

Sukhdeo

Vs

State of Maharashtra

Vinayak and Others

Vs

State of Maharashtra

Tuka Ram and Others

Vs

State of Maharashtra

Criminal Appeals Nos. 31 and 235 of 1989

(M. K. Makherjee, S. P. Kurdukar JJ)

11.03.1997

JUDGMENT

S. P. KURDUKAR, J.

1. A small village called Anterweli in Tehsil Gangakhed, District Parbhani on 4-6-1982 at about 2.00 p.m. witnessed the gruesome murders of three brothers, namely, Han, Govinda and Limbaji, sons of Tuljiram Ghobale, and Narayan son of Bapu Tayade who happened to be their nephew (sister's son) at the hands of a riotous mob of nearly forty Wanjari people residing in the same village. In the said rioting incident, apart from four deaths, as many as six persons, namely, Sopan (PW 2), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8), Kundlik (PW 21) and Vithal (PW 22) - the complainant had sustained serious injuries. The deceased persons and injured witnesses belonged to Budha community whereas most of the accused persons numbering forty belonged to Wanjari community. In substance, the members of Wanjari community had attacked the members of Budha community.

2. The members of the Wanjari community of Village Anterweli firmly believed that the members of Budha community were involved in committing thefts and dacoities in the neighbouring villages thereby causing a bad reputation to the residents of the said village. The members of the Budha community were earning their livelihood either as agricultural labourers or taking the lands of Wanjari people on lease. Some members of a the Budha community were also working as Watandar Ramoshis (night watchmen). In view of the alleged notoriety of the Harijan community as a whole, the Wanjari community decided not to engage the services of the former either as agricultural labourers or as tenants of their lands. Rift between the two communities further widened because of constant bickerings between them. The Harijan community people having found that their living in the said village had been rendered miserable decided to migrate to Village Mankhed in Ahmedpur

Taluka, District Latur and accordingly had shifted to that village about one and a half years before the incident in question took place.

3. It is the prosecution case that 3/4 days prior to 4-6-1982, the three brothers (since deceased), their nephew Narayan (since deceased) along with their family members and friends came to their Village Anterweli to attend the marriage of their relation which was to take place in the said village and also to settle few financial commitments that deceased Govinda had made to Gyanik (A-8). During that period, Babu, son of Rama Jayebhaye belonging to Harijan community was being taken to police station at Gangakhed for having abused Sopan Mukada, the Wanjari, under the influence of liquor. Govinda who was then present negotiated with A-8 in the presence of Prabhu (A-5), Shivaji (A-7), Arun (A-22) and Udhav (A-39) by requesting him to let Babu be freed and took responsibility to pay Rs. 1500 by way of compensation. This amount was, however, not paid to A-8 till the date of incident. This incident had added to further severe bickerings between them and Wanjari people took it as a serious insult. In order to patch up the differences, Govinda (since deceased) and A-8 and his associates had a meeting at the house of Sita Ram Patil at Shelmoha which is about 2 kms away from Village Anterweli. It was then decided that Govinda would pay the amount to A-8 and would not enter the Village Anterweli. In view of this compromise, Govinda, his brothers, Narayan and other family members shifted to a place adjacent to Village Anterweli and started living there. The marriage of the relative of Govinda took place on 1-6-1982 without any disturbance.

4. The Wanjari people did not approve of the stay of Govinda and others on the outskirts of Village Anterweli and this had led to the incident in question. It is the prosecution case that a mob of as many as forty persons belonging to the Wanjari community, of which, two were juvenile offenders went to the basti of Govinda. The juvenile offender Charnu (A-4) was the main cause for the incident in question. On 3-6-1982, Manika (PW 15) sensing some trouble returned to his house and cautioned his brothers Govinda, Han and Limba that they should be more vigilant in future. It was then alleged by the prosecution that on 4-6-1982 at about 7.00 a.m., an incident over the prize money of Rs. 20 took place. Phul Chand (PW 8) was alleged to have retained the said prize money. It was payable to Laxman (A-21) and, therefore, he had gone to the house of Govinda and Manika (PW 15) requesting them to ask Phul Chand (PW 8) to pay the said prize a money to him (A-21). Manika (PW 15) paid the said money to A-21 on behalf of Phul Chand (PW 8) and the said dispute was resolved.

5. Coming to the main incident of rioting, murders etc., it was alleged by the prosecution that all the forty accused persons named in the first information report, (Ex. 114) came to the house of Manika (PW 15) shouting slogans and hurling abuses on him and his inmates. These accused persons were armed with axes and sticks. Gyanik (A-8), however, intervened and thereafter they all returned to their village. Sensing more trouble from the Wanjari community, Govinda and his brothers became more conscious and asked Sopan (PW 2) and their family members to remain inside the house. As expected, all the forty accused named in the FIR armed with deadly weapons came to the house of Manika (PW 15). As soon as they reached there, a signal was given by Manika to Hari, Govinda, Limbaji and Narayan (since deceased) to run away from the house. When they were running along with their wives towards the hillside known as Kumbharmaticha Mal situated at a distance of two to three furlongs, the riotous mob chased them and caused brutal attack on Hari, Govinda and Limba by means of axes, sticks and stones, as a result of which, they died on the spot. Narayan who had taken refuge in the house of one Rama, son of Dhudhaji was taken out of that house and when he was running away, he was mercilessly hacked to death by the accused persons. During the said assault, it is alleged by the prosecution that Sopan (PW 2), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8) and Manika (PW 15) were assaulted with sticks causing injuries to them. Limba who

had sustained serious bleeding injuries was crying for water but, however, Arun (A-22) instead of giving water passed his urine in his mouth. This shows how the ghastly and most brutal attack was made by the accused persons on the family of Govinda, his brothers and nephew who succumbed to their injuries on the spot itself.

6. Ramesh (PW 1) and Manika (PW 15) who had seen the entire incident, took to their heels to inform their relatives who were staying at Dharmapuri, Ambajogai and Parali. They then went to Gangakhed Police Station where they came to know that police had already left for Village Anterweli. Manika (PW 15) along with Ambadas then went to the bungalow of SP, Parbhani to inform him about the occurrence. DSP, Parbhani reached Village Anterweli on Saturday, 5-6-1982 at about 9.00 a.m. Limbajirao, Police Patil of Village Anterweli had forwarded his report on 4-6-1982 at about 4.30 p.m. to the police station at Gangakhed. PSI Kalve (PW 23), who reached Village Anterweli during the night of 4-6-1982/5-6-1982, commenced the investigation. In the meantime, Kedari (PW 24), DSP who reached the place of occurrence took over the investigation. After holding the inquest panchnamas on the dead bodies of Govinda, Han, Limbaji and Narayan, Dr. Ramgopal Biyani (PW 3) and Dr. Uttam Ramarao Gujarat (PW 4) were requested to come to Village Anterweli for holding the autopsy on the dead bodies in the village itself. After completion of the post-mortem examination on the four dead bodies, they were allowed to be cremated in the evening of 5-6-1982. On conclusion of the investigation, a charge-sheet came to be filed against forty accused persons for offences punishable under a Sections 147, 148, 452, 302, 307, 324, 506 Part II, 323, 452/149, 302/149, 324/149, 506 Part II/149, 307/149 of the Indian Penal Code. Since Charnu (A-4) was a juvenile offender, his trial was separated and was entrusted to the juvenile court.

7. The appellants and other acquitted accused persons denied the allegations levelled against them as according to them, they had been falsely implicated in the present crime. According to them, the deceased and his community people were involved in several theft and dacoity cases and because of this, they bore grudge against the accused persons. On many occasions, they were caught red-handed while committing the theft/dacoity and were handed over to the police. They pleaded that they were innocent and had committed no offence. They pleaded that they be acquitted.

8. The prosecution in support of its case examined as many as 24 witnesses, of whom, more than a dozen witnesses including the six injured eyewitnesses were the witnesses of facts. In addition to these witnesses, the prosecution also examined Dr. Ramgopal Biyani (PW 3) and Dr. Uttam Ramarao Gujarat (PW 4) to prove the post-mortem examination reports as well as the injury certificates issued to various injured witnesses. Various panchnamas were also sought to be proved through panch witnesses. The accused, however, did not lead any evidence.

9. The learned Additional Sessions Judge on appraisal of the oral and documentary evidence on record by his judgment and order dated 24-8-1983 convicted Sukhdeo (A-1), Vinayak (A-3), Prabhu (A-S), Gyanik (A-8), Shriram (A-9), Bhima (A-b), Arun (A-22) and Ashok (A-38) for offences punishable under Sections 147, 452 read with Section 149 'PC, under Section 323 read with Section 149 'PC and under Section 302 read with Section 149 of the Indian Penal Code and sentenced each one of them to suffer imprisonment for life in addition to various other terms of sentences on other counts. All the substantive sentences were ordered to run concurrently. The remaining accused persons were, however, acquitted of all the charges.

10. Feeling aggrieved by the judgment and order of convictions and sentences, the convicted accused persons preferred Criminal Appeal No. 133 of 1983 whereas the State of Maharashtra preferred Criminal Appeal No. 177 of 1983 to the Bombay High Court Bench at Aurangabad. The

High Court vide its judgment and order dated 28-4-1988 dismissed Criminal Appeal No. 133 of 1983 filed by the convicted accused persons and affirmed their convictions and sentences. Criminal Appeal No. 177 of 1983 filed by the State of Maharashtra against the acquittal of remaining accused persons was partly allowed and the High Court convicted Tuka Ram (A-2), Gangadhar (A-6), Shivaji (A-7), Atma Ram (A-11), Suryabhan (A-12), Sapan (A-13), Kondiba (A-14), Sampati (A-18), Waman (A-27) and Udhav (A-39) for the offences punishable under Sections 147, 148, 452 read with Section 149 IPC as also under Sections 323/149, 302/149 of the Indian Penal Code and sentenced each one of them to suffer imprisonment for life and other terms of sentences on other counts. The State appeal, filed against the acquittal of Shripati (A-28) and Kundlik (A-35) came to be dismissed and their acquittal was confirmed. Aggrieved by the aforesaid judgment and order of convictions and sentences passed by the High Court in Criminal Appeal No. 133 of 1983, the appellants/accused by special leave have filed Criminal Appeals Nos. 31 and 235 of 1989, the other batch of the appellants/accused persons whose acquittal was set aside by the High Court and who came to be convicted have filed the Criminal Appeal No. 53 of 1990 in this Court. Since all these appeals arise out of a common judgment passed by the High Court, they are being disposed of by this judgment.

11. The appellants before us can be conveniently grouped into two categories : (1) the appellants who have been convicted by the trial court for various offences and their convictions and sentences were upheld by the High Court, (2) the appellants who have been acquitted of all the charges by the trial court but their acquittal had been set aside by the High Court and came to be convicted.

12. The first category of appellants consists of Sukhdeo (A-1), Vinayak (A-3), Prabhu (A-S), Gyanik (A-8), Shriram (A-9), Bhima (A-b), Arun (A-22) and Ashok (A-38). The second category consists of Tuka Ram (A-2), Gangadhar (A-6), Shivaji (A-7), Atmaram (A-11), Surya Bhan (A-12), Sapan (A-13), Kondiba (A-14), Sampati (A-18), Waman (A-27) and Udhav (A-39). All these appellants hereinafter will be referred to in the same order as they were arraigned before the trial court. We have heard the learned counsel for the parties and also perused the judgments of the learned courts below and the materials on record.

13. It is not and cannot be disputed that Han, Govinda, Limba and Narayan met with homicidal deaths due to murderous assault with deadly weapons on them in an incident that occurred on 4-6-1982. It is, therefore, not necessary to refer to the medical evidence in this behalf in detail and suffice it to briefly indicate the injuries sustained by them during the incident in question. The High Court in its judgment in paragraphs 13, 14, 15 and 16 has set out in details the injuries sustained by the four victims and which were supported by the medical evidence of Dr. Ramgopal Biyani (PW 3) and Dr. Uttam Ramrao Gujarati (PW 4). Dr. Ramgopal Biyani (PW 3) conducted the post-mortem examination (Ex. 37) on the dead body of Govinda and found as many as ten incised injuries of various dimensions in addition to the two wheel-mark injuries, multiple small abrasions and contusions with abrasions over the left thigh.

14. Dr. Ramgopal Biyani (PW 3) held the post-mortem examination on the dead body of Limba and found as many as nine external injuries in his post-mortem examination report (Ex. 38), of which, three were incised wounds, one lacerated wound and two contusions with abrasions and the rest were bruises. Dr. Uttam Ramrao Gujarati (PW 4) had held the autopsy on the dead body of Hari (Ex. 47) and found as many as seventeen external injuries including nine incised wounds. The post-mortem examination on the dead a body of Narayan was also conducted by Dr. Uttam Ramrao Gujarati (PW 4) who noticed many external injuries including five incised wounds. His postmortem examination report is Ex. 48. Both the doctors testified in court that injuries sustained by these

deceased persons were ante-mortem and incised wounds caused to them were sufficient in the ordinary course of nature to cause death. The cause of death in respect of each deceased person was stated to be shock due to haemorrhage resulting from the cutting of blood vessels in the bodies. The post-mortem examination reports of the four deceased persons produced as Bx. 37, Ex. 38, Ex. 47 and Ex. 48 were duly proved by Dr. Biyani (PW 3) and Dr. Gujarati (PW 4). In view of this medical evidence, we see no hesitation in affirming the findings recorded by the courts below that the four deceased persons met with homicidal deaths.

15. The backdrop of the incident in question was the belief entertained by the residents of Village Anterweli belonging to Wanjari community that the residents of Budha community of the said village were involved in several dacoities and thefts bringing bad name to the residents of Village Anterweli. That belief further perpetuated by causing harassment to the people of Budha community so much so that their Gawki, Ramoshi and employments as agricultural labourers were discontinued by the Wanjari community. Resultantly, one and a half years back, some of the families of Harijans shifted to far-off villages to earn their livelihood. It is in this background that Govinda, Limba and Han had shifted to that Village Mankhed in Ahmedpur Taluka but because of some financial commitments and social obligations, these four persons had come back to Village Anterweli after a period of one and a half years. Few days prior to the incident, all the four persons had come to Village Anterweli to join the marriage function of their close relative which took place 1-6-1982 without any hindrance. During these three to four days, two major incidents took place; one as regards the return of debt by one of the Harijans to Gyanik (A-8) for which Govinda stood guarantor and in default agreed to pay the said amount; second, over the prize money of Rs. 20 which was to be paid to Laxman (A-21) and was in fact paid by Manika (PW 15) on behalf of Phul Chand (PW 8) to Laxman (A-21). Govinda, however, could not pay Rs. 1500 and this had further aggravated the strained relations between the two communities. It is in this background that we may now proceed to consider the evidence of various eyewitnesses including the injured witnesses.

16. The incident in question was reported to the police station at Gangakhed vide the first information report (Ex. 114) lodged by Limbajirao, Police Patil of the village. Manika (PW 15) is an eyewitness who testified as to what happened on 4-6-1982 as also various developments preceding the incident in question. He stated that the members of the family of the deceased and their associates were sitting in his house whereas his son Vishnu was made to sit on the terrace to keep a vigil. At about 2.00 p.m., a riotous mob consisting of about forty persons (of which, the appellants were the members) came to his house armed with deadly weapons like axes, sticks and started shouting slogans and abusing the Harijan community and in particular the victims' family. Vishnu who was sitting on the terrace informed him (Manika) that the riotous mob was approaching his house and the victims and their family members should run away for their safety. Accordingly, the victims started running but the members of the riotous mob chased and caught them near the hill known as Kumbharmaticha Mal. All the appellants thereafter caused assault on Govinda, Hari and Limba by means of axes, sticks and stones. The wives of the victims were following them and they requested not to kill but according to this witness, the appellants did not pay any heed and were saying that they should be finished forever. During this assault, Hari, Govinda and Limba sustained incised and lacerated wounds and died on the spot. Manika (PW 15) further stated that Narayan who had taken refuge in the house of Rama Dhudhaji was dragged out of the said house and was taken to the place known as Manay platform and then mercilessly hacked to death by the members of an unlawful assembly. Narayan also died instantaneously. He further stated that during the said assault, the riotous mob assaulted the witnesses causing them injuries and thereafter they fled away. Manika (PW 15) further deposed that during the said incident, he also sustained injuries along with other persons namely, Sopan (PW 2), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8), Kundlik (PW

21) and Vithal (PW 22). This is the substratum on which the entire prosecution case rested. This witness was cross-examined at a great length but, however, we do not see any material brought out during the cross-examination which could discredit his testimony. It also needs to be mentioned that the incident took place in the day time at about 2.00 p.m. on 4-6-1982. All the appellants were personally known to this witness since they are the residents of the same village and, therefore, mistaken identity of any of these appellants was out of question. The injuries sustained by these three deceased persons as reflected in the post-mortem examination reports clearly bore out how the three victims were mercilessly beaten by the appellants and other members of the riotous mob. The courts below in our opinion have rightly accepted the evidence of Manika as trustworthy.

17. We may now consider the complicity of Sukhdeo (A-i), Vinayak (A-3), Prabhu (A-S), Gyanik (A-8), Bhima (A-b), Madhav (A-20) and Ashok (A-38) in the present crime. The prosecution examined as many as 22 witnesses of facts who had testified the role attributed to these appellants. It was urged on behalf of the appellants that most of these eyewitnesses have made improvements in their evidence in court by implicating as many accused persons as possible and, therefore, the evidence of such witnesses be discarded. It was further contended that no independent witness was examined by the prosecution as witness of fact and the witnesses who have deposed against the appellants belong to the Harijan community and in view of the prosecution case that there existed an enmity between the two groups, it would be unsafe to sustain the convictions on such evidence.

18. As regards the first contention, we see no substance because the incident took place in the locality where these Harijans were residing and the said place was situated few furlongs away from the village abadi. Moreover, a the Wanjari community as a united front had caused the attack on Harijans and, therefore, it would be futile to expect that any person from the village would support the cause of Harijans. All these witnesses of facts assuming to be closely related to the deceased persons, their evidence cannot be discarded on that score. All that is needed in such a case is that the court must scrutinize the evidence of such witnesses with greater caution.

19. Coming to the second contention that eyewitnesses have improved the prosecution story in court and be branded as untrustworthy of credence, we are unable to accept this criticism. We were taken through the evidence of the eyewitnesses and we are inclined to accept the evidence of such of the eyewitnesses whose evidence is free from omissions and contradictions. Following this rule, we may scrutinize the evidence led by the prosecution against Sukhdeo (A-i), Vinayak (A-3), Prabhu (A-5), Gyanik (A-8), Shriram (A-9), Bhima (A-10), Arun (A-22) and Ashok (A-38). Ramesh (PW 1), Bapu (PW 7), Manika (PW 15), Kalavati (PW 16) and Bainabai (PW 18) have consistently stated that A-1 was the member of an unlawful assembly and had participated in assaulting the four deceased persons. As against A-3, the consistent evidence is that of Ramesh (PW 1), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8) and Manika (PW 15) who in unmistakable terms referred to the participation of A-3 in the present crime as a member of an unlawful assembly. So is the evidence of Ramesh (PW 1), Sopan (PW 2), Bapu (PW 7), Phul Chand (PW 8), Manika (PW 15), Mahananda (PW 17), Bainabai (PW 18) and Padmin (PW 20). As against A-8, Ramesh (PW 1), Sopan (PW 2), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8), Manika (PW 15), Kalavati (PW 16) and Bainabai (PW 18) have consistently deposed as regards his role. In respect of A-9, the consistent evidence was comprised of Ramesh (PW 1), Bapu (PW 7), Manika (PW 15), Kalavati (PW 16), Mahananda (PW 17) and Bainabai (PW 18). The participation of A-10 in the present crime was deposed to by Ramesh (PW 1), Bapu (PW 7), Manika (PW 15), Kalavati (PW 16) and Mahananda (PW 17). The involvement of A-22 being a member of an unlawful assembly and his participation in the ghastly murders was deposed to by Sopan (PW 2), Kondabai (PW 6), Bapu (PW 7), Phul Chand (PW 8), Mahananda (PW 17) and Bainabai (PW 18). The role attributed to A-38 in

the present crime was deposed to by Ramesh (PW 1), Babu (PW 7), Kalavati (PW 16) and Bainabai (PW 18). We have carefully gone through the evidence of the above witnesses of facts and we are satisfied that the findings of facts recorded by the courts below as regards these appellants being the members of the unlawful assembly sharing a common object and in pursuance thereof causing assault on four victims by axes, sticks etc. and thereby committing their murders suffer from no infirmity. Furthermore, the evidence of these eyewitnesses find corroboration from the medical evidence vis-a-vis the injuries on the four deceased persons and the weapons used by them. In addition to this evidence, there are also other materials on record in the form of recovery of certain incriminating articles through seizure panchnamas and the evidence of panch witnesses thereof. The trial court as well as the High a Court in their well-reasoned judgments have discussed the oral and documentary evidence on record very carefully and we are in agreement with the said appreciation of evidence and findings recorded by them. There is no substance in the Criminal Appeals Nos. 31 of 1989 and 235 of 1989 filed on behalf of the appellants.

20. That brings us to the case of the other set of convicted appellants, namely, Tuka Ram (A-2), Gangadhar (A-6), Shivaji (A-7), Atmaram (A-II), Suryabhan (A-12), Sapan (A-13), Kondiba (A-14), Sampati (A-18), Waman (A-27) and Udhav (A-39) who were acquitted by the trial court of all the charges but their order of acquittal was set aside by the High Court and they came to be convicted for the offences punishable under Sections 147, 148, 452/149, 323/149 and 302/149 of the Indian Penal Code and each one of them was sentenced to suffer imprisonment for life and other various terms of sentences. After going through the evidence and other materials on record, we find that their convictions and sentences do not call for any interference. While assailing the conviction of all these appellants, the learned counsel urged that the High Court was in error in setting aside the order of acquittal passed in their favour. The reasons for acquittal recorded by the trial court were based on proper appreciation of evidence and the High Court was totally unjustified in taking a different view. At the most, it would be a case of two possible views but that by itself could not be ground to set aside the order of acquittal. The High Court, therefore, had committed an error while interfering with the order of acquittal. In order to find out the sustainability of this contention, we have gone through the evidence of the witnesses of facts very carefully. It may also be noted that the statements of many witnesses were recorded under Section 164 of the Code of Criminal Procedure. These witnesses were searchingly cross-examined by the defence, yet no material could be brought out on record to discredit their evidence. The evidence which is consistent and free from omissions and contradictions against the appellants is as under :

The complicity of A-2 in the present crime was deposed to by Ramesh (PW I), Bainabai (PW 18), Padmin (PW 20) and Kundlik (PW 21). As against A-7, the evidence of Sapan (PW 2), Manika (PW 15), Kalavati (PW 16), Padmin (PW 20) and Kundlik (PW 21) is consistent. As against Atmaram (A-11), the evidence of Ramesh (PW 1), Sapan (PW 2), Manika (PW 15) and Kalavati (PW 16) is unblemished. As far as participation of A-6 is concerned, Ramesh (PW 1), Sapan (PW 2), Manika (PW 15), Kalavati (PW 16), Mahananda (PW 17), Padmin (PW 20) and Kundlik (PW 21) have consistently deposed about his role in the present crime. The complicity of A-12 was deposed to by Sapan (PW 2), Kalavati (PW 16), Padmin (PW 20) and Kundlik (PW 21). The role of A-13 was again consistently deposed to by Ramesh (PW 1), Manika (PW 15), Kalavati (PW 16), Mahananda (PW 17), Bainabai (PW 18), Padmin (PW 20) and Kundlik (PW 21). Against A-14, Sapan (PW 2), Mahananda (PW 17) and Padmin (PW 20) have given unimpeachable evidence. The involvement of A-18 in the present crime was testified by Ramesh (PW 1), Sapan (PW 2), Manika (PW 15) and Mahananda (PW 17). The role

attributed to A-27 was deposed to by Ramesh (PW 1), Manika (PW 15), Kalavati (PW 16), a Mahananda (PW 17), Bainabai (PW 18), Padmin (PW 20) and Kundlik (PW 21). The participation of A-39 in the present crime was consistently testified by Ramesh (PW 1), Sopan (PW 2), Manika (PW 15), Kalavati (PW 16), Mahananda (PW 17), Bainabai (PW 18), Padmin (PW 20) and Kundlik (PW 21). The High Court in its judgment has discussed the evidence of these prosecution witnesses very carefully while setting aside their acquittal and convicting them for the aforesaid offences. We are taken through the evidence of these eyewitnesses and we are in agreement with the findings recorded by the High Court while convicting these appellants.

21. We are of the considered view that on the basis of the evidence of these witnesses, it could not be said that the order of acquittal passed by the trial court was sustainable. The finding of guilt recorded by the High Court is based on correct appreciation of the evidence of these witnesses and we find no infirmity in these findings. There is no substance in the Criminal Appeal No. 53 of 1990 filed by the appellants.

22. For the foregoing conclusions, we are of the considered opinion that there is no substance in Criminal Appeals Nos. 31 and 235 of 1989 and Criminal Appeal No. 53 of 1990 and the same are dismissed. The appellants, if on bail, shall surrender to their bail bonds to serve out the remainder of their respective sentences.