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IN THE HIGH COURT OF JUDICATURE AT BOMBAY*CRIMINAL APPELLATE JURISDICTION***CRIMINAL APPEAL NO. 735 OF 1999**

The State of Maharashtra] ..Appellant
(Original Complainant)

vs.

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|----|-------------------------------|---|--------------------|
| 1. | Sadashiv Haribhau Varade, |] | |
| | Age 34 years, |] | |
| 2. | Sau. Archana Sadashiv Varade |] | |
| | Age 22 years, |] | |
| 3. | Smt.Vithabai Haribhau Varade, |] | |
| | Age 60 years, |] | |
| | All R/o Godavari Colony, |] | |
| | Khutwad Mala, College Road, |] | ..Respondents |
| | Nashik. |] | (Original Accused) |

Mr. H. J. Dedhia, APP for the Appellant/State.
Mr. P. B. Naiknavre, for Respondent Nos. 1 to 3.

(Pronounced by Indrajit Mahanty, J. as per Rule 1(i) of Chapter XI of the Bombay High Court Appellate Side Rules, 1960 in absence of V.K. Jadhav, J., who is sitting at Aurangabad Bench)

**CORAM : INDRAJIT MAHANTY &
V. K. JADHAV, JJ.**

JUDGMENT RESERVED ON : 26th NOVEMBER, 2018.
JUDGMENT PRONOUNCED ON : 03rd May, 2019.

JUDGMENT [Per : INDRAJIT MAHANTY, J.]

1. On 1st June, 1998, deceased Rajendra was taken to the hospital who succumbed to his injuries on the same day. The police complaint came to be filed by his wife Radhika. The accused were arrested on the basis of said complaint, they faced the trial before the learned IInd Additional Sessions Judge and Additional Sessions Judge, Nashik vide Sessions Case No. 182 of 1998, who by his Judgment dated 7th July, 1999 was pleased to acquit the accused from the offences punishable under Sections 302, 323, 504 read with Section 34 of the Indian Penal Code and under Section 135 read with Section 37(1) of the Bombay Police Act.

2. Challenging the aforesaid order of acquittal, the present appeal under Section 378(1) of the Code of Criminal Procedure has been filed by the State.

3. Mr. Dedhia, Learned APP representing the State interlia advanced the following two contentions :

a] The trial Court ought to have seen that there is an eye witness to the incident i.e. Radhika (PW-1) who is none other than the wife of the deceased Rajendra. Therefore, the learned trial Court had

erred in not appropriately considering the evidence of such an eye witness.

b] The learned trial Court ought to have taken note of the fact that the Chemical Analysis report indicated blood group which was obtained from the seized knife and found same matched with the blood group of deceased Rajendra. On the basis of this crucial evidence the learned trial Court ought not to have acquitted the accused from such serious offence.

4. The case of the prosecution in brief was that :

(i) Sadashiv (accused No.1) and Rajendra (Deceased) were both sons of Vithabai (accused No.3). Archana (accused no.3) was the wife of Sadashiv, whereas, complainant Radhika was the wife of deceased Rajendra. It is admitted case of the parties that the matrimonial home had been taken on rent by Vithabai (accused No.3) and both her sons as well as daughter-in-laws were residing with her in the said house in separate rooms. After one year of marriage, the complainant Radhika and her husband deceased Rajendra left their matrimonial house and started leaving separately. But about six months before the alleged incident of 1st June, 1998, the complainant and her husband once again returned to the tenanted house of Vithabai (accused

No.3) and started living together. It is alleged that during this period also there were various differences between the family members.

(ii) On 29th May, 1998 deceased Rajendra had gone to Malegaon to attend his friend's marriage and he was to return in the evening of 31st May, 1998. It is further alleged that on 31st May, 1998 Radhika (Complainant) had left home for her work and when she returned at about 12.30 hours she found that the tiles on the roof of her room were broken and on enquiry she learnt that it had been broken by Sadashiv (accused No.1). The complainant Radhika (PW-1) confronted Sadashiv (accused No.1), when Archana (accused No. 2) joined her husband Sadashiv and abused the complainant and threatened to kill her.

(iii) It is further alleged that, out of fear, complainant Radhika returned to her room and on the same night her husband Rajendra (deceased) returned from Malegaon, but the complainant did not tell him about the said incident. However, on the next day morning i.e. on 1st June, 1998 at about 7.00 a.m. her husband Rajendra asked her about the broken tiles and she claims to have told him about the earlier incident. Thereafter, her husband left for work and at about 3.30 to 4.00 p.m. he returned home and then he went to his mother (accused No.3) and brother's wife (accused No.2) and asked them as to why they had broken the tiles, when the accused persons abused the deceased Rajendra and

also beat him with fist blows and kicks. Archana (Accused No.2) went out and brought her husband Sadashiv (Accused No.1) to the spot who was armed with a knife and he hit the knife on the ribs, chest, neck and head of her husband Rajendra. The complainant Radhika tried to rescue her husband, but accused Nos.2 and 3 frustrated it and also beat her.

(iv) It is further case of the complainant that she escaped from their clutches and went to the Police Station, where she informed the policemen of the entire incident. It is also stated at that the same time, accused Nos.1, 2 and 3 also had been to the Police Station and started complaining that Radhika had beaten them. Thereafter, the police constable who was present in the police chowkie issued a Yadi (note) to the Civil Hospital for necessary medical treatment, thereafter, the complainant Radhika took police to the spot. On her arrival at the spot of occurrence, she was told by her neighbours that her husband Rajendra had been shifted to the hospital.

(v) It is further alleged that Radhika lodged a complaint narrating the above mentioned incident with the Police Station which was registered vide CR No. 139 of 1998 under Section 302 read with Section 34 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

(vi) On the same night, Rajendra succumbed to his injuries and

accused were arrested on the same day. A spot and inquest panchanama was held and it is alleged that Sadashiv (accused No.1) made a statement that he would produce the knife used in the crime. Accordingly, accused No.1 produced the said knife from his house. The clothes of the accused as well as that of the deceased were attached to that panchanama and the same were sent for chemical analysis. After completion of investigation, charge sheet came to be filed against the accused persons.

5. Charges were framed for the offences punishable under Section 302, 323, 504 read with Section 34 of the Indian Penal Code and under Section 135 of the Bombay Police Act against the accused -respondents, who pleaded not guilty and therefore, the trial was conducted.

6. The learned IInd Additional District Judge and Additional Sessions Judge, Nashik, after perusing the entire evidence, both oral and documentary, arrived at the findings and stated the reasons in the impugned Judgment for acquitting the accused-respondent.

7. At this point, it became necessary to deal with two issues raised in this case by the learned APP. For the sake of convenience it

would be very useful if we deal with issue No.2 vis-a-vis the Chemical Analysis Report on examining the knife seized on production of Sadashiv (accused no.1). In this respect, the learned trial Court has dealt with this issue in detail in para nos.11, 12 and 13. It would suffice for the present purposes to deal with the evidence of Ashok Jadhav (PW-4) who was examined by the prosecution to prove that on 2nd June, 1998 the accused made a statement before the police and this witness that he would show the spot and produce the weapon. This witness states that, accused made a statement and accordingly he let them to the house, he went inside the house and bought knife from that house and produced the same before them.

8. In other words, although the said witness claims to be a witness of the prosecution before whom statement was made by Sadashiv (accused No.1) and before whom recovery was stated to have been made of the knife, he equally states that the accused entered into the house and brought out a knife. However, this witness cannot be said to be a witness of the discovery of knife as most importantly he does not speak a word that the knife produced was stained blood or not. Moreover, the said article was marked as Article No.9 in the course of the trial. The learned trial Judge took into consideration the fact that

the complainant Radhika-PW 1 had mentioned that Sadashiv (accused No.1) had used a “Sura” which in local vernacular means a “dagger”. Whereas, Article No.9 was found to be a household knife, which was a common article found in every household for day to day household work.

9. Apart from the above, Panch Ashok Jadhav (PW-4) did not speak a word about the produced knife being stained with blood and equally importantly the Investigating Officer PSI Prashant Kulkarni (PW-9) has not made any statement that the knife produced by Sadashiv (accused No.1) was stained with blood. On the contrary, it is specifically mentioned in the Panchanama (Exhibit-31) that the knife and blade of the knife was stained with blood.

10. Thus, from the panchanama it would be clear that blood on the knife could be seen by the naked eye and if such fact was true, then there is no reason whatsoever as to why the Panch Ashok Jadhav (PW-4) or the Investigating Officer PSI Prashant Kulkarni (PW-9) did not make any such statement in course of their oral evidence. Further, the Chemical Analysis Report (Exhibit-46) indicates that blood of “A” group was found on this knife. Learned trial Court on consideration of the above, came to a conclusion that it was doubtful whether it was the same

knife which was sent to the Chemical Analyser since the Panch Ashok Jadhav (PW-4) does not say that this knife (Article No.9) when produced by the accused was duly sealed under the signature of the panch witnesses. He simply says that the police seized the same under a panchanama and then he signed on the panchanama. Equally importantly, the Trial Court has noted that the Investigating Officer PSI Kulkarni (PW-9) has also not stated that all these articles which were 9 in number were duly sealed before they were sent to the Chemical Analyser. It was also not on record as to when all these articles were packed under 9 different packages.

11. It is important to take note of the fact that the Chemical Analysis Report indicates that 9 parcels were sent to the Chemical Analyser, but there is no corresponding record showing as to when all these articles were sealed and as to whether the articles were kept in separate different packets. Consequently, the learned trial Court came to a conclusion that admittedly, the blood stained clothes of the deceased Rajendra were also seized and if at all if the knife was also kept alongwith those blood stained clothes, there exist every possibility of blood from the clothes sticking to the knife and the said possibility could not be ruled out since the prosecution failed to prove that all the articles

seized by them total in 9 in number, were sealed independently from the site of their recovery with the signatures of the panch witness and sent together to the Chemical Analyser for its analysis.

12. Apart from this circumstance, Panch Ashok Jadhav (PW-4) in his cross-examination has stated that he had been called for the purpose of panchanama in Model Colony Police Chowkie and policemen had come to him saying that he was required for panchanama regarding a knife. The trial Court concluded that if the aforesaid statement was correct then, this panch witness was already knowing before going to the Police Station that a panchanama regarding a knife was to be made in his presence, In such circumstances, the memorandum panchanama made under Section 27 of the Indian Evidence Act clearly has no meaning or sanctity. The police were already knowing that the accused was showing a place of knife and he was going to produce it. Therefore, the memorandum panchanama (Exhibit 30) could not be accepted as a panchanama under Section 27 of the Indian Evidence Act disclosing one of the incriminating circumstance against the accused.

13. The learned Trial Court further came to hold that another vital blow is given by the admission of this panch witness to the

prosecution case when he states that when he went to the police chowkie the panchanamas were prepared and his signature was obtained. He, further admits that after signing the panchanama at the police chowkie, he went to his tea stall and the entire exercise was over within 5 to 10 minutes. In such circumstances, the learned trial Court held that it was not acceptable that this witness went to the Police Station because in his examination-in-chief he has stated that he was called to Sarkarwada Police Station. If the accused had made a statement on the basis of which memorandum panchanama was drawn then naturally it must have taken minimum 10 minutes at the very stage, as would appear from Panchanama- Exhibit-30, and, therefore, according to this witness accused led them to his house at Khutwad Mala and minimum 15 to 20 minutes would have been required for walking the said distance. As per the discovery panchanama it was completed at 13.35 hours and preparation of memorandum of panchanama had commenced at 12.30 hours and that the discovery panchanama was completed at 13.35 hours, consequently, the trial Court came to hold that it was not believable that any statement was made by the accused, whereof, he led the police and panch to his house, produced the knife in the presence of the panch witnesses since the panch witness himself stated that everything was over within 5 to 10 minutes. In this view of

the matter, the trial Court came to hold that since the panch witness has admitted that he was running a tea stall near the police chowkie and after signing the panchanama in the police chowkie he went back to his tea stall, it renders entire evidence of such a panch witness highly doubtful that the accused made such statement, produced a knife and the police drawn up the panchanama and obtained signature of panch witnesses thereon in such a short time.

14. The trial Court further held that the other panch witness Shivaji Pekhale (Exhibit 25) was examined to prove that the blood stained clothes from the person of the accused, namely a white shirt and black pant were attached from his person under Panchanama (Exhibit-26). As per the C.A. Report the blood found on this Shirt is of 'A' group and blood group of the deceased Rajendra was also 'A' group. Therefore, the prosecution relied upon such report to suggest that the accused had assaulted the deceased Rajendra with a knife, he sustained bleeding injury, his blood was found on the shirt of the accused. The aforesaid assertion on behalf of the prosecution was rejected by the trial Court. The learned trial Court came to hold that no such inference can be drawn because, it is the case of prosecution that when the complainant Radhika went to the police chowkie and told about the incident and came back to her house, there she as well as the constable who accompanied her learnt

that it was the accused No.1 and 3 who had shifted Rajendra to Civil Hospital. The trial Court held that there was great possibility of Rajendra's blood sticking to the clothes of accused No.1 since Rajendra was profusely bleeding and accused No.1 had lifted him into the vehicle and also went with him to the Civil Hospital, consequently, blood of the deceased sticking to the clothes of accused No.1 could not be ruled out.

15. In view of the finding arrived at by us as noted hereinabove, we answer second issue raised by the Appellant – State against the Appellant and in favour of the accused – Respondent.

16. It now becomes necessary for us to deal with the first issue raised on behalf of the Appellant to the effect that the trial Court ought to have placed reliance on the evidence of PW 1 Radhika, wife of the deceased since she was an eye witness to the occurrence. Insofar as the oral evidence of the prime eye witness PW 1 Radhika is concerned, we should not lost sight of the fact that the said witness is interested witness, and consequently, it was incumbent upon the trial court to consider the quality of evidence led by other witnesses while considering the testimony of PW 1 Radhika. It appears from her evidence that on 29.5.1998 her husband left for Malegaon to attend his friend's marriage, whereas in the FIR lodged by her, she specifically mentioned that her

husband told her that he would be returning in the evening of 31st May, 1998 but in her oral evidence in Court in paragraph 3, she has stated that on 28.5.1998 when she returned home, she learnt that accused No. 2 Archana Varhade had broken the tiles of her roof, for which reason, she went and confronted accused No. 2, for which reason there was a quarrel between them. Thereafter, she stated that she returned home at 8.00 p.m. and her husband returned home at 8.30 p.m. The alleged incident took place on 29.5.1998. It is only in the morning of 31st May, 1998 her husband asked her about breaking of the tiles of the roof. She claims to have told him that accused No. 2 had broken the tiles. Thereafter, on 1st June, 1998 at about 4.00 p.m., alleged occurrence under dispute took place.

(i) PW 1 Radhika in her FIR has stated that on 31.5.1998 she left the house at 10.30 a.m. and returned home at 12.30 hours and she found that the tiles of the roof were broken, when she enquired about it, learnt that accused No. 2 had broken it. It is in the same evening, she had gone to accused No. 2 where quarrel took place with her at about 10.00 p.m. and thereafter she returned to her room and went to sleep. Then, in the same night at about 10.00 p.m. her deceased husband came from Malegaon but she did not tell him about the incident and the deceased also went to sleep and it is only on 1st June, 1998 at about 7.00

in the morning she told the deceased about the breakage of the tiles.

(ii) It would be clear from the aforesaid narration of the facts that while there is admitted variation in the testimony about the date on which the tiles were broken, yet the genesis of the dispute, it would be necessary to ascertain as to whether such incident had ever taken place. The learned trial court took into consideration the statement of PW 1 Radhika in paragraph 13 of her cross-examination, where she had stated that on 29.5.1998 her husband had gone to Malegaon and returned at 10.30 p.m. and the following day i.e. 30.5.1998 the deceased left the house in search of work and returned back at about 10.30 p.m., then again on 31.5.1998 he left the house in search of work. The learned trial Court came to a finding that this change of version of PW 1 Radhika about the death and time, on which her husband went to Malegaon and when he returned therefrom is questionable and doubtful, whereas in paragraph 12 of the cross-examination, PW 1 Radhika had stated that accused No. 2 Archana Varhade had broken the tiles of her roof on 29.5.1998 and that she has learnt from her neighbour Sitabai at about 2.00 p.m. on the same day. In paragraph 14 of the cross-examination, she has stated that on 29.5.1998 she did not ask accused No. 2 about the broken tiles, nor did she ask accused No. 2 on 30.5.1998 as well. Although the said witness offered an explanation for not informing her

husband for breaking of the tiles, claiming that she did not want to inform about quarrel between her and accused persons, yet on 31.5.1998 in the absence of her husband she claims to have gone to accused No. 2 and had quarrel before her husband returned from Malegaon. The trial Court has further arrived at a finding that this very fact that the explanation given by the complainant Radhika for not informing her husband about breakage of tiles of roofs of her house either on 29th, 30th or 31st May, 1998 is not found to be trustworthy.

17. Even on the issue of the incident of breakage of tiles and Radhika of informing her husband, in paragraph 14 of her cross-examination, she has stated that her husband had not returned home till 10.30 a.m. on 31.5.1998, and she did not inform her that night and it is only on the next day i.e. 1.6.1998 at about 7.00 a.m.. she informed her husband about breakage of tiles, and after her husband learnt about the same, did not react, and in fact, left his house at 10.30 a.m. in search of work and returned home at about 2.30 p.m. In her cross-examination, PW 1 Radhika specifically says that before leaving home she had not told her husband about breakage of tiles, even when he returned in the night, she did not talk with him about the tiles. Thus, the trial court recorded finding that it appears from these version of PW 1 Radhika that till the time of incident of alleged murder, Radhika did not tell her husband

about the breakage of tiles of the roof by accused No. 2. Contrary to her oral statement with what she stated in the FIR, where she mentions that her husband returned from Malegaon at 10.30 p.m. on 31.5.1998 and on that night she did not told him about the tiles and she claims to have informed her husband in the morning of 1.6.1998. Even then her husband did not ask accused No. 2 or any of the accused persons about the incident of breakage of tiles and the left house at about 9.00 a.m. and returned home at 3.30 to 4.00 p.m. and there from he went to accused Nos. 2 and 3 and alleged incident is supposed to have taken place.

18. In the light of the aforesaid evidence, when compared what PW 1 Radhika stated in paragraph 3 of her examination, she has stated that her husband returned at 10.30 p.m. on 29.5.1998. Then in the morning of 31.5.1998 her husband asked her as to who had broken tiles and she told that it was accused No. 2 who had broken the tiles, admittedly, no confrontation took place on the said date i.e. 31.5.1998. PW 1 Radhika had offered different versions about the incident as to whether deceased Rajendra returned from Malegaon, when complainant told him about the incident about breakage of tiles, etc., nor the said witness provided any plausible explanation as to why three days had passed from the date of breakage of tiles, she had not informed her husband Rajendra, and even if her statement that she informed Rajendra

on 1.6.1998 is accepted to be correct, she herself has stated that Rajendra did not react to such information, being provided to him, and instead he went out of the house in search of the work. In view of the aforesaid conflicting statements made by the prime witness, the learned trial court held that Radhika's testimony was to be tested on the touchstone of the cross-examination from which it appears that prosecution has failed to prove the actual genesis of the incident.

19. Insofar as the actual incident leading to the death of Rajendra is concerned, Radhika has stated that in the evening of 1.6.1998 the deceased husband had gone to accused Nos. 2 and 3 and asked them about the breakage of the tiles, when accused persons abused and threatened him, and accused No. 2 went somewhere and brought her husband i.e. accused No. 1, who came there concealing a knife with him. It is alleged that immediately after coming there, he pierced the Sura for 4 to 5 times into the stomach of her husband Rajendra. This version of Radhika is distinctly different from the narration of events given by her in the first information report. The allegation that accused No. 1 came there concealing Sura with him is not mentioned in the FIR. The FIR also does not show that accused No. 1 pierced Sura 4-5 times in the stomach of deceased Rajendra. On the contrary, the FIR mentions that accused No. 1 hit Sura on the ribs, chest, neck and behind the head

of deceased Rajendra. The medical evidence does not corroborate description of assault made in the FIR. Dr. Ravindra Ashtaputra, who conducted autopsy, examined at Exhibit 39, says that there was incised wound on the left parietal region of deceased Rajendra, which was measuring 2" x 3/4" into bone deep. The prime witness Radhika does not say anything about this injury. She also does not state that accused No. 1 hit his knife on the parietal region of the head of Rajendra. She merely states that he gave a knife blow behind the head of her husband. No such injury is found on the body of the deceased as stated by Dr. Ravindra Ashtaputre.

20. PW 1 Radhika further states that the accused hit the knife on the neck of her husband, due to which the vein on the neck had come out. This statement of her is not mentioned in the FIR , and Radhika in her oral evidences claims that while assaulting her husband with a knife, she had gone to rescue of her husband, said accused No. 1 gave two blows of knife on her chin. Insofar as this aspect is concerned, there is no material evidence regarding any injury, since had such blows been inflicted, it would have resulted in bleeding injuries of her chin but no evidence to such effect has been brought on record by the prosecution. The learned trial court also noted that there is no evidence on record, showing that Radhika was ever given medical treatment for the alleged

injury sustained by her on her chin. It is also important to note that Radhika in her FIR has not mentioned anything about injury on her body. In this backdrop, in the FIR she has stated that when she had gone to rescue of her husband, it is accused Nos. 2 and 3 who had beat her by blows and kicks. But in her oral testimony, she makes no mention of her being assaulted by accused Nos. 2 either by blows or kicks.

21. Radhika has also stated that she escaped from the clutches of accused and proceeded to the police station, but she also stated that at the time she proceeding the police station, she found accused Nos. 1 to 3 following her by holding the knife, broken piece of grinding stone and iron pipe respectively. She alleges that on seeing accused, she caught auto rickshaw and went to the police station. But Radhika has not mentioned about this part of the incident in the FIR, nor has she assigned any reason for such omission, nor she gave any explanation for the same. Considering all the aforesaid facts and evidence on record, the trial court came to conclusion that Radhika was probably not present at the time of the alleged incident. Even though she has denied the said suggestion, but the possibilities of her absence at the time of her occurrence cannot be ruled out.

22. Another very important aspect of this trial was relating to

the circumstances under which Radhika and her husband Rajendra were staying in the common house with mother-in-law, brother-in-law and his wife. The learned trial court noted that the room in which Radhiwas living with her husband was in the name of her mother-in-law, accused No. 3 and the accused was paying rent for the house to the landlord. It is also an admitted fact that Radhika and her husband were not paying rent for the room either to accused No. 3 mother-in-law or to the landlord. According to Radhika, they were not required to pay rent whereas accused No. 3 (mother-in-law) was required to pay the rent for both the rooms, which was standing in her name as a tenant. Radhika in her cross-examination admits that there is a litigation under the Rent Act between accused No. 3 (mother-in-law) and the landlord Mr. Patel, pertaining to the two rooms. In spite of this, Radhika admits that pending the trial, on 20.5.1999 she had given vacant possession of her room to the land to Mr. Patel and handed over its key to the landlord in Sarkarwada Police Station, where she gave in writing to the landlord that she would not make any claim of that room and before giving such written undertaking and possession of the room, she did not consult accused No. 3 (mother-in-law). Taking the aforesaid fact into consideration, the learned trial court concluded that in view of the aforesaid fact that when Radhika and her deceased husband Rajendra

were staying separately earlier and were paying rent of Rs. 250/- for their room in Ashok Stambha locality, it was accused who pursued Rajendra and brought him to stay with him in the said tenement. Not only that, he gave him the room adjoining to his room for their residence. From this, it would clearly show that accused Nos. 1 to 3 were well wishers of deceased Rajendra and that is why accused Nos. 1 to 3 had gone to Rajendra and Radhika, and brought them to stay in the same tenement. Taking this into consideration, the trial court came to a conclusion that this was another facet of the case since it is this room, which has been provided to Rajendra and Radhika, which Radhika had gone ahead of surrendering the room as well as giving possession to the landlord Mr. Patel without even consulting her mother-in-law, who was tenant of the premises.

23. In view of the aforesaid discussion, we are in concurrence with the findings arrived at by the trial court that considering all the circumstances as well as material omissions and the apparent conduct of complainant Radhika, her evidence could not be relied upon, especially since there was no corroboration by either oral or circumstantial evidence in support of the case of the prosecution. We are in respectful agreement with the views expressed by the learned trial court in this regard, and we therefore find that the evidence of Radhika, admittedly, contains material

contradictions and lacks the corroboration. In view of our findings arrived at hereinabove, the first issue raised by the learned Additional Public Prosecutor is answered against the Appellant-State and in favour of the Respondent-accused.

24. The trial court was justified in coming to the conclusion that the prosecution has failed to prove the charges for the offences punishable under S. 135 read with 37(1) of the Bombay Police Act, as well as order acquitting the accused persons of charges levelled against them for the offences punishable under S. 302, 323, 504 of the India Penal Code. Consequently, we direct dismissal of the appeal. The bail-bonds of Respondent Nos. 1 to 3, furnished during the course of appeal, shall stand discharged.

[V. K. JADHAV, J.]

[INDRAJIT MAHANTY, J.]