SUPREME COURT OF INDIA

Maloth Somaraju

Vs.

State of A.P.

Crl.A.No.1849 of 2008

(V.S.Sirpurkar and T.S.Thakur,JJ.,)

17.08.2011

JUDGMENT

V.S.Sirpurkar,J.,

1. Appellant Maloth Somaraju challenges the judgment of the High Court whereby the High Court allowed the State appeal challenging the acquittal by the Trial Court. He was tried for the offence punishable under Section 302, IPC on the allegation that on 15.05.1999 at about 2 a.m. at night he committed the murder of his elder brother Maloth Krishna (hereafter referred to as "deceased" for short) by causing his death with an axe injuring his temporal region, nose and face which ultimately resulted in his death. The prosecution story in short conspectus Deceased was a worker in Singereni Collaries. He used to go for his duty at about 12.30 p.m. at night every day. On the fateful day, he did not go for his duty. At the time when the incident happened, he was sleeping on his cot along with one son. It is the prosecution case that besides him was another cot on which his wife Heeramani (PW-1) was sleeping along with another son. Besides these two cots, there was another cot on which was one Haridas (PW-9) who was the cousin of Heeramani (PW-1) was sleeping.

2. It is the case of the prosecution that at that time suddenly the appellant came and assaulted Krishna which incident was seen by Heeramani (PW-1) who raised cry which attracted the neighbours who were mostly the relatives of her husband including his parents, his brother, his sister- in-law and cousins of the deceased. All his relatives are Banjara by caste. The deceased was immediately carried in an auto rickshaw to Singereni hospital where he was declared as brought dead. On that Maloth Heeramani (PW-1) had lodged a report before Kothagudem Police Station. Since she was illiterate, Heeramani (PW-1) got scribed the report by Rayala Sathyanarayana (PW-14) and submitted it to Kothagudem police station at 6.30 in the morning. It has come on record that the report was immediately forwarded to the concerned Magistrate who received it at 7.30 in the morning. In this report Heeramani (PW-1) complained that in the midnight she woke up her husband for answering the call of nature. After that, she and her husband slept. As they were talking to each other, her brother-in-law Maloth Somaraju, the accused-appellant came from behind the house with a sickle

(Kota Kathi) and attacked her husband on his left temporal, nose and under the nose due to which there was heavy bleeding. She further suggested that she raised cry and on hearing her cries, her father-in-law Balunayak (PW-2), her mother-in-law, Maloth Bhikri (PW-3), elder brother in law Amar Singh (PW-4), his wife Kausalya (PW-5), her second brother in law Phool Singh (PW-6), his wife Maloth Dwali (PW-7) came there. On seeing them, accused Somaraju fled away. After that her husband was shifted in the auto of Mohan Rao to Company Singereni main hospital. However, the doctors there told that her husband was dead. She then narrated that accused/appellant was addicted to drinking and used to come to house and beat her in-laws and was harassing them for which her husband had to pacify them and about fifteen days back when the accused bit her in- laws, her husband had beaten the accused and it was because of this that he bore grudge against her husband and axed her husband. The offence was registered and the investigating officer rushed to the spot, got executed inquest Panchnama as also got drawn the map of the spot and sent the body for autopsy. Autopsy was conducted by M. Gopal Swamy (PW-16). Autopsy report is Exhibit P-19. The autopsy was conducted at 11 a.m. in the morning. According to the doctors, the approximate time of death was 8 to 10 hours before the autopsy. After the completion of the investigation, the charge-sheet was filed. At the trial, the prosecution examined as many as 20 witnesses and marked 31 documents. In his defence, the plea of accused is of total deny. There was no defence evidence tendered by him. The Sessions Judge acquitted the accused which acquittal was challenged by the State by filing an appeal which appeal was allowed convicting the accused of the offence under Section 302, IPC and awarding sentence of life imprisonment.

3. Shri Anand Dey, learned counsel appearing on behalf of the appellant contended before us that the High Court had committed an error in upsetting the verdict of acquittal given by the trial Court. The learned counsel urged that the Sessions Judge had taken a possible view and merely because another view could be taken of the matter, the High Court could not have converted the verdict of acquittal into that of conviction. The learned counsel strenuously and painstakingly took us through all the evidence and contended that Heeramani (PW-1) was the sole eye witness and it was impossible for her to identify the accused as admittedly she as well as the deceased were sleeping in the courtyard and that was a new moon night and thereby there was complete darkness. Learned counsel further argued that there were number of suspicious circumstances in the matter inasmuch as though her own cousin was sleeping on the third cot, he did not support the prosecution when he was examined as PW-8. In fact the learned counsel was at pains to suggest that Heeramani (PW-1) had a definite motive to falsely implicate the accused inasmuch as the sister of her husband had married her brother and both her brother as well as his wife had died unnatural death because of which the relations between her family and the family of her husband were strained. It was further argued that the whole investigation was slipshod and casual inasmuch as the investigating officer had not even sent the blood stained clothes of the only eye witness for examination. He did not even send the clothes which were blood stained. Learned counsel pointed out from the record that though it was the version of the witness that there were three cots in the courtyard, when the investigating officer went there, only one cot was found. The investigating officer did not even bother to seize the cot which was blood stained. That apart, the learned counsel pointed out that there were serious discrepancies in the matter as the

scribe of the FIR, Rayala Sathyanarayana (PW-14) had suggested that he had written the report at about 9-9.30 a.m. According to the learned counsel, by then, her relations and, more particularly, Bhukya Dhalsingh (PW-13) had come and, therefore, there was every possibility that the relatives had persuaded her to falsely implicate the accused on account of the strained relations. The learned counsel also pointed out that it had come in the evidence that the Heeramani (PW-10) was in fact sleeping inside the house and outer door was chained from outside and in fact it was only after the said door was opened by her father in law, who come immediately after the assault, that she came out and, therefore, it was impossible for her to see the accused. In the FIR, she had never referred to any bulb and that she had made the improvement regarding existence of a bulb/ source of light only in her cross-examination. Learned counsel, therefore, urged that if all these suspicious circumstances were viewed in favour of the verdict of acquittal, the High court should not have upset the verdict merely because some other view favouring the conviction was possible.

4. As against this, Shri I. Venkatanarayana, learned senior counsel appearing on behalf of the State very strongly supported judgment of the High court and contended that though the house of the deceased was in the village, it was right on the road, and therefore, there was a possibility of the street lights being there. The learned counsel argued that the evidence of Heeramani (PW-1) is natural evidence as she could not have been elsewhere when the incident occurred. Her presence, therefore, was absolutely natural. He also pointed that her version is confirmed as she had taken the name of the accused barely in 3-4 hours after the incident, in her FIR. Considering that she was an illiterate lady there was no question of her falsely implicating the accused. The learned counsel pointed out that her own relations from her father's side could not have been present at 6.30 a.m. as they are the residents of the other village. He further pointed that the investigating officer had given the full explanation as to why he did not seize her blood stained clothes. As regards the cots, the explanation given by him was that it was possible that the cots were removed for being cleaned as admittedly there was huge amount of blood which was clear from the fact that even the earth became blood stained. The learned counsel further pointed out that the version given by her father-in-law about the door being closed and chained from outside was obviously false as it was not supported by any other witness and it was clear that all the hostile witnesses who were the direct relations of the accused had the sole intention to save the accused. The learned counsel supported the judgment of the High Court saying that no other view was possible on the basis of the evidence led. He pointed out that even assuming there was darkness, Heeramani (PW-1) could not have committed mistake in identifying her own brother-in- law who was barely 2-3 feet from her when the incident occurred. He pointed out that the prosecution had proved all the contradictions brought out in the cross-examination by the Additional Public Prosecutor of the hostile witnesses. As regards the discrepancy in the FIR regarding its timing, the learned counsel pointed out that if the copy of the FIR reached the Magistrate as early as 7.30 in the morning and it was not expected that an illiterate lady like Heeramani (PW-1) to have necessary intention to falsely implicate the accused. It is on the basis of these conflicting claims that we have to see whether the High Court was justified in upsetting and convicting the accused for the offence of murder.

5. The law dealing with the judgments of acquittal is now settled. There can be no two opinions that merely because the acquittal is found to be wrong and another view can be taken, the judgment of acquittal cannot be upset. The appellate Court has more and serious responsibility while dealing with the judgment of acquittal and unless the acquittal is found to be perverse or not at all supportable and where the appellate Court comes to the conclusion that conviction is a must, the judgment of acquittal cannot be upset. We have to examine as to whether the High Court, while upsetting the acquittal, has taken such care and it is quite clear from the High Court's judgment that the High Court has certainly taken that care.

6. The High Court has wholly relied on the direct testimony of Heeramani (PW-1) and has carefully examined her evidence threadbare. Firstly, the High Court has correctly found that she had a close relation with the accused who was her real brother-in-law and she was not expected to commit any mistake in identifying him. The High Court has correctly observed that she would certainly be interested in naming the culprit since she had lost her husband. The High Court has rightly found that she was a natural witness and her presence in her own household was also absolutely natural. Her version that she woke up her husband to attend the call of nature is the most natural version and that has been specifically stated in the first information report which was filed barely within 4 - 4= hours after the incident. The High Court refuted the defence version that she could not have identified the accused because of the darkness on the basis of the theory of the bulb, introduced in the cross-examination. Very significantly, she had not spoken about her having lighted the bulb, in her examination-in-chief; however, in her cross-examination, when it was suggested to her that there was no power during that night, she specifically refuted the suggestion and then asserted that she had switched off the bulb before going to the bed and had switched on the same after she had awakened to attend the call of nature. This theory of her switching on the bulb, having been introduced in the cross-examination, becomes all the more significant. The High Court, therefore, accepted her version that she had put on the bulb and had not switched it off after she and her deceased husband returned to the bed after answering the call of nature. Therefore, whatever doubts could have been raised because of the night being a new moon night and the prevalence of darkness on the spot, were also got dispelled by the defence by its cross-examination. The High Court has also considered the contention raised on behalf of the defence that the accused could not have inflicted the injuries on the face of the deceased and, more particularly, front part thereof, if after answering the call of nature, both were talking to each other, meaning thereby that the deceased was in a sitting position. The High Court has pointed out through the evidence of Heeramani (PW-1) that the deceased was in the lying position and it is on that basis that the High Court has rejected the defence theory and upheld the evidence of Heeramani (PW-1). The High Court has also found that there could not have been any motive on the part of Heeramani (PW-1) to falsely implicate her husband's brother. The defence theory was that the sister of the deceased was married to her brother and her brother had committed suicide and in fact Heeramani (PW-1) was holding the accused to be responsible for the suicide. There being no support to this theory in evidence, the High Court has chosen to ignore the same and in our opinion, rightly. The witness was not cross-examined in respect of the controversy regarding the number of cots. She, in her evidence, had claimed that there were three cots and she, her husband and two

sons were sleeping on the two cots, whereas the third cot was occupied by her cousin. Relying on the sketch (Exhibit P-30) drawn by the investigating officer as also on the photographs, it was suggested that only one cot was found. The High Court has rejected this theory that the sketch (Exhibit P-30) which is the sketch drawn by the investigating officer was admissible in evidence. The High Court has found that even if it was held to be admissible, admittedly, the sketch was drawn by 11.30 am and, therefore, the possibility of the two other cots, which had no signs of any blood or any other material evidence having been found, could not be ruled out. Even before us, Shri Anand Dey, learned counsel appearing on behalf of the appellant very strenuously argued on the aspect of the cot as well as the position of the deceased and the location of the injuries on the face of the deceased. We are quite satisfied by the reasoning given by the High Court to reject the claim of the defence in this behalf. Similar is the situation regarding her clothes being stained with blood. It is an admitted position that her clothes which were stained with blood were neither seized by the investigating agency nor were they sent for the chemical examination. The High Court accepted the explanation of Sub Inspector M. Konda Reddy (PW-20) that her clothes even otherwise could have stained with blood because she had carried the deceased in the auto rickshaw to the hospital and, therefore, the clothes were not material. We do not see any reason to reject this reasoning of the High Court. Shri Dey, learned counsel, very strenuously urged that it was a doubtful circumstance and that in the absence of the blood-stained clothes, the version of Heeramani (PW-1) could not be believed by the High Court and by this Court. We do not see any reason to accept the argument by the learned counsel.

7. Heeramani (PW-1) was thoroughly cross-examined and nothing could be brought out in her cross-examination which would bring her testimony into dark. On the other hand, the theory of switching on the bulb was introduced by the defence in her cross-examination. What impresses us most about the evidence of this witness is the fact that she lodged the FIR barely within 4-4= hours of the incident. She is an illiterate lady, which is clear from the thumb mark on the FIR. It must be noted that after the incident which took place at 2 O' clock at night, the deceased was taken by her to the hospital. It has come in the evidence of this witness that immediately after the incident, her father-in-law Balunayak (PW-2), her mother-in-law Maloth Bhikri (PW-3), Phool Singh (PW-6), her other brother-in-law and Dwali (PW-7), wife of Phool Singh (PW-6) had rushed to the spot and then the deceased was carried to the hospital. It is obvious that she alone could not have carried her husband to the hospital and she must have been accompanied by the relatives on her husband's side. After her husband was declared dead by the hospital authorities, she straightaway went to the police station and lodged the FIR at 6.30 in the morning which is clear from the evidence of Sub Inspector M. Konda Reddy (PW-20) as also from the FIR which we have seen ourselves. What impresses this Court most is the fact that a copy of the FIR was sent to the Magistrate almost immediately and it was received by the Magistrate at 7.30 in the morning. It was urged by Shri Dey, learned counsel, that this FIR was scribed by Rayala Sathyanarayana (PW-14) as per the dictation of Heeramani (PW-1) and that the same was scribed near the police station. The learned counsel invited our attention to the evidence of this witness where he has claimed that he scribed the FIR (Exhibit P-1) at about 10 a.m. It has also come in the evidence of this witness that the distance between the police station and the hospital is about 2 Kms. and the distance between the police station and the spot of occurrence is about 3

Kms. The learned counsel, therefore, very vehemently argued that the theory that the FIR was lodged at 6.30 am has to fall on the ground of evidence of this witness. The argument is absolutely incorrect. True it is that the witness had stated that he scribed the FIR at 10' o clock in the morning; however, Sub Inspector M. Konda Reddy (PW-20) has claimed that he received the FIR at 6.30 a.m. on 15.5.1999, on the basis of which he took up the investigation. Men may lie, but the circumstances and the documents don't. The copy of the FIR is seen by us which specifically mentions the time of recording of FIR 6.30 a.m. Further, the receipt of this FIR by the Magistrate at 7.30 a.m. would obviously put an end to the theory that the FIR was written by Rayala Sathyanarayana (PW-14) at 10 O' clock in the morning. It has also come in the evidence that the inquest on the dead body was itself held between 7 a.m. and 9.30 a.m. in presence of Banothu Srinivas (PW-15) and M. Gopal Swamy (PW-16). Had the FIR been written at 10 a.m., the inquest held between 7 a.m. and 9.30 a.m. would never have been possible. We see no reason to disbelieve the inquest report (Exhibit P-21). The version of Sub Inspector M. Konda Reddy (PW-20) is also supported by the fact that he registered the offence and mentioned in the proforma FIR the time as 6.30 a.m. We have seen the evidence of Sub Inspector M. Konda Reddy (PW-20)very closely on this aspect. There is no cross- examination on this aspect excepting the bald suggestion that the time of the offence and the time of the report were manipulated to cover up the lapses on the part of the investigating agency. We do not see any justification to this bald suggestion, particularly in view of a clear endorsement by the Magistrate that the FIR reached the Magistrate at 7.30 a.m. Once this aspect of the timing is proved, the same must clinch the issue and then it cannot be imagined that Heeramani (PW-1) who was in the company of her relatives on her husband's side, would falsely implicate her own brother-in-law. The theory of false implication is just not possible as the lady hardly had any time to think about the false implication of her brother- in-law. The lady is illiterate. She could not have just created the theory that it was her brother-in-law who was the culprit, unless that was the truth. On this backdrop, when we read the FIR, it completely corroborates her evidence.

8. The first information report given by this witness is complete in all the details. She very specifically stated that on that day her husband did not go for the duty and on that night she and her husband and her cousin were sleeping and she woke up her husband to attend the call of nature. Thereafter, she and her husband slept and while they were talking to each other the accused came from behind and axed the husband on his temporal, nose and under the nose. She also spoke about her raising cries and her relatives, namely, Balunayak (PW-2), her father-in-law, Maloth Bhikri (PW-3), her mother-in-law, Amar Singh (PW-4), her elder brother-in-law, his wife Kausalya (PW-5) and the other brother-in-law Phool Singh (PW-6) and his wife Dwali (PW-7) having come on the spot. She has also referred to the fact that on seeing them the accused fled away. She has further stated that after they brought the husband to the hospital in the auto of one Mohan Rao, the doctor told them that her husband was dead. She has also given reasons for the accused to attack her husband. The name of scribe is also to be found in the first information report. There were no contradictions in her evidence. She has supported the first information report fully.

9. It was stated by the learned defence counsel that the scribe has given an altogether different time regarding writing of the first information report and had stated in the

examination-in-chief as well as the cross examination the totally different timing. Very strangely, it has come in the cross examination itself by the defence that there was rumour among the people gathered there that the accused had killed the deceased. The first information report was scribed by PW-14 Rayala Sathyanarayana who said in his cross examination that it was at about 10 a.m. that he scribed the FIR. The learned defence counsel very heavily relied on this assertion and pointed out that though the FIR is shown to have been registered at 6.30 a.m., in fact it was scribed at 10 O' clock. We have seen the evidence and we are of the firm opinion that his assertion that the FIR was scribed at 10 O' clock cannot be correct, particularly, in view of the registration of the offence at 6.30 a.m. in the morning and the copy of the FIR having reached the Magistrate at 7.30 a.m. It is obvious that the witness was falsely claiming the time of the FIR to be 10 O' Clock. Bhukya Dhalsingh (PW-13) is a resident of another village called Jethyathanda. He is related to the accused as well as Heeramani (PW-1). He could reach the hospital at about 8 or 9 p.m. He asserted that Heeramani (PW-1) and others were in the hospital and he was told by Heeramani (PW-1) that the accused killed her husband. Of course, this evidence would be of no consequence excepting to the evidence of judging the behaviour of Heeramani (PW-1) in revealing the name of the accused in his cross examination by the defence. He was made to say that there was rumour among the people gathered there that the accused had killed the deceased. The evidence of M. Jithendar Reddy (PW-19) completely supports the theory that the FIR was received at 6.30 a.m. and at the same time was registered. He has also asserted that he sent the printed registered FIR to the Additional JFCM, Mothagudem and also marked the copies to concerned officers. There is absolutely no cross examination of this witness excepting a bald suggestion that the time of the report was manipulated. All this evidence clearly shows that Heeramani (PW-1) was a truthful witness. She stood her cross examination extremely well.

10. It is not the quantity but the quality of the evidence which clinches the issue in the criminal trial of this type. The quality of the evidence of Heeramani (PW-1) is very high and her evidence alone is sufficient for the conviction of the accused. We will, however, consider the evidence of other witnesses like Balunayak (PW-2), the father of the deceased who claimed that he was called at 12 midnight or at 1 a.m. by his deceased son that somebody had hit him and had broken his head. He claimed to have tied the towel to the head of the deceased and gave him water. At that time Heeramani (PW-1) and her children were sleeping in the house and the door was bolted from outside. He claimed to have opened the door and it is then that Heeramani (PW-1) came out. He was declared hostile and the whole statement made by him being totally contradictory was got proved by the Public Prosecutor.

11. He has of course failed to say anything about the bolted door from outside and about his having woken up his daughter in law i.e. Heeramani (PW -1) in his statement before the police. Those are clear omissions. On the other hand, the story told by him in contradictory portions of his statement under Section 161, Cr.P.C. suggests that he is not a truthful witness. This is apart from the fact that he was extremely interested in saving the life of accused who is his son and further this part of his evidence was not supported by another witness including his wife Maloth Bhikri (PW-3) and the other witness, namely, Amar Singh (PW-4). Amar Singh (PW-4) significantly enough deposed that on the night of death of Krishna he

heard the cries of Heeramani (PW-1) at 1.30. a.m. which is the time told by Heeramani (PW-1) also. He was awakened by the cries of PW-1 and not by the cries of the deceased as was claimed by Balunayak (PW-2). That is the corroboration to the evidence of PW-1 at least in respect of the time. It also wipes out the story of Balunayak (PW-2) that the deceased had shouted. Significantly enough, no other witness has stated to have been awakened by the cries of the deceased. In his cross examination by the defence, it has come that Heeramani (PW-1) had told him in the hospital that the accused was the person responsible for the injuries. Thus, Heeramani (PW-1) had told the name of the accused even to this witness which is a relevant piece of evidence. The evidence of Kausalya (PW-5) and Phool Singh (PW-6) is of no consequence excepting to the extent that he was present along with Amar Singh (PW-4) and his father Balunayak (PW-2) in the hospital. He tried to improve upon his story to the effect that Heeramani (PW-1) had expressed to him as to who was the assailant. He was also declared hostile. Therefore, his evidence would be of no consequence. Similar is the story of Banoth Dwali (PW-7), Vankudoth Haridas (PW-8), Maloth Haridas (PW-9), Maloth Badru (PW-10), Maloth Devadas (PW-11) and Banoth Khalu (PW- 12) All these witnesses were declared hostile and their evidence is of no consequence excepting to the extent stated earlier. We have already referred to the evidence of Bhukya Dhalsingh (PW-13) and Rayala Sathyanarayana (PW-14) in the earlier part of the judgment. The panch witnesses, namely, Banothu Srinivas (PW-15) and Malothu Balu (PW-16) have also turned hostile. When we compare the evidence of all these persons who were the relatives of the deceased, it is significant that it has nowhere come that Heeramani's (PW-1) paternal relatives were there. In fact she was surrounded by all the relatives of her husband and yet she has named her husband's younger brother as the accused in her FIR. We cannot imagine that she would be falsely implicating the accused in presence of all the relatives of her husband's side. Therefore, we are of the opinion that Heeramani (PW-1) is a completely reliable witness.

12. It was argued that in this case, the discrepancy of the murder weapon was not properly proved and Shaik Gouse (PW-17) was a stock witness who was a criminal. We also do not propose to believe the evidence of discovery for the reasons given by the Courts below; however, that would not give any benefit to the accused whose presence on the spot and whose act of hacking the deceased has been fully proved by the evidence of Heeramani (PW-1). It was tried to be argued by Shri Dey, learned defence counsel, that the prosecution did not examine the two child witnesses. We do not think that that could be viewed against the prosecution. After all, they were of the tender age and to put them in the witness box would have been hazardous. Besides the prosecution had put all the witnesses in the witness box who had rushed on hearing the shrieks by Heeramani (PW-1) and initially all those witnesses had allegedly seen the appellant/accused. It is a different affair that all of them turned hostile, obviously in order to save the appellant/accused who was their own kith and kin. We, therefore, do not view this to be a suspicious circumstance.

13. The learned defence counsel Shri Dey also argued that the weapon was different. While in the FIR, Heeramani (PW-1) had said the weapon to be Kota Kathi (hunting sickle), the learned defence counsel pointed out that the weapon which was seized was an axe. We do not attach much importance to this insignificant discrepancy as it may be that Heeramani

(PW-1) could not differentiate between the hunting sickle and the axe, both of which are fitted with a wooden handle. We have also some suspicious circumstances mentioned in the judgment of the trial Court. The first is regarding existence of bulb. The trial Court held that the time of incident was not mentioned in the FIR (Exhibit P-1), but ignored the fact that the subject of bulb was brought in the cross-examination by the defence. The second circumstance is about Heeramani (PW-1) sitting on the cot and talking with her husband and not mentioning that the husband was also lying on the cot. In our opinion, this circumstance is absolutely insignificant as it has been shown that her husband was actually lying on the cot as per her version in the Court. Third circumstance is the possibility of their not talking. That is absolutely insignificant and has to be ignored. It is nothing unnatural. Fourth circumstance is the account of darkness. We have already explained that circumstance that even in the light that was available, it was quite possible for Heeramani (PW-1) to identify, which identification was further corroborated by her immediately naming the accused. Fifth circumstance is about the position of the deceased which we have already explained. This circumstance could not be availed by the trial Court. Sixth circumstance is about existence of only one cot near the fence at some distance which was seen in photos. We have already explained this circumstance to be insignificant as there was possibility of removing the cots since the panchnama took place at about 11 O' clock in the morning. Seventh circumstance is about blood stained clothes of Heeramani (PW-1) not being seized to establish her presence. We have explained this circumstance that there was very good explanation given by the investigating officer. Eighth circumstance is obviously incorrect, that being the delay in giving the report. Ninth circumstance is the cousin of Heeramani (PW-1) not supporting the prosecution. That by itself cannot be a suspicious circumstance, particularly, on the backdrop of the FIR having been registered at 6.30 a.m. and the same having been received by the Magistrate at 7.30 a.m. Tenth circumstance is about the relatives completely turning hostile and not supporting the version. This could not be held to be a suspicious circumstance for the simple reason that they were all interested in the accused. Eleventh circumstance is that there was no strong motive to kill. The motive looses all its significance in the wake of eye-witness's account. Twelfth circumstance is that there were possibilities of some other persons attacking the deceased. There is absolutely no basis for this wild imagination. We have already referred to the thirteenth circumstance about bill book and held it to be not a suspicious circumstance. Fourteenth circumstance is merely inferential. Fifteenth circumstance is that Heeramani (PW-1) did not try to obstruct the deceased to give him blow after first blow. That circumstance depends upon the individual reaction. We do not attach any importance to such a circumstance. Last circumstance is again about the cot. We do not think that that is any relevant circumstance. Therefore, it is clear that the trial court got swayed away by the so-called irrelevant suspicious circumstances which resulted into the acquittal of the appellant. The High Court has, in its judgment, dealt with all the other aspects in detail and has also considered the evidence without being influenced by all these irrelevant and imaginary suspicious circumstances. We wholly approve of the judgment of the High Court and confirm the same. In the result, the appeal has no merits and it is dismissed.