013 at 6:15 p.m.

5. The investigation in the case was conducted by Chanchal Mishra, the then Assistant Commissioner of Police[8], (West), Jodhpur, Rajasthan, who has deposed as PW-43. As per the prosecution's version, the Investigating Officer – Chanchal Mishra (PW-43) had recorded the statement of the victim under Section 161 of the Cr.P.C. on 21.08.2013. For some reason, the entire statement of the victim under Section 161 of the Cr.P.C. recorded on 21.08.2013 has been marked as Exhibit D-2[9]. The Investigating Officer – Chanchal Mishra (PW-43) was examined and cross-examined on as many as eleven dates between 09.07.2015 and 03.03.2016. The victim, who has deposed as PW-5, was examined and cross-

[8] For short, 'ACP'.

[9] Whether the entire statement recorded under Section 161 of the Cr.P.C. can be exhibited, and can be read in evidence is not the subject matter of the present appeal and we make no comments and observations on this aspect.

examined on eleven dates between 11.04.2014 and 13.06.2014.

6. As a limited issue arises for our consideration, and keeping in mind that the appeal preferred by the respondent – Asharam @ Ashumal is pending adjudication before the High Court, we would refrain from referring to the evidence in detail, and avoid expressing any opinion on merits, *albeit* we would confine ourselves to the record on the issue raised before us.

7. In 2021[10], the respondent – Asharam @ Ashumal filed an application under Section 391 of the Cr.P.C.[11], in which the impugned judgment has been passed, alleging that the victim (PW-5) had never been inside the house described as '*Kutiya'* and therefore, the entire case against the respondent – Asharam @ Ashumal that he had sexually abused and raped the victim (PW-5), is false and concocted. The application asserts that the victim (PW-5) was brought to the '*Kutiya'* for the first time by the police for the spot *panchnama*/*Mauka Naksha* on 22.08.2013, which visit was duly video-graphed (Exhibit P-70) and after that, a transcription *vide* compact disc (Article-16) was prepared, and the site maps (Exhibits P-13 and P-14), were drawn. It is alleged that the victim (PW-5) was tutored based on the videography of the scene of the crime shown

[10]The exact date of filing the application is not available on record.
[11]For short, 'the application'.

to the victim a day prior to the preparation of the spot *panchnama*/*Mauka Naksha* and site maps on 22.08.2013. In this context, the application records that Ajay Pal Lamba, who was the then Deputy Commissioner of Police (West), Jodhpur, Rajasthan, in the Book, has disclosed having recorded a video of the scene of the crime on his mobile phone on his first visit to the '*Kutyia'* on 21.08.2013, which is a day prior to the drawing of the site maps (Exhibits P-13 and P-14) on 22.08.2013. The assertion in the application is that the site maps (Exhibits P-13 and P-14) are false and ought to be discarded. It is alleged that there is a discrepancy between video recording (Article-15) and statement of the victim (PW-5) recorded under Section 161 of the Cr.P.C. dated 21.08.2013 (Exhibit D-2). If the description of the *'Kutiya',* as given by the victim (PW-5), which, as per prosecution's case, was made in her statement under Section 161 of the Cr.P.C. for the first time on 21.08.2013 (Exhibit D-2), is falsified and rejected, the prosecution's case would not be able to link the victim (PW-5)'s presence with the respondent – Asharam @ Ashumal at the scene of the crime on 15.08.2013, the date when the offences were allegedly committed.

8. The impugned judgment refers to quotes from a portion of the Book, wherein Ajay Pal Lamba has stated that on learning about the

offence, he had swung into action and had sent a police team to scan and examine the location. Ajay Pal Lamba had asked Sub-Inspector Madan Beniwal to seal and secure the entire campus until the investigation was completed. The impugned judgment dated 10.02.2022, at the same time, quotes Ajay Pal Lamba's assertion in the Book – "*In any case, one would not be very wrong to assume that not much of the forensic evidence would be found at the [scene of the crime] because of...the sheer delay in filing the FIR...*", as the offence was stated to have occurred on 15.08.2013, while the F.I.R. No. 122 of 2013 (Exhibit P-106) was registered on 21.08.2013. Nevertheless, the application under Section 391 of the Cr.P.C. for summoning and recording evidence of Ajay Pal Lamba has been allowed primarily relying on the following statement by Ajay Pal Lamba in the Book:

> "….. While I was there, I thought it would be prudent to film a video of the place on my mobile phone, should I need to refer to it at some point during the course of the investigation. And so, I did."

9. The impugned judgment refers to judgments concerning Sections 311 and 391 of the Cr.P.C., to observe that while it will be premature for the High Court to comment on whether the victim (PW-5) was tutored on the basis of some video recording of the crime scene, as referred to in the book written by Ajay Pal Lamba, his examination

and the recording itself would be valuable as evidence, given the fact that the defence had given definite suggestions to the victim (PW-5) and the Investigating Officer – Chanchal Mishra (PW-43) that a video recording of the crime scene was shown to the victim (PW-5) and on the basis thereof, the victim (PW-5) was familiarized with the crime scene. The impugned judgment observes that the defence had relied on contradictions between the first version given by the victim (PW-5) in the 'Zero' FIR (Exhibit P-11) and the statement of the victim (PW-5) under Section 164 of the Cr.P.C. (Exhibit P-7), *vis-à-vis* the statement under Section 161 of the Cr.P.C (Exhibit D-2), stated to be recorded by the Investigating Officer – Chanchal Mishra (PW-43) on 21.08.2013, which contains a graphic description of the place/scene of the crime. The High Court observes that the trial court had rejected the argument by the defence that videography of the crime scene was done by the police on 21.08.2013, and was shown to the victim (PW-5), and consequently placed reliance on the victim (PW-5)'s description of the scene of crime in view of her statement, Exhibit D-2, given to the Investigating Officer – Chanchal Mishra (PW-43) under Section 161 of the Cr.P.C. on 21.08.2013. Accordingly, the High Court allowed the application and has directed that Ajay Pal Lamba is to be summoned as a witness, for the following reason:

> "……. Now with the publication of the book, referred to supra, the defence has right to claim that video of the crime scene was unquestionably recorded which fact is sufficient to convince the Court that it is absolutely essential in the interest of justice and for a just decision of the case to exercise the power under Section 391 Cr.P.C. for summoning and examining Shri Ajay Pal Lamba as a court witness in this case while giving access of crossexamination to the defence as well as the prosecution."

10. In our opinion, the impugned judgment is unsustainable and mistaken in both facts and law. The reasoning is based upon mere conjectures, and that too without appreciating the scope and object of Section 391 of the Cr.P.C. As stated above, we do not wish to make observations on merits, *albeit* in view of the stand taken by the respondent – Asharam @ Ashumal, we have to reproduce the relevant observations made in the trial court judgment, to which our attention was drawn, and reliance was placed by the learned Senior Advocate appearing for the respondent – Asharam @ Ashumal in support of his submissions. The relevant portion[12] of the judgment of the trial court reads:

> "**298-** In my humble opinion circumstances make statements more than the witnesses. It is notable that PW-43 Chanchal Mishra Investigation Officer in her statement has told that after conducting the inspection of the place of incident Site Inspection of the place of incident Ex.P-13, Memo of Site Inspection and Site Map of place of incident and Ex.P-14 circumstances of the site prepared on the identification of the Victim. She says that she conducted the videography and

[12] We may note that there appears to be misnumbering in the paragraphs of the trial court judgment dated 25.04.2018.

photography of the place of incident. After the videogrpahy of the place of incident the witness said transcription C.D. Article-16 was prepared. PW-30 Papparam said that C.D. of videography of the circumstances told by the above victim was prepared in his presence. He said that he played the above C.D. on Laptop and typed the circumstances as told by the victim on computer. He proved the sealed C.D. its Memo of Transcription by exhibiting the same in evidence as Ex.P--69 and Ex.P-70 respectively. Witness PW-30 Ramdev has also confirmed the statements of above witnesses. In this regard the defence while giving emphasis on Ex.D-103 and ExD-104 has argued that SHO of P.S. Soorsagar Sh. Madan Benival and his police staff had reached at the spot. After doing the videography of the spot they showed it to the victim on the next day. Hence, the victim clearly stated the circumstances inside Kutiya. In my humble opinion there is no abstract in these pleas. This is correct that it appears form Ex.D-103 and Ex.D-104 that Staff of P.S. Soorsagar and SHO Madan Beniwal had gone at the spot but he would have done the videography of the place of incident or perused the place of incident, such does not appear from both above documents.

299- We have carefully perused the Ex.P-69 Memo of Transcription, part of which is Ex.P-70 print out.

300- According to the above memo on dated 22.8.2013 at the time of site inspection videogrpahy regarding the room, bathroom of Kutiya at the place of incident was conducted from the witness and after typing the details of the circumstances of the place of incident as told by the Victim, in computer the print out was taken and the detailed document of transcription has been included in the case file. We perused the Ex.P-70 Transcription (Print out of transcription).

301- This is clear that the Investigation Officer while taking precautions has asked from the Victim her details by taking her at Hariom Farm House without taking her inside the Kutiya and has done its videography. Transcription of the above videogrpahy of the details without going inside is Ex.P-70. In the above transcription Ex.P-70 we matched the facts told by the victim about taking inside Kutiya from the Ex.P-13 and

Ex.P-14 and photographs Ex.P-16 to Ex.P32. The details of inside Kutiya which has been told by the victim without going inside, the same circumstances appear from the site map and circumstances of the site and photographs and matches with it. In my humble opinion it is proved from this evidence that the victim had gone inside the room and had gone in the bathroom too. In such a situation this statement of the defence is not believable that the victim would have not even entered in Kutiya.

301. The defence has said that photo of room is published in Dainik Bhaskar on 22.8.2013 and has asked from the Victim in cross-examination that due to this she knew about inside the room. This is the clear statement of the victim that this is wrong to say that because of publishing photo in newspaper she came to know about that room. She has been suggested that what were the things in the room and where it were situated, details of which have not been mentioned in the FIR, NGO's report and statements of Section 164 CrPC. The statement of the witness is this that regarding bed and light is written in NGO report and she has also told about Room's light and bed in Section 164 of Criminal Procedure Code and also there is details of locking the room. Thus the witness has clearly denied that she would have come to know about the inside things of the rooms after publishing photo in newspaper.

302- The statement of the Defence is this that no one was allowed to go inside the Kutiya whereas it has become clear from the above deliberation that the Victim without going inside Kutiya, has told that whole inside details of Kutiya, which has been found absolutely correct. This has been suggested to the Victim in the cross-examination that she would have seen Kutiya of accused Asaram situated Haridwara, Shahjahanpur, from which she has denied. In this situation now the Onus to give this clarification goes on to the Defence to tell that how the Victim came to know about the real and actual inside situation of Kutiya without going inside? This is the clear principle of law that a person can speak lie but circumstances never speak lie. Above mentioned circumstances are expressing this truth before the Court that the Victim

had sent inside the above Kutiya wherein as per the Defence no one was allowed to go.

303- Therefore, the prosecution has been successful to prove this that the Victim had gone in the above mentioned Kutiya situated at the place of incident means the victim's visit to the above room is proved by evidence."

11. To elucidate the specific findings as recorded above, and reject the arguments raised by the respondent – Asharam @ Ashumal and the grounds/reasoning given by the High Court, we would advert to paragraph 62 of the judgment of the trial court, which refers to the testimony of the Investigating Officer – Chanchal Mishra (PW-43) to the effect that she was posted as the ACP at Jodhpur Commissionerate on 21.08.2013. After the recording of F.I.R. No. 122 of 2013 (Exhibit P-106), she had received two medical reports of the victim (Exhibits P1 to P-3 and P-12 respectively), a copy of the statement of the victim (PW-5) under Section 164 of the Cr.P.C. (Exhibit P-7) etc. Thereupon, the Investigating Officer – Chanchal Mishra (PW-43) had proceeded to record the statement of the victim (PW-5) under Section 161 of the Cr.P.C. (Exhibit D-2). Thereafter, the Investigating Officer – Chanchal Mishra (PW-43) had visited the place of occurrence. Clearly, it is not the prosecution's case and version that the police team/officers had not visited the place of occurrence or scene of the crime on 21.08.2013. When we refer to the quoted paragraphs in the trial court judgment, paragraph **'301.'**

specifically records that a photograph of the room where the incident allegedly occurred was published in '*Dainik Bhaskar*' newspaper on 22.08.2013, in which we note a police officer can be seen. Therefore, the presence of a police team on 21.08.2013 in the '*Kutiya*' is not disputed; it is an accepted position. The case of the prosecution, as held by the trial court in paragraphs 298 to 303, as quoted above, is that the victim (PW-5) was not tutored and, therefore, her version as to the details of the '*Kutiya'* were narrated by her to the police without being taken inside the room or the bathroom. This version and stand of the prosecution, as accepted by the trial court, is not on the ground and reason that the police team had not gone inside the room or the bathroom on 21.08.2013, but by rejecting the argument that a police officer or the Investigating Officer had prompted or tutored the victim (PW-5) to give the description and details of the room and bathroom. This finding recorded by the trial court is based on the detailed examination of the evidence of the victim (PW-5), as well as the Investigating Officer – Chanchal Mishra (PW-43). Whether this finding is correct will be tested in the appeal, *albeit* the reasoning given in the impugned judgment to summon and examine Ajay Pal Lamba as a court witness cannot be sustained on the ground that Ajay Pal Lamba had purportedly recorded a video on his mobile

phone. The statement made by Ajay Pal Lamba in the Book, as quoted above, which statement is heavily relied upon by the learned Senior Advocate for the respondent – Asharam @ Ashumal, nowhere mentions that the video, which he had purportedly recorded on his mobile phone, was handed over, given or transferred by him to the Investigating Officer – Chanchal Mishra (PW-43), or that it was shown by him to the victim (PW-5). In our opinion, when the prosecution states that on 21.08.2013 the police team had visited the scene of the crime, that is, the '*Kutiya'*, the plea to examine Ajay Pal Lamba on the ground that he had purportedly recorded a video of the '*Kutiya'* on his mobile phone is completely inconsequential and irrelevant to the factual matrix of the present case. Further, the deposition given by a witness under oath in the court constitutes and is read as evidence. Statements recorded under Section 161 of the Cr.P.C. by a police officer during investigation cannot be used as evidence, *albeit* the accused may use a part of the statement in terms of the *proviso* to Section 162 of the Cr.P.C.

12. We are not examining whether there is sufficient evidence and material to uphold the conviction of the respondent – Asharam @ Ashumal, independent of the evidence and material referred to in paragraphs 298 to 303 of the trial court judgment. We refrain and

would not like to go into these aspects as these are questions of merits to be considered by the High Court while adjudicating the criminal appeal against conviction.

13. Similarly, on behalf of the appellant – State of Rajasthan, it was submitted that Ajay Pal Lamba had made a specific disclaimer and had stated that the Book is a dramatized version of the events. We need not examine this aspect in view of our findings recorded above.

14. This Court in ***Rajeswar Prasad Misra*** v. ***State of West Bengal and Another***[13] has opined that as additional evidence may be necessary for various reasons, the legislature has refrained from curtailing such discretion of the appellate court. The touchstone of when the additional evidence at the appellate stage may be taken on record is not the impossibility or inability to pronounce the judgment in its absence, but whether there would be a failure of justice without such additional evidence. This discretion is not to be exercised lightly but requires caution and care as it is to be exercised only in cases when the appellate court finds, on good and justifiable grounds, that there would be a failure of justice without the additional evidence being taken on record. However, once this

[13] (1966) 1 SCR 178.

condition is satisfied, there is no restriction on the kind of evidence received, which may be formal or substantial.

15. In ***Zahira Habibulla H. Sheikh and Another*** v. ***State of Gujarat and Others***[14]*,* this Court has elaborately dealt with the aspect of exercise of discretion, highlighting the balance which the courts have to maintain so as to not deny the right to additional evidence to do justice, and the importance of the right to fair hearing of the accused as well the prosecution. The right to fair hearing is inherent to the concept of due process of law and ascertainment of truth. Equally, there can be failure of justice if this discretion to allow additional evidence at the appellate stage is exercised in a routine and liberal manner, without the court being satisfied that the prayer has imprints of reasonableness and genuineness to at least consider the worth, credibility and acceptability of the material sought to be brought on record.

16. Both Sections 311 and 391 of the Cr.P.C. relate to power of the court to take additional evidence; the former at the stage of trial and before the judgment is pronounced; and the latter at the appellate stage after judgment by the trial court has been pronounced. It may not be totally correct to state that the same considerations would

[14] (2004) 4 SCC 158.

apply to both situations as there is a difference in the stages. Section 311 of the Cr.P.C. consists of two parts; the first gives power to the court to summon any witness at any stage of inquiry, trial or other proceedings, whether the person is listed as a witness, or is in attendance though not summoned as a witness. Secondly, the trial court has the power to recall and re-examine any person already examined if his evidence appears to be essential to the just decision of the case. On the other hand, the discretion under Section 391 of the Cr.P.C. should be read as somewhat more restricted in comparison to Section 311 of the Cr.P.C., as the appellate court is dealing with an appeal, after the trial court has come to the conclusion with regard to the guilt or otherwise of the person being prosecuted. The appellate court can examine the evidence in depth and in detail, yet it does not possess all the powers of the trial court as it deals with cases wherein the decision has already been pronounced.

17. ***State (NCT of Delhi)*** v. ***Shiv Kumar Yadav and Another***[15] emphasises that in exercise of the discretion under Section 311 of the Cr.P.C., the court, while considering an application for recall of witness, should not get swayed by the argument that only the

[15] (2016) 2 SCC 402.

accused who is in custody will suffer by the prolongation of proceedings, as this may not be valid and serving the ends of justice. It is not only the matter of delay but also the hardship to the victim/witnesses when they are recalled for examination. Recall is certainly permitted if essential for the just decision and for which there should be a tangible reason that fair trial would suffer without it. The discretion is to be exercised judiciously to prevent failure of justice, and must not be exercised arbitrarily. In our opinion, the appellate court must be equally, if not more cautious, of the desire to delay the hearing of the appeal, or the attempt to lead additional evidence to explore a chance of contradictory evidence. While the prayer for leading additional evidence should be permitted to correct a *bona fide* error or otherwise, and a party may be entitled to further opportunity without any fault on the part of the opposite party, the request for recall should be *bona fide* and is to be balanced carefully with relevant considerations, including hardship to the witness and delay of the proceedings. Right to speedy trial, including speedy disposal of an appeal, is not the exclusive right of an accused, but an obligation of the court towards the society in general, and the victim in particular. Balance between the rights of an accused and the interests and rights of an individual victim and the society, without compromising the right of the accused to a fair

trial, has been highlighted by this Court in ***Girish Kumar Suneja*** v. ***Central Bureau of Investigation***[16]***, P. Ponnusamy*** v. ***State of Tamil Nadu***[17] and ***State of West Bengal*** v. ***Amiya Kumar Biswas***[18]. Every criminal case, it is stated, is a voyage of discovery in which the truth is the quest.[19] The process of ascertaining the truth requires compliance of procedures and rules of evidence. In a well-designed system, judicial findings of formal legal truth should coincide with substantive truth. This happens when the facts contested are skillfully explored in accordance with the procedure prescribed by law. Further, in a criminal trial, burden of proof to establish the fact, which has to be proven beyond reasonable doubt, is on the prosecution. The power to take additional evidence in an appeal is to be exercised to prevent injustice and failure of justice, and thus, must be exercised for good and valid reasons necessitating the acceptance of the prayer.

18. When we apply the aforesaid *dicta* to the factual matrix and background of the present case as held in paragraph 11 above, we do not think that the test to allow additional evidence is satisfied. On the other hand, the criminal appeal, which is ripe for hearing before

[16] (2017) 14 SCC 809.
[17] 2022 SCC Online SC 1543.
[18] (2004) 13 SCC 671.
[19] See *Ritesh Tewari and Another* v. *State of Uttar Pradesh and Others*, (2010) 10 SCC 677.

the High Court, has not been taken up and has been delayed by moving the application under Section 391 of the Cr.P.C. for recording of additional evidence, which was filed nearly eight years after the date of occurrence. If we carefully look at the reasons given, which have found favour in the impugned judgment, we can easily visualize that there could be further applications for recording of additional evidence of the main witnesses, the victim (PW-5) and/or the Investigating Officer – Chanchal Mishra (PW-43), who have already been subjected to lengthy examinations over a prolonged period on eleven occasions in the case of the victim (PW-5) as well as the Investigating Officer – Chanchal Mishra (PW-43). The attempt is to re-open the entire case and seek re-examination of these witnesses at the appellate stage.

19. The respondent – Asharam @ Ashumal had filed an application[20] for suspension of sentence on the ground of, *inter alia*, having suffered incarceration for nearly 9 years and 7 months. This application was rejected by the High Court *vide* order dated 07.07.2022 noting that the defence has sought for multiple adjournments in the past, two previous applications for suspension of sentence have been dismissed and the respondent – Asharam

[20] D.B. Criminal Misc. Third Suspension of Sentence Application (Appeal) No. 220/2022.

@ Asharam @ Ashumal continues to be in custody in another trial in Gujarat. One of the grounds taken by the appellant in the special leave petition bearing Diary No. 33636 of 2022, which challenges the High Court order dated 07.07.2022, is that the appeal preferred by the respondent – Asharam @ Ashumal cannot be heard till the evidence of Ajay Pal Lamba is recorded, as the High Court has observed that additional evidence is absolutely necessary for the just decision of the appeal.

20. In view of the aforesaid findings, the appeal is allowed, and the impugned judgment is set aside. We request the High Court to take up the appeal for an expeditious hearing, as the respondent – Asharam @ Ashumal has already suffered incarceration for nearly ten years. We also clarify that the observations made in the present judgment are for the disposal of the issues raised, and the criminal appeal will be decided by the High Court without being influenced by any observations and findings recorded herein.

.....J.
(SANJIV KHANNA)

.....J.
(M.M. SUNDRESH)

NEW DELHI;
APRIL 17, 2023.