

GAHC010077552020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : **Crl.App.[J] No. 14/2020**

Satindra Hazarika, S/o Late Thaneswar
Hazaika, Village - Bheleuguri, P.S. Samaguri,
Nagaon, Assam.

.....Appellant

-Versus-

State of Assam represented by Public
Prosecutor.

.....Respondent

Advocates :

Appellant : Mr. A. Dhar, Amicus Curiae

Respondent : Ms. B. Bhuyan, Senior Counsel &
Additional Public Prosecutor, Assam.

Date of Hearing, Judgment & Order : 07.03.2024

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY
HON'BLE MRS. JUSTICE MALASRI NANDI
JUDGMENT & ORDER [ORAL]

[M. Choudhury, J]

The instant appeal from jail is directed against a Judgment dated 03.08.2019 and an Order dated 05.08.2018 passed by the Additional Sessions Judge No. 1, Nagaon ['the trial court', for short] in Sessions Case no. 20/2018. By the said Judgment and Order, the accused-appellant has been convicted under Section 302, Indian Penal Code [IPC] and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 2,000/-, in default of payment of fine, to undergo further rigorous imprisonment for 4 [four] months.

2. The investigation was set into motion with the institution of a First Information Report [FIR] by one Sri Pankaj Hazarika [P.W.1] before the Officer In-Charge, Samaguri Police Station on 21.05.2017. In the said FIR, the informant-P.W.1 had *inter alia* alleged that the accused-appellant, who is the elder brother of the informant-P.W.1, had been asking from their father a share in the compensation amount which the father had received in respect of acquisition of land for construction of National Highway. The FIR had further mentioned that the accused-appellant later on, signed an agreement that he did not want any part of the compensation amount. It was alleged that at about 05-00 a.m. on 21.05.2017, the accused-appellant quarreled with his father again in connection with the compensation amount and in the process, he suddenly bringing a knife from his house, stabbed his father in the abdomen and other parts of his body in the courtyard. As a result, the intestine of their father,

Thaneswar Hazarika came out. The informant-P.W.2 had further stated that they took Thaneswar Hazarika to Samaguri Primary Health Centre immediately but finding his condition critical, the Doctors there referred him to Nagaon Civil Hospital. The injured was accordingly taken to the Nagaon Civil Hospital. But therefrom also, finding the condition critical, the injured was referred to the Gauhati Medical College & Hospital [GMC&H], Guwahati. At the time of lodging the FIR, the injured, Thaneswar Hazarika was admitted in the GMC&H. As per the FIR, his condition was serious. On receipt of the said FIR, the Officer In-Charge, Samaguri Police Station registered the same as Samaguri Police Station Case no. 277/2017 for the offence under Section 326, IPC. The Officer In-Charge, Samaguri Police Station had thereafter, entrusted the investigation of the case to P.W.6. P.W.6, Sri Madan Sut, Assistant Sub-Inspector of Police had accordingly took up the investigation. The accused-appellant, later on, surrendered at the Samaguri Police Station on the date of the alleged occurrence i.e. on 21.05.2017.

3. The Investigating Officer of the case, P.W.6 upon completion of investigation, submitted a charge sheet being Charge Sheet no. 299 dated 30.09.2017 under Section 173[2], CrPC finding a *prima facie* case under Section 302, IPC against the accused-appellant as the injured, Thaneswar Hazarika expired, in the meantime, on 03.06.2017 at the GMC&H while undergoing treatment. On submission of the charge sheet, the learned Judicial Magistrate, First Class, Nagaon upon causing production of the accused-appellant from the judicial custody, furnished copies to him as per the provisions of Section 207, CrPC. As the offence under Section 302, IPC is exclusively triable by the Court of Sessions, the case record of P.R. Case no. 155/2018, arising out of Samaguri

Police Station Case no. 277/2017, was committed to the Court of Sessions, Nagaon by an Order of commitment dated 16.02.2018. On receipt of the case record of P.R. Case no. 155/2018, the Court of Sessions, Nagaon registered the same as Sessions Case no. 20/2018 and transferred the case to the Court of learned Additional Sessions Judge no. 1, Nagaon [‘the trial court’, for short] for disposal.

4. After causing production of the accused-appellant from custody, the learned trial court after hearing the learned Public Prosecutor and learned defence counsel and upon perusal of the records, framed a charge under Section 302, IPC against the accused-appellant. The charge was accordingly read over and explained to the accused-appellant to which he pleaded not guilty and claimed to be tried.

5. During the course of the trial, the prosecution examined 7 [seven] nos. of witnesses and exhibited five nos. of documents in order to bring home the charge against the accused-appellant. The prosecution witnesses were P.W.1 – Sri Pankaj Hazarika, P.W.2 – Smti. Sima Hazarika, P.W.3 – Smti. Lily Hazarika, P.W.4 – Dr. Aditya Madhab Baruah, P.W.5 – Sri Hem Kanta Hazarika, P.W.6 – ASI, Sri Madan Sut and P.W.7 – Md. Hafijur Rahman; and the documents that were exhibited were Ext-1 – Ejahar [FIR]; Ext-2 – Post-Mortem Examination Report; Ext-3 – Format of FIR; Ext-4 – Sketch map of the place of occurrence [PO]; and Ext-5 – Charge Sheet. After closure of the prosecution evidence, the accused-appellant was examined under Section 313, CrPC and his plea was denial. The defence did not adduce any evidence. After appreciation of the evidence of record and hearing the learned counsel for the parties, the learned trial court

had found the accused-appellant guilty of the offence under Section 302, IPC and he was sentenced in the manner, indicated above.

6. We have heard Mr. A. Dhar, learned Amicus Curiae for the appellant and Ms. B. Bhuyan, learned Senior Counsel & Additional Public Prosecutor for the respondent State of Assam assisted by Ms. M. Chakravarty, learned counsel.

7. Mr. Dhar, learned Amicus Curiae appearing for the accused-appellant has submitted that other than the Doctor, P.W.4 and two Investigating Officers, P.W.6 & P.W.7, the other prosecution witnesses, that is, P.W.1, P.W.2, P.W.3 & P.W.5 are persons, who are related to the deceased and the accused-appellant as the deceased and the accused-appellant were father and son in relation. He has submitted that of the said four witnesses had not supported the case of the prosecution as all of them had denied seeing the accused-appellant stabbing the deceased, contrary to the version mentioned in the FIR. The prosecution declared all the said four prosecution witnesses hostile and thereafter, put them through cross-examination. Even by cross-examination, the prosecution could not elicit anything from them in support of the prosecution case. It is his contention that there was no other supporting materials which would establish that the accused-appellant was the assailant who caused the injuries on the deceased. By referring to the Post-Mortem Examination Report, Mr. Dhar has submitted that the deceased died of septicaemia after many days and not immediately after sustaining the injuries. The informant-P.W.1 had deposed that the FIR was written by a different person and he did not read the FIR [Ext-1].

8. The learned Additional Public Prosecutor has supported the findings of the

learned trial court with the contention that the Post-Mortem Examination Report [Ext-2] had clearly reflected that the deceased sustained a number of incised wounds in various parts of his person like stomach, elbow joints, etc. Such injuries were clearly results of assaults and in the Post-Mortem Examination Report, it was clearly opined that the injuries were ante-mortem in nature and caused by sharp pointed weapon. The learned Additional Public Prosecutor has, thus, contended that though the death of the deceased was due to septicaemia but septicaemia was the result of the ante-mortem injuries caused by sharp weapon. It is the contention of Ms. Bhuyan that the prosecution witnesses who had resiled from their previous statements, were duly confronted with their previous statements made before police and thereafter, the previous statements of those hostile witnesses were duly brought to the notice of the Investigating Officer when he was examined as P.W.6.

9. We have given our consideration to the submissions advanced by the learned counsel for the parties. We have also gone through the materials available in the case records of Sessions Case no. 20/2018, in original, and the decisions cited by the learned counsel for the parties.

10. It is apposite to refer, at first, to the relationships of the deceased, the accused-appellant and the prosecution witnesses, P.W.1, P.W.2, P.W.3 & P.W.5. The deceased, Thaneswar Hazarika was the father of both the accused-appellant and the informant-P.W.1, Sri Pankaj Hazarika. P.W.2, Smti. Sima Hazarika is the wife of P.W.1 and the sister-in-law of the accused-appellant. P.W.3, Smti. Lily Hazarika is the mother of both the accused-appellant and P.W.1-informant. She was the wife of the deceased. P.W.5, Sri Hem Kanta

Hazarika is a cousin brother of the accused-appellant and was a nephew of the deceased.

11. P.W.1 had deposed to the effect that the accused-appellant was his elder brother and he was the informant. He had deposed that the occurrence took place at around 05-00 a.m. when he was sleeping in his house with P.W.2 and P.W.3. His father, Thaneswar Hazarika was staying at the house of his elder sister, Smti. Dipamoni Hazarika whose house was nearby after 5-6 other houses from their house. In his testimony, he had stated that he woke up from sleeping after hearing hue and cry raised by his father and coming out of the house, he saw his father lying in a ditch in front of their house with blood oozing out from his stomach. P.W.1 had further stated that the accused-appellant was at that point of time, grabbing his father and his clothes were full of mud. Then, a call was made for 108 Ambulance. P.W.1 had further stated that he took his father to Samaguri Primary Health Centre first and his father was in a state of consciousness at that point of time. Exhibiting the FIR has Ext-1, P.W.1 stated that his father expired after 16 days while undergoing treatment at the GMC&H. The prosecution had, at that point of time, declared P.W.1 as a hostile one and sought permission from the learned trial court to cross-examine him.

12. P.W.2 in her testimony, had stated that the occurrence took place on one Sunday at around 05-00/05-30 a.m. in May, 2017. She had stated that they woke up from sleep on hearing hue and cry outside. At first, P.W.1 came out of the house and she followed him. On coming out, she saw her father-in-law [the deceased] lying in a ditch with injuries. P.W.2 also stated that she did not go near her father-in-law out of fear. She saw that the accused-appellant was also

standing nearby her father-in-law. P.W.1 then called for Ambulance Service, 108 and the injured was thereafter, taken first to Samaguri Primary Health Centre wherefrom he was referred to B.P. Civil Hospital, Nagaon. P.W.2 stated that her father-in-law expired at the GMC&H while he was undergoing treatment. She also stated that the police recorded her statement on the date of the occurrence itself. At that stage, the prosecution declared P.W.2 as hostile and sought permission from the learned trial court to cross-examine her.

13. P.W.3, the mother of the accused-appellant and the wife of the deceased, in her testimony, stated that her husband died after 16 days of occurrence. As regards the incident, she stated that at the relevant time of occurrence she was sleeping inside her house and her daughter-in-law, P.W.2 took her out and showed her husband, who was lying wounded at that point of time. She had further testified to the effect that her husband was in a condition to speak at that point of time. The prosecution had, at that point of time, declared P.W.3 as a hostile witness and sought permission from the learned trial court to cross-examine her.

14. P.W.5 in his testimony, had stated that at the relevant point of time, he was in his paddy field. It was at about 10 a.m. on the date of the incident, he returned home from paddy field. He had stated that he only heard that the accused-appellant quarreled with the deceased. He had also stated that the police did not ask him about the occurrence. At that stage, the prosecution declared P.W.5 as hostile and sought permission from the learned trial court to cross-examine him.

15. After declaring the afore-mentioned prosecution witnesses P.W.1, P.W.2, P.W.3 & P.W.5 as hostile, the prosecution on being accorded permission, cross-examined them. From the trend of cross-examination, it is noticed that suggestions were put to them in respect of their previous statements made by them before the police. For the purpose of appreciation, the prominent suggestions put by the prosecution to these witnesses can be referred to.

16. Suggestion was put to P.W.1 to the effect that he stated in the FIR [Ext-1] that the accused-appellant picked up a quarrel with the deceased over the matter of compensation received for land acquisition. Further suggestion to P.W.1 was put to the effect that he in his previous statement made before the police stated that the accused-appellant suddenly brought one dagger from inside the house and indiscriminately assaulted the deceased resulting in grievous injuries on the person of the deceased and as a result, his stomach came out. Suggestion was also put to P.W.1 to the effect that he had deposed falsely suppressing actual facts to save the accused-appellant, who is his elder brother, from a crime.

17. In respect of P.W.2, the first suggestion was to the effect that she in her previous statement made before the police, stated that she and P.W.1 woke up from their sleep on the relevant morning when the accused-appellant picked up quarrel with the deceased. The second suggestion put to her was to the effect that she in her such previous statement, stated before the police that she saw the accused-appellant going inside his house and bringing a knife to assault the deceased indiscriminately and severely in his stomach and when the deceased tried to escape, the accused-appellant chased him causing injuries with the knife

as a result of which the intestine of the deceased came out. Third suggestion was put in the form that she had deposed falsely to save the accused-appellant, who is her brother-in-law.

18. To the other two witnesses, that is, P.W.3 and P.W.5, the prosecution side suggested that they in their previous statements made before the police, had stated differently and they had deposed before the court differently in order to save the accused-appellant, who is their son and cousin brother respectively.

19. A reference, in brief, can be made to the cross-examination of the prosecution witnesses by the defence side. During their cross-examination, all the prosecution witnesses denied about the events mentioned in the FIR. P.W.1 had mentioned that when the accused-appellant was grabbing his father, he did not see any instrument in the hands of the accused-appellant. He had stated that at the time of the alleged incident, nobody came near the place of incident. His elder sister, Smti. Dipamoni Hazarika, in whose house the deceased was staying overnight, accompanied him to take his father in the injured condition to the hospital. He had further stated that the FIR [Ext-1] was written by a different person and he did not read the contents of the FIR. He had stated that the facts stated in the FIR were not true. P.W.2 in her cross-examination, also denied like P.W.1, of seeing any instrument in the hands of the accused-appellant at the relevant point of time. She denied seeing anyone assaulting her father-in-law and causing injuries to him. In her cross-examination, P.W.3 stated that she saw her husband lying by the side of the road in front of their house. At that relevant point of time, there was no other village person as it was early morning. She stated that she did not see the person who caused injuries in the

stomach of her husband as she had not seen the occurrence herself. All the four prosecution witnesses, that is, P.W.1, P.W.2, P.W.3 & P.W.5 denied of making any statement before the police.

20. It is noticed that the alleged occurrence took place in the morning hours of 21.05.2017. The deceased, Thaneswar Hazarika sustained injuries on his person and he was first taken to Samaguri Primary Health Centre and thereafter, to the B.P. Civil Hospital, Nagaon. Finding his condition critical, he was taken to the Gauhati Medical College & Hospital [GMC&H], Guwahati wherein he was undergoing treatment till 03.06.2017. He expired on 03.06.2017 at the GMC&H.

21. The post-mortem examination on the dead body of the deceased was performed on 04.06.2017 by P.W.4 at the Department of Forensic Medicine, GMC&H. P.W.4 who was serving as a Demonstrator at the GMC&H at the relevant point of time, had deposed that he performed the post-mortem examination in reference to Bhangagarh Police Station G.D. Entry no. 63 dated 04.06.2017. During autopsy, he found the following injuries –

1. Surgically made mid-line incision repaired with eight number of stitches - margins are clear-cut and regular on either side of the incision made. Surgically places drainage tubes are present 5 cm from umbilicus.
2. Clean cut incise wound size - 3 x 1 x muscle deep cm repaired with two number of surgical stitches is found over left arm 3 cm below the acromium laterally.
3. Clean cut incise wound of size - 3 x 1 cm muscle deep repaired with two surgical stitches is found over left arm 5 cm from above elbow joint lying laterally.

4. Clean cut incise wound size - 3 x 1 cm x muscle deep repaired with three numbers of surgical stitches found over the left arm, 6 cm above elbow joint, lying laterally.

In his examination-in-chief, he had exhibited the Post-Mortem Examination Report as Ext-2 and stated that in the Post-Mortem Examination Report, he had recorded his opinion that the death of the deceased was due to septicaemia as a result of injuries sustained over the body. He had stated that all the injuries were ante-mortem in nature and were caused by sharp weapon, except injury no. 1, which was surgically made. In his cross-examination, P.W.4 stated that the surgical operation was done when the deceased was alive and septicaemia resulted as infection spread into the whole body. The infection was due to the injuries.

22. From the Post-Mortem Examination Report [Ext-2], it can be noticed that the deceased sustained a number of incised wounds in the stomach and in the left arm. According to the autopsy doctor [P.W.4], few of the wounds were caused by sharp pointed weapon and those injuries were ante-mortem in nature. It was due to infection which spread into the whole body, the deceased died of septicaemia. The issue therefore is who had caused the incised wounds on the person of the deceased.

23. The matter of hostile witness is traceable to Section 154 of the Evidence Act, which permits a party to question its own witnesses. As per sub-section [1] thereof, the court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party. As per sub-section [2] thereof, nothing in the section shall

disentitle the person so permitted under sub-section [1], to rely on any part of the evidence of such witness. Thus, Section 154 of the Evidence Act confers a judicial discretion on the court to permit cross-examination and such discretion is to be judiciously and properly exercised in the interest of justice. The law is otherwise well settled that a party will not normally be allowed to cross-examine its own witness and declare its own witness as hostile, unless the court is satisfied that a statement of the witness exhibits an element of hostility or that he has resiled from the material statement which he had made before an earlier authority, or where the court is satisfied that the witnesses is not speaking the truth and it may be necessary to cross-examine him to get out the truth. It is wide in scope and the discretion is entirely left to the court to exercise the power when the circumstances demand.

24. In *Rabindra Kumar Dey vs. State of Orissa*, reported in [1976] 4 SCC 233, it has been observed that a witness should be regarded as adverse and is liable to be cross-examined by the party calling him only when the court is satisfied that the witness bears hostile animus against the party for whom he is deposing or that he does not appear to be willing to tell the truth. After referring to *Rabindra Kumar Dey* [supra] and other decisions on the point, a three-Judges Bench in *Khujji @ Surendra Tiwari vs. State of Madhya Pradesh*, reported in [1991] 3 SCC 627, has observed that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chooses to treat him as hostile and cross-examine him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof. It is also well settled that the evidence of a hostile witness

could not be totally rejected if spoken in favour of the prosecution or the accused, but it can be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or the defence may be accepted. How the evidence adduced before the court shall be appreciated by the court would depend on the facts and circumstances of each case.

25. It is found that the prosecution witness - P.W.1, P.W.2, P.W.3 & P.W.5 - who were declared hostile by the prosecution, were cross-examined by the prosecution. These witnesses when cross-examined by the prosecution, were given suggestions on the basis of their purported previous statements made before the police under Section 161, CrPC. Section 162, CrPC bars use of statement of witnesses recorded by the police except for the limited purpose of contradiction of such witnesses. A statement made by a witness before the police under Section 161[1], CrPC can be used only for the purpose of contradicting such witness on what he has stated at the trial as laid down in the proviso to Section 162 [1] CrPC. The statements under Section 161, CrPC recorded during the investigation are not substantive pieces of evidence but can be used primarily for the limited purpose :- [i] of contradicting such witness by an accused under Section 145 of Evidence Act; [ii] the contradiction of such witness also by the prosecution but with the leave of the Court; and [iii] the re-examination of the witness, if necessary. The Court cannot suo moto make use of statements to police not proved and ask question with reference to them which are inconsistent with the testimony of the witness in the court. The words in Section 162, CrPC, 'if duly proved' clearly show that the record of the statement of witnesses cannot be admitted in evidence straightway nor can be

looked into but they must be duly proved for the purpose of contradiction by eliciting admission from the witness during cross-examination and also during the cross-examination of the investigating officer. A statement before the investigating officer can be used for contradiction but only after strict compliance with Section 145 of Evidence Act, that is, by drawing attention to the parts intended for contradiction. The attention of witness is to be drawn to that part and this must reflect in his cross-examination by reproducing it. If the witness admits the part intended to contradict him, it stands proved and there is no need to further proof of contradiction and it will be read while appreciating the evidence. If he denies about making that part of the statement, his attention must be drawn to that statement and must be mentioned in the deposition. By this process the contradiction is merely brought on record, but it is yet to be proved. Thereafter when investigating officer is examined in the court, his attention should be drawn to the passage marked for the purpose of contradiction, it will then be proved in the deposition of the investigating officer who again by referring to the police statement will depose about the witness having made that statement. The process again involves referring to the police statement and culling out that part with which the maker of the statement is intended to be contradicted. If the witness is not confronted with that part of the statement with which the party after declaring the witness as hostile, wanted to contradict him then such statement made to police is to be treated as not proved in compliance with Section 145 of Evidence Act, that is, by drawing attention to the parts intended for contradiction. [Ref : V.K. Mishra and another vs. State of Uttarakhand and another, (2015) 9 SCC 588].

26. Reverting back to the facts of the case in hand, it is found that the

prosecution witnesses - P.W.1, P.W.2, P.W.3 & P.W.5 - who were declared hostile by the prosecution, were not confronted with their respective previous statements purportedly recorded by the Investigating Officer [I.O.] under Section 161, CrPC to prove the contradiction nor any parts of their previous statements marked for the purpose of contradiction were read out to the Investigating Officer, P.W.6. When neither the hostile witnesses, P.W.1, P.W.2, P.W.3 & P.W.5 were nor the Investigating Officer, P.W.6 was confronted with the previous statements and were questioned about them, the hostile witnesses' statements recorded under Section 161, CrPC cannot be looked into for any purpose including for the purpose of discrediting the testimonies of P.W.1, P.W.2, P.W.3 & P.W.5. As the relevant parts of the testimonies of the hostile witnesses - P.W.1, P.W.2, P.W.3 & P.W.5 – are to be left out from consideration because of their nature of inadmissibility, what are left out are their testimonies made in the course of their examination-in-chief, already recapitulated hereinabove, and their testimonies recorded during cross-examination by the defence. The previous statements of the hostile witnesses made before the police under Section 161, CrPC cannot be treated as substantive pieces of evidence. From the testimonies of these witnesses made during their examination-in-chief, what can be stated to have emerged is that in the morning hours of 21.05.2017, the accused-appellant was found with his father, Thaneswar Hazarika and at that time, his father was in an injured condition with wounds in his stomach and other parts of his person. Though the accused-appellant was found with the injured at the relevant point of time in the absence of any other supporting evidence, one cannot reach a view that it was only and only the accused-appellant who was the assailant who had caused the wounds. The prosecution had failed to seize any weapon of assault with which the deceased was allegedly

assaulted. The Investigating Officer did not examine any other witnesses from neighbourhood though from the Sketch Map [Ext-4] and from the deposition of the I.O. [P.W.6], it has emerged that in and around the place of incident, there were other houses nearby.

27. The deceased after the alleged occurrence on 21.05.2017, was alive till 03.06.2017, undergoing treatment during the interregnum at the GMC&H. The learned trial court in the impugned Judgment and Order had observed that the I.O. [P.W.6] did not taken any step for recording the statement of the deceased during the period from the date of occurrence till his death, with the further observation that had the statement of the deceased been recorded by the I.O. it would have been a great help for the prosecution side to further its case regarding complicity of the accused-appellant in the alleged incident resulting into the injuries of his father. It has not emerged from the materials on record that the injured Thaneswar Hazarika who sustained injuries on 21.05.2017, was in a condition to speak. The Investigating Officer had not also examined any of the doctors, who had treated the deceased during the period from 21.05.2017 to 03.06.2017 to find out about the health condition of the deceased. On the other hand, the prosecution witnesses, P.W.1, & P.W.3 had stated that the deceased was in a state of consciousness.

28. In view of the above discussion and with no cogent evidence emerging that it was the accused-appellant who had assaulted the deceased on 21.05.2017 resulting ultimately into his death on 03.06.2017, we are of the unhesitant view that the prosecution had failed to prove the case for murder against the accused-appellant beyond reasonable doubt. In such view of the

matter, the accused-appellant is entitled to the benefit of doubt. Consequently, this Court has found merit in this appeal and accordingly, the same is allowed. The conviction and sentence passed against the accused-appellant by the trial court in Sessions Case no. 20/2018 is set aside and the accused-appellant is acquitted of the charge under Section 302, IPC.

29. It is stated at the Bar that the accused-appellant is in custody. It is, therefore, directed that the accused-appellant is to set at liberty forthwith, unless the custodial detention of the accused-appellant is required in connection with any other proceedings.

30. The Registry to send back the trial court records.

31. Before parting with the record, we wish to place our appreciation on record as regards the services rendered by Mr. A. Dhar, learned Amicus Curiae appearing for the accused-appellant and direct the Registry to make available to him just remuneration as per the notified fee structure applicable to the Amicus Curiae.

JUDGE

JUDGE

Comparing Assistant