

Uppari Venkataswamy and Others

Vs

The Public Prosecutor, High Court of A.P.

Criminal Appeal No. 567 of 1993

(M. K. Kukherjee, S. B. Majmudar JJ)

08.12.1995

JUDGMENT

S. B. MAJMUDAR, J. -

1. This is an appeal under Section 379, Code of Criminal Procedure (CrPC) read with Section 2 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970. It is directed against the judgment and order of the High Court of Judicature, Andhra Pradesh at Hyderabad by which the High Court reversed the acquittal of the appellants and convicted them of diverse offences under Section 302 read with Section 149, Indian Penal Code (IPC), Section 307, IPC and also under Sections 3 and 5 of the Explosive Substances Act and sentenced them to undergo life imprisonment and other sentences as detailed in the judgment under appeal. The appeal against acquittal of Original Accused 10 has been dismissed by the High Court and so far as his acquittal is concerned it is no longer in challenge before us. In this appeal, we are concerned with the conviction and sentence of Appellants 1 to 9 who were Original Accused 1 to 9 respectively before the trial court. We shall refer to the appellants as Accused 1 to 9 in this judgment for the sake of convenience.

Background facts

2. A few relevant facts leading to this appeal are required to be noted at the outset to appreciate the grievance voiced on behalf of these nine accused by their learned counsel. The prosecution case against them ran as follows :

A-1 to A-9 and most of the material prosecution witnesses, PWs 1, 7 to 9 and father of PW 1, K. Ramalinga Reddy (who was subsequently murdered on 15-5-1989) are all residents of Boilkuntla village. PWs 2 and 3 belonged to Chennur. PWs 5 and 6 belonged to R. Pampalli and Revenur villages respectively. A-10 belonged to Yerragaddenna village.

3. There are factions consisting of the sons of Bali Reddy on one side and Gangula Pratap Reddy who was by then a sitting MLA, from Allagadda Constituency, on the other side, PWs 1 to 9 and father of PWs 1 to 7 - K. Ramalinga Reddy - are the followers of sons of Bali Reddy while A-1 to A-9 are the followers of Gangula Pratap Reddy. Due to the ill feelings between the two camps, at about 5.30 p.m. on 18-9-1985 A-1 to A-9 and others made an attempt to kill Ramalinga Reddy having formed themselves into an unlawful assembly, by hurling country-made bombs at him and his followers at the outskirts of Boilkuntla village in Kurnool District of Andhra Pradesh. On the basis of the said incident, Crime No. 75 of 1985 of Sirvel Police Station was registered and A-1 to A-9 were waiting for an opportunity to do away with the lives of K. Ramalinga Reddy and his

followers.

4. On 30-5-1987 at about 4 p.m. all the accused met near Basapuram Road crossing and entered into a criminal conspiracy to do away with the life of Ramalinga Reddy. Pursuant to the above conspiracy, on 1-6-1987 at about 9 a.m. A-1 to A-9 hid themselves behind the trees existing on either side of Nandyal-Mahanandi Road which is also known as Gajulapalli-Mahanandi Road.

5. On 1-6-1987 at about 8 a.m. PWs. 1 to 9, Ramalinga Reddy, Damodara Reddy (in brief deceased 1) and K.V. Rajsekshara Reddy (in brief deceased 2) left together by a Mahindra Jeep bearing No. ADF 790 from their Village Boilkuntla to Mahanandi to attend the marriage of one G. Mahanandi Reddy. The said 12 persons came to Mahanandi crossroads, halted for about an hour near the residential school belonging to Ramalinga Reddy and at about 9 a.m. left in the said jeep for Mahanandi.

6. By the time the jeep reached Baggi Road, A-1 to A-4 who were hiding themselves by the side of the trees situated on the eastern side of the road came out being armed with bombs. When the jeep slowed down to negotiate the turning at Baggi Road, A-1 to A-4 hurled bombs at the jeep. Immediately A-5 to A-9 who were hiding on the western side came out and hurled bombs. In the front seat Ramalinga Reddy and PWs 1 to 3 were sitting while Ramalinga Reddy was sitting on extreme left, PW 1 was driving the jeep sitting on the extreme right. PW 2 was sitting to the left of PW 1 while PW 3 sat in between PW 2 and Ramalinga Reddy. Deceased 1 and 2 and PWs 8 and 9 were sitting on the rear side of the jeep immediately behind PWs 1 to 3 and Ramalinga Reddy. Deceased 1, 2 and PWs 8 and 9 immediately jumped out of the jeep at the Baggi Road turning in view of the bomb attack on the jeep, while PWs 1 to 7 and Ramalinga Reddy proceeded straight to Mahanandi Police Station where Ramalinga Reddy lodged Ex. P-1 report with PW 17 Inspector of Police, Nandyal at about 11.30 a.m. on the same day. PW 17 registered Ex. P-1 as Crime No. 16 of 1987 under Sections 147, 148, 324, 307, 302 read with Section 149 IPC and under Sections 3 and 5 of Explosive Substances Act. Ex. P-17 is the copy of the first information report.

7. On 1-6-1987 at about 10 a.m. while at Taluk Police Station, Nandyal PW 17 received information regarding the occurrence relating to this case through VHF set from SHO Mahanandi Mandal Police Station. As such PW 17 collected his staff, including Sub-Inspector or Police, Nandyal Taluk Police Station and reached the scene of offence at 10.30 a.m. PW 17 found deceased 1 and 2 lying dead at the Baggi Road turning on Nandyal-Mahanandi Road and two police constables were guarding the dead bodies. PW 17 was informed that they were deputed by Station House Officer, Mahanandi to keep watch over the dead bodies of deceased 1 and 2. As such PW 17 proceeded to Police Station, Mahanandi, received Ex. P-1 from Ramalinga Reddy and after first information report was registered, he took up further investigation in this case.

8. PW 17 examined PWs 1 to 7 and Ramalinga Reddy and recorded their statements under Section 161 CrPC. PW 17 sent PWs 1 to 7 and Ramalinga Reddy for treatment to Government Hospital along with escort. PW 15 Civil Assistant Surgeon, Government Hospital, Nandyal having examined PWs 1 to 3, 6, 7 and Ramalinga Reddy issued Exs. P-13, P-15, P-11, P-14, P-12 and P-10 respectively having opined that the said injuries would have been caused by splinters of exploded bombs.

9. Later PW 17 reached the scene of offence. Then it was about 1.45 p.m. on 1-6-1987. He found Ramalinga Reddy standing nearby the corpses of D-1 and D-2. He also found PWs 8 and 9 and others. PW 17 held inquest over the dead body of D-1 between 2 p.m. and 3.30 p.m. Ex. P-5 is the

inquest report. PW 17 examined PWs 8 and 9 and read over the recorded statements of the other witnesses examined at the inquest PW 11 and another acted as inquest panchas. PW 17 seized MOs 14 to 16 and MO 20 from the corps of D-1. He also seized MOs 21 to 26 near the corpse of D-1 in the presence of PW 11 etc. inquestdars.

10. PW 17 held inquest over the dead body of D-2 between 3.30 p.m. and 4.30 p.m. and seized MOs 17 to 19 from the corpse of the deceased while seizing MOs 27 and 28 near the corpse of the deceased in the presence of PW 11 etc. inquest panchas. Ex. P-6 is the inquest report. Later both the corpses were sent through PW 12 police constable for autopsy.

11. From the scene of offence PW 17 reached P.S. Mahanandi at about 6 p.m. and noticed the jeep bearing No. ADF 790. He found burnt holes on the rexine cover of the jeep. He also found top rods of the jeep frame mutilated and the frame of the seat on the back side of the driver bore signs of bomb explosion against it. These facts were noted in Ex. P-19 panchnama. He also seized the partly burnt rexine MO 29. Later PW 17 proceeded to Government Hospital, Nandyal and reached the same at about 9 p.m. PW 17 seized bloodstained clothes on the persons of PWs 1 to 7 and Ramalinga Reddy under the cover of Ex. P-20 panchnama in the presence of panchayatdars.

12. PW 13 was then working as Civil Assistant Surgeon, Government Hospital, Nandyal. He conducted autopsy over the dead body of D-1 from 5 p.m. onwards on 1-6-1987 and issued Ex. P-7 post-mortem certificate having opined that the deceased died due to haemorrhage and shock and injury to vital organs, namely lungs, spleen and liver. PW 14 was also working as Civil Assistant Surgeon attached to Government Hospital, Nandyal. He conducted autopsy over the dead body of D-2 from 5 p.m. onwards on the same day and issued Ex. P-8 post-mortem certificate having opined that the second deceased died due to shock due to the injuries on a vital organ namely brain.

13. After completion of investigation charge-sheet was submitted before the Court of Additional Judicial Ist Class Magistrate, Nandyal, against all the accused including Accused 10 whose acquittal is no longer in controversy as noted above. The learned Magistrate committed the accused to stand their trial before the Sessions Court at Kurnool. The learned Sessions Judge recorded oral and documentary evidence offered by the prosecution. 17 witnesses were examined on behalf of the prosecution and 20 documents were exhibited. The accused did not lead any evidence in defence.

14. Learned Sessions Judge came to the conclusion that the prosecution had failed to bring home the offences with which the accused were charged and acquitted them. That resulted in appeal by the State against acquittal before the High Court.

15. The High Court reached the conclusion after hearing both the sides that the learned trial Judge had palpably erred in acquitting the accused and his decision had resulted in grave failure of justice. The High Court, therefore, interfered with the findings reached by the trial court and on reappraisal of evidence came to the conclusion that the prosecution had brought home the offences with which the accused were charged. The order of acquittal of the nine accused was set aside. All these accused were held guilty of the offences under Section 148 IPC. Each of them was sentenced to undergo rigorous imprisonment for a period of one year.

16. Accused 2 and 3 were convicted of offences under Section 302 read with Section 34 IPC for causing the death of the first deceased and each of them was sentenced to undergo imprisonment for life.

17. Accused 1, 4 and 6 to 9 were held guilty of offences punishable under Section 302 read with Section 149 IPC for causing the death of the first deceased and each of them was sentenced to undergo imprisonment for life.
18. Accused 5 was held guilty of the offence under Section 302 IPC for causing death of the second deceased and was sentenced to undergo imprisonment for life.
19. Accused 1 to 4 and 6 to 9 were held guilty of offences under Section 302 read with Section 149 IPC for causing death of the second deceased and each of them was sentenced to undergo imprisonment for life.
20. Accused 1 and 9 were held guilty of the offences under Section 307 IPC for attempting to cause death of PWs 1 to 9 and late Ramalinga Reddy and each of them was sentenced to undergo rigorous imprisonment for a period of three years.
21. Accused 1 to 9 were held guilty and liable for punishment under Sections 3 and 5 of the Explosive Substances Act and were sentenced to undergo rigorous imprisonment for a period of one year each under each of the two provisions of the said Act.
22. As noted above, the aforesaid order of conviction and sentence as passed by the High Court against these accused has resulted in the present appellate proceedings.
23. As this is a statutory appeal we have gone through the relevant evidence on record both oral and documentary and we have heard learned Senior Counsel for appellants, Shri Lalit, extensively and have also heard learned counsel for the respondent who supported the judgment of the High Court. Before we refer to the relevant evidence on record to which our attention was invited by learned counsel for both the sides it would be appropriate to note the main contentions canvassed by the learned Senior Counsel, Shri Lalit, in support of the appeal and the submissions of learned counsel for the respondent opposing the same.

Rival contentions

24. Shri Lalit submitted that the judgment and order of acquittal as rendered by the learned trial Judge had reflected a reasonable view of evidence as taken by the trial court and the High Court in appeal against acquittal had patently erred in law in interfering with the said reasonable view of the learned Sessions Judge. The High Court ought to have dismissed the appeal of the respondent. He next contended that the High Court itself has noted in the impugned judgment conviction of some of the accused under Section 302 and the conviction of rest of the accused under Section 302 read with Section 149 rested on the evidence of Prosecution Witnesses 8 and 9. Shri Lalit submitted that their evidence was rightly rejected by the trial court as it suffered from various infirmities which were sought to be demonstrated by Shri Lalit in support of his contention. He submitted that if this evidence is ruled out as done by the trial court the accused cannot be held guilty of any offence under Section 302 or for that matter under Section 302 read with Section 149 IPC. He also submitted that the eyewitness account of the injured Prosecution Witnesses 1 to 7 was also highly artificial and was too exact to be believed and it showed that they were tutored witnesses who were made to depose to a given well thought-out version. In this connection, it was submitted that there was deep-seated enmity between the factions represented by the appellants on the one hand and the victim party on the other and that the prosecution has falsely tried to rope in all the accused and to make out a false case against them only at the instance of deceased-complainant Shri Ramalinga

Reddy who died prior to the trial. That Accused 1 who is an old man of 72 years was sought to be falsely roped in by the deceased-complainant, along with his sons and nephews only with a view to take revenge on him as he represented a rival political party and was inimical to him. Consequently, neither any case under Section 302 read with Section 149 IPC nor any case under Section 307 read with Section 149 IPC was made out against the accused and they were rightly acquitted by the learned trial Judge. Shri Lalit, however, fairly stated that he could not submit with any emphasis that PWs 1 to 9 did not receive bomb injuries on the date of the incident when they were travelling in their jeep but the prosecution has failed to establish beyond reasonable doubts that the said injuries were caused by the accused. It was also contended by Shri Lalit that the investigation in the present case was not fair and effort appears to have been made by the investigation to try to make out a false case against the accused only at the instance of deceased-complainant Ramalinga Reddy. That it was a faulty and a biased investigation.

25. Learned counsel for the respondent on the other hand, submitted that the High Court was justified in interfering in appeal against acquittal as the learned trial Judge had taken an unreasonable and perverse view of the evidence on record, that when seven injured eyewitnesses who were travelling in the jeep were found to have suffered injuries by bombs as the medical evidence clinchingly establish, and when two deceased in the course of the same incident were found to have died on account of injuries by bombs and when the panchnama of the jeep car in which the prosecution witnesses were travelling showed substantial damage to the jeep car by bombs, the trial court on such evidence could not have given a clean chit to all the accused. Even the evidence of PWs 8 and 9 was discarded by the trial court on flimsy and unreasonable grounds and consequently the order of acquittal was clearly lopsided and contrary to the weight of evidence and was bordering on perversity. Hence the High Court was perfectly justified in interfering with the said order of acquittal. He further submitted that the evidence on record has been rightly appreciated by the High Court and it clearly established the prosecution case beyond a shadow of reasonable doubt against all the present accused. He also submitted that the so-called infirmities pointed out by Shri Lalit, learned Senior Counsel for the accused, in the prosecution evidence are in fact no substantial infirmities at all.

Points for determination

26. In the light of the aforesaid rival contentions the following points arise for our determination :

- (1) Whether the High Court, on the facts of the present case, was justified in interfering in appeal against acquittal and in reappreciating the evidence on record.
- (2) Whether the evidence of PWs 8 and 9 was required to be accepted as held by the High Court.
- (3) Whether the evidence of injured eyewitnesses 1 to 7 was rightly accepted by the High Court.
- (4) Whether the investigation in the present case was lopsided, biased and unfair as alleged.
- (5) Whether the conviction and sentence as imposed by the High Court on the accused stand justified in the light of the evidence on record.

We shall deal with the aforesaid points seriatim.

Points No. 1

27. It is now well settled by a catena of decisions of this Court that in an appeal against acquittal the appellate court can interfere with the findings of fact recorded by the trial court and can upset the acquittal by reappreciating evidence if it is found that the view taken by the acquitting court was not a possible view on the evidence on record. In this connection, we may refer to the decision of this Court in the case of *State of Punjab v. Ajaib Singh* [(1995) 2 SCC 486 : 1995 SCC (Cri) 418]. R.M. Sahai, J. speaking for this Court made the following pertinent observations in this connection in para 7 of the Report : (SCC p. 492)

"... We agree that this Court is not precluded or the court hearing the appeal against acquittal is not prevented from examining and reappreciating the evidence on record. But the duty of a court hearing the appeal against acquittal in the first instance is to satisfy if the view taken by acquitting court ... was possible view or not. And if the court comes to conclusion that it was not, it can no reappreciation of evidence reverse the order. ..."

It was also observed in the said decision that the appellant court would not be entitled to interfere unless the view of the acquitting court is found to be perverse or infirm or palpably erroneous. We have, therefore, to see whether on the facts of the present case the trial court was justified in acquitting the present accused of the offences with which they were charged by brushing aside the eyewitness account of injured PWs 1 and 4 to 7. In this connection, it is necessary to note that it is the prosecution case that all these injured eyewitnesses were travelling in the jeep car which became the target of the bomb attack at the hands of the present Accused 1 to 9. We have gone through the relevant evidence in this connection consisting of the eyewitness account of PW 1 Srikantha Reddy, PW 4 Rajeshwar Reddy, PW 5 Kappuram Subba Reddy, PW 6 B. Narayana Reddy and PW 7 K. Lakshmi Reddy. We may keep aside the evidence of PW 2 Pedda Kullai Reddy and PW 3 K.N. Subba Reddy as they were declared hostile to prosecution. But even apart from their evidence the evidence of the aforesaid other PWs 1 and 4 to 7 clearly supported the prosecution case and what emerged from their ocular account projected the following picture :

On 1-6-1987 at about 8 a.m. on the jeep ADF 790 belonging to deceased-complainant Ramalinga Reddy, these witnesses along with deceased 1 and 2 and Prosecution Witnesses 8 and 9 left their village in order to attend the marriage of one of the relatives of deceased-complainant Ramalinga Reddy. Marriage was scheduled to be performed at Mahanandi. On their way they stopped at the residential school and stayed for about one hour in the course of which Ramalinga Reddy had a talk with the principal of the school and the clerk N. Narayana (PW 10). After their conversation was over, Ramalinga Reddy and his partymen resumed their journey and they were proceeding towards Mahanandi along Nandyal-Mahanandi Road, which is also known as Gajulapalli-Mahanandi Road, at that sector in which the incident took place. When the jeep reached near Basapuram Baggi Road turning, where the road takes a deep curve, around 9.15 a.m. some of the inmates of the jeep including PW 1 Srikantha Reddy who was driving the jeep noticed A-1 to A-4 emerging from behind the bushes existing by the side of Basapuram Baggi Road, which lies to the east to Nandyal-Mahanandi Road, carrying bombs in their hands. As they travelled by the jeep driven by PW 1, on the front seat of the jeep, by the side of PW 1, PW 2 Pedda Kullai Reddy and by his side PW 3 K.N. Subba Reddy and at the extreme left of that seat the late Ramalinga Reddy were sitting. In the rear side of the jeep and on the four-seater which lies in perpendicular to the driver's seat, PW 8, PW 9 (Chakali Ranganna and Chakali Venkateswarlu) and deceased 1 and 2 were sitting and on the four-seater which lies in perpendicular to the front seat and immediately behind the seat occupied by

Ramalinga Reddy, PW 5 Subba Reddy, PW 6 Narayana Reddy, PW 7 Lakshmi Reddy and PW 4 Rajeshwar Reddy were sitting in that order.

28. After emerging from behind the bushes in the abovesaid manner and coming towards the road turning, A-1 and A-4 hurled a bomb each in the direction of the jeep and those bombs fell on the right side of the jeep and exploded. Thereafter A-2 hurled another bomb, which hit the right side frame of the backrest of the driver's seat and exploded and due to the explosion of that bomb a portion of PW 1's shirt and the right side of his back got burnt. He also sustained injuries on his back having been hit by some of the splinters of that bomb. Thereafter A-3 hurled another bomb which fell on the tarpaulin top of the jeep on its right side burning a portion of the tarpaulin. Though PW 17 and some other prosecution witnesses have stated that the jeep had rexine cover for its top as well as for its sides, some of the witnesses including PW 1 referred to the top cover of the jeep as tarpaulin instead of as rexine. Even in the charge-sheet the word 'tarpaulin' was used instead of rexine.

29. Despite the explosion of four bombs by A-1 to A-4 and even after their explosion PW 1 continued to drive the jeep towards Mahanandi and after it covered a distance of 20 to 30 yards from the road bend, he observed that some of the inmates of the jeep jumped down from it near the road turning. PW 1 subsequently learnt through the other travellers of the jeep that the four people who had jumped down from the jeep were his brother-in-law Rajsekhar Reddy (D-2), his junior paternal uncle Damodara Reddy (D-1) and PWs 8 and 9 Chakali Ranganna and Chakali Venkateswarlu. In spite of these four persons jumping down from the jeep it continued to be driven towards Mahanandi and after it covered a distance of about one km from the road bend and at the instance of Ramalinga Reddy, PW 1 stopped the jeep as they wanted to await for the return of the four persons for some time. When these four persons did not turn up and apprehending that there might be another attack of the accused against the other inmates of the jeep had they remained at that place for long they resumed their journey and reached Mahanandi at 9.45 a.m.

30. After the jeep went into Mahanandi and after it was stopped by the side of Koneru, some of the people of Mahanandi surrounded the jeep and enquired from its inmates as to what had happened. In about 10 minutes thereafter they learnt that D-1 and D-2 had been killed due to bomb-blast injuries and that their dead bodies were lying on the road near the Baggi Road turning. The late Ramalinga Reddy thereupon went to the police station of Mahanandi Mandal for giving a report while the other inmates of the jeep, who could reach Mahanandi safely, waited outside the police station.

31. The aforesaid eyewitness account put forward consistently by all the injured prosecution witnesses PWs 1 and 4 to 7 could not be shown to be involving any inconsistency inter se as fairly stated by Shri Lalit, learned Senior Counsel for the accused. He, on the contrary, stated that the version was so parallel and accurate that it appeared to be too good to be true and, therefore, according to him it could be dubbed as unnatural. However, he had to concede that version of all these prosecution witnesses did establish that they were subjected to attacks by bombs on the date of the incident. Not only that but we find from medical evidence that all these prosecution witnesses who were travelling in the jeep and had suffered from bomb injuries were medically examined shortly after the incident and it was clearly established from the medical evidence that each of them had suffered number of injuries from bomb blast. Evidence of Dr A. Anjanelu is eloquent on the point. He examined the complainant K. Ramalinga Reddy, since deceased, and found the following injuries on his person :

(1) A lacerated injury of the size 2 cms x 2 cms x 1 cm present on the pinna of the

left ear, edges are black.

(2) A lacerated injury of the size 1/2" x 1/2" x 1/4" present on the left shoulder, edges are black.

(3) An abrasion of the size 1/2" x 1/4" present on the left side of the back, edges are black.

(4) Multiple abrasions present on the left side of the back, edges are black. Abrasions are surrounded by blackened areas.

(5) An abrasion of the size 1/2" x 1/2" present on the left side of the chest. Edges are black.

All the above injuries were simple in nature and aged more than six hours prior to the examination. Ex. P-10 is the wound certificate issued by the witness to Shri K. Ramalinga Reddy. We may leave aside the injuries suffered by PWs 2 and 3 who had turned hostile to the prosecution though the doctor found that even they had suffered multiple injuries by bomb blast in the same incident. The doctor found the following injuries on PW 7 K. Lakshmi Reddy :

1. A lacerated injury of the size 1/4" x 1/4" x 1/4" present on the occipital region - edges are black.
2. A lacerated injury of the size 1/4" x 1/4" x 1/4" present on the right side of the back above the shoulder blade. Edges are black.
3. Multiple abrasions present on the left side of the back and right side of the back. Edges are black.
4. Multiple abrasions present on the outer aspect of the left upper arm. Edges are black.
5. Lacerated injury of the size 1/4" x 1/4" x 1/4" present on the left forearm - edges are black.

The doctor also found the following injuries on PW 1 K. Srikantha Reddy :

1. Multiple abrasions present on the right side of the back - edges are black, surrounded by blackened areas. Stone piece was recovered from the wound and preserved for expert's opinion.
2. A lacerated injury of the size 1/4" x 1/4" x 1/4" present on the right side of the back, edges are black.
3. Multiple abrasions present on the left side of the back. Edges are black and surrounded by blackened areas.
4. Abrasion of the size 1/2" x 1/2" present on the left parietal region - edges are black.

Injuries found on PW 6 Narayana Reddy were as under :

1. A lacerated injury of the size 1/4" x 1/4" x 1/4" present on the left cheek, edges are black.
2. An abrasion of the size 1-1/2" x 1" present on the back of the right elbow joint surrounded by blackened areas.

So far as PW 4 Rajeshwar Reddy is concerned, he stated in his deposition that he received injuries on both of his legs when some of the pellets (splinters) of exploded bombs hit him. All the people who had travelled by jeep received injuries having received splinters of the exploded bombs. The Circle Inspector examined him and sent him and 8 other injured persons to the Government Hospital of Nandyal. While he was in the hospital the Circle Inspector of Police seized his bloodstained full panche [Ed. : Means dhoti] and bloodstained shirt. He identified the bloodstained terricotton shirt and the bloodstained shirt. He identified the bloodstained terricotton shirt and the bloodstained banian MOs 6 and 7. This version of his could not at all be shaken in the cross-examination. Same was the position with PW 5 Kappuram Subba Reddy who had stated that he received bleeding injuries when some of the discharged splinters hit him on forehead. He and other injured were sent to Government Hospital, Nandyal by the Circle Inspector of Police. While he was in the hospital the CI of Police seized his bloodstained full shirt MOs, his bloodstained banian MO 9 and his bloodstained Glaxo full panche MO 10.

32. This version also could not be effectively challenged at all in the cross-examination. The Circle Inspector PW 17 also fully supported this version about the receipt of injuries by bomb blast by these eyewitnesses who were travelling in the jeep at the relevant time. It is pertinent to note that injuries as found by the doctor on Ramalinga Reddy were on left side of his body while injuries on PW 1 were on his right side. This fully corroborated the eyewitness account of PW 1 and other witnesses that PW 1 driver was sitting on extreme right on front seat of the jeep while Ramalinga Reddy was sitting on extreme left on the front seat of the jeep. Despite this clinching evidence on record the learned trial Judge by curious reasoning did not believe these injured witnesses by taking the view that as it was not positively established on the record that there was marriage of Gopanaram Mahendra Reddy scheduled on that day at Mahanandi the evidence of PWs 1 to 9 had to be viewed with caution and could not readily be accepted on the basis of mere circumstance that the majority of these witnesses received injuries attributed to the splinters of exploded bombs. The second reason given by the learned Sessions Judge was that in the first information report lodged by deceased-complainant Ramalinga Reddy it was stated that after the bomb attack on the jeep eight occupants of the jeep who were setting on the back side had jumped out while the eyewitness account of the witnesses was to the effect that only four had jumped out, namely, deceased 1 and 2 and PWs 8 and 9. Thus the learned trial Judge tried to contradict the eyewitness account of injured witnesses with the statement in the first information report given by the deceased-complainant who could not be examined during the trial as he had already died. It is difficult to appreciate how eyewitness account of these witnesses could be contradicted by the version found in the first information report lodged by the complainant who was not available for supporting the said version at the stage of trial. The other reason which weighed with the learned trial Judge for disbelieving eyewitness account of these injured eyewitnesses was on the basis that it conflicted with the description of the scene of offence and the physical and salient features regarding the same which were found from Ex. 16 - original rough sketch drawn by PW 17. That the sketch showed that there were only four bomb marks, of which two were found at the spot before the jeep reached the Basapuram Baggi Road turn. Another reason given by the learned trial Judge was to the effect that

there was absence of splinters of exploded bombs such as iron filings or glass pieces or thread pieces containing yellowish stains inside the body of the jeep when PW 17 examined the jeep at about 6 p.m. on 1-6-1987 as detailed in Ex. P-19. This also made it doubtful as to whether any of the injured persons amongst PWs 1 to 7 and Ramalinga Reddy received injuries while they were actually travelling by the jeep as claimed by them. It is difficult to appreciate how the aforesaid evidence could at all be pressed into service for disbelieving the eyewitness account of injured eyewitnesses who had received bomb injuries and whose version was fully supported by medical evidence and other relevant evidence. It must, therefore, be held that the learned trial Judge had disbelieved this eyewitness account of injured eyewitnesses in a most perfunctory and callous manner and the finding reached by the trial Court, therefore, could certainly be bubbled as totally perverse and unreasonable and an impossible one. Whether the damage to the jeep car was sufficient or not or whether the bomb marks on the scene of offence were 4 or more would be totally irrelevant for judging the veracity of the version of injured eyewitnesses who had admittedly suffered injuries from bomb blast while travelling in the jeep which itself was shown by the Panchnama Ex. P-19 to have been the target of bomb attack. And there were sufficient indications in Ex. P-19 itself to show that the bombs had landed in the jeep car and which would naturally result in splinter injuries to its occupants. It is too much to conjecture and presume that the witnesses who were passengers in the jeep car who had suffered from bomb attack injuries would not be travelling in the said jeep car at the relevant time. Under these circumstances, therefore, the High Court was perfectly justified in reappreciating the evidence on record with a view to finding out as to whether the prosecution on the basis of evidence on record had proved its case to the hilt against appellant-accused and beyond the shadow of reasonable doubt. The first point for determination is, therefore, answered in the affirmative.

Point No. 2

33. So far as this point is concerned we may first refer in brief to what these two witnesses had to say about the role played by Accused 1 to 9 in the incident. PW 8 Chakali Ranganna stated that he was a resident of Boilkuntla. He earned his livelihood by washing clothes and by doing coolie work. He had known Accused 1 to 9 as they all belonged to his own village. That on the morning of the date of the incident 12 persons including himself, deceased 1 and 2, complainant Ramalinga Reddy and PWs 1, 2, 7, 5 and others started from Boilkuntla in the jeep of Ramalinga Reddy to go to Mahanandi for attending the marriage of one of the relatives of Ramalinga Reddy. PW 1 Srikantha Reddy was driving the jeep. By the side of Srikantha Reddy, PW 2 Kullai Reddy, PW 3 Subba Reddy belonging to Chennur and the complainant Ramalinga Reddy sat on the front seat. The witness PW 9, Chakali Venkateswarlu, deceased 1 Damodara Reddy and deceased 2 Rejsekhar Reddy were sitting on the right-hand side four-seater. After they started from Boilkuntla they first went to the school of Ramalinga Reddy, where they stayed for one hour. After the jeep resumed its journey from the school, Ramalinga Reddy had a talk with somebody for 2-3 minutes and thereafter the jeep was proceeding towards Mahanandi. When their jeep was approaching Baggi Road PW 1 Srikantha Reddy raised an alarm. As soon as he raised alarm he (PW 8) turned his head towards PW 1's side and found Accused 1 to 4 coming from behind the trees by the side of Baggi Road, that is, from the eastern side meaning thereby from the right side of the jeep. At first Accused 1 and 4 hurled bombs and they fell on the road on the right front side of the jeep and exploded. Thereafter Accused 2 Ramana hurled another bomb which hit on the right side frame of the backrest of the driver's seat and exploded causing injuries to PW 1 Srikantha Reddy. Thereafter Accused 3 hurled another bomb which fell on the top of the jeep and exploded. As the jeep proceeded further Accused 5 to 9 hurled 5 bombs coming from the western side. These bombs fell on the top of the jeep and exploded. The top cover of the jeep caught fire due to explosion of the bombs. As soon as the jeep's

top cover caught fire the witness PW 8 Ranganna and PW 9 Venkateswarlu got down from the jeep and ran into the trees existing on the western side of the road and hid themselves behind the trees. While they were seeing from behind the trees, deceased 1 Damodara Reddy and deceased 2 Rajsekhara Reddy jumped down from the jeep. The jeep did not stop after they jumped down from it and it proceeded towards Mahanandi after taking the Baggi Road turn. At that time Accused 3 Pedda Subbarayudu hurled a bomb at deceased 1 Damodara Reddy which hit on the front of the right thigh and exploded. Due to the explosion deceased 1 Damodara Reddy fell on the ground facing downwards. Accused 2 Ramana hurled a bomb on the back of deceased 1 Damodara Reddy. Due to the bomb blast deceased 1 died on the spot standing in front of deceased 2 Rejsekhara Reddy. As Nadipi Subbarayudu hurled a bomb on the forehead of deceased 2, that bomb exploded, felling deceased 2 dead. Thereafter all the accused A-1 to A-9 ran away from the place along Baggi Road. Even after the departure of Accused 1 to 9 PW 8 remained behind the trees for about an hour. He came out of that spot after the arrival of two police constables from Mahanandi. This version of his ran parallel to the version of PW 9 and could not be effectively shaken in cross-examination. Eyewitness account regarding the bomb injuries caused to both the deceased gets well supported by medical evidence of Dr K. Mohandas (PW 13) who conducted post-mortem examination on the dead body of deceased 1 K. Damodara Reddy and Dr P. Baban (PW 14) who performed the post-mortem examination on the dead body of deceased 2 K. Rajsekhara Reddy. The medical evidence has clearly shown the nature of multiple injuries suffered by the deceased through the bombs hurled on them.

34. However, learned Senior Counsel, Shri Lalit for the accused vehemently contended that these so-called eyewitnesses are planted by the investigating agency and they were really not eyewitnesses at all and consequently if they are disbelieved there will be no evidence left against the accused for bringing home the offence under Section 302 read with Section 149 IPC to them. He submitted that if this evidence is excluded, then as observed by the High Court, the other eyewitness account against them cannot make them guilty of offence of murder.

35. In order to discredit their version Shri Lalit placed the following aspects for our consideration :

1. These two persons were under the thumb of complainant Ramalinga Reddy and they were menial servants who would state on the lines dictated by him.
2. The jeep was already overcrowded having 10 passengers. There was no occasion to take these additional two passengers in the jeep.
3. If the prosecution version is that the jeep was carrying passengers of marriage party these two persons who were not relatives and were total strangers to the family would not have been carried in the jeep.
4. If they had really been in the jeep and if according to them they had jumped out of the jeep when the bombs were being hurled on the occupants of the jeep then as the jeep was not stationary they would have received injuries. But there was no such injury suffered by them.
5. Their version that having witnessed the murderous attack by the accused concerned on both the deceased on the road they remained hidden behind the trees and did not come out for one hour is highly artificial and unnatural.

6. That even after the police constables came on the spot according to them they did not inform the police constables about what they had seen. Not only that when the police inspector PW 17 came on the spot and halted on the spot while going from Nandyal to Mahanandi and when he was there for at least half an hour if not for one hour as deposed to by him these two witnesses did not say anything to the police inspector. This is also highly unnatural.

7. Even in the inquest panchnama they are not shown to have signed as panchas. That also makes their presence highly doubtful.

8. If as observed by the High Court they were being carried in the jeep being musclemen and as the complainant Ramalinga Reddy was apprehending attack on his party at the hands of accused who belonged to the rival faction they would have been armed.

9. These witnesses also did not even try to run away from the spot after seeing the murderous attack on the part of the accused even after the accused left the scene of offence. Nor did they go to inform anyone on the spot as the evidence shows that some buses were also passing by the road.

36. All this conduct on the part of the witnesses PWs 8 and 9 according to learned Senior Counsel Shri Lalit showed that the witnesses must really not be present on the spot and they are got-up wholly with a view to support the prosecution case. Having given our anxious consideration to these contentions, in our view, none of these aspects really whittle down or dilute the effect of the version deposed to by both these witnesses in a consistent manner. We shall examine the aforesaid aspects highlighted by Shri Lalit one by one.

37. So far as the first aspect is concerned, even though they may be working in the household of complainant Ramalinga Reddy it cannot be said that the said circumstance by itself would make their presence in the jeep car on that fateful morning doubtful from any angle. On the contrary, as the High Court has observed because they were musclemen and men of trust and confidence of the complainant Ramalinga Reddy it would be too natural for complainant Ramalinga Reddy to take them with him in marriage party especially because of the past enmity with the accused and looking to the past conduct of Accused 1 to 4 who had hurled bombs even earlier on complainant's party as is evident from the evidence of PW 1 and PW 4. It has come in evidence that the road from Nandyal to Mahanandi passed through a forest and earlier almost near the same spot complainant Ramalinga Reddy and his party were attacked by the party of Accused 1 as revealed by evidence of PW 1, son of Ramalinga Reddy who was driving the jeep on that fateful day and by the evidence of PW 4 K. Rajeshwar Reddy. Learned counsel for the respondent was right when he pointed out relying on evidence of PW 4 that Ramalinga Reddy has asked PWs 8 and 9 to come to the venue of the marriage being under the impression that their services were needed by people who were performing the marriage. Witness Srikantha Reddy, PW 1, has stated in his evidence that the incident occurred when their jeep reached near Beggi Road which leads to Nallamala forest, and while he was negotiating the road turning there, Accused 1, 3 and 4 were seen coming towards the road turning from the eastern side carrying bombs in their hands. Thus the apprehension of Ramalinga Reddy had come true. Consequently, it would not be side that there was anything unnatural in complainant Ramalinga Reddy asking these two witnesses to accompany him on that fateful morning.

38. So far as the second aspect is concerned, the evidence reveals that four persons were sitting on the front seat which included PW 1, driver on the right side, PWs 2 and 3 in between and complainant Ramalinga Reddy on the left side. So far as the back seats were concerned there were two parallel back seats in the jeep and each could accommodate four persons. PW 1 Srikantha Reddy in his evidence has stated that in the rear side of the jeep there were two seats opposite to each other and perpendicular to the driver's seat. All the 8 persons were sitting on the seats only and not on the floor of the jeep. Immediately behind him deceased 1 Damodara Reddy and next to him deceased 2 Rajsekhar Reddy was sitting and next to him PWs 8 and 9 were sitting in that order while behind his father, that is on the left side back seat, PW 5 Subba Reddy. PW 6 Narayana Reddy and other two were sitting. On both sides of the 'Beggi rasta' there were bushes and trees. Even on either side of the road leading to Mahanandi from the road turning there were bushes and trees. Nothing substantial could be taken out from his cross-examination so far as this aspect is concerned. It, therefore, cannot be said that 12 persons could not travel in the jeep as tried to be submitted by learned Senior Counsel for the accused.

39. So far as the third aspect is concerned, as we have already seen earlier the evidence shows that Ramalinga Reddy wanted these two witnesses to accompany the marriage party both on the ground that they were musclemen as found by the High Court and would be useful especially when the road was to pass through a forest and when they had already suffered bomb attacks at the hands of the accused earlier, there being deep-seated enmity between the two factions and also on the ground that they were menial servants their presence would also be useful while attending the marriage function at Mahanandi. Consequently even this contention on the part of the learned Senior Counsel for the accused is devoid of any substance.

40. So far as the fourth aspect is concerned, evidence of PW 1 Srikantha Reddy shows that the road on the spot where the incident occurred was having a turn and it was rough road and was full of potholes. He was, therefore, driving the jeep very slowly and the incident occurred when their jeep reached near Baggi Road while he was negotiating the road turning. It is, therefore, easy to visualise that when the accused are said to have attacked the jeep from the front coming from the right side, the jeep was being driven very slowly. It is also quite likely that when the jeep was taking a turn it would not have the same speed with which it would travel otherwise on a straight road. Under these circumstances, if the witnesses being scared on account of hurling of bombs by the accused jumped down from a slow-moving jeep, it was not absolutely necessary that they should have received injuries. It is also to be kept in view that they were menial servants and as the High Court has found they were strong persons being musclemen. Therefore, after dropping down from the jeep if they had run and hidden behind that trees it could not be said that they could not have run or that they could not have suffered any injuries. This aspect, therefore, also pales into insignificance.

41. So far as the fifth aspect is concerned, we have to visualise the position in which these two menial servants found themselves when their masters were being attacked with bombs. They would naturally get scared and would not intend to come out to rescue them as they would otherwise also get injured, if not fatally, as their master's relatives deceased 1 and 2 got injured. It is true that they remained hidden for one hour but that would be natural because they could not run away from the scene of offence as the near relatives of their master-complainant Ramalinga Reddy, namely, his son-in-law and brother who were accompanying him being members of the marriage party were lying dead on the spot and when his master along with others injured had proceeded further towards Mahanandi. Till they came back they would naturally not leave the place. Therefore, there was nothing unusual in their remaining on the spot hidden for one hour being mightily afraid of any fresh attack from the side of the accused.

42. So far as the sixth aspect is concerned, as their master Ramalinga Reddy had already gone towards Mahanandi with the other injured members of the marriage party these witnesses were not expected to say anything in the matter to the police constables or even to the police inspector till their master arrived on the spot. We have to judge the mental condition of these menial servants who would naturally get aghast by the terrific attack suffered by their master and his relatives in bombs hurled on them. Under these circumstances if they kept mum till their master arrived on the site it cannot be said that they were behaving in an unnatural manner.

43. So far as the seventh aspect is concerned, we fail to appreciate how that will make any difference as in the inquest panchnama itself their presence is noted. They might not have signed as other 'panchas' were available.

44. So far as the eighth submission is concerned, whether they were armed or not would not make their presence suspect as they were also being carried in the jeep for doing menial work at the place of the marriage as stated by witness PW 4 K. Rajeshwar Reddy to which we have made a reference earlier.

45. So far as the ninth aspect is concerned, we have already shown while discussing aspect No. 6 that these witnesses might not have revealed as to what they saw till their master Ramalinga Reddy came on the spot. On the same reasoning, therefore, this aspect also loses its importance and does not make their presence on the spot doubtful from any angle.

46. In our view, therefore, the aforesaid alleged infirmities as pointed out by the learned Senior Counsel for the accused for disbelieving the version of these witnesses do not in any way affect the core of their evidence which remains well sustained on record. But even otherwise there are certain salient features which have been established in the case which clearly point out that their presence on the spot was not in any way doubtful. It has to be kept in view that in the complaint Ex. P-1 which was filed immediately after the bomb attack when the jeep car went to Mahanandi Police Station names of these two witnesses are clearly mentioned as having been present on the spot. Even that apart all the witnesses who were travelling in the jeep, namely, PWs 1 and 4 to 7 also deposed about their presence in the jeep and how they jumped from the jeep after the first bomb attack on the jeep. Not only that but even hostile witnesses PWs 2 and 3 who also got injured in the incident clearly deposed that these two witnesses PWs 8 and 9 were also accompanying them in the jeep on the date of the incident and so far as that aspect is concerned there was no cross-examination nor was this part of their evidence even challenged by the defence. We, therefore, entirely concur with the finding of the High Court that these two witnesses were quite reliable and they had actually witnessed the murderous attack on deceased 1 and 2 by the accused party. Before parting with this discussion, we may also mention one submission of Shri Lalit for discrediting the version of these eyewitnesses. He submitted that these two witnesses have stated that on the spot where the dead bodies were lying they did not find any unexploded bomb while the panchnama of the scene of offence and even the version of PW 17 Police Inspector shows that there was an unexploded bomb lying on the scene of offence. In our view this circumstances is too trivial to shake the veracity of the version deposed to by these two witnesses. Being illiterate menial servants they might not have understood the nature of the unexploded bomb and might not have noticed it. That would not have made their presence suspect when there is aforesaid clinching evidence unequivocally pointing to their presence on the spot. For all these reasons, therefore, it must be held that the High Court was perfectly justified in placing implicit faith on the eyewitness account of these two witnesses and accordingly holding that all the accused were guilty of an offence under Section 302 read with Section 149 IPC as they all formed an unlawful assembly and had gathered together on the spot to

make murderous attack on the occupants of the jeep wherein complainant Ramalinga Reddy, their arch-enemy, was leading a party of persons comprising his own relatives to Village Mahanandi and they succeeded in causing bomb injuries to number of passengers in the jeep including the complainant and were also successful in taking lives of two close relatives of complainant Ramalinga Reddy being his own son-in-law and his brother who were also members of the said marriage party and who had travelled in the jeep before they jumped down presumably being scared of further attack of bombs at the hands of these accused. The second point is, therefore, held in the affirmative.

Point No. 3

47. So far as this point is concerned, we have already discussed in detail while considering Point No. 1 how the eyewitness account of injured eyewitnesses PWs 1 and 4 to 7 remains well sustained on record in the light of medical evidence. For the reasons recorded by us on that point, therefore, it must be held that the eyewitness account of these witnesses who were members of the marriage party and who got injured on account of the bomb attack mounted on the jeep car on that fateful morning by Accused 1 and his party, has to be accepted. Their version as we have noted earlier is quite consistent and parallel. In fact as Shri Lalit, learned Senior Counsel for the accused, submitted it is too accurate to be true. In our view merely because the version of all these injured eyewitnesses is accurate and comprises parallel versions deposed to by each of them, it cannot be said that it is a parrot-like version which should not be accepted especially when the medical evidence has fully supported their version that they received bomb injuries in the attack. In fact Shri Lalit, learned Senior Counsel for the accused, fairly stated that on this evidence it is not possible for him to submit an extreme contention that these witnesses had not suffered bomb injuries in that attack but according to him their evidence could not be relied upon to show that these accused had caused these injuries. So far as this aspect is concerned, it is obvious that there was deep-seated enmity between the complainant's party and the party of Accused 1 and his supporters. It is also to be noted that Accused 2 to 9 were all close relatives of Accused 1 who was the leader of the team being an aged man of 70 years or more. Other accused were his own sons and nephews apart from Accused 10. Therefore, they had a deep-seated common grievance against complainant Ramalinga Reddy and his relatives who were accompanying him and were members of his party. There was an earlier attack by bombs by accused party on the complainant's party. It was also alleged that in part bombs were hurled by complainant's partymen at the house of Sirigiri Rama Subba Reddy who belonged to the faction of Accused 1. The evidence has also revealed that the road from Nandyal to Mahanandi passed through a forest and at the spot where the incident occurred there was history of earlier attack by bomb by accused party on Ramalinga Reddy and his party. Under these circumstances when the jeep was being driven on the spot if the accused mounted the attack from the front it is easy to visualise that the occupants of the jeep would clearly locate them especially when they were all known to them since long and were in fact apprehending such an attack from them. The 'panchnama' of the jeep car Ex. P-19 clearly supports the eyewitness account of these witnesses apart from the medical evidence to which we have made a reference while discussing Point No. 1. It is true that the jeep car was not seized or photographed but still the 'panchnama' about the condition of the jeep car after the incident is eloquent enough to fully support the version of these injured eyewitnesses. Ex. P-19 recites that behind the seat of the driver where the bomb had fallen, the portion had turned yellow and was smelling of sulphur. The said bar at the tarpaulin by the side of the driver was slightly bent. The tarpaulin on the side of the driver due to bomb hit was torn here and there. There were yellow marks of sulphur on the tarpaulin. The tarpaulin on the left side was of rexine. The tarpaulin on the top was torn. Due to bomb hit, marks like that of smallpox were formed on the side angle and they were yellow in colour. The danger light which was on the back right side

of the jeep was broken. This 'panchnama' clearly shows that the jeep on the date of the incident had suffered multiple bomb attacks. Shri Lalit submitted that if nine bombs were used in the attack as per these alleged eyewitnesses, damage to the jeep would have been much more extensive. It is difficult to appreciate this contention. The 'panchnama' of the scene of offence has shown that one bomb was lying unexploded on the spot. There was thick bush growth on both sides of the road near the scene of offence, therefore, some bombs might not have hit the target. It is also to be kept in view that deceased 1 and 2 also suffered from at least three bomb injuries and there were extensive and multiple injuries suffered by seven occupants of the jeep who deposed before the trial court being PWs 1 to 7 and the complainant since deceased also had suffered from bomb injuries in the incident. Not only that even the hostile PWs 2 and 3 had also suffered from bomb injuries as found from medical evidence and their own evidence. These diverse injuries on number of persons travelling in the jeep clearly indicated that the eyewitness account that all the accused were armed with bombs and had hurled the bombs at the occupants of the jeep being the members of marriage party headed by complainant Ramalinga Reddy cannot be said to be in any way an exaggerated or a false version. On the contrary, the said version appears to be quite justified and well supported by evidence on record. Shri Lalit, in this connection, submitted that the evidence shows that the jeep was having tarpaulin covers on both sides and when the case of the prosecution is that the attack was mounted by the accused from the front side it is not possible to believe that all the witnesses would have seen the actual hurling of bombs. Even this submission cannot be accepted for the simple reason that the prosecution version which is supported by eyewitness account is to the effect that the accused came from two directions. In fact the entire incident on the spot can be divided into three parts that took place in quick succession. In the first part Accused 1 to 4 came from the right side and hurled three bombs on the occupants of the jeep. That caused injuries to the occupants on the right side of the jeep including the driver PW 1 and damaged the jeep on the right side. Thereafter in the second part of incident Accused 5 to 9 came from the western side, that is, the left side and mounted bomb attack on the jeep which resulted in damage to the top of the jeep which was set aflame and also caused injuries to complainant Ramalinga Reddy and other occupants on the left side in the jeep. When such an attack is mounted from the front side from two directions, it is easy to visualise that the occupants would naturally get scared and would look on the front side from where the attack was being mounted and can witness the culprits. In this connection also, it may be noted that so far as deceased-complainant Ramalinga Reddy is concerned he was sitting on the extreme left in the front seat and he had received injuries from bomb blast on the left side of his body. Nature of the injuries suffered by him fully corroborates the eyewitness account deposed to by PWs 1 and 4 to 7. It cannot, therefore, be said, as submitted by Shri Lalit for the accused, that these occupants of the jeep who suffered from injuries on account of bomb attack could not have seen as to who were the culprits or authors of the attack. It was broad daylight in the morning of 1-6-1987 and all the accused were very well-known to these witnesses and when they attacked, coming in front of the jeep from both left and right sides, they would be fully visible to the occupants of the jeep. It is, therefore, not possible to agree with the contention of Shri Lalit that the occupants of the jeep could not have identified these accused. The third part of the incident refers to what happened to deceased 1 and 2 who jumped from the jeep car and met their death by suffering from bomb injuries at the hands of the accused in the course of the very same transaction. For all these reasons, therefore, it is not possible to agree with the submission of Shri Lalit that the eyewitness account of these witnesses should not be believed. We find that the High Court has given cogent reasons at pp. 13 and 14 of the judgment under appeal as well as at p. 21 why the eyewitness account of these witnesses should be believed. We entirely concur with the same. The High Court has also noted one submission canvassed on behalf of the accused that when Accused 1 to 9 were allegedly throwing bombs at the jeep from either side it would have been more prudent for deceased to remain in the

jeep itself. Side submission was rightly turned down by the High Court as it is not possible to predicate with any degree of certainty as to how a person would behave when he is being attacked by bombs from both the sides by belligerent attackers. If getting scared, deceased 1 and 2 jumped out of the jeep along with PWs 8 and 9 it cannot be side that they had acted in an unnatural manner or that they should have continued to remain in the jeep to suffer from bomb blasts. Instinct of self-preservation prompted the deceased to get out of harm's way by jumping out of the attacked jeep but unfortunately they could not save themselves. Consequently, it cannot be side that the eyewitness account of Accused 1 and 4 to 7 in any way is unbelievable or unacceptable. On the contrary, their account is quite natural and remains well sustained on the record of the case. In this connection, we may also note one additional submission of Shri Lalit. He submitted that the first information report Ex. P-17 mentioned that four persons remained in the jeep after the bomb attack and 8 persons jumped out of the jeep whereas the eyewitnesses' account showed that 8 persons remained in the jeep and 4 persons jumped out. We fail to appreciate how this would make any difference. Whether 4 persons jumped out or 8 persons jumped out would not affect the culpability of the accused who had mounted the attack on the jeep, which remained well established on record in the light of the eyewitness account. Even otherwise as we have discussed earlier, which considering Point No. 1 the eyewitnesses' account of these witnesses cannot be contradicted with what is stated in the first information report by the complainant who could not be examined in the case. The version of the eyewitnesses could be contradicted with their earlier police statements if at all. Their version cannot be contradicted with what was stated in the first information report by a third party and which by itself was not a substantive piece of evidence and which even could not be tested on the anvil of cross-examination as the complainant was dead prior to the trial. Shri Lalit next contended that the prosecution has not fully established its case that this party was going to attend the marriage at Village Mahanandi. It is difficult to appreciate this contention. The eyewitness account which has remained unshaken in cross-examination shows that there was a marriage in the family of complainant Ramalinga Reddy at Village Mahanandi and they were all going to attend the said marriage. The occupants in the jeep car along with the complainant Ramalinga Reddy and his son-in-law Rajsekhar Reddy deceased 2, and other relatives and acquaintances, in all 10 and who were also accompanied by two menial servants PWs 8 and 9. But even assuming that the occasion of marriage at Village Mahanandi was not established, even then if the complainant's party was going on the fateful morning in a jeep car for attending any other social function at Mahanandi and if that party was attacked by bombs by the accused in the manner deposed to by the prosecution witnesses the culpability of the accused would not be lessened in any manner. For all these reasons, therefore, there is no substance in this additional submission of the learned Senior Counsel for the accused for disbelieving the eyewitness account of injured eyewitnesses PWs 1 and 4 to 7. This point is, therefore, answered in the affirmative.

Point No. 4

48. So far as this point is concerned, Shri Lalit, learned Senior Counsel for the accused, vehemently submitted that PW 17 Bhaskaran who conducted investigation had almost played in the hands of complainant Ramalinga Reddy and had tried to develop prosecution case as he wished by roping in Accused 1 and all of his family members. That it was an unfair investigation. In order to support this contention he highlighted the following aspects :

- (i) When complainant Ramalinga Reddy reached Mahanandi Police Station after the incident, head constable was already present who instead of recording the first information report sent a message to witness Bhaskaran at Nandyal Police Station. Thus it appeared that complainant Ramalinga Reddy wanted to make out a case only

after Bhaskaran met him.

(ii) The conduct of PW 17 Bhaskaran after having received the message was also unnatural inasmuch as before reaching Mahanandi Police Station though he visited the scene of offence and found two dead bodies he is said not to have got down from the jeep and instead has waited for one hour or at least half an hour in the jeep and made no spot enquiry at that place but put the criminal investigation machinery into motion only after meeting complainant Ramalinga Reddy in Mahanandi Police Station.

(iii) The so-called first information report was a got-up document prepared at the instance of Ramalinga Reddy after full consultation with this witness.

(iv) That the police diary was not produced before the court.

(v) That the head constable who Ramalinga Reddy is said to have first met after the incident at Mahanandi Police Station was not examining the case.

(vi) That according to PWs 8 and 9, PW 17 Police Inspector was writing something on the scene of offence where he halted before reaching Mahanandi Police Station. That showed that he had taken undue interest in the case.

(vii) That the jeep car which is alleged to have received the impact of bomb blast at the time of the incident was not got photographed nor was it seized.

49. In our view none of the aforesaid submissions can whittle down the efficacy of the eyewitnesses' account of the injured eyewitnesses who had suffered bomb blast injuries. On a careful scrutiny of the evidence on record we find that the investigation cannot be said to be partial or unfair to the accused from any angle.

50. Evidence of PW 17 Bhaskaran shows that on 1-6-1987 he was in Taluk Police Station of Nandyal. That about 10 a.m. he received information regarding occurrence through Very High Frequency Set from Station House Officer of Mahanandi Police Station. Immediately he collected the presence of Shri L. Thirupal Reddy, the then Sub-Inspector of Nandyal Taluk Division and in his company he rushed to the scene of offence. Now it must be kept in view that complainant Ramalinga Reddy reached Mahanandi Police Station, he informed the Station House Officer about the incident. Station House Officer immediately sent a High Frequency Message to witness K.N. Bhaskaran who was his superior. It is not even alleged that full details of the incident were informed by the complainant to that head constable. Therefore, if an offence is not registered in the absence of full details and only if it is informed that an incident in which bombs were thrown on a jeep car and which had killed two persons and injured the complainant and others who had come to the Police Station, it cannot be said that full details of occurrence of a cognizable offence were conveyed to the Police Station Officer who should have recorded the first information report. Looking to the serious nature of the incident if the head constable thought it fit to immediately send a message to his superior officer, the said conduct cannot be said to be unnatural from any angle. Nor can it be said that at that stage PW 17 Bhaskaran who had not even met the complainant had developed any special interest in him. The evidence shows the complainant had himself written down the complaint and he was awaiting the arrival of witness Bhaskaran to the Police Station at Mahanandi and the moment the witness reached Mahanandi Police Station the written complaint was submitted

which was registered as an FIR. Consequently, it cannot be said that the said written complaint was not an FIR in the real sense of the term or that for preparing the same the witness had taken any undue interest or monitored the same as Shri Lalit would like to have it. PW 17 Bhaskaran had clearly stated that on his reaching the police station complainant Ramalinga Reddy submitted the written complaint Ex. P-1 which was already prepared by him even before his (PW 17's) reaching the police station. Nothing substantial could be taken out in his cross-examination to discredit this version. In fact in his cross-examination he made it clear that he had received only information from Mahanandi Police Station about the occurrence while he was at Nandyal and that the message simply informed him that bombs were hurled, two persons died and several others received injuries without disclosing the names of the assailants and those of the victims. In the entry made by him he only noted that there was an attack with bombs against a jeep travelling along Nandyal-Mahanandi Road on the morning of 1-6-1987. And that immediately on receiving that message he proceeded to the scene of offence. It becomes, therefore, obvious that no information regarding the commission of a cognizable offence with all its details was ever available either to the Police Station Officer at Mahanandi Police Station or to the witness at Nandyal and that such information become available to him only when, on reaching Mahanandi Police Station he got a written complaint from the complainant Ramalinga Reddy. It, therefore, cannot be said that the said complaint Ex. P-1 was prepared in collaboration with or under guidance of the witness as tried to be submitted by Shri Lalit.

51. So far as the second submission is concerned, evidence of K. Srikantha Reddy, PW 1, driver of the jeep shows that for going to Mahanandi from Boilkuntla one has to cross Nandyal-Giddalur Road, at a distance of about 3 kilometres from that village. Nandyal-Maddalur Road runs from east to west. Boilkuntla lies to the south of that road. For going to Mahanandi one has to proceed towards north after crossing Giddalur Road. It, therefore, becomes clear that for going from Nandyal to Mahanandi the scene of offence would fall on way. The evidence of PW 17 Bhaskaran shows that at 10.00 a.m. he was at Nandyal Police Station and the moment he received the High Frequency Message he started in his jeep for going to Mahanandi. On way came the scene of offence where he halted having found two dead bodies and two police constables keeping a watch there. Even if he might have waited for half an hour in his jeep car on the scene of offence it cannot be said that he had exhibited any unnatural conduct. He had already come to know that the complainant had reached Mahanandi Police Station from where he got the High Frequency Message. Under these circumstances, if he did not make any further inquiry on that spot but proceeded further to reach the destination of his journey, that is, Mahanandi Police Station to get the firsthand information from the complainant it could not be said that he had exhibited any undue interest in the case. Shri Lalit was very sanguine about his contention that it is unnatural that a police officer would not come down from the jeep having seen the dead bodies on the spot. It cannot be forgotten that he was on way to Mahanandi and had halted on way near the scene of offence in the course of his onward journey. By then he had not got full details about the incident. The police constables found on spot were keeping a watch over the dead bodies. They had no information to convey all the happenings of the incident. There was no one else round about to give him any further information. Under these circumstances, if he did not get down from the jeep but having required from the constables and having come to know that the complainant was already waiting at the Mahanandi Police Station to give all the details about the incident if he proceeded in his jeep without alighting from the jeep it cannot be said that such a behaviour by itself exhibited an unnatural conduct.

52. So far as the third submission is concerned, we have already seen while considering the submission of Shri Lalit that the first information report Ex. P-1 was handed over to him when he

reached Mahanandi Police Station and prior thereto no detailed information about the commission of a cognizable offence, information about the nature of the attack and the authorship of the attack were available either at the end of Mahanandi Police Station or at Nandyal Police Station. As we have seen above witness PW 17 clearly stated in his evidence and that too in cross-examination that only information which he received in the message at Nandyal was about the occurrence of an incident of bomb attack but no details were available to him at that time. It cannot, therefore, be said that Ex. P-1 was not an FIR in the real sense of the term. It also cannot be said that he was instrumental in getting it prepared as it was already made ready by the complainant by the time the witness Bhaskaran reached Mahanandi Police Station.

53. So far as the fourth submission of non-production of police diary is concerned the High Court has rightly held that no attempt was made by the defence during trial to call upon the prosecution side to produce the police diary. Therefore, grievance regarding the same would pale into insignificance. But even that apart, as PW 17 Bhaskaran had stated in his evidence all that he noted in the police diary on receipt of the message was about occurrence of the incident without any details and consequently non-production of the police diary had not resulted into any prejudice to the defence.

54. So far as the fifth submission of non-examination of the police head constable at Mahanandi Police Station is concerned, as the evidence of PW 17 has shown the said head constable's only role was to send the High Frequency Message to his superior calling him to the police station at Mahanandi. No other details were available about the nature of the offence to the said police head constable. Consequently his non-examination had no effect either way on the fate of the case.

55. So far as the sixth submission is concerned, the evidence shows that the statements of witnesses PWs 8 and 9 were recorded by PW 17 Bhaskaran after he came back to the scene of offence after visiting Mahanandi Police Station and after the complainant was registered. Even if prior thereto during his first halting visit to the scene of offence en route to Mahanandi Police Station, he had taken any notes of his own, that had no impact on the conduct of investigation after the registration of the offence. In fact, on this aspect nothing was tried to be elicited from him in his cross-examination. Consequently this contention is devoid of any merit.

56. So far as the seventh submission of absence of photograph of jeep car is concerned, it may be noted that the 'panchnama' of the damaged jeep car is already on record and this 'panchnama' was promptly got made by the witness PW 17 once the investigation started. That 'panchnama' gives a graphic picture of the damage suffered by the jeep car on account of the bomb blast at the time of the incident. Consequently whether the jeep car was photographed or not or was seized or not, would not be a circumstance which would have any serious impact on the prosecution case one way or the other.

57. In view of the aforesaid salient features of the case, therefore, it is not possible to countenance the submission of Shri Lalit that the investigation was faulty or biased or was a partial one. This point is, therefore, answered in the negative.

Point No. 5

58. As a result of the aforesaid discussion it must be held that the High Court was quite justified in interfering with the order of acquittal as passed by the trial court and in convicting the accused of the offences with which they were charged. Eyewitness account of injured eyewitnesses being

occupants in the jeep car PW 1 and PWs 4 to 7 as well as eyewitness account of PWs 8 and 9 has remained well sustained on the record and is fully corroborated by medical evidence as well as by the evidence of damage to the jeep car as found in 'panchnama' Ex. P-19. Consequently no case is made out for our interference in this appeal.

59. In the result the appeal fails and is dismissed.