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

+ CRL.A. 457/2002

CHARANJIT SINGH

.....Appellant

Through: Mr. Faraz Maqbool, Adv. (DHCLSC)
with Ms. Deepshikha and Ms. A.
Sahilya Veena, Advs.

versus

TULSHI DASS & ORS.

.....Respondents

Through: Mr. Mukesh Kumar, APP for the
State with SI Nitesh Singh, PS
Mukherjee Nagar.
Ms. Aishwarya Rao and Ms. Mansi
Rao, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

ORDER

17.04.2026

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1. Hybrid Mode.

2. The appeal in hand challenges the judgment dated 22.07.1998 passed by the Learned Metropolitan Magistrate, Delhi, whereby the accused persons were acquitted of the charges under Sections 448 and 506 of the Indian Penal Code, 1860.

3. It has been submitted by the Learned Counsel for the Appellant as well as the Learned Counsel for the Respondents that despite repeated and continuous efforts, the Trial Court Record (TCR) has not been received and remains unavailable for the purposes of adjudication of the present appeal.

4. It is borne out from the record that the Registry, *vide* office letter dated 24.06.2002 had first attempted to requisition the Trial Court Record, however, it was communicated by the Learned Additional Sessions Judge, Officer In-Charge, Record room (Crl) *vide* letter dated 26.07.2002 as per the official record maintained in the Record Room, the case file titled



Charanjit Singh vs. Tulsi had already been weeded out on 10.06.2002.

5. Further, this Court had *vide* order dated 07.08.2024, once again attempted to requisition the Trial Court Record from the concerned Trial Court, in response to which a report came stating that the record had been weeded out on 10.06.2002. The said fact was duly taken on record by this Court on 14.10.2025. It is also reflected from the order of this Court dated 24.03.2025 that both the parties had independently undertaken efforts to trace and acquire the Trial Court Record. However, no such record could be located. The VRK Section of Police Station Mukherjee Nagar also could not help as it is a complaint case. Additionally, office noting dated 24.06.2002, 18.02.2021 and 23.02.2021 further corroborate the position that the Trial Court Record stands destroyed and is no longer available.

6. In view of the aforesaid, it stands established that the original Trial Court Record is untraceable and has been irretrievably lost. Despite the passage of time and multiple opportunities afforded, no reconstruction of the record has been possible. The material documents necessary for adjudication, including the pleadings, evidence led during trial, and the depositions of witnesses, are not available. The absence extends to vital components of the record such as the evidence of witnesses, all proved documents as well as the statements of the respondents recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.).

7. The question that arises for consideration is whether the present appeal can be proceeded with and adjudicated in the absence of the Trial Court Record, particularly in a situation where, despite repeated and bona fide efforts by all concerned, reconstruction of the said record is not possible. The legal position governing such a situation stands settled by the



judgment of the Hon'ble Supreme Court in ***State of U.P. v. Abhai Raj Singh and Anr.***, (2004) 4 SCC 6, the relevant portion of which is reproduced hereunder:

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

8. Applying the aforesaid principles to the facts of the present case, it is evident that despite repeated efforts undertaken by the Registry, the concerned trial court as well as both the parties, the Trial Court Record has not been/could not be reconstructed or requisitioned and continues to remain unavailable and untraceable. The deficiency is not confined to secondary or supporting documents, but extends to the absence of the core evidentiary material, including depositions of witnesses and proved exhibited documents and statements recorded under Section 313 Cr.P.C., all of which constitute the very foundation of the adjudicatory process. In the absence of such



material, this Court is unable to examine and adjudicate on the correctness of the findings returned by the Trial Court, from appreciating the evidence that was led, and from scrutinising the reasoning forming the basis of the Impugned Judgment.

9. It is trite that adjudication of an appeal necessarily and essentially requires a complete and effective scrutiny of the Trial Court Record, and any determination in its absence would amount to a decision rendered without any evidentiary substratum, which is impermissible under the law. Moreover, considering that the record stands destroyed and bearing in mind the substantial lapse of time since the passing of the Impugned Judgment, this Court is of the considered view that a direction for retrial would not be a feasible or meaningful exercise, particularly when the foundational material required for such retrial is itself unavailable.

10. In these circumstances, when the reconstruction of the record too is not possible so as to enable this Court to hear and dispose of the appeal, and where the course of retrial and fresh adjudication is equally rendered impossible on account of the loss of vital basic records, the only course open, in terms of the law laid down by the Hon'ble Supreme Court in "***State of U.P. v. Abhai Raj Singh and Anr.***"(supra), is to permit the Impugned Judgment to operate and to close the proceedings.

11. Accordingly, the present appeal stands disposed of.

VIMAL KUMAR YADAV, J

APRIL 17, 2026/ps