IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Revision No.1504 of 2015

Sunil Kumar Bhagat, S/o Late Sheopujan Bhagat, Resident of Gandhi Road, P.O. & P.S.-Bank More, District-Dhanbad, State-Jharkhand **…… Petitioner/Complainant**

Versus

1. The State of Jharkhand
2. Sunil Kumar Gupta, S/o Gautam Prasad Gupta, Resident of 91, Debendra Chandra Dey Road, Kolkata, P.S.-Etali, Kolkata-15 (West Bengal)

…… Opposite Party(accused)

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For the Petitioner : Mr. Ravi Prakash Mishra, Advocate
For the State : Addl.P.P
For the O.P. No.2 : Mr. Arun Kumar, Adv.

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V.On 02.05.2024 **Pronounced On: 02/ 08 /2024**

1. The instant Criminal Revision is directed against judgment of acquittal dated 07.09.2015 passed by learned Additional Sessions Judge-12, Dhanbad in Criminal Appeal No. 78 of 2014, whereby and whereunder, the conviction and sentence of the opposite party No.2 passed by learned trial court for the offence under section 138 of Negotiable Instrument Act has been reversed and set aside and appeal was allowed.
2. Factual matrix of the case is that the petitioner(complainant) entered into an agreement with the opposite party no.2, who was

dealing with the business of plastic materials to supply quality goods and thereby advanced Rs.90,000/- in the month of September, 2007 but the opposite party No.2 did not supply the materials as agreed between the parties and upon persistent demand of the advance money, the opposite party No.2 issued two cheques bearing No.310525 dated 07.12.2007 of Rs.45,000/- and another cheque bearing No.310524 dated 18.10.2007 of Rs.45,000/- respectively. It is further alleged that the complainant presented the said cheque bearing No.310525 which was returned with remark of "insufficient fund" by the banker under memo of notice dated 18.10.2007 and 07.12.2007 respectively. It is further alleged that the Branch Manager of ICICI Bank, Dhanbad instead of sending original cheque No.310524 and cheque return memo dated 18.10.2007, by mistake sent to the opposite party No.2, which was received by him. Subsequently, the Branch Manager issued duplicate cheque return memo dated 27.10.2007 in favour of the complainant. Hence, the complainant send legal notice through registered post with A/D demanding the cheque amount from opposite party No.2 dated 19.12.2007 but he did not reply to the notice nor paid the amount. Hence, the complaint was lodged.

3. Upon summons, the accused appeared and claimed to be tried.

In order to substantiate his case, the complainant was examined as a witnesses(CW-1) and he has also adduced following documentary evidence:-

Ext.1Cheque No.310525 dated 07.12.2007 of Rs.45,000/-

Ext.2 Cheque return memo dated 07.12.2007 regarding cheque No.310525

Ext.3 Cheque return memo of cheque No.310524 dated 18.10.2007 of Rs.45,000/-

Ext. 4 certificate issued by ICICI Bank dated 07.12.2007.

Ext.5 Advocate notice dated 12.12.2007

Ext.6 & 6/1 Postal receipts dated 19.12.2007

4. On the other hand, no oral or documentary evidence was adduced by the defence except cross-examination with the complainant(CW1). The accused has pleaded his innocence in his statement under section 313 of Cr.PC and non-receipt of legal notice allegedly sent to him by the complainant.

5. Learned trial court after considering the evidence available on record arrived at clear cut findings that there was un-rebutted evidence led by the complainant about the agreement to sale plastic goods between the complainant and accused and Rs.90,000/- was given to the accused as advance in the month September, 2007. It was also proved that the accused did not supply the materials nor return the money rather in order to satisfy his liability, he issued two cheques in favour of the complainant, which were dishonoured due to “insufficient

funds" in the bank account of the drawer. After compliance of the provision of Section 138 of Negotiable Instrument Act, the complaint was instituted, hence, the accused was held guilty and sentenced to undergo of S.I. of 6 months for the offence under section 138 of N.I. Act and also to pay compensatory cost of Rs.90,000./- under section 357 of Cr.PC.

6. The opposite party No.2 assailed the judgment of conviction passed by the trial court before the appellate court by filing Cr. Appeal No.78 of 2014 mainly on following grounds.

(i) As per Ext.6 & 6/1, it is apparent that legal notice was sent to the appellant on 19.12.2007 and the complaint petition was lodged on 18.01.2008 i.e. within a period of one month.

(ii) There is no material on record showing the date of service of legal notice upon the appellant to furnish the cause of action under the proviso(c) of section 138 of N.I. Act and provision of section 142 of the said Act.

(iii) The acknowledgment card has not been proved to show the date of receipt of notice and postman has also not been examined.

(iv) In the above mentioned circumstances, the presumption of service of notice within the period of 30 days may be raised in terms of section 27 of

the General Clauses Act, 1897 and after expiry of 30 days, the appellant is required to make payment within 15 days. Thereafter, the cause of action will arise.

(v) Therefore, the complaint being instituted within one month from the date of sending legal notice without proof of its receipt and providing 15 days' time to drawer is immature and against the statutory provision constituting no offence under section 138 of N.I. Act.

7. The learned appellate court after apprising with the relevant provision of Sections 138 and 142 of Negotiable Instrument Act, in the light of aforesaid points of arguments raised on behalf of the appellant particularly in view of the Ext. 6 & 6/1 arrived at conclusion at para 15 of the judgment, which is extracted herein under:-

"15. After going through Ext.6 and 6/1 it is clear that legal notice was sent to the appellant on 19.12.07. As per clause(c) of section 138 of N.I. Act if the drawer of such cheque fails to make payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within 15 days of the receipt of the said notice. As per clause(b) of

section 142 of N.I. Act any complaint can be filed within one month on the date on which the cause of action arose under clause(c) of the proviso of u/c 138 of N.I. Act. Now it is clear that in the instant case no notice has been served upon the appellant as neither its acknowledgement nor any other document has been brought on record to show that notice was served upon the appellant. It is also pertinent to note that the postman of the postal department has also not been examined to prove that whether the notice was served/ delivered upon the appellant or not, if it was served then on which date of service of the notice/delivery of registered letter sent to the appellant. Under such circumstances it will be presumed that notice will be served upon the appellant within 30 days as per section 27 of General Clauses Act and after expiry of 30 days the accuse/appellant required to make payment within 15 days of the notice, and thereafter, complaint should have been filed. It is the specific case of the appellant that he was never served any notice as alleged by the respondent. From the materials available on record it is clear

> that notice was sent to the appellant on 19.12.07 but no service of notice has been proved by adducing any concrete and cogent evidence then the service of notice upon the appellant/accused will be presumed within a period of 30 days and thereafter, accuse/appellant is required to make payment within 15 days and after expiry of the said period cause of action will arise. But in the instant case after sending the notice on 19.12.07 the complaint petition has been filed on 18.1.08 which is premature."

8. In view of the above findings, learned appellate court set aside the conviction and sentence of the appellant passed by the learned trial court and allowed the appeal holding the complaint petition filed by the present petitioner on 18.01.2008 to be pre-matured.

9. The petitioner (complainant) assailing the impugned judgment passed by the learned appellate court has submitted that learned appellate court has erred in raising the presumption of service of notice within one month in view of provision of Section 27 of General Clauses Act. The complainant was not required by law to wait and watch for 30 days and thereafter to institute the complaint case after lapse of 15 more days. The complainant has fulfilled the basic requirement as prescribed under proviso of

Section 138 of N.I. Act and Section 142 of the said Act. The interpretation adopted by the learned appellate court encourages the dishonest drawer of the cheque to escape his liability merely on the technicalities.

10. Learned counsel has placed reliance upon the judgment in the case of ***CC Allavi Haji Vs. Pellapetti Mohd. & Anr.*** reported in ***(2007) 6 SCC 555 and Ajit Seeds Ltd. Vs. K. Gopala Krishaniya*** reported in ***(2014) 12 SCC 685.***

11. On the other hand, learned counsel for the opposite party No.2 defending the impugned judgment passed by learned appellate court has submitted that the learned appellate court has very wisely and aptly considered all aspects of the case in the light of documentary evidence adduced by the complainant and since the case was instituted without providing 15 days' time from deemed date of service of notice, it is not maintainable in the eye of law constituting no offence under section 138 of N.I. Act. Therefore, the impugned judgment suffers from no illegality or infirmity calling for any interference by way of this revision, which is fit to be dismissed.

12. Learned counsel for the opposite party No.2 has placed reliance on following judgments:-

(i)Shakti Travel & Tours Vs. State of Bihar and Another reported in (2002) 9 SCC 415

(ii)Subodh S. Salaskar Vs. Jayprakash M. Shah and Another reported in (2008) 13 SCC 689

(iii)Yogendra Pratap Singh Vs. Savitri Pandey and Another reported in (2014) 10 SCC 713

(iv)Raj Kumar Prasad Vs. The State of Jharkhand & Anr. dated 10.05.2016 passed in Cr.M.P. No.893 of 2008

(v)Shyam Sundar Singh @ Shyam Sunder Singh Vs. The State of Jharkhand & Anr. passed in I.A. No.3709 of 2019 in Acq. App. (C) No.48 of 2019 disposed of vide order dated 20.06.2019.

13. On the basis of contentions of the parties, the following questions arises for consideration in this revision application:-

(i) Whether the complaint case instituted under section 138 of N.I. Act within the period of 30 days from the date of issuance of legal notice demanding the cheque amount from its drawer is pre-matured?

(ii) Whether it is necessary to make averments in the complaint about the service of notice to the accused or accused has evaded or deliberately not replied to the legal notice?

14. Before imparting my verdict on the above issues involved in this case, it is desirable to quote the relevant provisions of the Negotiable Instrument Act:

> **Section 138**
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> **"Dishonour of cheque for insufficiency, etc., of funds in the account.**—Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for [a term which may be extended to two years'], or with fine which may extend to twice the amount of the cheque, or with both:
>
> Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice; in writing, to the drawer of the cheque, [within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice."

Section 142…… Cognizance of offences.—

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

[Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period;]

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.]

15. Now I have to also discuss the relevant citations relied upon by the respective parties while placing their arguments.

16. In the case of ***Ajeet Seeds Limited vs. K. Gopala Krishnaiah (2014) 12 SCC 685***, the High Court quashed the complaint exercising the power under section 482 of Cr.PC on the grounds: (i) that there was no averments in the complaint that the notice issued under section 138 of N.I. Act by the complainant was served upon the accused and (ii) even there was no proof that either the said notice was served or it was returned unserved/unclaimed.

Allowing the appeal, the Hon'ble Apex Court held as under:-

"Section 114 of the Evidence Act, 1872 enables the court to presume that in the common course of natural events, the communication sent by the post would have been delivered at the address of the addressee. Further section 27 of General Clauses Act, 1897 gives rise to a presumption that service of notice has been effected when it is sent to the correct address by the registered post. It is not necessary to aver in the complaint that in spite of the return of the notice unserved, it is deemed to have served or that the addressee is deemed to have knowledge of notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business.

Applying the above conclusions to the facts of the case, it must be held that the High Court clearly erred in quashing the complaint on the ground that there was no recital in the complaint that the notice under section 138 of N.I. Act was served or it was returned unserved/unclaimed. That is a matter of evidence. In ***C. C. Alavi Haji vs. Palapetty Muhammed and Anr. (2007) 6 SCC 555***, the Apex Court did not deviate from the view taken in the case of ***D. Vinod Shivappa vs Nanda Belliappa (2006) 6 SCC 456*** but reiterated the view expressed therein with certain clarification. The Apex court in ***D. Vinod Shivappa*** case has held

that service of notice is a matter of evidence and proof and it would be premature at the stage of issuance of process to move the High Court for quashing the proceeding under section 482 of Cr.PC. These observations are squarely attracted to the present case. The High Courts reliance on an order passed by a Two Judge Bench in ***Shakti Travel & Tours (2002) 9 SCC 415*** is misplaced. The Three Judges Bench of Supreme Court in ***C.C. Alavi Haji's case*** has conclusively decided the issues concerned. Thus the judgment in ***Shakti Travel & Tours*** case does not hold the filed any more.

In view of the above impugned judgment of the High Court was set aside and the instant complaint was restored.

17. In the case of ***C. C. Alavi Haji vs. Palapetty Muhammed and Anr. (2007) 6 SCC 555,*** it was observed that when the notice was sent by the registered post by correctly addressing drawer of the cheque, mandatory requirement of issue of notice in terms of section 138 proviso (b) of N.I. Act stands complied with. It is needless to emphasis that the complaint must contain basic facts regarding the mode and manner of issuance of notice to the drawer of the cheque. It is well settled that at the time of taking cognizance of the complaint under section 138 of N.I. Act, the court is required to be *prima facie* satisfied that a case under the said section is made out and afore-noted mandatory statutory procedural requirement have been complied with. It is then for the drawer to rebut the presumption about the service of notice and so that he had no

knowledge that notice was brought to his address or that the address mentioned on the cover box is incorrect or that a letter was never tendered or that the report of the postman was incorrect. This interpretation of the provision would effectuate the object and purpose for which the proviso to section 138 was enacted, namely, to avoid unnecessary hardship to an honest drawer of a cheque to provide him opportunity to make amends.

Any drawer who claims that he had not received the notice sent by the post, can within 15 days of receipt of summons from the court in respect of complaint under section 138 of Act, make payment of the cheque amount and submit to the court that he had make payment within 15 days of receipt of summons (by receiving a copy of the complaint with the summons) and, therefore, the complaint is liable to be rejected. A person who does not pay within 15 days of the receipt of the summons from the court along with the copy of the complaint under section 138 of the Act, cannot obviously contend that there was no proper service of notice as required under section 138 of the Act, by ignoring statutory presumption to the contrary under section 27 of the General Clauses Act and Section 114 of the Evidence Act.

Further exploring the nature and object of section 138 of proviso (b) (c) regarding requirement of giving notice to drawer of cheque prior to prosecution under section 138, it was observed that object of such requirement is to avert unnecessary

prosecution of an honest drawer and give an opportunity to him to make amends and thus avoid unnecessary hardship to him. The prosecution under section 138 of NI Act has been made subject to certain conditions which are stipulated in the provisos appended to section 138. Therefore, the observance of stipulating in proviso (b) to section 138 and its aftermath in proviso(c) to the said section being a pre-condition for invoking of offence under section 138 of the Act giving notice to the drawer before filing the complaint under section 138 of the Act is a mandatory requirement. The requirement of giving notice is a clear departure from the rule of criminal law, where there is no stipulation of giving a notice before filing a complaint. The entire purpose of requiring a notice to give an opportunity to the drawer to pay the cheque amount within 15 days of service of notice and thereby free himself from the penal consequences of section 138.

While construing the said provision, the object of legislation has to be borne in mind. The chapter XVIII of the N.I. Act originally containing sections 138 to 142 was inserted in the Act to create an atmosphere of faith and reliance on banking system by discouraging people from not honouring their commitments by way of payment through cheques. Section 138 of the Act was enacted to punish those unscrupulous persons who purported to discharge their liability by issuing cheque without really intending to do so. To make this provision contained in the said chapter more

effective, some more sections were inserted in the chapter and some amendments in the existing provisions were made. These amendments do indicated the anxiety of the legislature to make the provision more result oriented.

18. Learned counsel for the opposite party No.2 has placed reliance the judgment ***Shakti Travel & Tours Vs. State of Bihar and Another reported in (2002) SCC 415*** which has been overruled by the full Bench of the Hon'ble Apex Court in ***C. C. Alavi Haji(supra)*** and ***Ajeet Seeds Limited*** (supra) as discussed above.

19. In the case of ***Subodh S. Salaskar Vs. Jayprakash M. Shah and Anr. (2008) 13 SCC 689*** relied upon by the opposite party No.2, the cheque presented to bank on 10.01.2001 were returned to Respondent No. 1 by the bank alleging that no such account in the name of appellant was in operation. A legal notice dated 17.01.2001 under section 138 of proviso (b) of the N.I. Act was sent by speed post. The complaint petition alleging commission of an offence under section 138 of N.I. Act, however was filed on 20.04.2001. An application to amend the complaint petition for adding offence under section 420 of Indian Penal Code was allowed by an order dated 14.08.2001. The appellant's application dated 16.12.2003 for discharge on the premise that the complaint petition was barred by limitation was dismissed. The revision application filed by the appellant before the learned Additional Sessions Judge as well as criminal writ petition was dismissed.

Allowing the appeal, the Hon'ble Supreme Court held in the facts and circumstances of the case, the High Court was not correct in taking the view that the court as per proviso to under section 142(b) of N.I. Act, had jurisdiction to allow the amendment of the complaint petition at a letter such. *Ex facie*, the amendment application was barred by limitation no application for condonation for delay was filed. The matter might have been different if the Magistrate could have exercised its jurisdiction under section 5 of the Limitation Act, 1963 or section 473 of Cr.PC. The provisions of said acts are not applicable. In any event no such application for condonation of delay was filed.

Considering the factual aspects of the case, it was observed that condition precedent for taking cognizance as prescribed under section 138 of proviso (c) and 142(b) are satisfied. Admittedly, notice was sent by the speed post on 07.01.2001 and the complaint was filed on 20.04.2001. Even if the presumption of deemed service within a reasonable time of 30 days (i.e., 16.02.2001) is taken, the accused was required to make payment within 15 days i.e. on or about 02.03.2001. The complaint petition which should have been filed on 02.04.2001 was filed on 20.04.2001 was clearly barred by the limitation. It was further observed that proviso appended to section 138 of N.I Act limits the applicability of the main provisions. Unless the conditions precedent for taking cognizance the offence under section 138 of

NI Act is satisfied, the court will have no jurisdiction to take cognizance. The complaint petition in view of section 142 (b) of the NI Act was required to be filed within one month from the date on which the cause of action arose in terms of the clause (c) of the proviso to section 138 of the NI Act. The legal notice admittedly was issued on 17.01.2001. It was sent by the speed post. It was supposed to be served within a couple of days. Although the actual date of service of notice was allegedly not known, the complaint proceeded on the basis that the same was served within a reasonable period. The complaint petition admittedly was filed on 20.04.2001. The notice having been sent on 17.01.2001, if the presumption of the service of notice within a reasonable time is raised, it should be deemed to have been served at best within the period of 30 days from the date of issuance of thereof. In the situation, the complaint was hopelessly time barred.

20. In the case of ***Yogendra Pratap Singh Vs. Savitri Pandey and Anr. (2014) 10 SCC 713*** relied upon by the opposite party No.2, it was held that any complaint filed before the expiry of 15 days from the date of receipt of notice under section 138 proviso(c) of the Act is non est. Hence, no cognizance of offence can be taken on the basis of such non est complaint. In the instant case, the demand notice in question was admittedly served upon the drawer of the cheque (accused) on 23.09.2008, the complaint was presented on 07.10.2008 was filed before expiry of the stipulated period of 15

days. The Magistrate all the same took cognizance of the offence on 14.10.2008 and issued summons to the accused, who then assailed the said order in a petition under section 482 of CrPC before the High Court of Judicature of Allahabad. The High Court took the view that since the complaint had been filed within 15 days of the service of the notice the same was clearly premature and the order pressed by Magistrate taking cognizance of the offence on the basis of the such complaint is legally bad. The High Court accordingly quashed the complaint and the entire proceedings relating thereto in terms of its order impugned in the present appeal before the Hon'ble Apex Court. The appeal was dismissed with the aforesaid observation, it was held at para 38 that no complaint can be maintained against the drawer of the cheque before the expiry of the 15 days from the date of receipt of notice because the drawer/ accused cannot be said to have committed any offence until then. Accordingly impugned order passed by the High Court was upheld.

21. Another citation relied upon by the opposite party No.2 in the case of ***Raj Kumar Prasad Vs. The State of Jharkhand and Anr.*** passed in ***Cr.M.P. No.893 of 2008*** decided by Single Bench of this Court wherein the legal notice was served on 02.11.2006 but there was nowhere mentioned in the entire compliant petition that when said notice was served upon or received by the petitioner or even refused and without making any such averment, the complainant

filed the complaint on the same day i.e., on 02.11.2006. Although, the cognizance was taken on 09.02.2007. Therefore, it was held that the requirement of proviso (b) to section 138 and 142 of the Act has not been complied with. Hence, no offence is constituted. Accordingly, the entire proceeding of the complaint case was quashed.

22. The last citation relied upon by the opposite party No.2 in ***Shyam Sunder Singh case*** (Jhr.H.C) is concerned with grant of certificate to file acquittal appeal by complainant and lays down no principle of law.

23. Now coming to the points of consideration involved in this case, in the light of above discussions and principles of law propounded by the Hon'ble Apex Court, it is crystal clear that in the instant case, legal notice was issued on 19.12.2007 and the complaint was instituted just within one month i.e. 18.01.2008. As per presumptions under section 114 of Illustration(f) of the Evidence Act and section 27 of General Clauses Act, the service of notice upon the accused within a reasonable time is to be deemed and anything otherwise has to be rebutted by the accused by leading evidence. The stretching of the legal presumption for exactly 30 days and thereafter providing 15 days further time for making payment of cheque amount to a dishonest drawer of the cheque is nowhere justified under the law. Although, the said interpretation was accepted by the Hon'ble Apex Court while computing the

period of limitation in institution of the complaint case. In the instant case, there is no denial of existence of legal liability of the accused which was never discharged, the issuance of cheque under signature of the accused is also admitted fact. It is also not disputed that the notice was not sent on correct address of the addressee, the simple denial from the receipt of the notice does not entail any adverse consequences. It is also noticed that Hon'ble Apex Court in the case of ***C. C. Alavi Haji*** case has specifically propounded guidelines that in the case where the drawer claims not to have received notice sent by the post, but received the copy of the complaint with the summons, he can within 15 days make payment of the cheque amount and on that basis submit to the court that the complaint be rejected. The complainant is not required to prove the service of notice on accused before institution of the case. In the instant case, the drawer has not denied about receipt of copy of complaint with summons and he appeared and contested the case throughout without raising any other substantial issues absolving him from the legal liability. Accordingly, a dishonest drawer of cheque can't get a premium from his own default. It is not out of place to observe that the learned trial courts must always adhere to the aims and object of giving notice to accused and examine the contents of complaint petition at the very stage of its registration and ensure that all legal formalities are complied with as prescribed

under section 138 & 142 of N.I. Act, so as to alleviate any technical issue to crop up at the trial.

24. In the aforementioned facts and circumstances of the case, the plea taken by the accused (O.P. No.2) has no legal substance. It appears that learned Appellate Court has miserably failed to properly appreciate the entire aspects of the case in true perspectives and without adverting to the provisions of law as well as principles propounded by the Apex Court, and arrived at illegal conclusion while reversing the judgment of the trial court in convicting the accused for the offence under section 138 N.I. Act. The judgment passed by the learned Appellate Court cannot be sustained in view of the legal principles propounded by the Hon'ble Apex Court as discussed above, which is hereby set aside.

25. Accordingly, this revision application is allowed.

26. The case is remitted back to learned Appellate Court to re-hear the appeal and pass a fresh judgment after giving opportunity of hearing to the parties. Both parties are directed to appear before the concerned Appellate Court within six weeks from the date of this order.

27. All interim orders are vacated.

28. Let a copy of this order along with the record of trial court be sent back for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi
Date: 02/08/2024
Pappu/- A.F.R.