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**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 1139 of 2012****Judgment reserved on : 13/09/2018****Judgment delivered on : 25/09/2018**

- Ishwar Mahroliya, son of Tejram, aged about 26 year, resident of Bandhwapara, Thana Sarkanda, Post Office Sarkanda Bilaspur, Chhattisgarh

**---- Appellant****Versus**

- State of Chhattisgarh Through - District Magistrate, Bilaspur, (C.G.)

**---- Respondent****AND****CRA No. 1141 of 2012**

- Chhotu Yadav, S/o Horilal Yadav, aged about 24 years, resident of Bandhwapara, Thana Sarkanda, Post Office Sarkanda Bilaspur, Chhattisgarh.

**---- Appellant****Versus**

- State of Chhattisgarh Through - District Magistrate, Bilaspur, (C.G.)

**---- Respondent****AND****CRA No. 599 of 2013**

- Debu @ Omkar Yadav, S/o Prahlad Yadav, aged about 22 years, resident of Bandhwapara, Police Station Sarkanda, District Bilaspur, Chhattisgarh, Civil and Revenue District Bilaspur (C.G.)

**---- Appellant****Versus**

- State of Chhattisgarh Through - District Magistrate, Bilaspur, (C.G.)

**---- Respondent**

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For Appellants : Shri Vinay Dubey, Advocate.  
For Respondent/State: Shri Ravindra Agrawal, G.A.

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**Hon'ble Shri Justice Pritinker Diwaker**  
**Hon'ble Shri Justice Gautam Chourdiya**

**C A V Judgment**

**By Gautam Chourdiya, J**  
**25/09/2018**

As these three appeals arise out of the common judgment dated 28.09.2012 passed by I Additional Sessions Judge, Bilaspur, in S.T. No.63/2011 convicting appellant Debu in Cr.A.No.599/2013 under Sections 302, 323 and 427 IPC & appellant Ishwar Mahroliya in Cr.A.No.1139/2012 and Chhotu Yadav in Cr.A.No.1141/2012 under Sections 302/34, 323 and 427 IPC and sentencing each of them to undergo R.I. for life with fine of Rs.1,000/-, R.I. for three months and R.I. for six months, plus default stipulation respectively, they are being disposed of by this common judgment.

02. Prosecution case in brief is that on 31.12.2010 at 11.00 PM, Krishna Kumar Kashyap (PW/12) along with his friends Daddu Sahu and Nikhil Sahu were going on one motorcycle to the house of Shashtri uncle to wish him new year, whereas Mintu, Pintu and Pappu Soni were on another motorcycle. When they reached near Bandhawapara turning, saw appellants Ishwar Mahroliya, Chhotu Yadav, Debu @ Onkar

Yadav and Luccy @ Shrikant (acquitted accused) standing there who intercepted their motorcycles. On seeing appellant Ishwar, Daddu asked him that he (Ishwar) is waiting to assault him then appellant Ishwar Udiya told Daddu that he is supporting Deepak and on account of this animosity, accused persons started assaulting them. Appellant Ishwar, Chhotu and Luccy were holding club in their hands, whereas appellant Debu Yadav was holding weapon like sword and all the accused persons assaulted the injured and caused damage to their motorcycles. In the incident, Mintu and Pintu sustained injury on their head as a result of which Mintu died on the spot, whereas Pintu was taken to hospital in the injured condition. In the incident Rinku @ Rinkesh also sustained grievous injuries and Krishna Kumar Kashyap sustained simple injury. The incident was witnessed by Laxmi Narayan Sahu @ Daddu (PW/2), Pintu @ Omprakash (PW/4), Vivek Prajapati (PW/10), K.K. Kashyap (PW/12) and Rinku @ Rinkesh Soni (PW/15). After the incident, at the instance of K.K. Kashyap (PW/12), merg intimation (Ex.P/33) was lodged on 01.01.2011 at 00.40 AM followed by FIR (Ex.P/28) at 00.45 AM under Sections 302, 307 read with Section 34 IPC against appellant Ishwar Udiya, Chhotu Yadav, Debu @ Onkar Yadav and Luckky. Inquest on the body of deceased Mintu was conducted on 01.01.2011 vide Ex.P/35 and dead body was sent for postmortem examination which was conducted on the same day at 12.05 PM by Dr. Anil Kumar (PW/14) who gave his

report (Ex.P/31) noticing following injuries:-

- (i) Incised wound of 3.5 x 1 cm over right eyebrow.
- (ii) Stab wound of 1 x 1 cm over right mandible, bone deep with fracture of mandible.
- (iii) Stab wound of 2 x 1 cm over nose, bone deep with fracture of nasal bone.
- (iv) Incised wound of 1 x 1 cm over right arm.
- (v) Incised wound of 1 x 1 cm over left parietal region.
- (vi) Stab wound of 2 x 1 cm x blind depth over medially left side of chest below nipple.
- (vii) Stab wound of 2 x 1 cm x blind depth over left side of chest just below injury No.6.
- (viii) Stab wound of 2 x 1 cm x blind depth over left side of chest just left side of injury No.7.
- (ix) Stab wound of 2 x 1 cm x blind depth over mid of abdomen.
- (x) Stab wound of 2 x 1 cm x blind depth over mid of abdomen just below injury No.9.
- (xi) Stab wound of 2 x 1 cm x blind depth over right side of abdomen.
- (xii) Stab wound of 1 x 1 cm over back of chest at lumbar region. All injuries were antemortem in nature.

The autopsy surgeon opined the cause of death of deceased to be coma as a result of subdural haematoma due

to head injury.

03. Injured Pintu @ Omprakash (PW/4) was medically examined by Dr. R.K. Upadhyay (PW/7) who gave MLC (Ex.P/20) noticing (i) lacerated wound of 2.5 cm x .5 cm x .5 cm on upper part of right external ear, (ii) Blood was oozing from his right ear and (iii) blood was oozing from nose. Injured Pintu @ Omprakash was referred to surgeon and ENT surgeon in casualty ward for special treatment. Injured K.K. Kashyap (PW/12) was medically examined by Dr. P.C. Chatterjee who gave his MLC (unexhibited) noticing swelling over left palm. Injured Rinku @ Rinkesh Soni (PW/15) was medically examined by Dr. C. Mishra (PW/18) who gave MLC (Ex.P/37) noticing (i) stitched wound with five stitches of 1.5" long over vertex.

04. From the spot bloodstained soil and plain soil were seized vide Ex.P/2. Memorandum of appellant Ishwar Maharolia (Udiya), Onkar Yadav and Chhotu Yadav were recorded vide Ex.P/3, P/4 and P/5, based on which, one club, sword and club were seized from their possession vide Ex.P/7, P/6 and P/8 respectively. Seized articles were subjected to chemical examination and as per FSL report (Ex.P/42), presence of blood thereon was confirmed. After filing of charge sheet, the trial Court framed the charges against appellant Debu @ Onkar Yadav under Sections 302, 307, 427, 323 IPC & 25 and 27 of the Arms Act, against appellant

Chhotu Yadav, Ishwar and acquitted accused Luccy @ Shrikant under Sections 302, 307, 427 and 323 IPC respectively.

05. So as to hold the accused persons guilty, the prosecution examined as many as 18 witnesses. Statements of the accused persons were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication.

06. The trial Court after hearing counsel for the respective parties and considering the material available on record while acquitting accused Luccy @ Shrikant, has convicted and sentenced the appellants as mentioned in para-1 of this judgment. Hence, these appeals.

07. Learned counsel for the appellants submits as under:

- (i) That the trial Court has erred in law in convicting the appellants. He also submits that there is no cogent and clinching piece of evidence on record and there is material contradiction and omission in the statements of prosecution witnesses.
- (ii) That even the place of incident has not been proved by the prosecution.
- (iii) That the evidence available on record is not reliable and the appellants have been falsely implicated in the crime in question.

- (iv) That the learned trial Court has wrongly appreciated the evidence of prosecution witnesses.
- (v) That the incident took place on 31.12.2010 at night in which deceased Mintu died but no information was given to his father by the eye-witnesses.
- (vi) That the prosecution case is full of doubt.
- (vii) That name of one acquitted accused Luccy @ Shrikant finds place in FIR but the eye-witnesses to the incident did not mention his name in their Court statements.
- (viii) That the name of Raju Chirai was first time mentioned in the Court but his name does not find place in FIR, merg and the statements of the witnesses recorded under Section 161 of Cr.P.C.
- (ix) That the prosecution has failed to prove its case beyond all reasonable doubt and the benefit of doubt may be given to the appellants.

08. On the other hand, supporting the impugned judgment it has been argued by learned counsel for the State that conviction of the appellants is strictly in accordance with law and there is no infirmity in the same. He further argued that injured eye-witnesses Pintu (PW/4), Vivek Prajapati (PW/10), K.K. Kashyap (PW/12) and Rinku @ Rinkesh Soni (PW/15) have fully supported the prosecution case. He has also argued that postmortem report and MLC of the injured witnesses also support the prosecution case.

09. We have heard learned counsel for the parties and perused the material available on record.

10. Indra Kumar Dhruv (PW/1) is a motorcycle mechanic who proved his report (Ex.P/1) stating therein that petrol tank, headlight assembly, headlight makdi, visor, side panel, front mudguard, handle and indicator were damaged.

11. Laxminarayan Sahu @ Daddu (PW/2) is eye-witness to the incident. He has stated that on the date of incident he along with Pintu, Lala @ Krishna Kumar and Nikhil went on motorcycle to the house of Shashtri uncle to wish him new year. Gudda @ Vivek was going on foot. He has further stated that when they reached near Santosh Betel shop, the appellants who were standing there intercepted them. Appellant Ishwar and Chhotu were holding club, whereas Dhebu was holding sword. Raju Chirai was having club. Appellant Ishwar assaulted Pintu Soni (PW/4) by club and appellant Chhtu Yadav and Debu @ Onkar assaulted Pintu by hands and fists & club. When appellants were assaulting Pintu, they tried to intervene but they ran for their lives and stood at a considerable distance. At the relevant time, Mintu Soni (deceased) also reached there whom appellant Ishwar, Chhotu and Debu also assaulted by their respective weapons. He has further stated that Rinku too was assaulted by appellants and his motorcycle was also damaged. This witness has supported the memorandum (Ex.P/3, P/4, P/5) of the appellants and seizure made under Ex.P/6, P/7 and P/8. In

lengthy cross-examination, but for minor contradiction, this witness remained firmed.

12. Chand Ram Banjare (PW/3) is the Patwari who prepared spot map vide Ex.P/19.

13. Pintu @ Omprakash Soni (PW/4) is another injured eye-witness to the incident. He is brother of the deceased. He has stated that on the date of incident he, Lala, Pappu Soni, Daddu, Gudda, Nikhil and Mintu had decided to wish Shashtri uncle new year. Deceased Mintu Soni stayed in Satbahiniya Temple. He has further stated that first Nikhil, Daddu and Lala went on motorcycle to the house of Shashtri Uncle, Gudda was on foot and he (this witness) and Pappu Soni went on their motorcycle through shortcut road. While he was on way, he received call from Daddu that appellant Ishwar Mahroliya intercepted him, thereafter, he reached there and saw appellant Ishwar abusing Daddu. When he tried to intervene in the matter, he was assaulted by appellant Ishwar as a result of which he fell down. When Lala was trying to lift him (this witness), he (Lala) too was assaulted by appellant Ishwar, Debu, Chhotu Yadav and Raju Chirai as a result of which he fled from the spot and stood at a considerable distance. At the relevant time, his brother Mintu (deceased) also came there and when he was lifting him (this witness), he too was assaulted by Ishwar Udiya, Debu Yadav, Chhotu Yadav and Raju Chirai by club and sword. Appellant Ishwar Udiya was holding club, appellant Debu Yadav was

having sword, Chhotu Yadav and Raju Chirai were holding club and all of them assaulted his brother Mintu by their respective weapons resulting in his death. In cross-examination, he has reiterated as to the manner in which his brother Mintu was done to death.

14. Sattu Kumar Soni (PW/5) is father of the deceased. He has stated that he was informed by friends of his son that appellants have killed Mintu and assaulted Pintu by sword and club.

15. Dr. R.K. Upadhyay (PW/7) has medically examined Pintu @ Omprakash (PW/4) and gave MLC (Ex.P/20) noticing injury on right ear and blood was oozing from ear and nose. This witness has stated that clubs were produced before him and he gave his query report (Ex.P/21, P/22 and P/23) opining that the injury sustained by the injured PW/4 could have been caused by the said lathi.

16. Manoj Gupta (PW/8) turned hostile. This witness has tried to give a different colour to the prosecution case stating that Pappu, Pintu, Lala, Vivek Prajapati, Banti, Mintu and others were assaulting appellant Ishwar. It is relevant to note here that appellant Ishwar was medically examined by Dr. S.K. Chandel vide Ex.D/6 who did not notice any injury on his body.

17. Vivek Prajapati (PW/10) is another eye-witness to the incident. He has stated that on the date of incident when he reached near Santosh betel shop, he saw that appellant Debu

Yadav, Ishwar, Chhotu Yadav and one Raju Chirai intercepted Daddu Lala and Nikhil. Thereafter, Pintu Soni, Pappu Soni and Rinku Soni also came there. Pintu made appellant Ishwar understand that we are all like brother and as to why they are quarreling, thereafter, scuffle took place between them. Pintu was assaulted by appellant Debu, Ishwar, Chhotu Yadav and one Raju Chirai. He has also stated that while assault was being made, appellant Ishwar, Chhotu Yadav and one Raju Chirai were holding club, whereas appellant Debu was holding sword. This witness has also stated that he too was assaulted by appellant Ishwar by club. Lala and Rinku were also assaulted by the appellants. Pintu Soni and Mintu Soni fell down on the ground. Thereafter, they stopped near Ayurvedic Hospital and saw the incident. He has also stated that after the incident they went to Pintu's father to inform him about the incident. Later, he came to know that deceased Mintu died and Pintu got injured. In cross-examination, this witness remained firm.

18. Pappu @ Bhupendra Soni (PW/11) turned hostile.

19. Krishna Kumar Kashyap (PW/12) is lodger of FIR (Ex.P/28) and merg (Ex.P/33). He has stated that on the date of incident they were going to house of Shashtri uncle to wish him new year. He, Daddu and Nikhil were on one motorcycle, whereas Pintu and Pappu were on another motorcycle. When they reached near Bhagat Singh turn, accused persons who were standing there, intercepted their motorcycles and asked about

Deepak, thereafter, they started abusing Daddu. At the same time, Pintu and Pappu also came there. He has further stated that appellant Ishwar and his friends assaulted Pintu by club as a result of which he fell down. When he (this witness) tried to intervene, he too was assaulted by appellants, thereafter, he went to police station and lodged the FIR. At this stage, this witness was declared hostile.

20. Shiv Kumar Markar (PW/13) turned hostile.

21. Dr. Anil Kumar (PW/14) conducted postmortem examination on the body of deceased and gave his report (Ex.P/31) opining the cause of death of deceased to be coma as a result of subdural haematoma due to head injury. This witness has stated that one sword was produced before him for examination and as per his query report (Ex.P/32), injuries sustained by the deceased could have been caused by the said sword.

22. Rinku @ Rikesh Soni (PW/15) has also stated as to the manner in which deceased Mintu was done to death by the appellants.

23. Murlidhar Jaiswal (PW/16) - Asstt. Sub Inspector, assisted in the investigation. Rajendra Singh Parihar (PW/17) - Investigating Officer, has duly supported the prosecution case.

24. Dr. C. Mishra (PW/18) medically examined injured Rinkesh Soni and gave his report (Ex.P/37) noticing one stitched wound on his head.

25. On close scrutiny of the evidence, in particular the statements of injured eye-witnesses PW/2, PW/4, PW/10 and PW/15, it is clearly proved that at the time of incident, near the Santosh Betel Shop, appellant Debu, Chhotu and Ishwar along with one Raju Chirai were present there holding clubs and sword, assaulted PW/4, PW/15 and deceased Mintu resulting in his death. The injured eye-witnesses have duly supported the prosecution case. The defence has cross-examined these witnesses at length but has not been able to elicit anything in their cross-examination to discredit their testimonies on the point that the appellants have not killed the deceased and not caused injuries to the injured eye-witnesses. The evidence of injured eye-witnesses is well corroborated by each other, evidence of autopsy surgeon, postmortem report and MLC of injured.

26. The main contention of learned counsel for the appellants is that the name of Raju Chirai was taken by the eye-witnesses first time while deposing in the Court to be the assailant and his name does not find place either in FIR, merg intimation or the statements recorded under Section 161 Cr.P.C.

True, it is that name of Raju Chirai does not find place either in FIR, merg intimation or the statements of the eye-witnesses recorded under Section 161 Cr.P.C and his name was taken for the first time in the Court to be the assailant but benefit of this cannot be extended to the appellants for the

reasons that presence of appellants at the place of occurrence holding clubs and sword and assaulting the injured including the deceased resulting in his death has been categorically mentioned by the injured eye-witnesses and we have no reason to disbelieve their statements. That apart, it is settled legal position that FIR is not meant to be an encyclopedia nor it is expected to contain all the details of the prosecution case. It may be sufficient if the broad facts of the prosecution are stated in the FIR. In the present case, the report was lodged by K.K. Kashyap (PW/12), though turned hostile, just after the incident and it cannot be expected from him to narrate everything in the FIR when he himself was in agony due to the quarrel and death of his friend deceased Mintu. Unless there are indications of fabrication and concoction, the prosecution version cannot be doubted merely on the ground that FIR does not contain the name of Raju Chirai whose name was taken for the first time while deposing in the Court, particularly in a case where the entire incident was proved by the eye-witnesses account, which was found to be trustworthy and inspires confidence.

27. We further find no force in the argument of learned counsel for the appellants that no information was given to the father of the deceased by the eye-witnesses.

In this context, we would like to draw our attention to the statement of Sattu Kumar Soni (PW/5), father of deceased

Mintu, wherein in para 5 of his cross-examination, he has stated that Dinesh, who is friend of deceased, came to his house and informed about the incident. Thereafter, he went to police station and then to CIMS where he found his son Pintu in injured condition and Mintu to be dead. He has also noticed injuries on face and abdomen of the deceased which might have been caused by the weapon like sword. After sometime, friends of deceased Mintu also informed him that on account of old enmity accused persons assaulted the deceased by club and sword. PW/5, in para 5, has admitted the fact that Daddu, Vivek Prajapati, Pappu Soni and Lala came to him at 2.00 AM and they did not inform anything about the incident and merely on this basis, the evidence of PW/5 cannot be discarded in *toto*, on the other hand, in para 3, he has specifically stated that friends of his son informed that Pintu and Mintu were assaulted by the appellants by clubs and sword on account of old enmity and this fact has not been challenged in the cross-examination. On this ground also, no benefit can be extended to the appellants.

28. We are also not in agreement with the argument of learned counsel for the appellants that the at the time of incident there was no light and it was not possible for the eye-witnesses to see the incident and identify the appellants.

All the eye-witnesses have duly identified the appellants and on account of previous animosity between them the incident took place on 31.12.2010 in the night. In cross-

examination, no suggestion was put to Laxminarayan Sahu (PW/2) that he could not identified the appellants due to non availability of light. Injured eye-witness Pintu (PW/4), in para 26, has admitted that there were four poles in between Bhagat Singh School and Santosh Betel Shop and they were idle but he denied this fact that there was no source of light at the place of occurrence. That apart, prompt merg and FIR were lodged naming the appellants to be the assailant and all the eye-witnesses to the incident knew the appellants.

29. We also do not find force in the argument of learned counsel for the appellants that no charge as to common intention was framed against the appellants yet they have been convicted with aid of Section 34 IPC, which is not permissible under the law.

Section 34 of IPC reads as under:-

**34. Acts done by several persons in furtherance of common intention.** -- When a criminal act is done by several persons in furtherance of the common intention of all, each of such person is liable for that act in the same manner as if it were done by him alone.

The Supreme Court in the matter of **Gurpreet Singh V. State of Punjab** reported in **(2005) 12 SCC 615** has held as under:-

**15.** Further, it has been reiterated by this Court in *Ramji Singh v. State of Bihar* [4 (2001) 9 SCC 528 :

2002 SCC (Cri)] 760 wherein also charge was framed under Section 302 simpliciter but conviction was under Section 302 read with Section 34 IPC and it was laid down that conviction under Section 302 read with Section 34 IPC was warranted as the accused person shared the common intention to cause death of the victim and no prejudice was caused to them because of non-framing of charge under Section 302 read with Section 34 IPC.

**16.** In the present case, it cannot be said that the accused persons were prejudiced merely because charge was framed under Section 302 IPC simpliciter and no charge was framed under Section 302 read with Section 34 IPC. From the evidence of two eyewitnesses, namely, PWs 2 and 3 it would appear that the accused persons shared the common intention to cause death of the victim. They were cross-examined at length from all possible angles and from the suggestions that were put forth to the eyewitnesses, we are fully satisfied that the accused persons were not in any manner prejudiced in their defence. That apart, in their examination under Section 313 of the Code, the appellants were specifically told that they along with the other accused persons armed with kirpan came to the place of occurrence and assaulted the deceased whereafter they fled away which shows that the appellants shared the common intention to cause death of the deceased.

The Supreme Court in the matter of **Darbara Singh v. State of Punjab** reported in **(2012) 10 SCC 476** held as under:-

**19.** In *Sanichar Sahni v. State of Bihar* [(2009) 7 SCC 198 : (2009) 3 SCC (Cri) 347 : AIR 2010 SC 3786)] this Court dealt with the aforementioned issue elaborately, and upon consideration of a large number of earlier judgments, held as under : (SCC p. 204, para 27)

“27. Therefore, ... unless the convict is able to establish that defect in framing the charges has caused real prejudice to him and that he was not informed as to what was the real case against him and that he could not defend himself properly, no interference is required on mere technicalities. Conviction order in fact is to be tested on the touchstone of prejudice theory.”

**20.** The defect in framing of the charges must be so serious that it cannot be covered under Section 464/465 CrPC, which provide that, an order of sentence or conviction shall not be deemed to be invalid only on the ground that no charge was framed, or that there was some irregularity or omission or misjoinder of charges, unless the court comes to the conclusion that there was also, as a consequence, a *failure of justice*. In determining whether any error, omission or irregularity in framing the relevant charges, has led to a failure of justice, the court must have regard to whether an objection could have been raised at an earlier stage during the proceedings or not. While judging the question of prejudice or guilt, the court must bear in mind that every accused has a right to a fair trial, where he is aware of what he is being tried for and where the facts sought to be established against him, are explained to him fairly and clearly, and further, where

he is given a full and fair chance to defend himself against the said charge(s).

30. In the case in hand, the Court has also not framed the charge with the aid of Section 34 IPC against the appellants and convicted appellant Debu under Section 302 IPC, appellants Ishwar and Chhotu under Section 302 read with Section 34 IPC but their sentence part is identical. Charges were framed against the appellants under Section 302, 307, 423 and 323 IPC and no charge was framed with the aid of Section 34 IPC against appellants Ishwar and Chhotu. It is pertinent to mention here that the appellants were having ample opportunity to cross examine the prosecution witnesses at length and no objection was raised by learned counsel for the appellants while pronouncing the sentence. Considering the charges framed by the trial Court, evidence adduced by the prosecution and in view of the judgments of Apex Court in the matter of Gurpreet and Darbara **(Supra)**, it is apparent that no prejudice was caused to the appellants because of non-framing of charge under Section 302 read with Section 34 IPC.

31. We also do not find any substance in the argument of learned counsel for the appellants that no club injury was noticed on the body of the deceased for the reasons that all the injured eye-witnesses have categorically stated that appellants Ishwar and Chhotu Yadav were holding club in their hands, whereas appellant Debu was having sword and all of them

assaulted the deceased by their respective weapons and injured witnesses PW/4, PW/10, PW/12 and PW/15 were examined by the prosecution.

32. That apart, Laxminarayan Sahu (PW/2) has admitted his signature on the memorandum of appellant Ishwar, Chhotu Yadav and Debu @ Onkar Yadav (Ex.P/3, P/5, P/4), based on which, clubs and sword were seized from their possession respectively, and the Investigating Officer (PW/17) has also duly proved memorandum of the appellants and consequent seizure made in pursuance thereof. Thus, we have no reason to disbelieve the statements of PW/2 and Investigating Officer (PW/17). The seized articles were subjected to chemical examination and as per FSL report (Ex.P/42), blood was found on the clubs and sword seized from the possession of appellants Ishwar, Chhotu and Debu @ Onkar, however, there is no serological report confirming the origin of it. In a case where conviction rests on testimony of eye-witness, the circumstance of seizure of bloodstained articles at the instance of accused can be taken as an additional evidence to infer the guilt of the accused.

33. For the reasons set out above, this Court is of the considered opinion that the findings of the Court below are strictly in conformity with the material available on record and the Court below has not committed any error in passing the judgment impugned.

34. The appeals thus have no substance and are liable to be dismissed. Dismissal recorded accordingly. Appellants being already inside, no order in respect of arrest etc. of the accused is required.

**Sd/-**  
**(Pritinker Diwaker)**  
**Judge**

**Sd/-**  
**(Gautam Chourdiya)**  
**Judge**

vijay