2025 INSC 1285

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1927 OF 2014

STATE OF CHHATTISGARH ....APPELLANT(S)

VERSUS

AMIT AISHWARYA JOGI ....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). OF 2025
(ARISING OUT OF SLP (CRL.) No. 1438 OF 2012)

CRIMINAL APPEAL NO(S). OF 2025
(ARISING OUT OF SLP(CRL.) NO. 3037 OF 2012)

CRIMINAL APPEAL NO(S). OF 2025
(ARISING OUT OF SLP(CRL.) NO. 7331 OF 2011)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. These matters have been placed before the three-Judge Bench in terms of the order dated 12th February, 2020 wherein a Bench of two Judges of this Court took note of the submission of the learned counsel representing the State of Chhattisgarh expressing a doubt on the correctness of the view taken by this Court in the case of ***Lalu Prasad Yadav and Anr. v. State of Bihar and Anr***[1] (Three-Judge Bench decision). The said order reads as below:

> "Learned counsel for the State of Chhattisgarh seeks to doubt the judgment of this court in Lalu Prasad Yadav & Anr. v. State of Bihar & Anr. – (2010) 5 SCC 1 which is of a Three Judges Bench.
> We are thus, of the view that it may be appropriate that the matters be placed before a Three Judges' Bench itself so as to avoid further duplication of the hearing.
> The matters be thus, placed before Hon'ble Chief Justice of India for appropriate directions.
> Registry to take necessary steps."

4. The State of Chhattisgarh, the Central Bureau of Investigation[2] and Shri Satish Jaggi-*de-facto* complainant[3] are before this Court in these four appeals for assailing-:

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[1] (2010) 5 SCC 1.
[2] Hereinafter, being referred to as "CBI".
[3] Hereinafter, being referred to as "*de-facto*-complainant".

a. The final order dated 18th August, 2011, passed by the Division Bench of the High Court of Chhattisgarh at Bilaspur[4] in Criminal Miscellaneous Petition No. 137 of 2008.
b. The final order dated 12th September, 2011, passed by the Division Bench of the High Court in Criminal Miscellaneous Petition No. 495 of 2011.
c. The final order dated 19th September, 2011, passed by the Division Bench of the High Court in Criminal Miscellaneous Petition No. 434 of 2007.

5. These criminal miscellaneous petitions were preferred before the High Court assailing the common judgment and order dated 31st May, 2007 passed by the Special Judge (Atrocities), Raipur[5], in Sessions Trial Nos. 343 of 2003 and 329 of 2005, whereby the trial Court, while convicting 28 accused persons, acquitted the accused Amit Aishwarya Jogi[6]. Both these cases were registered pursuant to an

[4] Hereinafter, being referred to as "High Court".
[5] Hereinafter, being referred to as "trial Court".
[6] Hereinafter, being referred to as "respondent-Amit Jogi".

incident of violence and murder which took place within the jurisdiction of Police Station, Moudhapara, District Raipur on 4th June, 2003.

BRIEF FACTS

6. The respondent-Amit Jogi, is the son of Shri Ajit Jogi, the serving Chief Minister of Chhattisgarh at the time of the incident.

7. It is alleged that one Shri Ramavatar Jaggi, leader of the National Congress Party was murdered by unknown assailants on 4th June, 2003. Initially, an FIR pertaining to the said incident came to be lodged by V.K. Pandey, the then Station House Officer and Town Inspector of Police Station, Moudhapara under Sections 307 and 427 of the Indian Penal Code, 1860[7], being FIR No. 104 of 2003. Upon conclusion of the investigation, the local police submitted a chargesheet under Section 173(2) of the Code of Criminal Procedure, 1973[8], against Vinod Singh *alias* Badal, Shyam Sunder *alias* Anand Sharma, Jamvant *alias* Babu, Avinash Singh *alias* Lallan, and Vishwanath Rajbhar for offences punishable under Sections 341, 427, 302, 120-B

[7] Hereinafter, being referred to as "IPC".
[8] Hereinafter, being referred to as "CrPC".

read with Section 34 of the IPC and Sections 25 and 27 of the Arms Act, 1959. Since the offence punishable under Section 302 of the IPC was triable exclusively by the Court of Sessions, the case was committed to the Court of Sessions Judge, Raipur where Sessions Case No. 334 of 2003 was registered for the offences punishable under Sections 302, 341, 427, 120-B read with Section 34 of the IPC and Sections 25 and 27 of the Arms Act, 1959.

8. The *de-facto*-complainant, Shri Satish Jaggi *i.e.*, the appellant in Criminal Appeals @ SLP(Crl.) Nos. 7331 of 2011 and 1438 of 2012, and son of Ramavatar Jaggi, was dissatisfied with the result of the investigation carried out by the local police and thus, he represented to the State Government and in response, the Government of Chhattisgarh issued a notification No. F/4/6/2004/Home-C dated 3rd January, 2004 transferring FIR No. 104 of 2003 of Police Station, Moudhapara for investigation to the CBI. The Central Government accepted the recommendation and assigned the investigation to the CBI.

9. Pursuant thereto, the CBI registered Case Crime No. RC-1(S)/2004/SCB-I/Delhi for offences

punishable under Sections 302, 120-B, 427 read with 34 of the IPC and Sections 25 and 27 of the Arms Act, 1959. An order of further investigation was procured from the concerned Court and pursuant to the conclusion of investigation, a fresh chargesheet came to be filed by the CBI with the finding that Amit Jogi (respondent herein), Chiman Singh, Yahaya Dhebar, Abhay Goyal and Firoz Siddiqui hatched a conspiracy to disrupt the National Congress Party's 10th June, 2003 rally by targeting its treasurer, Shri Ramavatar Jaggi. A meeting to finalise the plan to disrupt the rally was held at the Chief Minister's residence in May, 2003, wherein Shri Ramavatar Jaggi was selected as the prime target. On 4th June, 2003, at about 10:00 PM, Chiman Singh and other assailants hired from Bhind ambushed the Alto car in which Shri Ramavatar Jaggi was traveling. They damaged the vehicle with sticks. Chiman Singh shot Shri Ramavatar Jaggi whereas the other accused persons snatched away the sacred garland of *Rudraksha* beads (necklace) worn by Shri Ramavatar Jaggi during the attack. The CBI filed a chargesheet against the accused persons including the respondent-Amit Jogi for the offences punishable

under Sections 120-B read with Sections 302, 324, 427, 193 and 218 of the IPC. Pursuant to the filing of the chargesheet, Sessions Trial No. 329 of 2005 was registered before the Court concerned. Upon conclusion, the trial Court, *vide* judgment and order dated 31st May, 2007, held that the prosecution had successfully proved the charges against 28 accused persons under different provisions of the IPC and Arms Act, 1959. However, the respondent-Amit Jogi was acquitted of the charges levelled against him on the ground of insufficiency of evidence.

10. Aggrieved by acquittal of the respondent-Amit Jogi, the State of Chhattisgarh filed a Criminal Miscellaneous Petition No. 137 of 2008 under Section 378(3) of the CrPC before the High Court seeking leave to appeal against the judgment of acquittal dated 31st May, 2007 which stands rejected *vide* order dated 18th August, 2011. The High Court relied upon the three-Judge Bench judgment of this Court in the case of ***Lalu Prasad Yadav and Anr. (supra)*** to hold that the leave to appeal application filed by the State was not maintainable in a case investigated by the CBI.

11. The *de-facto*-complainant, Shri Satish Jaggi, also moved an Interlocutory Application No. 1 of 2011 under the proviso to Section 372 of the CrPC in Criminal Revision Petition No. 434 of 2007 pending before the High Court, seeking conversion of revision petition into a criminal appeal so as to enable him to challenge the acquittal of the respondent-Amit Jogi in the capacity of a victim. The said application stands rejected by the High Court *vide* order dated 19th September, 2011. The High Court held the State of Chhattisgarh's application seeking leave to appeal and the *de-facto*-complainant's application seeking to prefer an appeal under the proviso to Section 372 of the CrPC, to be not maintainable. The CBI also assailed the judgment and order dated 31st May, 2007, passed by the trial Court acquitting the respondent-Amit Jogi, *albeit* with some delay. The application seeking condonation of delay and consequently, the CBI's application seeking leave to appeal also stand rejected by the High Court *vide* order dated 12th September, 2011. It is, in these circumstances, these four appeals have been placed before this Court for adjudication.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

12. It was vehemently and fervently contended by learned counsel representing the State of Chhattisgarh that the view taken by the three-Judge Bench of this Court in the case of ***Lalu Prasad Yadav and Anr. (supra)*** does not make a correct interpretation of the statutory provisions and in addition thereto, the ratio thereof is inapplicable to the case at hand. The learned counsel urged that, in the present case, it is admitted that the initial FIR was registered by the State Police, which also filed the first chargesheet after concluding the investigation. However, as the *de-facto*-complainant expressed grave dissatisfaction with the result of investigation conducted by the local police, the State Government took a considered decision to transfer the investigation of the original FIR to the CBI. The central agency simply verified and supplemented the investigation carried out by the local police and filed a fresh chargesheet in the Court concerned. Thus, the learned counsel urged that it is not an open-and-shut case, where the FIR was directly registered by the CBI under the instructions of the Central

Government, thereby making the appeal against acquittal filed by the State Government to be incompetent by virtue of the decision in ***Lalu Prasad Yadav and Anr. (supra)***. The learned counsel stressed upon Para 37 of ***Lalu Prasad Yadav and Anr. (supra)*** to buttress the contention that the situation at hand is squarely covered by the said observations:

> "37. If we give to Section 378 sub-sections (1) and (2), the interpretation which the State Government claims; we would have to say that no matter that complaint was not lodged by the State Government or its officers; that investigation was not done by its police establishment; that prosecution was neither commenced nor continued by the State Government; that Public Prosecutor was not appointed by the State Government; that the State Government had nothing to do with the criminal case; that all steps from launching of prosecution until its logical end were taken by the Delhi Police Special Establishment and yet the State Government may file an appeal from an order of acquittal under Section 378(1). That would be rendering the exception (clause) reflected in the opening words-"save as otherwise provided in sub-section (2)"-redundant, meaningless and unnecessary. If the legislature had intended to give the right of appeal under Section 378(1) to the State Government in all cases of acquittal including the classes of cases referred to in sub-section (2), it would not have been necessary to incorporate the exception (clause) in the opening words. This objective could have been achieved without use of these words as erstwhile Section 417 of the 1898 Code enabled the State Government to appeal from all cases of acquittal while in two types of cases

> mentioned in sub-section (2) thereof, appeal from the order of acquittal could be filed under the direction of the Central Government as well."

13. Relying on the above reasoning, the learned counsel urged that in the peculiar circumstances of the present case, where the FIR was initially registered with the State Police and the CBI was much later entrusted with the investigation at the behest of the State Government, the bar of maintainability would not come into play and the appeal filed by the State Government should not have been thrown out on this hyper technical ground.

14. Learned counsel representing the CBI urged that the delay occasioned in filing the application seeking leave to appeal under Section 378(3) of the CrPC by the CBI before the High Court was *bona fide*. The central agency was under an impression that the State Government had already chosen to file an appeal against the acquittal of the respondent-Amit Jogi and thus, at that stage, it was not considered necessary for the CBI to challenge the acquittal of the respondent-Amit Jogi. However, when locus of the State to file the leave to appeal was questioned, a conscious and considered decision was taken at the

appropriate level to challenge the judgment and order of acquittal of the respondent-Amit Jogi passed by the trial Court, by filing a leave to appeal application before the High Court under Section 378(2) of the CrPC with a prayer to condone the delay. It was, therefore, contended that in a case of such a sensitive nature, the High Court should have adopted a pragmatic and liberal approach and considered the matter on merits, rather than dismissing the leave to appeal application filed by the CBI simply on the ground of delay.

15. Learned counsel representing the *de-facto*-complainant urged that the interpretation given by the High Court that the appeal filed by the *de-facto*-complainant is not maintainable is erroneous on the face of record. The learned counsel urged that the proviso to Section 372 of the CrPC, being a socio-beneficial legislation, ought to be applied retrospectively and, therefore, the *de-facto*-complainant's application should not have been thrown out on the ground of non-maintainability.

SUBMISSION ON BEHALF OF THE RESPONDENT

16. *Per contra,* the learned counsel representing the respondent-Amit Jogi urged that the view taken by

the High Court in dismissing the application seeking leave to appeal filed by the State of Chhattisgarh and the appeal filed by the *de-facto*-complainant as being non-maintainable; and so also the application seeking leave to appeal filed by the CBI on ground of delay is unassailable in facts and in law. The learned counsel contended that there exist no questions of law warranting interference by this Court in the impugned orders passed by the High Court, which do not suffer from any infirmity.

DISCUSSION AND CONCLUSION

17. We have given our thoughtful consideration to the submissions advanced at bar and have carefully gone through the impugned orders. We have also given our respectful consideration to the three-Judge Bench judgment of this Court in the case of ***Lalu Prasad Yadav and Anr. (supra).***

I. Criminal Appeal No. 1927 of 2014

18. On a threadbare perusal of the three-Judge Bench judgment in ***Lalu Prasad Yadav and Anr. (supra),*** we find that this Court extensively considered and discussed the provisions of law involved in the matter *i.e.*, Sections 417 of the Code of Criminal Procedure, 1898/Section 378 of the

CrPC, 1973. The Bench has elaborately drawn distinction in the two enabling provisions *i.e.*, 378(1) and 378(2) of the CrPC in the following manner:

> "30. Section 378 is divided into six sub-sections. Sub-section (1) provides that the State Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any court other than the High Court or an order of acquittal passed by the Court of Session in revision. It opens with the words "save as otherwise provided in sub-section (2)" followed by the words "and subject to the provisions of sub-sections (3) and (5)".
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> 31. Sub-section (2) refers to two classes of cases, namely, (i) those cases where the offence has been investigated by the Delhi Special Police Establishment constituted under the 1946 Act, and (ii) those cases where the offence has been investigated by any other agency empowered to make investigation into an offence under any Central Act other than the 1973 Code and provides that the Central Government may also direct the Public Prosecutor to present an appeal to the High Court from an order of acquittal. Such an appeal by the Central Government in the aforesaid two types of cases is subject to the provisions contained in sub-section (3).
>
> **xxx**
>
> 35. We have surveyed Section 378 in its entirety to have a complete conspectus of the provision. The opening words-"save as otherwise provided in sub-section (2)"-are in the nature of exception intended to exclude the classes of cases mentioned in sub-section (2) out of operation of the body of sub-section (1). These words have no other meaning in the context but to qualify the operation of sub-section (1) and take out of its purview two types of cases referred to in sub-section (2), namely, (i) the cases in which offence has been investigated by the Delhi

> Special Police Establishment constituted under the 1946 Act, and (ii) the cases in which the offence has been investigated by any other agency empowered to make investigation into an offence under any Central Act other than the 1973 Code. By construing Section 378 in a manner that permits appeal from an order of acquittal by the State Government in every case, except two classes of cases mentioned in sub-section (2), full effect would be given to the exception (clause) articulated in the opening words.
> 36. As noticed above, the words-"save as otherwise provided in sub -section (2)"-were added in the 1973 Code; Section 417 of the 1898 Code did not have these words. It is a familiar rule of construction that all changes in the wording and phrasing may be presumed to have been deliberate and with the purpose to limit, qualify or enlarge the pre -existing law as the changes of the words employ. Any construction that makes the exception (clause) with which the section opens unnecessary and redundant should be avoided."

19. The entire existing case law on the subject was exhaustively referred to and analyzed. Thereafter, applying the principles of statutory interpretation, the Bench held that the legislature has maintained a mutually exclusive division in the matter of appeal from a judgment and order of acquittal inasmuch as the competent authority to appeal from a judgment and order of acquittal in two types of cases referred to in sub-Section (2) of Section 378 of the CrPC is the Central Government and the authority of the State Government in relation to such cases has been

excluded. The relevant observations made in para 54 in ***Lalu Prasad Yadav and Anr. (supra)*** are quoted hereinbelow:

> "54. In our opinion, the legislature has maintained a mutually exclusive division in the matter of appeal from an order of acquittal inasmuch as the competent authority to appeal from an order of acquittal in two types of cases referred to in sub-section (2) is the Central Government and the authority of the State Government in relation to such cases has been excluded..."

20. Indisputably, applying the ratio of the above judgment, the leave to appeal application filed by the State of Chhattisgarh would not be maintainable.

21. The core question which requires adjudication in these matters is whether the three-Judge Bench judgment in the case of ***Lalu Prasad Yadav and Anr. (supra)*** lays down the correct proposition of law, or whether the same requires reference to, and resolution by a larger bench.

22. Having examined the statutory framework and after mulling over the arguments advanced at bar, we see no reason to take a different view. However, there is one aspect of the controversy which may require a deeper probe in a suitable case. In para 37 of the judgment in ***Lalu Prasad Yadav and Anr. (supra)***,

this Court gave some indication that if a different view was to be taken, it would imply that, irrespective of the complaint not being lodged by the State Government or its officers, the investigation not being done by its police establishment, and the State Government having no role in the criminal proceedings, and where all steps from launching of the prosecution until its logical end were undertaken by the Delhi Police Special Establishment, yet the State Government may file an appeal against a judgment and order of acquittal under Section 378(1) of the CrPC.

23. Apparently, these observations could give rise to an argument that, in cases like the present one, where at the initial stage, the investigation was undertaken by the State Police and subsequently, the State Government thought fit to assign further investigation to the CBI, perhaps the State Government may stake a right to challenge the judgment and order of acquittal on its own, irrespective of the CBI not pursuing such a course of action.

24. However, we do not see any reason to enter into the controversy nor are we persuaded to take a

different view for the reason that in the case of ***Lalu Prasad Yadav and Anr. (supra)***, the CBI also supported the view taken by the High Court and chose not to file an appeal questioning the acquittal of the accused by the trial Court. However, in the present case, the distinguishing feature is that the CBI has also filed an application seeking leave to appeal against acquittal of the respondent-Amit Jogi.

25. In this background, we are of the view that the question as to whether the State Government can independently file an appeal against acquittal of the accused in a case which was initially registered by the local police and later tried on the chargesheet filed by the CBI, may be examined and deliberated in a suitable case involving the following situations:

(a) the complaint was lodged by the State Government or its officers;

(b) investigation was partly done by State Police;

(c) prosecution was commenced at the instance of the State Government;

(d) the State Government has a stake in the criminal proceedings; and

(e) the jurisdiction of the CBI had been invoked at the instance of the State Government.

26. However, in the present case, we feel that ends of justice will be served by condoning the delay occasioned in filing of the application seeking leave to appeal by the CBI and requiring the High Court to consider the said application filed by the CBI, on its own merits. Such a course of action would ensure that the challenge to the judgment of acquittal would be examined on merits by the High Court instead of a technical rejection.

II. Criminal Appeal @ SLP(Crl.) No. 7331 of 2011

27. We also do not find any fault in the view taken by the High Court on the aspect of maintainability of the *de-facto*-complainant's application filed under proviso to Section 372 of the CrPC[9]. Needless to say, that the judgment and order of acquittal in this case was rendered on 31st May, 2007, whereas, the enabling provision *i.e.*, proviso to Section 372 of the CrPC, which gives a substantive right to the victim to file an appeal against judgment and order of acquittal came into effect from 31st December, 2009.

28. This Court in ***Mallikarjun Kodagali (Dead) represented through LRs v. State of Karnataka***

[9] Criminal appeal @ SLP(Crl.) No. 7331 of 2011.

and Ors.[10] has affirmatively held that the right conferred upon a victim to prefer an appeal against an order of acquittal under the proviso to Section 372 of the CrPC arises only in respect of orders of acquittal passed after 31st December, 2009. The observations made by this Court in para 72 are quoted hereinbelow:

> "72. What is significant is that several High Courts have taken a consistent view to the effect that the victim of an offence has a right of appeal under the proviso to Section 372 CrPC. This view is in consonance with the plain language of the proviso. But what is more important is that several High Courts have also taken the view that the date of the alleged offence has no relevance to the right of appeal. **It has been held, and we have referred to those decisions above, that the significant date is the date of the order of acquittal passed by the trial court. In a sense, the cause of action arises in favour of the victim of an offence only when an order of acquittal is passed and if that happens after 31-12-2009 the victim has a right to challenge the acquittal, through an appeal.** Indeed, the right not only extends to challenging the order of acquittal but also challenging the conviction of the accused for a lesser offence or imposing inadequate compensation. The language of the proviso is quite explicit, and we should not read nuances that do not exist in the proviso."
>
> (Emphasis Supplied)

[10] (2019) 2 SCC 752.

29. Thus, undeniably, as on the date of the judgment and order of acquittal *i.e.* 31st May, 2007, there was no provision in the statute book which permitted the *de-facto*-complainant to challenge the judgment and order of acquittal rendered by the trial Court by approaching the High Court through a victim's appeal. Thus, Criminal Appeal @ SLP(Crl.) No. 7331 of 2011 filed by the *de-facto*-complainant fails as being devoid of merit.

III. Criminal Appeals @ SLP(Crl.) No. 3037 of 2012 and @ SLP(Crl.) No. 1438 of 2012

30. We now turn to Criminal Appeal @ SLP(Crl.) No. 3037 of 2012 filed by the CBI and Criminal Appeal @ SLP(Crl.) No. 1438 of 2012 filed by the *de-facto*-complainant, assailing the order dated 12th September, 2011. Though it is true that the CBI filed an application seeking leave to appeal after a significant delay of 1373 days, but it is equally true that the charges against the respondent-Amit Jogi were very grave, involving a conspiracy to murder a member of a rival political party. The judgment of acquittal was under challenge at the instance of the State Government and the *de-facto*-complainant and

thus, the proceedings were still alive. Therefore, we are of the opinion that the High Court ought to have adopted a more liberal and pragmatic approach in dealing with CBI's application seeking condonation of delay and should have examined application seeking leave to appeal applicable on its merits.

31. We may hasten to add that we are not giving any imprimatur to the explanation offered by the CBI in its application for condonation of delay, but our objective is to ensure that the case involving such grave allegations should not be thrown out on mere technicalities.

32. At the same time, we also make it clear that we are not commenting on the merits of the case. It shall be open to the High Court to examine the merits of the matter while considering the CBI's prayer for grant of leave to appeal, uninfluenced by any observation made in this order.

33. Consequently, Criminal appeal @ SLP(Crl.) No. 3037 of 2012, preferred by the CBI succeeds and the impugned order is set aside. The delay occasioned in filing the application for grant of leave to appeal by the CBI against the judgment and order of acquittal of the respondent-Amit Jogi is hereby condoned. The

matter is remitted to the High Court for fresh consideration of the application for grant of leave to appeal filed by the CBI, on merits.

34. Although, at the stage of grant of leave to appeal, the acquitted accused is ordinarily not required to be heard, however, in the peculiar facts of the present case, since we have condoned the significant delay occasioned by the CBI in filing the application for grant of leave to appeal, we consider it expedient, in the interest of justice, to permit the respondent-Amit Jogi (acquitted accused) an opportunity of hearing in the application seeking leave to appeal. The *de-facto*-complainant as well as the State of Chhattisgarh shall also be impleaded as parties in the CBI's application seeking leave to appeal and would be entitled to advance their respective submissions before the High Court.

35. As a consequence, Criminal appeal @ SLP(Crl.) No. 3037 of 2012 preferred by the CBI is allowed; Criminal Appeal No. 1927 of 2014 preferred by the State of Chhattisgarh and Criminal appeals @ SLP(Crl.) Nos. 7331 of 2011 and 1438 of 2012, preferred by Satish Jaggi, the *de-facto*-complainant, are hereby dismissed.

36. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANJAY KAROL)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
NOVEMBER 06, 2025.