

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 337 OF 2001

The State of Maharashtra

} Appellant
(Orig. Complainant)

Versus

1. Raghunath Mhatarba Shinde,
36 yrs.,
2. Eknath Mhatarba Shinde,
31 yrs,
3. Mhatarba Manaji Shinde,
65 yrs,
4. Bhausahab Raghunath Shinde,
28 yrs,
5. Tulsabai Raghunath Shinde,
35 yrs,
6. Anusayabai Eknath Shinde,
30 yrs,
7. Sitabai Mhatarba Shinde,
55 yrs.

} Respondents
(Orig Accused)

All R/o. Murmi Shivar, Taluka
Yeola, District. Nashik

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

Mr. Ganesh Gole for Respondent Nos. 1 to 7.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

DATED : FEBRUARY 04, 2021.

JUDGMENT (PER PRASANNA B. VARALE, J)

1. Being aggrieved by the judgment and order passed by the learned Additional Sessions Judge, Niphad, District Nashik in Sessions Case No. 40/1999, dated 06.01.2001, whereby respondents herein (Original Accused) was acquitted of the charges for committing offences punishable under Sections 143, 147, 148, 302, 325, 323 read with Section 149, in the alternatively, read with Section 34 of Indian Penal Code (for short “IPC”), the present Criminal Appeal is preferred by the Appellant – State of Maharashtra.

2. Learned APP vehemently submitted that the accused persons were present on the day of incident and have entered in the field of the complainant, armed with deadly weapons and in the assault father of complainant died whereas, complainant and other witnesses received injuries. Learned APP submitted that the version of the witnesses who are the injured eye witnesses as well as the medical evidence support the case of prosecution. It is also submitted by the learned APP that the accused persons were carrying grudge against the complainant and his

family members over a land dispute and with a revengeful intention they have assaulted the complainant and his family members. Learned APP submitted that the learned Trial Court gave an undue importance to minor omissions and contradictions in the version of witnesses. Thus, it is the submission of learned APP that the learned Trial Judge failed to appreciate the evidence in its proper perspective and arrived at an erroneous conclusion. Hence, learned APP prayed that appeal may be allowed.

3. Per contra, learned Counsel appearing for the Respondents supports the judgment and order of the Trial Court. Learned Counsel further submitted that the witnesses brought by the prosecution are interested witnesses. It is then submitted by the learned Counsel for the Respondents that admittedly there was a dispute between the parties over the land and accused persons were in lawful possession of the land. On the contrary, the complainant and his family members made an attempt to snatch away the possession of land by hook or crook. It is further submitted by learned Counsel for Respondents that the dispute between the parties reached to the Court by way of a civil suit. It is submitted that there was an order passed in favour of one of the accused i.e. accused no.

7 – Sitabai whereby the complainant were restrained from entering in the suit land but complainant and his family members in a clear breach of order passed by the Civil Court entered in the suit land and wanted to dispossess the respondents from suit land. Respondents in exercise of defence to their person and property resisted the act of the complainant's family members. Learned Counsel for Respondents further submitted that on appreciation of the evidence the learned Trial Judge rightly observed that the prosecution had suppressed the genesis of the case and only one sided story was brought by the prosecution before the Court. Learned Counsel appearing for the Respondents then submitted that it was brought on record that the Respondents themselves have suffered serious injuries and thus, the medical evidence established that the family members of complainant were aggressor. As such, the plea raised by the Respondents of private defence was fully supported by the medical evidence. Thus, learned Counsel for Respondents prayed for dismissal of the appeal.

4. With the assistance of learned Counsels appearing for the respective parties, we have gone through the material brought before the Trial Court.

5. As the complaint was lodged at the instance of Shankar Keshav Shinde (PW 2), we may refer the evidence of Shankar (PW 2) firstly.

Shankar Shinde (PW 2) in his opening part of the deposition itself admitted that there was a dispute between his father Keshav and accused No. 7 – Sitabai over the agreement to sell (साडेखत) which was executed by his paternal grand mother Chakubai in favour of accused No. 7 – Sitabai in respect of field Gut No. 64. Then he stated that on 17.06.1999 at about 10 – 10.30 am when he himself and his father Keshav were ploughing the field the accused nos. 1 to 7 came there and restrained them from to plough the field. They started abusing Shankar and his father and were insisting that Shankar and his father should leave the field. He stated that accused persons were armed with axe, sticks and iron rod. He further stated that accused nos. 1 to 4 assaulted his father Keshav with stick, iron rod and axe and at the same time they assaulted himself also. Due to assault, he became unconscious and fell down there. He regain consciousness after about 2 hours. As soon as he regains consciousness he ran away from the place due to fear of the accused. Then he stated that legs and hands of his father were fractured due to

assault by the accused. His mother and brother Nana came on the spot. Accused Tulsabai, Anusayabai and Sitabai assaulted his mother Sindhubai and accused nos. 1 to 4 assaulted his brother Nana. It is very interesting to note that this witness went to the extent of stating before the Court that even though he was unconscious he had seen the accused persons i.e. Tulsabai, Anusayabai and Sitabi assaulting his mother Sindhubai and accused nos. 1 to 4 assaulting his brother Nana. In the same state of unconsciousness he had also seen witness Suryabhan Tukaram, Balu Sambhu, Trimbak Shankar and Raosahib reaching on the spot and separating the quarrel. Then he also saw that witness Navnath Bhika arrived on the spot and this witness carried him as well his mother and father initially to the Hospital at Patoda and subsequently to Yeola Hospital. He further stated that at Yeola Hospital medical officer told that Keshav is already died. Police personnel have arrived at Yeola Hospital. He gave his complaint to the police, same was reduced into writing as per his say.

In the cross-examination, he had shown ignorance in respect of an agreement as well as possession receipt issued in favour of accused Sitabai pertaining to field Gut No. 64. Then he admits that the witnesses

Suryabhan as well as Navnath are his cousin and Trimbak Kadam is his relative. Then he further admits that the witness Manik Pansare is his cousin brother-in-law and Vishnu Tanpure is his relative. Then he further admitted in the cross-examination that prior to the date of incident accused Sitabai had filed civil suit in the Court of CJJD, Yeola and the date was fixed as 16.06.1999. Then he shown ignorance about an assault over accused Eknath by axe on his head. He had also shown ignorance about an application submitted by Sitabai for temporary injunction and any order passed by the Court. Then he admitted in the cross-examination that on that day at about 10.30 am he and his father went to the field with iron plough, they tried to plough in the field taking 2-3 rounds. He further admitted that there was bullock-cart left in the field and it was belonging to accused. He also admitted in the cross-examination that the accused were having a pamber (sowing instrument). Then he had shown an ignorance about pamber being driven by the accused at the relevant time. Then he further admitted in the cross-examination that due to scuffle (मारमारी) the bullocks were afraid and they were running here and there. He denied the suggestion that his father entangled with iron plough and was injured by falling in the field. Then

he stated that the incident of scuffle (मारामारी) lasted for about half an hour. Then he admitted in the cross-examination that he was unconscious when the witnesses arrived at the spot and then took him. He further admitted that there was scuffle (मारामारी) when he regain consciousness. Then he denied the suggestion as to the field was not plough prior to the date of incident and the accused were carrying due to sowing operation. He further admitted that there was hot exchange of words and abuses between his party and accused persons. He further admitted that after the exchange of abuses there was a scuffle (मारामारी).

The version of this witness clearly show that this witness is not worthy of placing reliance over his version. It clearly reveals that he entered in the field along with his father, there was an exchange of heated words and abuses, scuffle (मारामारी) started between the parties and this witness became unconscious as per his own version, he regain consciousness after 2 hours. He as well as his father were picked up and were shifted to the hospital by witnesses. Now considering this sequence of events, it is more than clear that he could not have been seen the person entering in the field, act of the accused as alleged by him when he was unconscious. In spite of this, the witness had stated before the Court

that even though he was unconscious he could see the witnesses entering in the field and the overt act of the accused persons. He had also admitted in the cross-examination that the witnesses are his relatives and it can safely be state that they are the interesting witnesses. Learned Trial Judge while assessing the evidence of this witness observed thus in paragraphs 15 and 16 of the judgment:

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In order to support this prosecution contention, the prosecution has led the evidence of complainant Shagnar PW 2 only. He is testified at Exh. 24 that on 17.06.1999 in the morning at about 10/10.30 a.m while he himself and his father late Keshav were ploughing field, all accused 1 to 7 came there and restrained the plough. They started abusing them alleging that the field is belonging to them and they should leave it etc. But, this evidence of complainant Shankar PW 2 is not at all convincing and reliable Because, during the cross-examination he has admitted that a bullock cart belonging to accused was left in the field. Pambar with bullocks belonging to accused were also there. However, he has avoided to admit that accused had started sowing

field and stated that he is not recollecting now as to how long the accused had sown field that day. He has further stated that he does not recollected as to who was driving that Pambar belonging to accused. He also could not see as to how many persons were with that Pambar. This evidence of Shankar falsify the prosecution story that deceased Keshav and his son complainant Shankar while ploughing the field, accused went there and restrained the plough asking deceased Keshav and his son Shankar to leave the field etc.

16. Moreover, though the incident of quarrel did take place in the morning time when usually agriculturists remain present in their respective fields. Prosecution has not produced any evidence of the neighbouring land owner. Not only this, but the prosecution has also not produced any evidence to show that, that morning all accused 1 to 7 together went to the disputed field and deceased Keshav and his son Shankar were already ploughing the field. The prosecution has adduced the evidence of interested witnesses only. Even their evidence indicate that they went there after the incident of Maramari. Raosahib PW 3 who is brother of complainant Shankar stated on oath at Exh. 41 that, that morning he had gone to flour mill and when he returned back to his house, he heard commotion from

the disputed field and then went there, and saw his father lying in unconscious condition. He further deposed that witnesses Vishnu and Manik came there on motorcycle. Further he deposed that at the same time witnesses Navnath PW 4, Trimbak PW 5, and others from the surrounding villages came there. The evidence of Nanath P.W. 4 as well as Trimbak P.W. 5 also reflect that they went there after late Keshav was fallen down in unconscious condition. Thus, except the testimony of Shankar PW. 2, there is no evidence to show that, that morning deceased Keshav and his son complainant Shankar had first gone to the disputed field and they were ploughing the field and thereafter accused went there and restrained the plough etc. Therefore, in the absence of any corroborative evidence, it is difficult to accept the testimony of complainant Shankar PW. 2.

6. It may not be out of place to state here that the suggestions were given to this witness that due to scuffle (मारामारी) the bullocks were afraid and they were running here and there and his father entangled with iron plough and was injured by falling down, this suggestion is denied by this witnesses. Thus, it is was an attempt made by the defence to submit that the death of Keshav was an accidental death. Learned Trial Court could not find favour with this contention in view of the evidence,

particularly medical evidence. We may refer to the medical evidence later on.

7. Raosahib Shinde (PW 3) is the another son of deceased Keshav. He has stated before the Court that on the day of incident in the morning at about 09.00 am he had gone to flour mill and after his return to his house (Vasti) he heard commotion from the field. Therefore, he rushed to the field. Navnath followed him. Vishnu Tanpure and Manik Pansare also came there on motorcycle. When he reached to field he found his father Keshav was lying in unconscious condition. He then saw accused Bhausahib and Eknath assaulting his brother Shankar whereas accused Raghunath assaulting to Nana. Accused Tulsabai, Anusayabai and Sitabai assaulting his mother Sindhubai. Then he stated that these accused persons were having axe, sticks, iron bar and stone with them. Witnesses who were present in the field intervene and separated the quarrel. Navnath then brought bullock-cart and carried his mother, brother and father to Patoda Hospital. As medical officer was not present at Patoda Hospital, they were taken to Yeola hospital, where on medical examination doctor informed that Keshav is already died.

In the cross-examination this witness admitted that the

distance of village Nikhede and his vasti is nearly 1 km. An omission is brought on record in respect of his return from flour mill to vasti at 10.30 am. Then he admitted in the cross-examination that when his father was assaulted he was not present in the field.

While assessing the evidence of this witness, learned Trial Judge observed thus:

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During cross-examination, he has clearly admitted that he was not present in the field when his father was assaulted. This fact falsify his evidence that he saw accused Bhausahib and Eknath assaulting his brother Shankar, because, Shankar PW 3 has stated that accused 1 to 4 assaulted him and his father simultaneously. Moreover, if accused Bhausahib and Eknath would have assaulted Shankar with sticks and iron bar, he would have sustained more severe injuries, but the medical evidence reflect that complainant Keshav had sustained only tenderness on his elbow as shown in injury certificate Exh. 53. In my view by such injury having tenderness all the elbow, no person would become unconscious that took for about two Hrs. as stated by

complainant Shankar. Therefore, it is difficult to accept the evidence of Shankar as well as his brother Raosahib PW 3.

In our opinion, learned Trial Judge was justified in not accepting the version of Shankar (PW 2) and Raosahib (PW 3).

8. Navnath Shinde (PW 4) also stated that he was at his vasti on the day of incident and at about 10.30, in the morning, he heard commotion from the field of Keshav. Then he saw scuffle (मारामारी) towards the field and he rushed to the field. When he reached the field he saw that Keshav was lying in the injured condition and accused nos. 1 to 7 were present there. This witness also makes the reference to other witnesses namely, Suryabhan, Balu Sambhu. Then he stated that he went back to the vasti and brought bullock-cart to the scene of offence. He along with other witnesses carried Shankar, his father and mother to hospital initially at Patoda and subsequently at Yeola.

In the cross-examination though he admits that there was an civil litigation between the parties, he further stated that he do not know anything about the civil dispute between the parties. Then by way of an suggestion it was stated before the Court that there was a criminal case

against the father of this witness as well a cousin brother Suryabhan and Ashok in the Court at Yeola.

Learned Trial Judge assigned strong and just reasons for not accepting version of this witness being a most interested witness. It is observed by the learned Trial Judge that Navnath (PW 4) had given an affidavit in the Civil Suit supporting the complainant party. A reference was made to the copy of the judgment in Misc Appeal and it is also observed by the learned Trial Judge that the field of Navnath is not adjoining to the disputed field and the distance between his vasti and the disputed field is half km as such, it was not possible for him to reach the spot at the end of the quarrel and to witness the alleged overt-act of the accused persons and the weapons carried by the accused persons.

As stated above, though witness avoided to admit the enmity between himself and the accused persons, it was admitted position that there was criminal case between the witness and the accused persons.

9. Trimbak Kadam (PW 5) stated that on the day of incident he went to the house of Keshav, it was locked and he heard commotion from the field of Keshav. Therefore, he rushed to the field along with his daughter. Then he stated that when he reached to field he found Keshav

lying in the field in injured condition. Accused nos. 1 to 7 were present whereas accused nos. 5 to 7 were assaulting Sindhubai. This witness is admittedly relative of Shankar (PW 2) – Complainant. This witness stated that he had seen accused nos. 5 to 7 assaulting Sindhubai except this he had not seen anything.

Learned Trial Judge right in observing that on one hand Navnath (PW 4) stated that when he reached to field Trimbak (PW 5) also came there. If that would have been the situation both these witnesses who are relatives of Shankar (PW 2) would not have acted as a spectator and would not have permitted the accused persons to commit assault on Shankar (PW 2), Keshav or Sindhubai.

10. Dr. Sunil Bansi (PW 6) is the medical officer attached to Yeola Hospital at the relevant time. He had examined Shankar (PW 2), Sindhubai, conducted postmortem on dead body of Keshav, and also examined accused persons. He do not noticed any injury on the person of accused persons whereas he found head injury on the person of Eknath.

On the external examination of dead body of Keshav, he noticed following injuries:

- i. Imprint abrasion on back, right side, lower intercostal region, horizontal having size 6" x 1" with contusion of size 8" x 2".
- ii. Imprint abrasion on back left side, lower intercostal region, horizontal having size 6" x 1" with contusion of size 8" x 2".
- iii. Contused lacerated wound on right arm, posterior aspect two in numbers near each other having size 1/4" x 1/4" each. Muscle deep each with contusion of size 1/4" in diameters.
- iv. Contusion on right forearm, posterior aspect having size 5" x 2 1/2" with C.L.W. having size 1/4" x 1/4" x muscle deep.
- v. Contusion swelling with deformity at right wrist joint.
- vi. Abrasion on left elbow. Posterior aspect having size 1 x 1/2" with contusion size 1 1/2" x 1"
- vii. Abrasion on left elbow, anterior aspect, having size 1" x 1/2" with contusion having size 1" x 1/2" with contusion having size 1/2" x 1"
- viii. Contusions welling with deformity of left fore-arm wrist and hand.
- ix. Abrasion on left knee and elbow knee upper 1/3rd region anterior aspect having 3" x 2" with contusion swelling and deformity of upper and middle 1/3 region of left leg.

- x. C.L.W. on right leg on shin below knee, middle 1/3 region having size 1 x 1/2" x muscle deep.

He also noticed fracture with dislocation of right wrist joint, 2 fracture of radius and ulna bone left forearm, lower 1/3 region. Fracture with dislocation of left wrist joint. Fracture of tibia and fibula bone left leg at upper and middle 1/3 region junction. Fracture of 9th and 10th ribs left side posteriorly in posterior axillary line.

In his opinion, all above injuries are caused by hard and blunt object within 12 hours before death. Above injuries 1 to 10 were simple injuries and above fractures and dislocations were grievous. All the above injuries were antemortem.

11. On internal examination, he found fracture of 9th and 10th ribs left side posteriorly in posterior axillary line. It is corresponding to injured no. 5 fracture. Pleura was pale adherent on both sides. Trachea was pale. Both the lungs were pale adherent on all side and scanty front on cut section was found. Pericardium was pale, heart was pale and all chambers were empty. Abdominal walls were found normal, peritoneum was pale. Abdominal cavity was normal. Tongue was within oral cavity. Stomach having 300 ml water. No any typical smell was noted. Mucosa

was pale. Large intestine was containing foecal matter and gas. Mucosa was pale. Liver was pale. Pancreas and suprarenal spleen pale. Both kidneys were pale. Bladder was empty. He had collected blood samples.

12. This witness also examined Shankar (PW 2). He noticed following injuries on the person of Shankar:

- i. Imprint abrasion on face right side cheek 4 cm x 3 cm with contusion size 6 x 6 cm.
- ii. CLW on left arm 1 cm x 5 cm x muscle deep with contusion of size 3 cm x 3 cm and was advised for the x-ray for left arm.
- iii. Contusion with deformity of left hand wrist contusion size 4 cm x 4 cm and was advised for x-ray examination of left wrist joint with forearm.
- iv. Contusion on right forearm 4 cm x 3 cm.
- v. Four imprint abrasions on back of size 10 x 2 cm each.
- vi. Contusion on the left forearm 6 cm x 6 cm and was advised for x-ray examination.
- vii. Tenderness of left toe.

He opined that all the above injuries were within 24 hours caused by hard and blunt object. Thus, he proves the postmortem report and advance death certificate.

13. Dr. Shobha Jachak (PW 7) is the casualty medical officer attached to Civil Hospital, Nashik at the relevant time. He stated about the injuries found on the person of Sindhubai, Shankar and Nana.

She found following injuries on the person of Sindhubai:

- i. Contusions on back three in numbers having size (i) 2 cm x 5 cm (ii) 3 cm x 2 cm (iii) 3 cm x 3 cm.
- ii. Contusions left lower limb two in numbers (i) 1 cm. X 1 cm. (ii) 2 cm x 1 cm.
- iii. Contusions over right thigh 4 x 4 cm.
- iv. Contusions on right and left arms 2 cm x 2 cm each.
- v. CLW on right lower limb on shin of tibia 3 cm x 5 cm.
- vi. Swelling and tenderness at lower end of right forearm I, advised the patient for x-ray of right wrist and forearm. After receiving X-ray plate I examined it and found fracture of right ulna lower end.

She found following injuries on the person of Keshav:

- (i) Tenderness and swelling on left elbow with forearm. Therefore, he advised patient for x-ray. On receiving x-ray plate, he did not notice any fracture.

She found following injuries on the person of Nana:

- (i) Tenderness on right forearm.
- (ii) Tenderness on back lower side.
- (iii) Tenderness on right foot near ankle joint.

In the cross-examination this witness admitted that the injury no. 6 i.e. fracture on the person of Sindhubai can be possible by fall.

14. Dr. Anant Rajshirke, is the API attached to Yeola City Police Station at the relevant time. He stated that an information was received by PHC Bachav who was on duty as PSI from Municipal Hospital, Yeola that one Keshav of village Murmi and his relatives are injured due to assault and Keshav is dead and his dead body was brought to the hospital. PHC Bachav accordingly took entry to the station diary and gave information to this witness on telephone. Accordingly, he along with staff rushed to the Municipal Hospital, Yeola. He found dead body of Keshav and other injured persons namely, Shaknar, Nana and Sindhubai. Then Shaknar made complaint against the accused persons to him, the same was reduced into writing as per his say. Then he returned by to police station and registered the offence Crime No. 55/1999. He submitted the special report to his superior and took over the investigation. Then he stated about the necessary steps taken by him in the process of

investigation and on completion of investigation submitting the charge-sheet in the Court of JMFC, Yeola.

He admitted in the cross-examination that there was a civil dispute between deceased Keshav and accused over the land where the incident took place. It is important to note that this witness admitted in the cross-examination that on the same day i.e. on 17.06.1999 at about 12.30 accused Eknath gave complaint against deceased Keshav, his wife and two sons. This complaint was recorded by PHC Bachav. On the basis of complaint, PHC Bachav registered NC Case No. 353 of 1999 under Section 323, 504, 506 of IPC.

15. Chandrabhan Borade (PW 1) is the panch witness on seizure panchana of the weapons at the instance of accused persons. Chandrabha (PW 1) stated before the Court that in presence of panchas accused Raghunath produced the weapons namely, sticks, iron rod and one axe which were kept under the heap of ears in his land.

In the cross-examination he admitted that it was an open land ground from where the weapons recovered.

Learned Trial Judge found that as the weapons were recovered from a place open and accessible to all, the so called recovery is

not acceptable and as such, no reliance can be placed on the so called recovery of the weapons.

16. Learned Trial Judge on assessment of the evidence found that it is not in dispute that the case of prosecution rests on the version of Shankar (PW 2) – Complainant and other so called injured witnesses. At the cost of repetition, we may state that the learned Trial Judge committed no error in assessing the evidence of Shankar (PW 2) and in view of the improvements and inconsistencies arrived on the conclusion that no reliance can be placed on the version of this witness. Learned Trial Judge was also justified in not accepting the evidence of Raosahib (PW 3) and Navnath (PW 4) on the ground that they were interested witnesses and more particularly, Raosahib (PW 3) had suppressed the material facts from the Court. Learned Trial Judge was also justified in observing that though the prosecution was successful in establishing its case that deceased Keshav died homicidal death and it was the result of assault by the accused persons the act of accused persons was in exercising their right of defence to their person and property.

17. There was sufficient evidence brought before the Court to

show that the dispute between the parties was going on over the suit land and by way of the order of the Court the accused no. 7 was in possession of land and the accused persons were carrying out agricultural operation in the land and Shankar (PW 2) – Complainant and his father entered in the field and asked the accused persons to remove themselves from the field. It is admitted fact that there was an scuffle (मारामारी) between the parties and the medical evidence clearly show that the accused Raghunath had sustained injury to the vital part of his body i.e. head, the prosecution is unable to explain the injury caused to accused Raghunath. Thus, the possibility, that the complainant and his family member themselves were the aggressor was not ruled out.

18. The material is also brought on record that on the very day of the incident a counter complaint was lodged against the complainant and his father at the instance of accused Eknath. Learned Trial Judge also referred to the following judgments relied on by the learned Counsel appearing for the Accused in the case of Kashinath Ramchandra Patil and Anr. Vs. The State of Maharashtra¹, Amjad Khan S/o. Haji Mohammad, Vs. The State², Gottipulla Venkata Shiva Subbayanam and

1 2000 All M.R. (Cri) 1847

2 AIR 1952 SC 165

*Ors Vs. The State of Andhra Pradesh and Anr*³.

19. Considering all these aspects, we are of the opinion that the learned Trial Judge arrived at a conclusion that the prosecution failed to establish its case against the accused persons. On the contrary, accused persons have exercised right self defence to their person ad property. The judgment is based on a proper assessment of the evidence and on just and proper reasoning, the same cannot be termed either as illegal or perverse. Appeal, thus, being devoid of any merit, deserves to be dismissed. Accordingly, Criminal Appeal is dismissed.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)

³ AIR 1970 SC 1079 (1970 Cri.L.J. 1004)