

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 801 of 2013**

1. Shiv Kumar S/o Sahoran Satnami Aged About 45 Years
2. Shivnandan S/o Sahoran Satnami Aged About 35 Years
3. Sukhnandan S/o Sahoran Satnami Aged About 33 Years
4. Kaliram S/o Sahoran Satnami Aged About 55 Years
5. Ramnarayan S/o Shivkumar Satnami Aged About 25 Years

All are R/o Village Baloudi, PS Mungeli Rev. Distt. Mungeli Civil Distt. Bilaspur C.G., District : Mungeli, Chhattisgarh

---- Appellants

Versus

- State Of Chhattisgarh Through PS Mungeli, Civil Distt. And Rev. Distt. Bilaspur C.G.

---- Respondent

For Appellants	:	Shri HS Ahluwalia, Advocate.
For Respondent/State	:	Shri Vaibhav Goverdhan, P.L.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice Sanjay Agrawal

Judgment On Board By Justice Pritinker Diwaker

25/04/2018

This appeal arises out of the judgment of conviction and order of sentence dated 29.7.2013 passed by the Additional Sessions Judge, Mungeli, Distt. Bilaspur in ST No.39/2010 convicting and sentencing each of the appellants as under:

Conviction	Sentence
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U/s 302 of IPC on three counts.	Imprisonment for life, fine of Rs.1000/- with default stipulation on each count.
U/s 307 of IPC.	Imprisonment for life, fine of Rs.1000/- with default stipulation.
U/s 449 of IPC.	Imprisonment for life, fine of Rs.1000/- with default stipulation.

02. In the present case, there are three deceased persons namely Devasirbai, Bhagwat and Shivprasad. Devasirbai was mother of Bhagwat and Shivprasad. It is alleged that on 9.6.2010 at about 6 am deceased Bhagwat and Shivprasad had gone to the agriculture field where the accused/appellants also reached and had a quarrel with them. However, Shivprasad and Bhagwat somehow escaped from their clutches and rushed to their house. In the meanwhile, deceased Devashirbai, who was on the way to her house, was caught by the accused/appellants and subjected to assault by them. Thereafter, they broke open the door of house of the deceased persons, entered the house and caused injuries to Shivprasad and Bhagwat by club and axe. PW-10 Labho, son of deceased Bhagwat, who was also present in the house at the relevant time, was also assaulted by the accused persons in an attempt to commit his murder as a result of which he sustained number of injuries. At the place of occurrence itself, Devasirbai, Shivprasad and Bhagwat expired. The incident is said to have been witnessed by PW-2 Meenabai, PW-6 Sarswati and PW-10 Labho. At the instance of PW-10, Dehati Nalishi (Ex.P/50) was recorded at 10.30 am on 9.6.2010 and soon thereafter Dehati Mergs in relation to Bhagwat, Shivprasad and Devasirbai were recorded vide

Exs.P/51, P/52 & P/53. Regular Mergs (Exs.P/44, P/45 & P/46) were also recorded. On 9.6.2010 itself FIR (Ex.P/47) was registered at the instance of PW-10 Labho against the present appellants under Sections 147, 148, 149, 294, 323, 506B, 302 and 452 of IPC. Inquests on the body of the deceased Devasirbai, Shivprasad & Bhagwat were conducted on 9.6.2010 vide Exs. P/1, P/2 & P/3 respectively.

03. As per postmortem conducted on the body of deceased Devasirbai on 9.6.2010 by PW-5 Dr. Suresh Ratre vide Ex.P/31, she suffered incised wounds on left leg on calf region up to bone deep, tibia and fibula bones were fractured. The said injuries were caused by hard and sharp object. In his opinion, the cause of death was external and internal hemorrhage leading to shock and death, and the death was homicidal in nature.

04. He also conducted postmortem on the body of deceased Bhagwat on the same day vide Ex.P/32 and noticed that apart from contusions on hand, fingers and wrist, the deceased had suffered lacerated wounds on left side occipital region, left side frontal region, left side upper eyebrow, on lower lip, on mid occipital region; left side frontal bone and occipital bone were fractured. All the injuries were caused by hard and blunt object. The cause of death was opined to be head injury leading to coma and death, and that the death was homicidal in nature.

05. On the same day, he also conducted postmortem on the body of deceased Shivprasad vide Ex.P/33 and found that the deceased had sustained incised wounds on left side temporal region, mid occipital

region, left side of occipital region, right side ear and fracture of left side temporal bone as well as mid occipital bone. The injuries were caused by sharp and cutting object. In his opinion, the cause of death was head injury leading to coma and death, and that the nature of death was homicidal.

On 9.6.2010 itself PW-5 Dr. Suresh Ratre medically examined injured eyewitness PW-10 Labho vide Ex.P/39 and noticed that he had suffered lacerated wound on the right leg on the ankle and referred him for X-ray to CIMS, Bilaspur.

06. Memorandums of the accused/appellants were also recorded on 9.6.2010 and in pursuance thereof certain incriminating articles were seized. Memorandum of accused/appellant Shivkumar (Ex.P/10) led to recovery of bloodstained tangi and his clothes vide Ex.P/19 & P/24 respectively; memorandum of accused/appellant Shivnandan (Ex.P/12) led to recovery of bloodstained club and his shirt vide Ex.P/21 & P/26 respectively; on the memorandum of accused/appellant Sukhnandan (Ex.P/11), bloodstained club and his clothes were seized vide Ex.P/20 & P/25 respectively; pursuant to memorandum of accused/appellant Kaliram (Ex.P/14), seizure of club was made vide Ex.P/23 and likewise, memorandum of accused/appellant Ramnarayan (Ex.P/13) led to seizure of club vide Ex.P/22. As per FSL report, blood was found on all the articles except clubs seized at the instance of accused/appellants Sukhnandan, Kaliram & Ramnarayan.

07. In the said incident, some of the accused/appellants have also suffered injuries. As per MLC of accused/appellant Shivkumar

(Ex.P/43), he suffered incised wound on right side of thigh and contusion on left shoulder, which were simple in nature. Accused/appellant Sukhnandan sustained simple injury i.e. abrasion over left leg below knee vide Ex.P/42. As per MLC (Ex.P/41) of accused/appellant Rakesh Kumar, he did not suffer any injury. Accused/appellant Shambai sustained abrasion on left hand on wrist joint which was simple in nature vide Ex.P/40.

08. After completion of investigation, charge sheet was filed against the accused/appellants as also against accused Rakesh Kumar, Shambai and Ramkali under Sections 147, 148, 149, 294, 323, 506B, 452, 307 and 302 of IPC. The trial Court framed charges under Sections 294, 506B, 148, 307/149, 449, 302/149 (on three counts) of IPC against the accused/appellants herein and the remaining accused namely Rakesh Kumar, Shambai and Ramkali were charged under Sections 294, 506B, 147, 307/149, 449, 302/149 (on three counts) of IPC.

09. So as to hold the accused persons guilty, the prosecution examined 15 witnesses in all. Statements of the accused 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. In defence, three witnesses were also examined by the accused persons.

10. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment while acquitting accused Rakesh Kumar, Shambai and

Ramkali of all the charges, convicted and sentenced the accused/appellants herein as mentioned above.

11. Learned State counsel has pointed out that there is some technical error on the part of the trial Court while recording conviction of the accused/appellants under Section 302 of IPC on three counts whereas their conviction under the said section ought to have been with the aid of Section 149 of IPC.

12. Considering this aspect of the case and the provisions of Sections 386(b)(ii) read with 215 and 464 of CrPC, we have given opportunity to the counsel for the appellants to address us on this point and according to him, Section 149 of IPC has no applicability in the present case and therefore, the appellants cannot be convicted with the aid of said section.

13. Counsel for the appellants submits as under:

(i) that the incident appears to have occurred on account of trivial issue as there was some dispute between two groups in the agriculture field and on the spur of moment, all of a sudden, the injuries seem to have been caused to the deceased persons. There was no intention on the part of the appellants to commit murder of the deceased persons and therefore, at best they are liable to be convicted under Section 304 Part-II or I of IPC.

(ii) that in the evidence, none of the witnesses has specified as to which injury was caused by which of the accused to the deceased persons resulting in their death. Unless specific role is assigned to a

particular accused and the medical report also discloses as to which injury proved to be fatal, the appellants cannot be convicted for commission of murder of the deceased, particularly when they have not been convicted with the aid of Section 149 of IPC.

(iii) that three eyewitnesses (PW-2, PW-6 & PW-10) have exaggerated their version while deposing in the Court and they do not appear to be trustworthy witnesses.

(iv) that on the same set of evidence, once the other accused persons have been acquitted, the appellants also ought to have been acquitted or at least, could have been convicted for lesser offence.

(v) in respect of appellant Kaliram it has been argued that he was not even present at the place of occurrence and had gone to some other village. This has been duly proved not only by the defence witnesses but also by the prosecution witnesses PWs-1, 4 & 14.

(vi) with regard to injuries sustained by PW-10 Labho, it has been argued that the injuries are on the non-vital part, there was no intention on the part of the appellants to attempt to commit his murder, and therefore, considering the nature of injuries, the appellants can at best be convicted under Section 326 of IPC for causing grievous hurt to PW-10.

14. On the other hand, State counsel supporting the impugned judgment has submitted as under:

(i) that there are as many as three eyewitnesses to the incident including the injured eyewitness PW-10 Labho and all of them in one voice have supported the prosecution case.

(ii) that all these three eyewitnesses appear to be natural witnesses

and there is no reason for this Court to disbelieve their version.

(iii) that a prompt report in the form of Dehati Nalishi was lodged by injured PW-10 Labho naming all the five appellants and therefore, there is no reason for this Court to disbelieve the prosecution case.

(iv) that all the appellants have taken part actively in commission of the crime and specific role has been assigned to them by three eyewitnesses.

(v) that the incident did not occur all of a sudden or in the heat of passion, but in fact when the deceased Shivprasad and Bhagwat were working in their field, the accused persons reached there and started quarelling with them and when Shivprasad and Bhagwat escaped from their clutches, they chased them and on the way found their mother Devasirbai and committed her murder by brutally assaulting her. Thereafter, they entered the house of the deceased persons and committed murder of Shivprasad and Bhagwat also. Even PW-10 Labho was also brutally assaulted by the accused persons but he was lucky enough to escape and hide himself or else he too could have been killed by the accused persons.

(vi) that on the memorandum of the accused persons, certain seizures were effected and almost on all the articles so seized including tangi and club as also clothes of the accused persons, blood has been found as per FSL report. He submits that even in absence of serological report, FSL report in respect of seized articles can be taken as an additional evidence against the accused persons.

(v) that there appears to be some typographical mistake in the impugned judgment while recording conviction of the appellants where

instead of recording their conviction under Section 302 with the aid of Section 149 of IPC, they have been convicted under Section 302 of IPC. It has been argued that had it been such a case, a specific finding would have been recorded by the trial Court acquitting them of the charge under Section 302/149 or 307/149 and they would have been convicted for their individual acts. He further submits that once opportunity has been given to the counsel for accused persons to argue before this Court as to whether they are liable to be convicted with the aid of Section 149 of IPC, even this Court can convict them with the aid of Section 149 of IPC. Furthermore, when a specific charge was framed against them under Sections 302/149 (on three counts) and 307/149 of IPC, they had sufficient opportunity to put forth their defence, which they have already done, and as no prejudice has been caused to them, they can be convicted with the aid of Section 149 of IPC.

(vi) in respect of PW-10 Labho, injured eyewitness, it has been argued that considering the nature of injuries sustained by him and his oral evidence, it is quite apparent that the accused persons made an attempt to commit his murder also and as such, their conviction under Section 307 of IPC is in accordance with law.

15. Heard counsel for the respective parties and perused the material on record.

16. PW-2 Meenabai, wife of deceased Shivprasad, an eyewitness to the incident, has stated that on the date of incident at about 6 am, her husband Shivprasad and Bhagwat had gone to the field and then she

heard sound of quarrel, however, due to fear she did not go there. She states that she saw Shivkumar, Shivnandan, Sukhnandan and Ramnarayan coming towards their house chasing Shivprasad and Bhagwat and they were carrying lathi and tabbal in their hands. The accused persons, except Kaliram, entered the house of the deceased persons and started assaulting them. She witnessed the incident from the loft where she had hidden herself. She further states that the accused persons also caused injuries to Labho (PW-10) and on the way while they were coming they caused injuries to Devashir as well in the lane as a result of which all the three succumbed to their injuries. She states that there was previous enmity between the accused party and the deceased persons, however, she is not aware as to what was the reason for this enmity. In the lengthy cross-examination, she denied all the adverse suggestions and remained firm and nothing could be elicited from her by the defence to make her evidence doubtful or unreliable.

17. PW-6 Sarwatibai, wife of deceased Bhagwat, another witness to the incident while supporting the prosecution case has made almost similar statement as has been made by PW-2 Meenabai and she too saw the incident from the loft where she had hidden herself due to fear. In cross-examination this witness remained intact and nothing could be elicited from her by the defence to its advantage.

18. PW-10 Labho is an injured eyewitness to the incident. He is son of deceased Bhagwat. He has categorically stated that his father and uncle had gone to the field where the appellants had a quarrel with

them. He states that at the relevant time he was in his house and saw his father and uncle running towards their house by shouting that the accused persons are coming to kill them. Then he saw the accused/appellants chasing his father and uncle. On the way, the accused/appellants assaulted Devasirbai and after reaching their house carrying weapons in their hands, they caused injuries to his father and uncle. He states that he was also assaulted by accused Shivkumar with tangia and Shivnandan by lathi. He further states that at his instance Dehati Nalishi and Merg Intimations were registered and likewise FIR was also registered. He has also named accused Kaliram as one of the assailants along with the other accused persons.

19. PW-1 Duklaha @ Dukal is a witness of spot map, inquest, memorandum and seizure, though he has been declared hostile, however, has admitted his signature on the documents. PW-3 Sukhchand is a witness of inquest. PW-4 Gulabchand has proved arrest of the accused persons.

20. PW-5 Dr. Suresh Ratre conducted postmortem on the body of deceased Devasirbai on 9.6.2010 vide Ex.P/31 and noticed that she had suffered incised wounds on left leg on calf region up to bone deep, tibia and fibula bones were fractured. The said injuries were caused by hard and sharp object. In his opinion, the cause of death was external and internal hemorrhage leading to shock and death and the death was homicidal in nature. He also conducted postmortem on the body of deceased Bhagwat on the same day vide Ex.P/32 and noticed that

apart from contusions on hand, fingers and wrist, the deceased had suffered lacerated wounds on left side occipital region, left side frontal region, left side upper eyebrow, on lower lip, on mid occipital region; left side frontal bone and occipital bone were fractured. All the injuries were caused by hard and blunt object. The cause of death was opined to be head injury leading to coma and death and that the death was homicidal in nature. On the same day, he also conducted postmortem on the body of deceased Shivprasad vide Ex.P/33 and found that the deceased had sustained incised wounds on left side temporal region, mid occipital region, left side of occipital region, right side ear and fracture of left side temporal bone as well as mid occipital bone. The injuries were caused by sharp and cutting object. In his opinion, the cause of death was head injury leading to coma and death, and that the nature of death was homicidal. On 9.6.2010 itself PW-5 Dr. Suresh Ratre medically examined injured eyewitness PW-10 Labho vide Ex.P/39 and noticed that he had suffered lacerated wound on the right leg on the ankle and referred him for X-ray to CIMS, Bilaspur.

21. PW-7 Yashwant, Police Constable, helped in the investigation. PW-8 Rajkumar is a witness of inquest. PW-9 Dr. SK Tiwari did x-ray of PW-10 Labho and found fracture of fibula bone of right leg vide Ex.P/49. PW-11 SR Dhritlahre, Police Inspector, did part of investigation. PW-12 BS Thakur, investigating officer, has duly supported the prosecution case. PW-13 Panchram has not stated anything specific. PW-14 Beeranda, Kotwar, reached the place of incident after it had taken place. PW-15 Nuvas Tigga, Police Constable, assisted in the investigation.

22. DW-1 Dukalhinbai, wife of Shivnandan, has stated that on the date of incident Shivnandan was not there in the village and had taken her for treatment to a village doctor. She has further stated that accused Kaliram was also not present in the village on the date of incident as he had gone to Village-Dodapur for bringing hay. DW-2 Durugram and DW-3 Dhannusingh have also stated that on the date of incident accused Kaliram had gone to Village-Dodapur for bringing hay.

23. Close scrutiny of the evidence makes it clear that on 9.6.2010 at about 6 am when deceased Bhagwat and Shivprasad had gone to their agriculture field, the accused/appellants reached there and had a quarrel with them on account of some previous enmity. Shivprasad and Bhagwat somehow managed to run away from there and rushed to their house. While the accused/appellants were chasing them, they found deceased Devasirbai, mother of Bhagwat and Shivprasad, who was on the way to her house, and caused her injuries as a result of which she died on the spot. Soon thereafter, they forcibly entered the house of the deceased persons and caused injuries to Shivprasad and Bhagwat by club and axe which led to their death on the spot itself. PW-10 Labho, son of deceased Bhagwat, who was also present in the house at the relevant time, was also assaulted by the accused persons in an attempt to commit his murder as a result of which he sustained number of injuries.

24. PW-2 Meenabai, PW-6 Sarswati and PW-10 Labho are the eyewitnesses to the incident. Soon after the incident, at the instance of PW-10, Dehati Nalishi and Dehati Mergs were registered and on the

same day, FIR (Ex.P/47) was registered at his instance against the present appellants. The aforesaid eyewitnesses have duly supported the prosecution case and in their Court statements have described as to the manner in which the whole incident occurred and the deceased persons were done to death by the appellants and PW-10 was caused injuries by them in an attempt to commit his murder also. The defence has failed to elicit anything from them which could make their evidence doubtful or shaky. We find no reason to disbelieve their version. This apart, medical evidence in the form of postmortem reports of the deceased persons and MLC of PW-10 Labho also lend due support to the prosecution case and is consistent with the eyewitness account.

25. Furthermore, memorandums of the accused/appellants led to recovery of bloodstained tangi, club and their clothes and as per FSL report, blood was found on all the articles except clubs seized at the instance of accused/appellants Sukhnandan, Kaliram & Ramnarayan. Though the witnesses to memorandum and seizure have not fully supported the prosecution case, but have admitted their signatures on the documents. However, the other prosecution witness, though police personnel, who conducted memorandum and seizure proceedings, have fully supported the prosecution case.

26. It is a settled principle of law that if testimony of police witness is reliable, trustworthy, cogent and duly corroborated by other witnesses or admissible evidence, then statement of such witness cannot be discarded only on ground that he is a police officer and may have some interest in success of the case. Only when his interest in success of

case is motivated by overzealousness to an extent of his involving innocent people, then, no credibility can be attached to his statement. Presumption that a person acts honestly applies as much in favour of a police officer as in respect of other persons and it is not proper to distrust and suspect him without there being good grounds therefor.

27. Ordinarily, the public at large show their disinclination to come forward to become witnesses. If the testimony of the police officer is found to be reliable and trust worthy, the Court can definitely act upon the same. If, in the course of scrutinizing the evidence, the court finds the evidence of the police officer as unreliable and untrustworthy, the court may disbelieve him but it should not do so solely on the presumption that a witness from the department of police should be viewed with distrust. This is also based on the principle that quality of the evidence weighs over the quantity of evidence. [AIR 2013 Supreme Court 3344 between [Pramod Kumar v. State \(GNCT\) of Delhi](#).]

28. True it is that there is no serological report on record confirming the origin and group of the blood so found, however, present being a case of eyewitness account, where the eyewitnesses have attributed specific role to the appellants in commission of the offence, non-production of serological report is not of much significance and the FSL report can safely be taken as an additional evidence against the appellants.

29. Moreover, as per MLC of accused/appellant Shivkumar (Ex.P/43), he suffered incised wound on right side of thigh and

contusion on left shoulder, which were simple in nature and accused/appellant Sukhnandan sustained simple injury i.e. abrasion over left leg below knee vide Ex.P/42. In their statements under Section 313 of CrPC they have stated that these injuries were caused to them by deceased Shivprasad and Bhagwat. This fact also proves their involvement in the crime in question.

30. As regards the plea of alibi, it is considered as the weakest type of plea and therefore the same is required to be proved through exhaustive, cogent & reliable evidence. To prove his innocence against accusation, accused is required to raise reasonable questions about his absence at place of offence at time of commission of offence and about his presence in some other place at such time. In this way, he is to raise reasonable doubt in mind of court about his participation in commission of offence to get benefit of such doubt against accusation.

31. In the present case, DW-1 Dukalhinbai has stated that on the date of incident at about 6 am she had gone to doctor with her husband accused Shivnandan and returned from there at around 8 am to their house. However, neither the said doctor has been examined nor any such medical document has been filed by the defence to substantiate the plea of alibi. DW-2 Durugram and DW-3 Dhannu Singh have been examined to prove alibi in respect of accused Kaliram. In their statements under Section 313 of CrPC, apart from accused/appellants Kaliram and Shivnandan, one other appellant namely Ramayan has also stated to be somewhere else on the date of incident but no oral or documentary evidence has been led on his

behalf. Further, none of these appellants have taken this plea at the time of framing of charge where they have merely denied the charge and pleaded for trial. Had it been so, they ought to have taken this plea at the earliest available opportunity. On the contrary, the injured eyewitness PW-10 has categorically stated about involvement of accused Kaliram and in his cross-examination no such suggestion was given to this witness that at the relevant time, accused Kaliram was not there. Soon after the incident at the instance of this witness Dehati Nalishi (Ex.P/50) was registered wherein he has named all the accused/appellants including Kaliram and thereafter in the merger intimations also he has named all the accused/appellants as perpetrator of the crime in question. Thus, keeping in view the unrebutted oral evidence of the eyewitnesses duly supported the medical evidence, complicity of all the accused/appellants in the crime stands proved beyond all reasonable doubt and the plea of alibi taken by Kaliram and Shivnandan appears to be nothing but an afterthought and carries no weight.

32. As regards the argument of counsel for the appellants that the appellants can, at best, be held liable for conviction under Section 304 Part-I or II, the same is not acceptable to us for the reason that it is not a case of sudden fight in the heat of passion on the spur of moment or without premeditation, rather the evidence goes to show that accused/appellants fully armed with lathi, tagia and tabbal went to the field where they first quarreled with deceased Bhagwat and Shivprasad and thereafter, when they somehow managed to escape from there, the appellants did not stop there but chased them and on the way

when they found their mother Devasirbai, they assaulted her brutally which led to her death. Thereafter, they forcibly entered their house and caused injuries to Bhagwat and Shivprasad leading to their instantaneous death. Thus, considering the manner in which the crime was committed, the nature and extent of injuries suffered by the deceased, the weapon of offence used and the force with which assault was made resulting in on the spot death of deceased persons, we are of the opinion that the case of the appellants is not covered by any of the exceptions to Section 300 of IPC i.e. culpable homicide not amounting to murder, but present is a case of murder.

33. So far as error in recording conviction of the appellants is concerned, from the record it is apparent that apart from other charges, the appellants were charged under Section 302/149 of IPC on three counts, however, while recording their conviction, the trial Court has convicted each of them under Section 302 of IPC on three counts. Once the charge was specific i.e. u/s 302/149 of IPC, the appellants had all the opportunity to adduce evidence in their defence in respect of the said charge, which they did as is clear from the record. Even the counsel for the appellants has been afforded with an opportunity by this Court to argue on this point and he could not point out as to what prejudice has been caused to the appellants on account of such error. From the evidence it is apparent, as has been observed above, that the accused/appellants, five in number, having formed an unlawful assembly with a common object of committing murder of the deceased persons assaulted them with lathi, axe and tabbal, which resulted in their on the spot death. Thus, considering the overall evidence on

record, the manner in which the witnesses were examined and cross-examined and the findings of guilt recorded by the trial Court, the said error in recording conviction by the trial Court appears to be due to inadvertence or oversight which can be rectified by this Court. Accordingly, each of the appellants are held guilty under Section 302/149 of IPC in place of 302 of IPC only, on three counts as recorded by the trial Court.

34. As regards their conviction u/s 307 of IPC, considering the nature and extent of injuries sustained by PW-10 Labho and his unrebutted oral evidence, it is quite apparent that the accused persons made an attempt to commit his murder also in furtherance of their common object and as such, their conviction under Section 307 of IPC is also liable to be altered to 307/149 of IPC. Ordered accordingly.

35. In the result, the appeal being without any substance is liable to be dismissed and is hereby dismissed. Conviction of the appellants under Sections 302 (on three counts) and 307 of IPC is hereby altered to 302/149 (on three counts) and 307/149 of IPC. Further, there conviction under Section 449 of IPC being based on proper appreciation of the evidence is hereby maintained. The sentence part shall remain as it is.

**Sd/
(Pritinker Diwaker)
Judge**

**Sd/
(Sanjay Agrawal)
Judge**