



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 11 OF 2017

Darasingh Thawara Jadhav,	}	
Age : 53 years, Occu. : Labourer,	}	
R/o. : Bharat Nagar, Aurangabad.	}	
Taluka and District : Aurangabad.	}	... Appellant.
	}	(Orig. Accused No.4)

At present the appellant is in
Aurangabad Central Prison, Harsool,
Aurangabad,
Taluka and District : Aurangabad

Versus

The State of Maharashtra,	}	
Through the Mukundwadi Police Station,	}	
Aurangabad,	}	
Taluka and District : Aurangabad	}	... Respondent.
		(Orig. Prosecution)

WITH

CRIMINAL APPEAL NO. 721 OF 2016

- | | | | |
|----|---|---|------------------------|
| 1. | Santosh @ Bandu Rangnath Rathod | } | |
| | Age : 25 years, Occu. : Labour, | } | |
| | R/o. H. No.49, Bharat Nagar Garkheda | } | |
| | Aurangabad, Tq. and Dist. Aurangabad | } | |
| 2. | Suresh @ Bandu Rangnath Rathod | } | |
| | Age : 25 years, Occu. : Labour, | } | |
| | R/o. H. NO. 49, Bharat Nagar, Garkheda | } | |
| | Aurangabad, Tq. and Dist. Aurangabad | } | |
| 3. | Nikesh @ Guddya S/o. Kishan Rathod, | } | |
| | Age : 21 years, Occu. : Labour, | } | |
| | R/o. H. No. 49, Bharat Nagar, Garkheda, | } | |
| | Aurangabad, Tq. and Dist. Aurangabad | } | ... Appellants. |

Versus

The State of Maharashtra,	}	
Through Mukundwadi Police Station,	}	
Aurangabad.	}	... Respondent.

.....

Mr. Sudarshan J. Salunke, Advocate for Appellant in APEAL/11/2017

Mr. A. M. Karad, Advocate for Appellants in APEAL/721/2016

Mr. S. D. Ghayal, APP for Respondent – State

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

RESERVED ON : 14th DECEMBER, 2023

PRONOUNCED ON : 10th JANUARY, 2024

JUDGMENT (PER ABHAY S. WAGHWASE, J.) :

1. Vide both above appeals, convicts are challenging the judgment and order of conviction passed by learned Additional Sessions Judge-5, Aurangabad, dated 09.11.2016, holding them guilty for charge under sections 300 read with 34, 307 read with 34 and 302 read with 34 of Indian Penal Code (IPC), respectively and sentenced to suffer imprisonment and to pay fine as spelt out in the operative part of the judgment.

2. In brief, prosecution was launched by Mukundwadi Police Station, by setting up a case that, during Holi festival, on 11.03.2009, while playing colors and dancing on music, deceased requested for change of song. As a result of which quarrel took place between deceased Bandu @ Pandit and appellants, which was followed by appellant Darasingh bringing knife and on facilitation by remaining accused, knife blows were given to deceased Bandu,

PW2 Raju, PW4 Vishal and PW5 Ravinath Shendge. They all were taken to hospital. While undergoing treatment, Bandu @ Pandit expired, whereas PW2 Raju, PW4 Vishal and PW5 Ravinath were admitted and treated. PW1 Kamalbai, mother of deceased Bandu @ Pandit, who had reached the spot, set law into motion vide report Exh.14.

PW10 PSI Rathod and PW11 API Chavan carried out investigation at respective times and in all four accused (i.e. appellants) were charge-sheeted for above charges and when tried by learned Additional Sessions Judge, they were held guilty and convicted by judgment and order dated 09.11.2016, which is now taken exception to by filing two distinct appeals.

As both appeals are heard simultaneously on arguments made by each of the learned counsel representing them and both appeals being answered by learned APP together, both appeals are taken up for decision by way of common judgment.

3. In support of above case, scrutiny of the record shows that, prosecution has adduced evidence of in all 12 witnesses and their **status** and **sum** and **substance** of their testimony is as under :-

PW1 Kamalbai mother/informant deposed that, while she was in the house, around 2:30 p.m., one Raju came and informed her regarding assault on her son Bandu by Santosh and Darasingh. She rushed to the spot and found her son bleeding and so shifted him to Ghati hospital. According to her, accused had also assaulted Vishal and Ravi by means of a knife. The doctor declared Bandu as dead. She claims that, she learnt that quarrel took place on account of playing music on the tape-recorder. She lodged report Exh.14 against accused persons.

The sum and substance of evidence of **PW2** Raju is that, on 11.03.2009 being Holi festival, he went to deceased and they both consumed liquor. Ravi Shendge joined them and they all went to dance and play colour towards Bharatnagar. Vishal joined them and they went towards the house of appellant Darasingh, who was accompanied by Santosh, Nikesh and Suresh. While dancing, Vishal slapped Darasingh in the background of changing song on the cassette. According to him, Santosh, Suresh and Nikesh caught hold of him as well as Vishal, Ravi and Bandu. Darasingh assaulted Bandu @ Pandit by means of knife on the chest and stomach, whereas Santosh, Suresh and Nikesh assaulted Vishal and Ravi by knife. Bandu collapsed and on being taken to hospital, he was declared dead, whereas Ravi and Vishal were admitted and treated.

PW3 Kalyan is pancha to spot panchanama (Exh.23) and he identified the same.

According to **PW4** Vishal, while playing colours on account of 'Dhulivandan' at around 9:00 a.m. deceased Bandu told Santosh to change the song and when he changed it, deceased again asked him to change the song, which was objected by appellant Darasingh. He and others settled the quarrel. But then, Darasingh gave blow of knife in stomach of this witness and thereafter gave blows of knife in the chest of deceased Bandu @ Pandit and they were taken to hospital, where Bandu was declared dead and he was treated. However, he denied being caught hold by Santosh, Suresh and Nikesh.

PW5 Ravinath Shendge claimed that, after consuming liquor, while they were dancing Vishal asked Darasingh to change the song, but he did not change. Thereafter, Darasingh assaulted Vishal and Bandu @ Pandit by knife. He and deceased fell down and were taken to the Ghati hospital, where deceased was declared dead. He also denied that accused Santosh, Suresh and Nikesh assaulted them.

PW6 Shankar claims that on hearing about Bandu @ Pandit lying in front of house of Suresh Rathod and Santosh

Rathod, he went there. Mother of Bandu also came there. He brought a rickshaw and shifted Bandu to the hospital, where doctor examined Bandu and declared him dead.

PW7 Dr. Kalias Zine autopsy doctor, who claims to have conducted PM on dead body of Bandu @ Pandit, narrated the injuries, its size, directions and about conducting internal examination and then deposed that, injuries were ante mortem in nature. According to him, injury no.2 was sufficient in the ordinary course of nature to cause death and that, person died due to stab injury to heart. According to him, injury nos.1 and 2 are possible by means of knife.

PW8 Vijay has acted as pancha to the seizure of clothes of Vishal Mhatre. He identified it at Exhibit 44.

PW9 Sk. Chand Pasha Sk. Mohammad has acted as pancha to the seizure of clothes of accused (Exh.61). He identified articles as well as panchanama (Exhs.61 and 62).

PW10 PSI Rathod and **PW11** API Chavan are the Investigating Officers.

PW12 Dr. Pravin Wasadikar, who treated Ravi Shendge and Vishal Mhatre and issued medical certificate.

SUBMISSIONS

Appellant :

4. Learned counsel Shri Salunke for appellant Darasingh (Original Accused No.4), who has preferred Criminal Appeal No.11 of 2017, would also submit that, there is no motive, no premeditation and some incident had allegedly taken place during dance, while celebrating Holi festival. Even according to him, persons were not identifiable as all were smeared with colour. He took us through the testimony of PW2 Raju, PW4 Vishal and PW5 Ravinath and would submit that they are not consistent and are not corroborating each other and rather giving different versions. He pointed out that, there is no evidence to show that appellant went into the house and returned with the knife and then stabbed deceased or alleged injured (PW3 and PW4). He pointed out that, alleged injured in the incident have not completely supported prosecution. But, according to him, still learned trial Judge has accepted the prosecution story and has recorded conviction. He pointed out that there is no evidence to suggest that appellant Darasingh had ever absconded and that moreover no steps were taken by invoking provisions under section 82 of Cr.P.C. In support of above submission, he seeks reliance on the judgment of this court in the case of *Bharat v. State of Maharashtra, 2018 SCC OnLine Bom 2083*.

5. He would further found fault in the above conclusions drawn by learned trial court by submitting that, on same set of evidence some accused are held guilty of offence of 307 of IPC, but his client is alone held guilty for homicide, even when learned trial Judge in operative part has invoked section 302 read with section 34 of IPC.

6. He further submitted that, witnesses whose testimonies are relied have admitted in cross that, they were appraised and tutored before they stepped into witness box. According to him, this is a patent illegality and on this count, he seeks reliance on judgment of this Court in the case of *Satish s/o. Sushilkumar Shukla & Anr. v. State of Maharashtra, 2018 ALL MR (Cri.) 3620*. For above said reasons also, he questions the sustainability of the judgment.

7. He submitted that, even otherwise going by the sequence of events, which are emanating from the prosecution evidence, i.e. appellant Darasingh being slapped and only thereafter he retaliating and that occurrence had taken place on sudden and grave provocation and therefore according to him, case would fall under Exception-1 of Section 300 of IPC. In support of

such case, he seeks reliance on following decisions :-

- 1] Sunil Kundu and Another Vs. State of Jharkhand with connected matters; (2013) 4 Supreme Court Cases 422.
- 2] Nandlal v. State of Maharashtra; 2019 (2) ABR (CRI) 242.
- 3] Imranali Babuali Sayyed v. State of Maharashtra, 2022 (3) ABR (CRI) 525.

8. Lastly, he would submit that, there is no convincing, cogent and reliable evidence. That, there is no recovery of article knife, forensic evidence also does not support prosecution in spite of seizure of clothes, still, it is his submission that, weak evidence has been accepted by learned trial Judge and has thereby erred in recording guilt and so he seeks interference at the hands of this court by allowing the appeal.

9. Learned counsel Shri Karad representing appellants (original Accused Nos.1, 2 and 3), who had preferred Criminal Appeal No. 721 of 2016, would submit that, there is false implication. Secondly, there is improper appreciation of evidence by learned trial Judge. He pointed out that as regards to appellants represented by him, no specific role is attributed. Injured witness account is inconsistent. None of the witnesses have corroborated each other. Moreover, there is no recovery at the instance of the appellant, to whom he is representing.

10. He next submitted that, the occurrence had taken place during celebration of Holi festival. Witnesses are admitting about no previous enmity. Therefore, he would submit that there is no motive nor there is premeditation and rather, the incident is of a sudden free fight. That, as persons available were being playing colours, identification was impossible and there is admission to that extent by prosecution witnesses.

Lastly, he submitted that, alleged incident having taken place after some quarrel on a petty count and that too suddenly, there is no case of homicide or even attempt to kill. That, learned trial court failed to apply the settled law and for said reasons he seeks indulgence of this court for setting aside the impugned judgment.

PROSECUTION :-

11. Per contra, the learned APP submits that, admittedly, accused and appellants were acquainted with each other. Even while celebrating Holi festival, appellant Darasingh has used knife for stabbing not only deceased but even injured witnesses. His act of bringing knife itself shows that his intentions were manifest. Deceased succumbed to the fatal injuries and the other two injured fortunately survived. They are examined and they have narrated

the entire occurrence. Therefore, prosecution has cogently and firmly proved the case. There is reliable direct evidence and therefore, it is his submission that, learned trial Judge has correctly appreciated the evidence and no fault can be found. Consequently, he prays to dismiss the appeals.

12. While exercising powers as appellate court, in view of provision under section 374 of Cr.P.C., we are empowered to re-appreciate, re-analyze and re-examine the entire oral and documentary evidence adduced by prosecution in trial court to ascertain whether the judgment under challenge is just, legal and proper.

ANALYSIS

13. Before scrutinizing the evidence on record, we wish to get ourselves satisfied, more particularly, in the light of charge, as to whether prosecution has established that Bandu @ Pandit met homicidal death.

In this regard, we are required to examine the inquest panchanama as well as medico legal expert's evidence i.e. PW7 Dr. Kailas Zine. On appreciating such evidence, we have noticed that doctor has initially reproduced following external injuries.

“1) Stab injury over abdomen left side 5 cm. above and lateral to umbilicus elliptical in shape obliquely placed, lower

angle, directed medially size 4 cm. x 2 cm. x muscle deep on approximation 4.5 cm. in length. Margin contused and irregular. Both angles acute with tailing at upper edge and beveling of lateral margin. On dissection the track was established from skin to sub subcutaneous tissue - muscles of abdomen. A stab wound was directed downward, backward and medially.

(2) Stab injury over left side of chest 9 cm. Lateral to medial end of clavicle, 10 cm. above left nipple and 134 cm. above left medial malleolus, elliptical in shape, vertically place of 5 cm. x 3 cm. x cavity deep on approximation 6 cm. in length margin contused, blood infiltrated and irregular. Both angles acute with beveling of lateral margin. On dissection track was established from skin-subcutaneous tissue-inter postal muscles between third and fourth rib pleura left lung and (left ventricle). The wound was directed downward backward and medially.”

He also claims to have come across following internal injuries;

- “1) The pleura cavity contain 2000 ml. Of partly clotted blood in left plural cavity.*
- 2) Lungs were pale with perforating injury over left lung.*
- 3) Pericardian was injured and contain 350 ml. partly clotted blood.*
- 4) Stab injury over left ventricle of heart on anterior part.”*

Doctor is very categorical that injury no.2 was sufficient in the ordinary course of nature to cause death. He has also opined that, injuries noticed by him to be possible by use of knife.

We have visited the cross faced by above witness. In

our opinion, there is nothing therein to doubt his opinion. Consequently, there is no hesitation to hold that, death of Bandu @ Pandit is shown to be homicidal one.

14. On carefully sifting the evidence, it seems that, crucial evidence is of **PW2 Raju**, **PW4 Vishal** and **PW5 Ravinath**. According to prosecution, PW4 Vishal and PW5 Ravinath are injured eye witnesses. What we have noticed here is that, there is absolutely no dispute about accused appellants and deceased knowing each other. It is also not in dispute that on that day, they were celebrating Holi festival. What triggered the incidence is also not seriously contested, i.e. quarrel taking place on account of playing song on a tape-recorder.

15. On carefully analysis, it is emerging that, **PW2 Raju** claimed that, Vishal i.e. PW4 slapped accused no.4 Darasingh (appellant of Criminal Appeal No.11 of 2017) on account of change of song. This witness deposed that such appellant entered the house of accused Santosh and returned with a knife. Thereafter, according to this witness, Santosh, Suresh and Nikesh caught hold of Vishal (PW4), Ravinath (PW5) and deceased and they were assaulted. Then, appellant Darasingh inflicted knife blows on the chest and stomach of deceased Bandu. He further deposed that,

Santosh, Suresh and Nikesh assaulted PW4 Vishal and PW5 Ravinath. During the incident, deceased Bandu sustained bleeding injury and he fell down. All injured were taken to Ghati hospital and there deceased Bandu was declared dead, whereas injured PW4 Vishal and PW5 Ravinath were admitted and treated.

On visiting his cross, we find him answering and admitting that, they were all acquainted to each other and they were also having cordial relations and there to be no enmity. Suggestion is given that, having played colour, all their faces and clothes were smeared with colour and nobody could be identified. The tenor of the cross shows that, there was dispute over change of song which resulted into scuffle between PW4 Vishal and appellant Darasingh, who later on taken out a knife and assaulted deceased Bandu, PW4 Vishal and PW5 Ravinath and this fact is clearly brought on record. In cross itself, only omission brought is that, accused Santosh, Suresh and Nikesh assaulted Ravi and Vishal "by means of knife" and accused Darasingh going to the house of Santosh. Rest is all denial.

16. On analyzing evidence of PW4 Vishal, who is an **injured eye witness**, it is emerging that, even he has corroborated above witness to the extent of playing colour, they all are dancing on the song. This witness stated that deceased Bandu asked Santosh to

change the song after which accused appellant Darasingh objected and abused and he initially beat Bandu with hands, this witness intervening and thereafter appellant Darasingh inflicting blow of knife in the stomach of this witness and thereafter giving blows on the chest part of deceased Bandu. That, all were taken to hospital. That, Bandu died, while this witness was admitted and treated. However, after stating so much, this witness denied that, when he was assaulted by appellant Darasingh, anybody had caught hold of him. He flatly denied that, accused Santosh, Suresh and Nikesh had caught hold of this witness, PW5 Ravi and deceased Bandu.

When subjected to cross by learned APP, he is unable to assign any reason as to why portion marked 'A' which is got proved through Investigating Officer is appearing in his statement.

In cross at the hands of learned counsel for accused No.4 Darasingh, he has admitted that he was knowing accused persons since prior to the incident and there was no enmity. That faces of all persons, who were playing Holi, were smeared with colour, but he flatly denied that, it was not possible to identify persons.

17. Another **injured PW5** Ravinath in his evidence at Exh.31 also reiterated about all playing Holi and dancing on a song.

According to him, PW4 Vishal asked appellant Darasingh to change the song, but he refused and assaulted PW4 Vishal and thereafter deceased Bandu @ Pandit was assaulted by knife in stomach and on his ribs. That, he and deceased Pandit were taken to hospital. As like PW4 Vishal even this witness has retracted in examination-in-chief itself by denying that, accused Santosh Rathod, Suresh Rathod and Nikesh Rathod assaulted them and he further denied that, Santosh had caught hold of Vishal, Suresh had caught of this witness and Nikesh had caught hold of deceased Bandu and was resultantly declared hostile by learned APP and with permission subjected to cross. During which he denied having stated portion marked 'A' and he is unable to assign reason as to how it is so appearing.

Cross at the hands of learned counsel for accused Darasingh shows that, there is admission about he knowing accused persons, there to be no enmity, everybody playing colour, that faces of all were smeared with colour, but he too like PW4 Vishal denied that, identification had become difficult. Rest is all denial.

18. Apart from above witnesses, PW2 Raju, PW4 Vishal, PW5 Ravinath, prosecution has also adduced independent witness PW6 Shankar, who had reached the spot immediately on getting

news and he claimed about seeing injuries on stomach and chest of deceased and passing the information of occurrence to his mother.

19. Rest of the witnesses are autopsy doctor, who has opined cause of death, PW8 Vijay and PW9 Sk. Chand Pasha Sk. Mohd., panchas to seizure of clothes and PW10 PSI Baburao Rathod and PW11 API Ganesh Chavan are Investigating Officers, PW12 Dr. Pravin Wasadikar, treating doctor of injured Vishal (PW4) and Ravinath (PW5) and he identified injury certificates. This treating doctor further deposed that, injuries on both patients were life threatening and grievous in nature.

20. Therefore, what can be discerned on careful analysis of testimonies of PW2 Raju, PW4 Vishal and PW5 Ravinath is that, occurrence has taken place while playing colour on Holi festival. Though, initial quarrel was only on account of playing a song on tape-recorder, it further culminated into a serious incident during which appellant Darasingh rushed to the house of Santosh and has returned with a knife. PW2 Raju has deposed that, Santosh, Suresh and Nikesh (i.e. accused nos.1, 2 and 3) had caught hold of him, PW4 Vishal, PW5 Ravinath and deceased and assaulted them, but, he has not elaborated which of them held whom. However, he clearly named Darasingh for assaulting deceased Bandu @ Pandit

by knife in the chest and stomach. This aspect finds support from autopsy doctor's evidence. Though PW2 Raju states that, Santosh, Suresh and Nikesh assaulted PW4 Vishal and PW5 Ravinath with knife, these two injured witnesses named only Darasingh for inflicting blows on their stomachs and ribs, respectively. Consequently, these two witnesses are not attributing any overt act to accused nos.1, 2 and 3. Evidence of PW2 Raju, PW4 Vishal and PW5 Ravinath shows that, only appellant Darasingh has returned with knife from the house of Santosh. Appellant Darasingh has alone inflicted blows on deceased as well as PW4 Vishal PW5 Ravinath. Deceased died and these two injured are reported to have suffered grievous injuries. PW12 Dr. Pravin Wasadikar, treating doctor has deposed about injuries suffered by PW4 Vishal and PW5 Ravinath. PW4 Vishal and PW5 Ravinath have unanimously denied that, they were being caught hold of by appellant Nos.1, 2 and 3. Hence, it is evident that, only role of Darasingh is surfacing for use of knife. Hence, only appellant Darasingh can be alone held responsible and not accused Nos.1, 2 and 3.

21. In absence of any material to show that, appellant Nos.1, 2 and 3 shared common intention to do away with deceased, learned trial Court ought not to have held that they facilitated

assault and therefore they too have shared common intention. Incident has taken place all of a sudden, and therefore, intention of appellant Darasingh was not known to them to rope in them also.

22. Both learned counsel representing each of the appellants would also vociferously submit that, alleged weapon knife has not been recovered. In our opinion, here, there is not only direct convincing eye witness account, but also injured witness account confirming the occurrence. Therefore, mere failure of investigating machinery to recover weapon or absence of knife would not affect the above convincing truthful account of PW2 Raju, PW4 Vishal and PW5 Ravinath.

Law is fairly settled that, non recovery of weapon of offence is no ground to exonerate accused of the charges, when eye witness accounts are found to be trustworthy. Such legal proposition is enunciated in various cases viz. *Umar Mohammad v. State of Rajasthan*, (2007) 14 SCC 711; *State of Rajasthan v. Arjun Singh*, (2011) 9 SCC 115 and *Ram Singh v. State of Rajasthan*, (2012) 12 SCC 339.

Even very recently above legal proposition is reiterated in the case of *Gurmail Singh v. State of U.P.*, (2022) 10 SCC 684 and *Ravasaheb and Ors. v. State of Karnataka*, (2023) 5 SCC 391.

Consequently, failure to recover weapon cannot be held as fatal as put forth before us.

23. Much emphasis is laid by both the learned counsel on the aspect of occurrence to be not at all attracting section 302 of IPC. Their case is that, there was no premeditation and incident is fall out of a sudden quarrel and therefore, it is not a case of homicide at all. Recourse is also tried to be taken to Exception 1 and 4 of Section 300 of IPC.

On giving serious thought to such submissions, we discard the above submissions for the simple reason that the very sequence of above occurrence shows that, while celebrating Holi festival, in the background of changing song incident has taken place. But, appellant Darasingh left the spot to bring knife and he returned with the same. He has targeted vital parts of deceased as well as injured PW4 Vishal and PW5 Ravinath. Taking into account the nature of weapon carried, knowledge and intention is clearly attributable to him, and therefore, case cannot be lowered or scaled down to culpable homicide not amounting to murder.

24. We have considered the observations and law laid down in above referred cases. Facts in the case of *Nandlal v. State*

of Maharashtra (Supra) and *Imranali Babuali Sayyed v. State of Maharashtra (Supra)* are different and distinct than the facts in the case in hand, and therefore, same cannot be taken aid of by the learned counsel for appellants.

25. To sum up, here, there is direct trustworthy eye witness account and injured witness account. There is use of deadly article like knife in inflicting various blows on three persons one of them has died and two have suffered grievous injuries. All blows are dealt by appellant Darasingh alone.

26. We have rejudged and reanalyzed the evidence as well as keenly gone through the findings reached at by learned trial Judge. Taking into account the quality of evidence, in our considered opinion, offence of murder and attempt to murder is clearly made out, but only as against appellant Darasingh and not other appellants. There being nothing to show sharing of common intention, learned trial Court ought not to have convicted appellant Nos.1, 2 and 3. Findings of trial court to that extent therefore needs to be interfered. Hence, we proceed to pass following order.

ORDER

- I) The Criminal Appeal No.11 of 2017 is hereby dismissed.
- II) The Criminal Appeal No.721 of 2016 stands allowed.

- III) The conviction awarded to the appellants namely, (i) Santosh @ Bandu Rangnath Rathod, (ii) Suresh @ Bandu Rangnath Rathod and (iii) Nikesh @ Guddya S/o. Kishan Rathod in Sessions Case No.200 of 2010 by learned Additional Sessions Judge-5, Aurangabad, on 09.11.2016 for the offence punishable under Section 304 (2) read with 34 and section 307 read with 34 of Indian Penal Code stands quashed and set aside.
- IV) The appellants – (i) Santosh @ Bandu Rangnath Rathod, (ii) Suresh @ Bandu Rangnath Rathod and (iii) Nikesh @ Guddya S/o. Kishan Rathod stand acquitted of the offence punishable under Sections 304 (2) read with 34 and section 307 read with 34 of Indian Penal Code.
- V) Appellant Nos.1 to 3 be set at liberty, if not required in any other case.
- VI) The fine amount deposited, if any, be refunded to the appellant nos.1 to 3 after the statutory period.
- VII) We clarify that there is no change as regards the order in respect of disposal of muddemal.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)