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

% Judgment reserved on: 21.05.2026
Judgment delivered on: 29.05.2026

\+ CRL.REV.P.(NI) 89/2026 & CRL.M.A. 9342/2026

1) **VARUN PURI** .....Petitioner

versus

SHYAM KISHAN SARAF .....Respondent

\+ CRL.REV.P.(NI) 192/2026 & CRL.M.A. 15804/2026 & CRL.M.A. 15805/2026

2) **RAMAN PURI** .....Petitioner

versus

SHYAM KISHAN SARAF .....Respondent

\+ CRL.REV.P.(NI) 193/2026 & CRL.M.A. 15888/2026 & CRL.M.A. 15889/2026

3) **VIKRAM PURI** .....Petitioner

versus

SHYAM KISHAN SARAF .....Respondent

AND

\+ CRL.REV.P.(NI) 90/2026 & CRL.M.A. 9347/2026

4) **VARUN PURI** .....Petitioner

versus

BANWARI LAL SARAF .....Respondent

\+ CRL.REV.P.(NI) 189/2026 & CRL.M.A. 15622/2026 & CRL.M.A. 15623/2026

5) **VIKRAM PURI** .....Petitioner

versus

BANWARI LAL SARAF .....Respondent

\+ CRL.REV.P.(NI) 191/2026 & CRL.M.A. 15732/2026 & CRL.M.A. 15733/2026

6) **RAMAN PURI** .....Petitioner

versus

BANWARI LAL SARAF .....Respondent

Memo of Appearance

For the Petitioner: Mr. Mohit Mathur Senior Advocate with Mr. Saurabh Soni, Mr. Vignesh Ramanathan, Ms Mannat Singh, Mr. Sanjeet Kumar Thakur, Mr. Kratikey Goel and Mr. Abhyudai Mehrotra, Advocates in CRL. REV.P.(NI) 89/2026 & CRL. REV.P.(NI) 90/2026
Mr. Annirudh Sharma, Advocate in CRL. REV.P.(NI) 192/2026 & CRL. REV.P.(NI) 193/2026, CRL. REV.P.(NI) 189/2026, CRL. REV.P.(NI) 191/2026

For the Respondent: Mr. Subhash Garg with Mr. Zain Haider, Advocates with Mr. Shyam Kishan Saraf in person.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. All these six petitions, being connected, are being disposed of by this common order.

2. Let me narrate the factual matrix, *albeit*, in brief.

3. Two separate complaints were filed under Section 138 read with Section 142 of NI Act[1]. Complaint Case No. 463235 of 2016 was filed by Sh. Shyam Kishan Saraf and Complaint Case No. 469261 of 2016was by his father Sh. Banwari Lal Saraf. These were against four accused persons i.e. *Universal Buildwell Pvt. Ltd., Sh. Raman Puri (Managing Director), Sh. Varun Puri and Sh. Vikram Puri (Directors).*

4. Though the facts are almost similar and identical, for reference purpose, the Court would refer to the pleadings and orders related to

[1]Negotiable Instruments Act, 1881

complaint filed by Sh. Shyam Kishan Saraf.

5. The complainant had given a loan of Rs.1.50 crores to the accused Company and in lieu thereof, a cheque was issued. Such cheque, when presented, returned dishonoured with remarks "*insufficient funds*". Since issuance of legal notice did not yield any result, complaint was filed against all the abovesaid accused persons. On the basis of averments made in the complaint and after perusal of pre-summoning evidence, all the accused were summoned. Notice under section 251 Cr.P.C.[2] was served upon them, to which they pleaded not guilty and claimed trial. Complainant was cross-examined by defence at post-summoning stage. He did not examine anyone else. Accused, in their statements recorded under section 313 Cr.P.C., pleaded innocence and claimed that the complainant had already been compensated *in lieu* of the cheque in question, which had merely been given as security and, thus, there was no existing legal liability. They also moved application under section 315 Cr.P.C. and entered into witness box to prove their such defence.

6. Learned Trial Court, *vide* judgment dated 08.04.2019 held all of them guilty for offence punishable under section 138 read with Section 142 of NI Act.

7. It also pronounced order on sentence, same day i.e. 08.04.2019.

8. Sh. Raman Puri, Sh. Varun Puri and Sh. Vikram Puri were sentenced to undergo simple imprisonment for one year each and to conjointly pay fine equivalent to twice the amount of the cheque. It was also ordered that in default of payment of such fine/compensation, they would undergo Simple Imprisonment of 90 days each. As far as accused company was concerned,

[2]Criminal Procedure Code 1973

it was directed to pay fine of Rs.1,000/-.

9. It will be worthwhile to mention here that the accused were not present in the court at the time of pronouncement of sentence, *albeit*, they were represented by their counsel. They were directed to pay compensation within ten days and were given time till 10.04.2019 to surrender. This was despite the fact that no application under Section 389 Cr.P.C. had been moved by accused and as noticed already, there was substantive sentence as well.

10. Feeling aggrieved by the abovesaid order of conviction and sentence awarded in said complaint filed by Sh. Shyam Kishan Saraf, all the accused filed appeal which was registered as Crl.A.192/2019.

11. Such appeal has been dismissed by learned Appellate Court on 31.01.2020.

12. In relation the other complaint made by Sh. Banwari Lal Saraf, the judgment is of the same date i.e. 08.04.2019. The slight difference is with respect to the cheque amount as in such other complaint, there were two cheques, one of Rs. 1.5 crores and the other of Rs. 2,02,500. The compensation/fine amount is proportionately double, while substantive sentence remains the same. Accused filed appeal against such conviction also, which was registered as Crl. Appeal No. 193/019 and such appeal has also been dismissed on 31.01.2020.

13. The present Revision Petitions take exception to such dismissal of appeals.

14. Evidently, there is inordinate delay of more than 2100 days in filing all these Revisions Petitions.

15. An application under Section 5 of Limitation Act, 1963 read with

Section 528 BNSS 2023[3] has been filed seeking condonation of delay.

16. It is averred therein that the Revisionists were implicated in multiple FIRs which emanated from *builder-buyer disputes* and registration of all such cases led to financial crisis. According to revisionists, around 58 cases related to cheque-bouncing complaints and 80 FIRs were lodged against them and they could not effectively pursue and defend all such matters and were declared *proclaimed offenders* in multiple cases. They claimed that they were arrested in October, 2024 and are in custody since then. It is averred that their 'newly appointed legal team' prepared list of all cases and then it came to fore that the appeals in question had been dismissed on 31.01.2020. They filed applications seeking their 'voluntary surrender' on 17.01.2026 and were produced before the learned Trial Court. They were taken into custody on 30.01.2026, to serve out remainder of the sentence in relation to abovesaid two complaints.

17. Sh. Mohit Mathur, learned Senior Counsel for the Revisionist submits that the accused, who are in custody since 30.01.2026, have a very strong case on merits and if delay in filing the Revision Petitions is not condoned, it would result in serious prejudice to them. He states that when substantial justice and technical objections are pitted against each other, the court should lean towards dispensation of substantial justice, particularly when matter involves someone's life and liberty. Sh. Mohit Mathur also supplements that the impugned orders passed by the Appellate Court are without any application of judicial mind and devoid of any reasoning. He states that despite the fact that learned Appellate Court had noted down all the relevant points agitated in the appeals, it failed to advert to even one. He

[3]Bhartiya Nagarik Suraksha Sanhita 2023

states that none of the grounds have been addressed and in a very cursory and vague manner, the appeals have been dismissed, with one stroke of line. He also states that the learned Trial Court was fully aware that the appellants had already been declared *proclaimed offenders* and, in such a situation, there was no hurry or requirement of deciding the appeals, that too, *in absentia* as it defeats the basic principle of natural justice i.e. *no one should be condemned unheard*. He does admit that the appeals had been filed by them and were not pursued appropriately but adds that since, in the interregnum, the appellants had already been declared *proclaimed offenders*, these could have been taken up only once the appellants had been re-arrested. He agitates that if at all the Appellate Court was desirous of disposing of the same on merits, it should have appointed *Amicus Curiae.* During arguments, learned Counsel for revisionists, even, volunteered to deposit 25% of the fine amount with the learned Trial Court, if the appeals are directed to be re-heard.

18. All such contentions have been refuted by the complainant Sh. Shyam Kishan Saraf, who has argued in person for himself as well as for his father. Sh. Subhash Garg, learned Counsel has also addressed arguments from their side.

19. According to Sh. Shyam Kishan Saraf, the present petitions are wholly misconceived and devoid of any merit and need to be dismissed outrightly. He contends that the delay in question is not a small one but is of huge period of around six years and it has not been explained in any manner whatsoever. On the contrary, the accused, with impunity, kept on evading law and did not, intentionally and deliberately, participate in the legal proceedings and failed to submit themselves to the jurisdiction of the Court

and were, therefore, declared *Proclaimed Offenders.* According to him, they kept on hiding and concealing themselves at unknown places and since their conduct demonstrates complete lack of *bonafide* and apathy for Rule of law, the delay does not deserve to be condoned. He submits that such discretionary power of condonation should not be exercised in favour of a litigant who has no respect for the *justice delivery system* and who shows unabated disregard to the majesty of the Court. He relies upon *P.K. Ramachandran vs. State of Kerala and Another*[4], *Lanka Vanketeswarlu (Dead)by LRS vs. State of Andhra Pradesh And Others*[5]and *Basawaraj v. Land Acquisition Officer*[6].

20. Sh. Saraf also submits that, even otherwise, while considering any such revision petition, the Court is merely required to see whether there is any jurisdictional error or not and, therefore, it is not permissible for such Court to reappreciate and re-evaluate the evidence. He asserts that this Court should not come to the rescue of those who are guilty of *laches* and complete inaction and who dared to abscond after conviction. He contends that the learned Appellate Court was justified in disposing of the appeals on merits when there was no representation from the side of the appellants. Relying on *Bani Singh v. State of U.P.*[7], it is argued that there was no legal compulsion or obligation to have appointed any *Amicus Curiae* before disposing of the appeals. He submits that learned Appellate Court had called for the Trial Court record and had gone through the same and since it did not find any illegality or irregularity, the detailed discussion was not required

[4](1997) 7 SCC 556
[5](2011) 4 SCC 363
[6](2013) 14 SCC 81
[7](1996) 4 SCC 720

and, therefore, impugned orders cannot be branded as vague or non-speaking, also for the reason that length of the order cannot be the deciding factor.

21. Sh. Saraf also refers to counter-affidavit and his written submissions. He states that his father Sh. Banwari Lal Saraf is an octogenarian, who is suffering from serious ailments, including brain stroke and he, too, is yet to reap any fruits of the judgment delivered in his favour way back in the year 2019.He contends that Delhi Police had announced a cash recovery of Rs.1,00,000/- on the head of each of the accused and they are professional fraudsters, wanted in several cases and the magnitude of cheating committed by them is of more than Rs. 300 crores. They absconded and were apprehended from their hideouts in Indore on 25.10.2024 but these petitions have been filed very recently and, therefore, accused cannot be granted any advantage of their own misconduct and neglect.

22. Trial Court Record (TCR) as well as the record of Appellate Court is before the Court.

23. Indubitably, there is inordinate delay in filing all these Revisions Petitions.

24. And, there cannot be any qualm with respect to the above submissions made by Mr. Saraf.

25. Indeed, there is no explanation, much less a plausible one.

26. The accused neither appeared before the learned Trial Court at the time of pronouncement of order nor before the Appellate Court. They have not divulged about their whereabouts during all these six years and have failed to narrate as to what prevented them to approach the Court. Even if they were embroiled in multiple cases, they should have not have shown

such a casual and lackluster approach.

27. Quite clearly, the delay is not liable to be condoned here.

28. Such discretionary relief is not meant for those who have no respect for the Courts and who abscond after being pronounced guilty. Merely because there were hundreds of other cases against the accused persons, it would not mean that they can approach the Court, as per their whims and fancies, and seek condonation of delay.

29. Viewed thus, they are not entitled to any condonation of delay.

30. However, at the same time, revisional court cannot shut its eyes to the apparent illegality in the manner, these appeals were taken up, heard and disposed of.

31. The record of Appellate Court would indicate that the accused never ever appeared before the Appellate Court. Since they did not surrender within the stipulated period, coercive process was issued by the learned Trial Court and they were, thus, declared *proclaimed offenders* on 10.07.2019.

32. These appeals had been taken up for the first time by the learned Appellate Court on 09.05.2019 and thereafter also on several subsequent dates but the accused persons never ever appeared in appeals.

33. Learned Appellate Court, noticing that the sentence had not even been suspended by it, directed issuance of *non-bailable warrants* (NBWs) against them. Such order was passed on 07.06.2019.

34. There was no appearance from the side of the appellants before the learned Appellate Court on 30.08.2019, 15.11.2019, 22.01.2020 and 30.01.2020. Neither they, nor their counsel/proxy counsel appeared on and after 30.08.2019. It will be worthwhile to mention that on 22.01.2020, learned Appellate Court was informed that the appellants had already been

declared *proclaimed offenders* by the learned Trial Court but despite that the Appellate Court chose to continue with the appeals.

35. On 30.01.2020, the accused were granted last and final opportunity to appear in appeals but since there was no appearance from their side, the appeals were fixed for disposal on 31.01.2020 and were dismissed on said date.

36. The impugned judgments would indicate that though the learned Appellate Court noted the grounds of appeal elaborately, it dismissed the appeals in a summary manner, without entering into any sort of discussion, not even a namesake one. The relevant part of the judgment reads as under: -

> *"7. After filing of the appeal on 09.05.2019, the appellants however never appeared in the court. Either their Counsel Sh. Rajiv Raheja or Proxy Counsel has been appearing and despite directions, the appellants have never appeared. The appellants in the present petition were sentenced to undergo simple imprisonment for one year each and to pay a fine Rs.3 crores in total. The sentence was never suspended. It has also come up on record that even before Ld. MM, appellants have never appeared and were declared PO. Despite undertaking by Proxy Counsel for appellants, the appellants have never appeared.*
>
> *8. I have gone through the Trial Court Record and also the Judgment passed by Ld. MM.*
>
> *9.* ***The Ld. MM has already dealt with the submissions made on behalf of appellants in detail. I do not find any illegality or irregularity in the impugned order passed by Ld. MM. The appeal accordingly stands dismissed."***
>
> *(emphasis supplied)*

37. Of course, as per the settled legal position, a criminal appeal cannot be *dismissed-in-default* or for *non-prosecution.*

38. Reference be made to *Bani Singh (*supra). In said case, the question arose whether a criminal appeal could be dismissed for non-prosecution.

The accused therein was held guilty by the learned Trial Court for offences under Section 363 and 368 IPC and, feeling aggrieved by such judgment of Sessions Court, appeals were filed before the Jurisdictional High Court and when the appeals were taken up, since there was no one present to argue the matter on behalf of the appellant, *the appeal was dismissed for non-prosecution.* The dismissal was without going into the merits of the case and while dismissing such appeals, the Hon'ble High Court relied upon *Ram Naresh Yadav vs. State of Bihar*[8]. Feeling aggrieved, Special Leave Petition (SLP) was filed by the appellants before the Hon'ble Supreme Court and Hon'ble Supreme Court while overruling *Ram Naresh Yadav* (supra) and affirming *Shyam Deo Pandey* v. *State of Bihar*[9], came to the conclusion that the appeal could not have been dismissed for non-prosecution simplicitor and while remitting the matters, it observed as under:-

> *"14.We have carefully considered the view expressed in the said two decisions of this Court and, we may state that the view taken in Shyam Deo easel appears to be sound except for a minor clarification which we consider necessary to mention. The plain language of Section 385 makes it clear that if the appellate court does not consider the appeal fit for summary dismissal, it 'must' call for the record and Section 386 mandates that after the record is received, the appellate court may dispose of the appeal after hearing the accused or his counsel. Therefore, the plain language of Sections 385-386 does not contemplate dismissal of the appeal for non-prosecution simpliciter.* ***On the contrary, the Code envisages disposal of the appeal on merits after perusal and scrutiny of the record. The law clearly expects the appellate court to dispose of the appeal on merits, not merely by perusing the reasoning of the trial court in the judgment, but by cross-checking the reasoning with the evidence on record with a view to satisfying itself that the reasoning and findings recorded by the trial court are consistent with the material on record.*** *The law, therefore, does not envisage the dismissal of the appeal for default or non-prosecution but only contemplates disposal on merits after*

[8]AIR 1987 SC 1500
[9]AIR 1971 SC 1606

perusal of the record. Therefore, with respect, we find it difficult to agree with the suggestion in Ram Naresh Yadav case that if the appellant or his pleader is not present, the proper course would be to dismiss an appeal for non-prosecution.

15. *Secondly, the law expects the appellate court to give a hearing to the appellant or his counsel, if he is present, and to the public prosecutor, if he is present, before disposal of the appeal on merits. Section 385 posits that if the appeal is not dismissed summarily, the appellate court shall cause notice of the time and place at which the appeal will be heard to be given to the appellant or his pleader. Section 386 then provides that the appellate court shall, after perusing the record, hear the appellant or his pleader, if he appears. It will be noticed that Section 385 provides for a notice of the time and place of hearing of the appeal to be given to either the appellant or his pleader and not to both presumably because notice to the pleader was also considered sufficient since he was representing the appellant. So also Section 386 provides for a hearing to be given to the appellant or his lawyer, if he is present, and both need not be heard. It is the duty of the appellant and his lawyer to remain present on the appointed day, time and place when the appeal is posted for hearing. This is the requirement of the Code on a plain reading of Sections 385-386 of the Code. The law does not enjoin that the court shall adjourn the case if both the appellant and his lawyer are absent. If the court does so as a matter of prudence or indulgence, it is a different matter, but it is not bound to adjourn the matter. It can dispose of the appeal after perusing the record and the judgment of the trial court. We would, however, hasten to add that if the accused is in jail and cannot, on his own, come to court, it would be advisable to adjourn the case and fix another date to facilitate the appearance of the accused/appellant if his lawyer is not present. If the lawyer is absent, and the court deems it appropriate to appoint a lawyer at State expense to assist it, there is nothing in the law to preclude it from doing so. We are, therefore, of the opinion and we say so with respect, that the Division Bench which decided Ram Naresh Yadav case did not apply the provisions of Sections 385-386 of the Code correctly when it indicated that the appellate court was under an obligation to adjourn the case to another date if the appellant or his lawyer remained absent.*

16. *Such a view can bring about a stalemate situation. The appellant and his lawyer can remain absent with impunity, not once but again and again till the court issues a warrant for the appellant's presence. A complaint to the Bar Council against the lawyer for non-appearance cannot result in the progress of the appeal. If another lawyer is appointed at State cost, he too would need the presence of the appellant for instructions and that would place the court in the same situation. Such a procedure can, therefore, prove cumbersome and can promote indiscipline. Even if a case*

is decided on merits in the absence of the appellant, the higher court can remedy the situation if there has been a failure of justice. This would apply equally if the accused is the respondent for the obvious reason that if the appeal cannot be disposed of without hearing the respondent or his lawyer, the progress of the appeal would be halted.

***17.** In view of the position in law explained above, we are of the view that the High Court erred in dismissing the appeal for non-prosecution simpliciter without examining the merits. We, therefore, set aside the impugned order and remit the appeal to the High Court for disposal on merits in the light of this judgment. The appeal will stand allowed accordingly."*

(emphasis supplied)

39. Thus, the Hon'ble Supreme Court clearly held that, though, such appeal could not have been dismissed for non-prosecution, the disposal on merits should be after scrupulous scrutiny. As noted, it, in no uncertain terms, observed that the law clearly expected the appellate court to dispose of appeal on merits, not merely by perusing the reasoning of the trial court in the judgment, but by cross-checking the reasoning with the evidence on record with a view to satisfy itself that the reasonings and findings recorded by the Trial Court were consistent with the material on record.

40. There are few important things which need to be noted, right here in the present context.

41. Firstly, whether the appeals could have been taken up for final hearing when the appellants had already been declared *proclaimed offenders* by the learned Trial Court. Secondly, whether the Appellate Court made any endeavour to cross-check the reasonings given by Trial Court with the evidence on record and satisfied itself about the veracity of the findings returned by the trial court or not. Thirdly and most importantly, if the Appellate Court was keen in pursuing with the appeals, whether it ought to

have appointed any *Amicus Curiae* or not.

42. It need not be emphasized that appeal is continuation of trial. Criminal Procedure Code does not envision holding someone guilty *in absentia*. A trial court can only record evidence in terms of Section 299 Cr.P.C. and such deposition can be used once such absconding accused is, eventually, arrested. The new Act i.e. BNSS, 2023 has, interestingly, come up with a major change in this regard and the corresponding provision i.e. Section 356 BNSS, now, stipulates for decision of case *in absentia*. However, since the present matter is governed by the provisions of Cr.P.C. and the accused had already been declared *proclaimed offenders*, the Appellate Court should not have shown any tearing hurry in deciding the matters, that too, without appointing *Amicus Curiae*.

43. The issue of appointment of *Amicus Curiae* is no longer *res integra*.

44. In *K. Muruganandam and Others vs. State*[10], Hon'ble Supreme Court has, clearly, laid down that if accused does not appear before the appellate court, the Court is obliged to proceed with hearing of the case, only after appointing an *Amicus Curiae*. In the abovesaid case, the concerned High Court had dismissed the criminal appeal for non-prosecution as the counsel for the appellant did not appear. It was observed by Hon'ble Supreme Court that in such a situation, High Court was expected to nominate *Amicus Curiae* and after taking assistance of *Amicus Curiae*, to have proceeded with the hearing of the matter. Importantly, in the abovesaid case, there was also a delay of 1040 days in filing SLP but taking into consideration all the aspects, the impugned judgment of the Hon'ble High Court was set aside and the parties were relegated for rehearing of criminal appeal on its own

[10](2021) 20 SCC 642

merits and in accordance with law. Para 6 of the abovesaid judgment reads as under:-

> "*6. It is well settled that if the accused does not appear through counsel appointed by him/her, the Court is obliged to proceed with the hearing of the case only after appointing an amicus curiae, but cannot dismiss the appeal merely because of non-representation or default of the advocate for the accused (see Kabira vs. State of Uttar Pradesh1981 (Supp) SCC 76 and Mohd. Sukur Ali vs. State of Assam(2011) 4 SCC 729)"*

45. In *Mohd. Sukur Ali vs. State of Assam*[11], the question was '*whether in a criminal case if the counsel for the accused does not appear for any reason whatsoever, should the case be decided in the absence of a counsel or should Court appoint an Amicus Curiae to defend the accused'*. The Hon'ble Supreme Court held that in such a situation, the Court should appoint a counsel, who is practising in the criminal side as *Amicus Curiae* and decide the case after fixing another date and hearing him.

46. In *Jyoti Dubey vs. State & Anr.*[12], learned Single Judge of this Court reaffirmed the abovesaid legal position by holding that the Appellate Court, in absence of the appellant or his counsel, ought to have appointed an *Amicus Curiae* and after hearing *Amicus Curiae* as well as Public Prosecutor for the State and after perusing the record of the case, it should have decided the case on merits.

47. Thus, in any such situation, if the Appellate Court chooses to set down the appeal for hearing, it can be resorted to, only after appointment of *Amicus Curiae.*

48. A question may arise as to whether such *Amicus Curiae* can render requisite assistance, without instructions from the concerned litigant, who is

[11](2011) 4 SCC 729)
[12]2019 SCC OnLine Del 11246

either not available or absconded.

49. The answer has to be in affirmative.

50. The role of *Amicus Curiae* is totally different from that of a privately engaged counsel or a legal-aid counsel provided to any party. A privately engaged counsel or a legal-aid counsel takes instructions from the concerned party and then represents such party before the court whereas an *Amicus Curiae* is not dependent or bound by any such instructions. Being friend of the Court, the role of *Amicus Curiae* is to assist the Court, and he can render effective assistance from the perusal of the TCR, even if there are no instructions. He can make appropriate submissions with respect to the grounds of appeal and can answer those suitably, after careful perusal of TCR. The court, thus, gets an opportunity to appreciate the stand of absconding party in better and effective manner.

51. Thus, purpose and objective behind appointment of *Amicus Curiae* is that the interest of any such unrepresented party or absconding party is duly portrayed before the court. This way, the decision would not be unilateral in nature, based solely on the basis of arguments coming from one side.

52. In the appeals in question, unfortunately, there was no appointment of *Amicus Curiae*. Such mandatory requirement, which ensures fair decision, should not have been given a complete go-by.

53. Moreover, as noted already, the most perturbing aspect of the case is that the Appellate Court has dismissed the appeal, without giving any reasoning.

54. It is indeed a one-line dismissal.

55. The grounds of the appeal were mentioned in the impugned judgment and these are found recorded as under: -

"i. That the impugned conviction arrived upon by the Ld. MM is based on surmises, conjectures and presumptions.

ii. That the Ld. MM has failed to appreciate that there was no legally enforceable debt against the appellants and the cheque in question was given to the complainant as security for the loan amount ofRs.1.50 crores.

iii. That the Ld. MM has erred while deciding that the possession of the property no.414, 4th floor, Universal Business Park, Sector 66, Gurgaon, measuring 3000 sq. feet was handed over to the respondent / complainant and no liability remained against the cheque in question.

iv. That the respondent / complainant has failed to prove that he is having a valid licence for money lending and the Ld. MM has completely overlooked this aspect.

v. That the Ld. MM has not considered the documents relied upon by the appellants and has completely washed out the factum of Agreement to Sell by which the respondent / complainant was duly compensated.

vi. That the complainant has concealed material facts with respect to satisfaction of alleged loan amount.

vii. That the Ld. MM has not taken into consideration the cross examination of the complainant in which he admitted the factum of execution of several documents and also the giving of the symbolic possession qua the property given as collateral.

viii. That the Ld. MM has failed to appreciate that in the complaint case, the evidence has been given by the SPA which is in contravention of the law laid down by the Hon'ble Supreme Court in the A.C. Narayanan case.

ix. That the Ld. MM has failed to appreciate that the complainant evidence has not been filed and verified as per settled provisions.

x. That the Ld. MM has failed to appreciate the MOU, Ex.CW1/39, according to which all previous agreements stand cancelled on signing of the same.

xi. That the Ld. MM has failed to appreciate the conduct of the complainant of not filing the documents with the complaint and the complainant has filed the documents only after filing of the application U/s 145(2) by the appellants.

xii. That the Ld. MM has failed to appreciate that the cheque issued was not for any legally enforceable debt.

xiii. That the Ld. MM has failed to appreciate that multiple agreements between the parties were executed and has only considered the loan agreement which is hit by Section 23 of Indian Contract Act.

xiv. That the Ld. MM has failed to appreciate that Ex.CW1/35, Agreement to Sell executed between the parties was not cancelled and as per which it is the respondent who has to come forward for registration of the property. But the complainant has failed to register the same. Hence, there was no question of deposit of the cheque given as security.

xv. That the Ld. MM has not taken into consideration the evidence led by the accused and only considered the documents filed by the complainant.

xvi. That the Ld. MM has failed to consider that the legal notice was not served upon the accused.

xvii. That the Ld. MM has failed to appreciate that being the directors of the accused company, the appellants have been made vicariously liable without there being any specific averment of default on their part."

56. The Appellate Court, however, failed to advert to any of the abovesaid 17 points and dismissed the appeal by merely observing that there was no illegality or irregularity in the impugned order of the learned Trial Court. Such one-line observation does not depict that the learned Appellate Court had undertaken the comprehensive scrutiny as envisaged in *Bani Singh (supra).*

57. Such order, being completely vague, unspecific and non-speaking, cannot withstand judicial scrutiny.

58. Nominal Rolls of the accused persons were sought which indicate that they are in custody in the complaints in question since 30.01.2026 and there are hundreds of other cases against them.

59. Of course, there is a big dilemma in the mind of the Court.

60. On one hand, there is unexplained delay of more than 2100 days

which, as already observed, does not deserve absolution and on the other, there is grave illegality and perversity in the impugned judgments which, too, is not sustainable.

61. The complainants would have every reason to feel agitated if the Appellate Court is directed to consider the appeals afresh, particularly when there is huge delay in the interregnum and they have yet not received back, a single penny. At the same time, when it comes to someone's life and liberty, the technical aspects must take a back-seat. A statutory right of appeal in a criminal case is available, only once and if the appeal is decided in a manner, not permissible in law, supervisory court is mandated to respond befittingly. Revisional Court, which can exercise jurisdiction *suo moto* even, would not permit the abovesaid illegality or perversity to remain on record and, therefore, it would be appropriate if the appeals are directed to be re-heard.

62. In view of the foregoing discussion, both the abovesaid appeals stand revived and the impugned judgments dated 31.01.2020 are, resultantly, set aside. The accused and complainants would appear before the learned Appellate Court on 03.06.2026 and the appellate Court/successor Court shall hear arguments on merits from both the sides and would dispose of the appeals in accordance with law.

63. Since the matters have already got delayed considerably, the Appellate Court would make best endeavour to dispose of the appeals on or before 31.08.2026.

64. As volunteered by the accused, 25% of the fine amount, in each of the complaint case, be deposited with the learned Trial Court within ten days from today. Once such amount is deposited, it would be deemed to be an

order passed under Section 148 of *Negotiable Instruments Act, 1881*. Besides the above, revisionists are also directed to conjointly pay cost of Rs. five lacs to each of the complainants for causing unnecessary delay and agony to them. Such cost be also cleared within ten 10 days from today.

65. Re-hearing of appeals shall take place once the abovesaid amount is deposited with the learned Trial Court and cost is paid to the complainants.

66. All the revision petitions stand disposed of in abovementioned terms.

67. It is, however, clarified that since this Court has not touched the merits of the appeals, the Appellate Court shall decide the same, without being influenced by any observation appearing hereinabove.

68. Pending applications, if any, also stand disposed of, in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 29, 2026
st/pb