

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.94 OF 2010

- | | | |
|--|---|-----------------------|
| 1. Jaggu @ Jaylal Bisun Mahanti. |] | |
| Age - 25 years, |] | |
| Residing at Gorhar, PO Thane Gorhar, |] | |
| District Hajaraibaug, State of Bihar, |] | |
| (Presently lodged in Yerawada Prison, Pune) |] | |
| 2. Prem @ Rameshwar Zumru Paswan, |] | |
| Age - 24 years, |] | |
| Residing at Navadi, Post – Bagodar, |] | |
| District Giradi, State – Bihar, |] | |
| (Presently lodged in Yerawada Prison, Pune)] |] | ... Appellants / |
| | | Orig. Accd. Nos.1 & 2 |

Versus

State of Maharashtra,	]	... Respondent
-----------------------	---	----------------

Mr. Vijay Hiremath for Appellants.

Mr. H. J. Dedhia, APP for State.

CORAM :- A. A. SAYED &

SARANG V. KOTWAL, JJ.

RESERVED ON :- 22 SEPTEMBER, 2017

PRONOUNCED ON :- 10 OCTOBER, 2017

JUDGMENT (PER : SARANG V. KOTWAL, J.) :-

1. The present Appeal is preferred by the original accused nos.1 and 2 challenging the Judgment and Order dated 12/06/2008 passed by the learned Ad-Hoc Sessions Judge, Thane, in Sessions Case No.51 of 2000 before him. Both the Appellants were convicted for the offence punishable under Section 302 read with 34 of the IPC and

were sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.5,000/- each and in default of payment of fine, to suffer rigorous imprisonment for one month. Both of them were also convicted under Section 394 read with 34 of the IPC and they were sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.2,000/- and in default of payment of fine, to suffer rigorous imprisonment for fifteen days. The substantive sentences were directed to run concurrently and both of them were given benefit of set off under Section 428 of the Cr.P.C.

2. This matter has a chequered history. At the first instance, both of the Appellants had preferred Criminal Appeal No.938 of 2001 when they were convicted for both these Sections. This Court, by the Order dated 07/08/2006, had remanded back the matter for further cross-examination and the trial Court was directed to examine the Appellants afresh under Section 313 of the Cr.P.C. because during the trial, at the first instance, the accused did not have proper legal assistance. After the matter was remanded back, the cross-examination was conducted by an Advocate for the Appellants and thereafter, the impugned Judgment dated 12/06/2008 was passed. Thereafter, the present Appeal was preferred by the Appellants challenging the Judgment and Order passed by the learned trial Court. Another Division Bench of this Court found that the Appellants were not examined afresh under Section 313 of the Cr.P.C. after the cross-examination was conducted by an Advocate. Therefore, by an order dated 30/01/2015, again the matter was remanded back to the trial

Court for recording statements of the Appellants under Section 313 of the Cr.P.C. and the trial Court was further directed to remit the record and proceedings back to this Court and the present Appeal was kept pending. Pursuant to the said directions, examination under Section 313 of the Cr.P.C. was conducted afresh and thereafter the matter was listed before us for final disposal.

3. Mr. H. J. Dedhia, learned APP for State, has informed us that the Appellant No.1 - Jaggu @ Jaylal Bisun Mahanti has already served his entire sentence and as of today he is released from jail. The Appellant No.2 - Prem @ Rameshwar Zumru Paswan, however, still is in jail and has to complete his jail term. In this background, we have proceeded to hear and decide the present Appeal.

4. The prosecution case pertains to the incident dated 17/05/1999 where one Neelam Sinhal, a housewife, was murdered somewhere between 10.00 a.m. to 3.00 p.m. in her Flat No.603 at Janki Apartment, Sector 17, Vashi, Navi Mumbai. Golden ornaments worth about Rs.1 Lakh and cash of Rs.55,000/- were stolen from her flat. According to the prosecution case, both the accused, along with the absconding accused, committed this offence.

5. The FIR in this case was lodged by one Anubhav Sinhal who was the son of the deceased. The FIR was registered vide C. R. No.I-170/99 at Vashi Police Station at 4.00 p.m. After the FIR was lodged, the spot panchanama was conducted. Both Appellants were

arrested from Bihar on 23/05/1999. Various ornaments were recovered from their houses in Bihar. The murder weapon was recovered at the instance of the Appellant No.1 from the terrace of the building at Vashi where the murder was committed. According to the prosecution case, the Appellant No.1 had approached the deceased and her family to work as their servant. However, he was not given the job and was not treated properly and therefore he held a grudge against them. The Appellant No.2 was working with the family of the deceased. Both Appellants were knowing each other. Both Appellants, pursuant to their plan, on the date of the incident, committed this offence and committed the robbery. After completion of the investigation, the charge-sheet was filed and the case was committed to the Court of Sessions for trial. We have already mentioned the history of this Appeal.

6. During trial, the prosecution examined 13 witnesses. PW 1 Anubhav Sinhal was the son and PW 2 Murarilal Sinhal was the husband of the deceased. These two witnesses have deposed about the past history of the employment of the Appellants and they have spoken about presence of the Appellant No.2 in the house when they left for their work in the morning. Apart from them, the prosecution examined PW 6 Manju Agarwal who was the cousin of the deceased who has also spoken about the presence of both Appellants at around 11.30 in the house.

7. PW 1 Anubhav Sinhal was the son of the deceased and has lodged the FIR in the present case. He has deposed that he was residing at Flat No.603, Janki Apartments at Vashi with his family consisting of his parents and sister. He has further deposed that the Appellant No.2 was their servant and used to work from 6 a.m. to 10.00 p.m. The Appellant No.1 had worked with them only for a couple of days in the second week of April 1999 and he was removed from the service by the family. He has deposed that on 17/05/1999, he had left the house at 7.00 a.m. and at that time, the Appellant No.2 was present in the house. PW 1's father Murarilal had already left the house. PW 1 returned to have breakfast at around 8.45 a.m. At that time, his mother Neelam, his sister Arpita and the Appellant No.2 were in the house. Thereafter, this witness had left the house within half an hour. His sister Arpita was to leave for Mumbai at around 10.00 a.m. He further deposed that at about 3.00 p.m. his sister came to his office and informed him that nobody was opening the door of their flat. Thereafter, he gave his key of the flat to Arpita. Then he received a phone-call from her that their mother was lying in a pool of blood inside the house. This witness then rushed to their house. He called the Watchman and they took Neelam to the hospital where she was declared dead. Thereafter this witness was called to his house by the police. This witness had observed that his mother's cupboard was left open. The articles were scattered. He saw a wristwatch in the kitchen which he identified as that belonging to the Appellant No.2. Thereafter, his statement was recorded and was treated as the FIR. On the next day, a detailed list of articles which were missing, was

prepared. Apart from the articles consisting of the ornaments, it was noticed that a cash of Rs.55,000/- was also missing. This information was given in writing to the police. PW 1 has stated that the Appellant No.2 used to sleep in his office. In the cross-examination, he could not explain as to why the fact that the Appellant No.1 was working in their house for a couple of days and then was removed; was not mentioned in his police statement.

8. PW 2 Murarilal Sinhal was the husband of the deceased. He has deposed that the Appellant No.2 was working with their family since last week of April 1999 as a domestic servant till the date of the incident. He has deposed that the Appellant No.1 worked with them for one day around first week of April. He has further deposed that his wife i.e. the deceased, did not like the Appellant No.1. After that, the Appellant No.2 approached them by giving reference of the Appellant No.1 and started working since the last week of April 1999. This witness used to go to Jamnagar for his office work. On 14/05/1999, when he came back from Jamnagar, his wife Neelam told him that the Appellant No.1 had come to meet the Appellant No.2 and she had warned the Appellant No.1 not to visit their house. On 16/05/1999, the Appellant No.1 had called on their phone. On 17/05/1999, this witness had left his house at 6.45 a.m. for Jamnagar. Both these witnesses PW 1 and PW 2 have identified the ornaments i.e. Article Nos.2 to 32 before the Court.

9. PW 3 Hridaynath Oza was supervising the duties of the Watchmen in Janki Building at Vashi. He was knowing the family of the deceased. He has deposed that he was knowing the Appellant No.2 as a domestic servant of the family. He has further deposed that the Appellant No.1 used to visit the Appellant No.2. He has deposed that the Appellant No.2 had joined his duties in the house of PW 1's family by 9.00 a.m. on 17/05/1999. Around 3.30 p.m., he came to know about the incident and then he went to the flat and saw that the articles were scattered and there was blood in the kitchen. This witness used to stay on the terrace of Janki Building. He has admitted in his cross-examination that it was not mentioned in the police statement that he knew both the Appellants, though he had stated this fact to the police. He also could not explain as to why the fact that the Appellant No.1 used to visit the Appellant No.2, was not mentioned in his police statement though he had told about the same to the police. He also could not explain as to why the police did not record his information that the Appellant No.2 had joined his duty at 9.00 a.m. on that day.

10. PW 6 Manju Agarwal was the cousin of the deceased and she had visited the house of the deceased at 11.15 a.m. on 17/05/1999 and had seen both the Appellants present in the house. At that time, according to her, the Appellant No.2 had served her tea. She has deposed that there was one more boy with the Appellant No.2 present in the house when she left from there at 11.30 a.m. She has further deposed that when she tried to call the deceased Neelam at

around 2.00 p.m. on her telephone, there was no response and then in the evening she came to know about the murder. She has further deposed that on 29/05/1999, she had been to the house of the deceased. She witnessed that a knife was recovered at the instance of the Appellant No.1 from the terrace of the said building. In her cross-examination, she has stated that in the hospital itself when she had gone there to meet the family and where the deceased was kept, she had told the police that she had seen the Appellants at the house of the deceased at about 11.00 a.m. She could not explain as to why her police statement did not mention the fact that the deceased told her that one of the boys present in the house was Jaggu i.e. the Appellant No.1; though she had stated so to the police. She has further deposed in the cross-examination that she was called for the identification parade but there was no further reference to any such identification. The evidence of the police officer shows that the statement of this witness PW 6 was recorded on 19/05/1999 and her statement was not recorded on 17/05/1999. The police officer has admitted that the identification parade was not held.

11. Apart from these witnesses, PW 4 Ramakant Manohar was the panch witness for inquest panchanama and PW 7 Nitin Prabhu was a panch for the spot panchanama.

12. PW 9 Dr. Aparna Amrut had conducted the post-mortem examination on the dead body of the deceased and had found 22 injuries out of which most of the injuries were contusions and

abrasions on the face. There were 5 injuries and one cut on the right earlobe. The main injury was a transverse incised wound over neck on anterior aspect 9 cm x 2 cm which was trachea deep and because of the said injury, oesophagus as well as the internal jugular vein were cut and the cause of death was 'because of haemorrhage shock arising from loss of blood due to injuries to the vital organs'.

13. Apart from these witnesses, the prosecution relied heavily on the recovery evidence. In this behalf, PW 10 Mani Nayar was examined as a panch in whose presence both the Appellants were arrested from their native place in Bihar on 23/05/1999. The police got information about availability of the Appellant No.1 who led them to the Appellant No.2 who was also arrested. At the instance of both these Appellants, ornaments and some cash amount were recovered separately from their respective houses. These ornaments were shown to PW 1 and PW 2 who identified them. From the Appellant No.2, 14 ornaments and cash of Rs.1,350/- were recovered. From the Appellant No.2, 9 ornaments were recovered. PW 11 Nakharam Chaudhary was a panch in whose presence those ornaments were weighed by the police in the shop known as Babul Jewellers at Vashi. At the same time, in his presence, the PW 1 had identified those ornaments on 28/05/1999.

14. PW 5 Vijay Nagardas was a panch in whose presence, on 29/05/1999, the Appellant No.1 made a disclosure statement leading to recovery of knife i.e. the murder weapon, at his instance from

under the wooden planks kept on the terrace of Janki Building, Vashi. Before this recovery, there is a reference to the said knife having been concealed by the Appellant No.1 in the wooden planks on the terrace of the said building. This reference is found in Exh.30 which was memorandum statement dated 23/05/1999 given by the Appellant No.2, under Section 27 of the Evidence Act.

15. PW 12 PSI Sarjerao Patil was the officer who had arrested the Appellants with the help of the police officers of Godhar, District Hazaribaug, Bihar. PW 13 PI Eknath Pandharinath had received the complaint from the PW 1. This witness had carried out the investigation and he was investigating the offence when the knife was recovered at the instance of the Appellant No.1 on 29/05/1999. This witness had recorded the statements of various witnesses and had filed the charge-sheet. The prosecution has produced on record various CA reports which show that the blood group of the deceased was 'B' and the recovered knife also shows the presence of human blood of 'B' group.

16. We have heard Mr. Vijay Hiremath, learned Counsel for the Appellants and Mr. H. J. Dedhia, learned APP for the State and with their assistance, we have gone through the evidence and perused the entire record.

17. Mr. Hiremath submitted that it is a case based purely on circumstantial evidence and the prosecution has failed to prove any of

the circumstances against the present Appellants. He has submitted that the 'last seen theory' is not applicable to the Appellant No.1. He has submitted that the PW 1 and the PW 2 had left early in the morning. PW 2 had left much earlier and PW 1 had left at around 9.00 a.m. The dead body was discovered at about 3.00 p.m. and therefore there is a big time gap from the time when the Appellant No.2 was seen in the house till the body was discovered and therefore, this is not an incriminating circumstance. He has submitted that PW 6 is not a reliable witness. Her statement was recorded after two days though she was very much available in the hospital in the evening of 17/05/1999 itself. Moreover, this witness is a chance witness and she was not a member of the family. He has further submitted that she was not knowing either of the Appellants and in particular the Appellant No.1. He has submitted that the identification parade was not held to enable her to identify the Appellants and therefore her evidence should not be taken into account. Mr. Hiremath has further submitted that the arrest of the Appellants and recovery of ornaments at their instance is extremely doubtful. The police had taken a panch from Vashi all the way to Bihar and there is no explanation offered as to why local panchas from Bihar, though they were available and were willing to act as panchas, were not taken to witness the arrest and recovery. He has further submitted that the memorandum panchanama Exh.27 and the statement given by the Appellant No.2 on 23/05/1999 itself mention that the Appellant No.1 had concealed the knife in the wooden plank on the terrace and therefore, the recovery of the knife at the instance of the Appellant No.1 on

29/05/1999 is meaningless as the police were already knowing the place of concealment of the weapon. He has further submitted that the list of ornaments was not mentioned in the FIR and such list was never produced before the trial Court. The ornaments which were identified by the PW 1 and the PW 2 in Court were not mentioned specifically when they were shown to the witnesses in the Court and therefore this identification did not carry any weight. He has also submitted that non-examination of the important witness Arpita, the daughter of the deceased, is fatal to the prosecution case. Mr. Hiremath has relied on various cases. He has relied on the case of *Jaffar Hussain Dastagir Vs. State of Maharashtra*¹, wherein it was held that discovery of the fact should be such that the police had not previously learnt about it from other sources. The essential ingredient of the Section was that the information given by the accused must lead to the discovery of the fact which is the direct outcome of such information. He has submitted that in the present case, the police were already knowing where the knife was concealed. Mr. Hiremath thereafter relied on the case of *Ganesh Bhavan Patel and another Vs. State of Maharashtra*², wherein it was held that the deliberate delay in recording the statements of important witnesses casts cloud of suspicion on their credibility. Similar view was also expressed by the Division Bench of this Court in the case of *Sunil s/o. Chokhoba Shambarkar & Anr. Vs. State of Maharashtra*³. He has further relied on the Judgment of the Division Bench of this Court in the case

1 1969 (2) Supreme Court Cases 872

2 1979 CRI. L. J. 51

3 2008 ALL MR (Cri) 360

of *Audumbar Digambar Jagdane and an other Vs. State of Maharashtra*⁴, wherein it was held that when the witnesses made no disclosure of incident to anybody for two days, their testimony is not reliable. Mr. Hiremath has further relied on the Judgment in the case of *Bharat Vs. Stae of M. P.*⁵, wherein it was held that when the ornaments were commonly available in the market, the identification of such ornaments was not proper.

18. As against this submission, Mr. H. J. Dedhia, learned APP for State, has submitted that the evidence led by the prosecution was reliable and cogent and the prosecution has proved its case successfully. In this behalf, Mr. Dedhia has relied on the case of *Earabhadrapa Alias Krishnappa Vs. State of Karnataka*⁶, wherein it was held that there was a presumption under Illustration (a) to Section 114 of the Evidence Act operating against the Appellants when the murder and robbery were proved to be part of one and the same transaction.

19. We have carefully perused and considered the evidence on record. As far as the motive is concerned, the evidence of PW 2, the husband of the deceased shows that the family, at the instance of the deceased, had refused to give employment as a servant to the Appellant No.1. In fact, just 3 days prior to the incident i.e. on 14/05/1999, the deceased had warned the Appellant No.1 not to visit

4 1999 CRI. L. J. 1936

5 (2003) 3 Supreme Court Cases 106

6 (1983) 2 Supreme Court Cases 330

their house. As far as the PW 1 and PW 2 are concerned, there is no dispute that they were knowing the Appellant No.1 as well as the Appellant No.2. The motive clearly is robbery as well as the grudge held by the Appellant No.1 for not giving him employment.

20. PW 1 had left the house at around 9.15 a.m. At that time, the Appellant No.2 was in the house and there is no dispute about this fact. In these circumstances, there is absolutely no explanation offered by the Appellant No.2 as to at what time he had left the house. The conduct of the Appellant No.2 is not explained by him. This fact, taken into consideration along with the fact that both the Appellants had absconded to their native place in Bihar from the date of the incident, points to their guilt.

21. The prosecution has also led the evidence of PW 6 Manju who has stated that she had left the house at 11.30 a.m. when she had seen both Appellants along with one boy present in the house. Though Mr. Hiremath has criticized her evidence on the ground that her statement was not immediately recorded on 17/05/1999, her evidence appears to be truthful. Though she has stated that she was called for identification parade, she has not further stated that identification parade was, in fact, held or that she had identified any of the Appellants in the identification parade. Her evidence is not affected by the questions put to her in the cross-examination. The only deficiency in her evidence appears to be about identity of the Appellant No.1. According to her, the deceased herself told that one

of the boys present in the house was Jaggu. This witness was not knowing Jaggu but she has further deposed that on 29/05/1999 when she had been to the house of the family of the deceased, at that time, she had seen that Jaggu was brought in that building and thereafter in her presence he had shown a knife which was recovered from under a wooden plank. In the cross-examination, no case is put to her that the person whom she had referred to as Jaggu, was not the Appellant No.1 himself. There was an omission in her police statement that the deceased had told her that one of the boys was Jaggu. Thus, the evidence of this witness cannot be used against the Appellant No.1 because his identity as far as this witness is concerned, is not properly established but the fact remains that her other evidence that the Appellant No.2 was in the house of the deceased at 11.30 a.m. with two other boys, has remained unchallenged and unaffected. Therefore, the time gap from 11.30 a.m. to 3.30 p.m. is not much and therefore, the burden was on the Appellant No.2 to explain this circumstance.

22. Thus, from the analysis of the evidence of PW 1, PW 2 and PW 6, it shows that the Appellant No.2 was definitely in the house of the deceased soon before the incident. The prosecution has also established that the Appellant Nos.1 and 2 had a strong motive to commit murder of the deceased, firstly because the Appellant No.1 had held a grudge against her and secondly, they wanted to commit robbery of the ornaments.

23. There is an important circumstance against the Appellant No.1 in the form of a recovery of knife at his instance on 29/05/1999. In this connection, Mr. Hiremath has submitted that the police were already aware on 23/05/1999 as to where the knife was concealed. We are unable to accept this submission of Mr. Hiremath. Firstly, in the evidence of the panch in whose presence such disclosure was apparently made on 23/05/1999, he has not deposed about such disclosure statement in the examination-in-chief and his attention is not drawn to that part of the statement from the panchanama Exh.30. Therefore, there is no substantive evidence in respect of such disclosure statement. The panchanama at Exh.30 can only be used as a corroborative piece of evidence to the substantive deposition before the Court. Secondly, the said statement dated 23/05/1999 was made by the Appellant No.2 and not by the Appellant No.1. The Appellant No.2 had not concealed the weapon and therefore, there was no authorship of concealment. Thirdly, the police officer who had gone to Bihar before whom such statement was made, was not the police officer under whose supervision the knife was ultimately recovered on 29/05/1999. It is not only the recovery but authorship of concealment and then the weapon having been found on the spot mentioned by the accused which is incriminating and in this case, we are satisfied that on 29/05/1999, the knife was recovered from under the wooden planks on the terrace at the instance of the Appellant No.1 which was the result of his disclosure statement recorded under Section 27 of the Evidence Act. Moreover, this knife shows blood of group 'B' which was the blood group of the deceased and therefore, it is a strong piece of circumstance against the Appellant No.1.

24. Apart from these, as rightly pointed out by the learned APP that the Hon'ble Supreme Court, in the case of ***Earabhadrappa Alias Krishnappa Vs. State of Karnataka*** (*supra*) has made a reference to Illustration (a) to Section 114 of the Evidence Act which is applicable to the present case. The said Section and the said Illustration (a) reads thus :-

“114. Court may presume existence of certain facts -

The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

The Court may presume _

(a) That a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession.”

25. In the present case, soon after the robbery, the ornaments were found in possession of both the Appellants. Therefore, it can be safely presumed that both the Appellants committed the robbery and during the same transaction, committed murder of the deceased. The Appellants have not given any explanation whatsoever as to how these ornaments came in their possession soon after the offence. They have not explained as to why they had absconded. In this connection, the Hon'ble Supreme Court, in the case of ***Earabhadrappa Alias Krishnappa Vs. State of Karnataka*** (*supra*) has held thus :-

“13. This is a case where murder and robbery are proved to have been integral parts of one and the same transaction and therefore the presumption arising under Illustration (a) to Section 114 of the Evidence Act is that not only the Appellant committed the murder of the deceased but also committed robbery of her gold ornaments which form

part of the same transaction. The prosecution has led sufficient evidence to connect the Appellant with the commission of the crime. The sudden disappearance of the Appellant from the house of P.W.3 on the morning of March 22, 1979 when it was discovered that the deceased had been strangled to death and relieved of her gold ornaments, coupled with the circumstance that he was absconding for a period of over one year till he was apprehended by P.W.26 at village Hosahally on March 29, 1980, taken with the circumstance that he made the statement Ex.P-35 immediately upon his arrest leading to the discovery of the stolen articles, must necessarily raise the inference that the Appellant alone and no one else was guilty of having committed the murder of the deceased and robbery of her gold ornaments. The Appellant had no satisfactory explanation to offer for his possession of the stolen property. On the contrary, he denied that the stolen property was recovered from him. The false denial by itself is an incriminating circumstance. The nature of presumption under Illustration (a) to Section 114, must depend upon the nature of the evidence adduced. No fixed time limit can be laid down to determine whether possession is recent or otherwise and each case must be judged on its own facts. The question as to what amounts to recent possession sufficient to justify the presumption of guilt varies according as the stolen article is or is not calculated to pass readily from hand to hand. If the stolen articles were such as were not likely to pass readily from hand to hand, the period of one year that elapsed cannot be said to be too long particularly when the Appellant had been absconding during that period. There was no lapse of time between the date of his arrest and the recovery of the stolen property.”

26. Applying the said ratio to the facts of the present case, we are of the opinion that this presumption runs against both the Appellants and it can safely be concluded that they have committed

the offence. Moreover, we do not find any deficiency in the identification evidence led by the prosecution in this behalf. Both PW 1 and PW 2 have identified the ornaments in the jeweller's shop in the presence of panchas. They have also identified the articles – ornaments in the Court and there is no infirmity in such identification. The criticism of Mr. Hiremath that local panchas from Bihar were not take for arrest and recovery at Bihar, hardly carries any weight. In our opinion, that by itself will not affect the arrest of the Appellants and recovery at their instance. Practically also, police from the local police station at Vashi could not be expected to rely on the possibility that the local people from Bihar would be willing to act as panchas and would be willing to come to Thane during trial. There is nothing wrong if to be on a safer side, they had taken some local panchas from Vashi to Bihar. It is not only at the time of panchanama the panchas should be readily available but another consideration also is that those panchas should be available for giving evidence during the trial which was to take place in Thane. Therefore, we do not find any fault with the Investigating Officer when the panchas from Vashi were taken to Bihar for effecting the arrest panchanama.

27. Thus, taking the overall view of the matter, we are of the opinion that there is no merit in the Appeal. Hence the following order :

ORDER

The Appeal is dismissed.

(SARANG V. KOTWAL, J.)

(A. A. SAYED, J.)