SUPREME COURT OF INDIA

Khurshid Ahmed

Vs.

State of Jammu

Crl.A.No.872 of 2015

(N.V.Ramana and S.Abdul Nazeer,JJ.,)

15.05.2018

JUDGMENT

N.V. Ramana,J.,

1. This appeal is directed against the judgment dated 11th March, 2015 passed by the High Court of Jammu and Kashmir at Jammu in Criminal Appeal No. 36 of 2012. By the said judgment, the High Court reversed the order of acquittal passed by the Principal Sessions Judge, Bhaderwah against the appellant, and convicted him for the offences punishable under Sections 302/341 of the Ranbir Penal Code (hereinafter referred to as 'RPC') and sentenced him to suffer imprisonment for life and to pay a fine of Rs.1,000/- for the offence punishable under Section 302, RPC and to pay a fine of Rs.500/- for the offence under Section 341, RPC, with the direction to realize the fine amount from his estate.

2. The brief facts, as culled out from the prosecution case are that on 18th May, 2006 a shop keeper of hardware material, namely, Arshad Sajad accompanied by his father Sajad Ahmed Bhat (PW9) were going to their home after closure of shop in the evening at about 5.30 p.m., while they were on their way, near Masjid, the appellant herein intercepted them from the opposite direction and started hurling abuses against them. When they ignored his abuses and moved forward, the appellant attacked Arshad Sajad on his head from behind with an iron rod. The injured Arshad Sajad and his father then went to the clinic of one Ali Mohd. (PW3) and on his advise they went to the Bhaderwah police station and informed the police about the incident. Accordingly, FIR No. 53 of 2006 was registered against the accused—appellant for the offences punishable under Sections 341/323, RPC. Police then sent the injured to Sub District Hospital, Bhaderwah for treatment. As his condition was deteriorating, for better treatment, he was being shifted to Government Medical College, Jammu, but on the way, he succumbed to the injuries.

3. Nisar Ahmed, S.H.O. of police station Bhaderwah—PW 14 took up the investigation, sent the body of the deceased for postmortem, seized his clothes, inspected the spot, collected samples of bloodstained earth as well as normal earth and prepared site map (Ext. PW N.A.) and seizure memos. The accused—appellant was arrested on 20th May, 2006 and one

iron rod being the weapon of assault has been recovered at his instance and sent it for chemical examination. Having recorded statements of witnesses under Section 161, Cr.P.C. the I.O. carried on the investigation in which it was revealed that the motive behind the accused assaulting the deceased was actually related to a prior tussle between them during the daytime at the shop of the deceased over a financial transaction. Allegedly, basing on the guarantee and undertaking given by the accused—appellant, the deceased supplied some G.I. sheets to one Gias-ud-Din. When the appellant came to the shop of the deceased, he insisted the appellant to make payment. Over that issue, there occurred a scuffle between the appellant and the deceased. The passersby including Farid Iqbal (PW1), Sajad Ahmed—father of the deceased (PW9), Abid Hussain (PW10) and Amjad Hanif (PW12) got them separated. While leaving the shop, the appellant declared that he will see the deceased anytime, and in the evening when the deceased and his father (PW9) were going to their home, the accused met them on the way and assaulted the deceased on his head.

4. As the head injury resulted in the death of Arshad Sajad, charge against the accused was altered for the offence under Section 302/341, RPC and accordingly charge sheet was laid. The accused pleaded not guilty and claimed to be tried.

5. At the trial, in its endeavour to prove the guilt of the accused, prosecution had examined as many as 14 witnesses, whereas the accused in his defence has examined one witness. The trial Court after a full fledged trial, came to the conclusion that the prosecution has failed to prove motive and the statement of sole eyewitness (father of the deceased) stood uncorroborated with the other witnesses, as the prosecution has failed to establish the guilt of the accused beyond reasonable doubt has acquitted the accused from the alleged offences under Section 302/341, RPC.

6. Aggrieved by the order of acquittal passed by the trial Court, the State of Jammu & Kashmir raised appeal before the High Court. Upon adjudicating the same, the High Court has come to the contrary conclusion and observed that the evidence of the sole eyewitness (father of the deceased) was duly corroborated by oral, documentary and expert evidence and by improperly rejecting the same, the trial Court has committed grave miscarriage of justice. Therefore, the High Court reversed the order of acquittal into conviction for the charges under Section 302/341, RPC and sentenced the accused—appellant as stated hereinabove. That is how the accused is in appeal before this Court.

7. Before analyzing the evidence available on record and going into the legal aspects of the same, we feel it appropriate to first deal with the contentions advanced by the learned counsel on either side.

8. Mohd. Aslam Goni, learned senior counsel representing the accused—appellant has advanced his arguments strongly pointing out that in the entire case there were several lapses on the part of prosecution which were ignored by the High Court, while reversing the well considered judgment of the trial Court. Disputing the genesis of FIR itself, learned senior counsel argued that as per the prosecution, on 18.5.2006, oral report was given by the deceased at 8.30 p.m. at police station, Bhaderwah about the occurrence, based on which FIR

was registered. According to I.O.— Nisar Ahmed (PW14), he recorded the statement of deceased at 10 p.m. in the hospital. But, the said statement is missing in the main file which was replaced with a statement in the handwriting of ASI —Jan Mohd (DW1), who has not been examined as a prosecution witness. The reason behind replacing the statement of I.O. with that of ASI Jan Mohd is only with a view to implicate the appellant in the crime.

9. It was further contended that despite there being no proof of strong motive for the appellant to commit the offence, nor there being any independent eyewitness to the incident, the fact that only one injury has been suffered by the deceased, the High Court should not have taken a different view to the one taken by the trial Court. The High Court should have dealt with the case with high standard of presumption of innocence on the part of the appellant. Supporting the decision rendered by the trial Court, learned senior counsel relied on the judgments of this Court in *Rathinam @ Rathinam Vs. State of Tamil Nadu & Anr*[1]*., Bindeshwari Prasad Singh & Ors. Vs. State of Bihar & Anr*[2]*., and Sunil Kumar Sambhudayal Gupta & Ors. Vs. State of Maharashtra*[3]*,* submitted that interference by the High Court is not justified in the present case inasmuch as there is no manifest error, perversity or illegality in the trial Court's judgment.

10. The learned senior counsel tried to impress upon this Court that the evidence of PW9 i.e. father of the deceased, is not trustworthy and he is an interested witness. Further, as a matter of fact, it can be found from Page No. 64 of account (khata) that there was nothing to establish that the accused stood as guarantor to pay the sum due by Gias-ud-Din. Taking strength from the deposition of PW9 that in 2007 one Villayat Goni paid him the amount due in the name of Gias-ud-Din, it was argued that prosecution has failed to prove the motive and the alleged offence beyond reasonable doubt for the reason that it was someone else who paid the due amount but the prosecution had wrongly projected the accused as guarantor and unnecessarily implicated the appellant in the case.

11. Relying further on the decisions of this Court in *Shivaji Sahabrao Bobade & Anr. Vs. State of Maharashtra*[4]*, State of U.P. Vs. Kishanpal & Ors*[5]*., Nallabothu Venkaiah Vs. State of Andhra Pradesh*[6]*, and Jarnail Singh & Ors. Vs. State of Punjab*[7]*,* learned senior counsel submitted that the High Court ignored the important legal principles while convicting the accused, who was already declared innocent and acquitted by the trial Court, under Section 302, RPC the circumstances should be conclusive in nature. The prosecution stated that at the time of occurrence, one Aslam and Zakir were also there at the spot, but they were not named as witnesses nor were they examined. Even the alleged eyewitness, father of the deceased, has not exactly seen at whose hands the deceased was injured. It can be found from his own words that he was walking one meter ahead of the deceased and when he turned back on hearing the cry of his son, the appellant disappeared from there. In such situation, the prosecution case solely based on the evidence of PW9 cannot be believed, as his evidence is filled with assumptions and presumptions as well as surmises and conjectures.

12. The next contention of the learned senior counsel is that when the deceased was taken to hospital he was in complete consciousness, but the attending Doctor did not adopt proper

course of treatment so as to save the life of the deceased. The Doctor did not even advise for X-ray. In fact, the death of the deceased should have been ascribed to medical negligence.

13. On the other hand, learned counsel appearing for the State of Jammu & Kashmir, while supporting the judgment of the High Court, submitted that there is enough material on record to prove the guilt of the accused which is duly supported by the evidence of witnesses and corroborated by the medical evidence. Immediately after the occurrence, the deceased personally visited the police station and apprised under what circumstances the accused attacked him. Even within three hours after the occurrence, the I.O. recorded the statement of injured victim (deceased) when he was sent to the hospital for treatment where the deceased had further explained to the I.O. in detail about the altercation took place during the day in connection with the financial transaction for which the accused was a guarantor. When there is direct evidence available on record in the form of statement of the deceased himself and the statement of the eyewitness Sajad Ahmed—father of the deceased (PW9), prosecution is no longer burdened with proving motive. At the same time, it is also immaterial to examine all the witnesses who carried the injured to the hospital. Similarly, on the advice of Ali Mohammad (PW3) to inform about the assault to police, when the deceased hurriedly reached the police station, his focus would naturally be limited only to the extent of informing the police about how he got injured and to get immediate medical assistance, and it shall not be expected from a seriously injured person to narrate whole episode at that point of time. In such circumstances, the High Court has rightly assessed the incriminating facts and circumstances and by a prudent judgment, reversed the order of acquittal into conviction for which the accused—appellant was liable as he had made an inhuman attack on the deceased merely for demanding to pay the money for which he stood as a guarantor.

14. Having heard the learned counsel on either side, after going through the material available on record, we would like to deal with the contentions one after the other. The first and foremost contention, the learned senior counsel appearing for the accused-appellant advanced is with regard to the credence to be attached to the FIR No. 53 of 2006 registered on 18.5.2006, we find from the material on record that soon after the occurrence, the deceased as well as his father—Sajad Ahmed (PW9) rushed to the clinic of Ali Mohammad (PW3) for first aid, then on his advice they went to the police station at about 8.45 p.m. and lodged an oral complaint. Based on the same, FIR No. 53/2006 was registered and investigation has been entrusted to Ved Raj 185, Head Constable. This fact is affirmed by the testimonies of father of the deceased (PW9), Ali Mohammad (PW3) and PW14—Nissar Ahmed, I.O. According to PW3, on the day of occurrence, the deceased and his father along with 2-4 persons visited his clinic seeking treatment to the injured/deceased whereupon without providing any treatment, he advised them to go to the police station at first instance.

15. PW14—Nissar Ahmed, I.O. stated that the oral report was written by munshi and he had put his signature on it (Parcha-53). After completing that formality, he assigned the investigation to Hawaldar Ved Raj. Then at the first instance, he had sent the injured to hospital, and later on he visited the injured at about 11 p.m. in the hospital. Whereupon finding his condition to be serious, he took up the investigation and recorded the statement of injured and added offence under Section 307, RPC. He specifically mentioned that the

statement recorded under Section 161, Cr.P.C. was not in his own handwriting but he has affixed his signature on it. In our opinion, there is no doubt that the FIR was lodged in this case on the basis of the oral complaint made by the deceased at the police station which is a reliable document and made soon after the incident. Time and again this Court has illustrated that the first information report is not an encyclopaedia. It is not necessary that it should contain each and every detail concerning the offence at the time of lodging of FIR. Here in the present case, the informant who had received a severe head injury and accompanied by his father (PW9), went to the clinic of PW3 and later to the police station, would have been under great tension. Their mental condition in such a situation can be visualised. In such a state of mind, failure on their part to disclose the entire sequence of events in the first information report is neither unnatural nor fatal to the case of the prosecution. The trial Court has misconstrued the two statements of the deceased, one given at the police station immediately after the occurrence and the other, at the hospital while his condition was deteriorating. We are of the view that the subsequent statement of the deceased at the hospital as recorded by the I.O. is duly corroborated by the evidence of PW9 and absolutely there is no reason to disbelieve the same and the contention in this regard is meritless.

16. Another argument advanced is that there was no motive to commit the offence and in the absence of strong motive, the appellant cannot be held guilty under Section 302, RPC. In the present case, motive can be traced from the evidences produced by the prosecution with regard to the prior incident that took place between the deceased and accused in connection with payment of money over a transaction where the accused stood as a guarantor. Because of the earlier scuffle, the subsequent incident has occurred in which the accused hit the deceased with an iron rod due to which the deceased lost his life. It is appropriate to observe that in Halsbury's Laws of England, 3rd Edition, with regard to 'motive', it is stated that "the prosecution may prove, but it is not bound to prove the motive for a crime". 'Motive' is an emotion which compels the person to do a particular act. But in all the cases, it will be very difficult for the prosecution to prove the real motive. Motive is a double edged weapon when there is a direct and reliable evidence available on record, motive loses its importance. In a case of circumstantial evidence, motive assumes greater importance than in the case of direct evidence. In a case of direct and compelling evidence, even assuming that no motive is attributed, still the prosecution version has to be examined. As regards to the importance of existence of motive in a criminal case, here it is worthwhile to look at the ratio laid down by this Court in *Shivaji Genu Mohite v. State of Maharashtra*[8]*,:*

> "In case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eye-witness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eye-witnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eye-witness is rendered untrustworthy".

17. In the light of the above, we have to examine whether the prosecution was successful in proving the motive and what is the evidence available on record to prove the alleged act of the accused. In the instant case, according to PW9, the deceased had supplied some G.I. tin sheets to one Gias-ud-Din and the accused stood as guarantor for its payment. On the day of occurrence, when the deceased demanded to pay the money from the accused, he got annoyed and caught hold of the neck of the deceased and started beating him by which some bruises also appeared on the right side of his neck. At that point of time, Farid Iqbal (PW1), Amzad Hanif (PW12) and Abid Hussain (PW10) were present there and separated them. The accused then threatened the deceased that he would see him anytime. After the closure of shop, when deceased was going home along with his father, on their way the accused holding an iron rod in his hands, appeared from opposite direction, intercepted their way and abused them. When they moved forward, the accused hit the deceased on his head with the rod due to which he fell down with bleeding. When PW9 responded to the cry of his son, the accused disappeared from the scene. Thereafter they went to a local doctor (PW3) for first aid and then reported the matter at police station.

18. It is also evident from the record that the iron rod of 3 feet length and 8 centimeter circumference, used as weapon of offence was recovered by the police at the instance of the accused vide Ext. PW-MH I on 21.5.2006. The evidence of Mohd. Hafeez (PW2) and Abid Hussain (PW10) also corroborate the testimony of PW9 and prove the attack as PWs 2 & 10 having heard the same from the deceased himself. PW10 has categorically deposed to have witnessed the scuffle between the accused and deceased at the latter's shop in the daytime, and also the threat given by the accused. He further stated that the deceased was taken to the hospital on his motor cycle and he accompanied the deceased throughout till the last rites of the deceased. PWs 2 and 10 further stated that they have also witnessed the recovery of weapon of offence (iron rod) at the instance of accused, as the weapon was recovered by the police in their presence. The said recovery of weapon in the presence of PWs 2 & 10 and their depositions would therefore corroborate and strengthens the case of prosecution.

19. We have also given our precise consideration to the evidence of Dr. Raj Kumar—PW 13 who conducted postmortem on the body of the deceased on 19th May, 2006. The postmortem report (Annexure P/2) shows that the deceased sustained the following injuries:

> 1. Lacerated wound bone deep 1.5 cm x 0.25 cm on left frontal parietal region (Stitched).
>
> 2. Three linear scratch marks on right side of neck each V2 cm. in length. On internal examination, the Doctor found
>
> 1. Linear left temporal frontal region
>
> 2. Extradural haematoma on left lamprey parietal region
>
> 3. Meiurages over left temporal lobe torn

4. Underlying left temporal parietal lobe lacerated The Doctor opined that the cause of death was head injury resulted by a blunt object within the duration of 12 hours. It was specifically deposed by the Doctor in his evidence that the injuries found on the body of the deceased were sufficient to cause death. It was further revealed that while undergoing initial treatment at the hospital, the deceased narrated to him that when he was going towards his home, someone had assaulted. In his cross examination, the Doctor made it clear that when the deceased was kept in observation, he was in full senses and a specialist surgeon was also called. Ambulance was also provided to shift the patient to GMC, Jammu for providing better treatment. He could not detect the fracture of left frontal parietal bone initially due to non-availability of X-ray, but even if it was detected, it could be fatal, but in some cases if specialized treatment is provided life could be saved. In our considered view, the postmortem report and the evidence of Dr. Raj Kumar (PW13) fully corroborates with the evidence of PW9.

20. Considering the evidence of other prosecution witnesses, we find that Farid Iqbal (PW1), an independent witness, proved the scuffle that took place at the shop of the deceased, and the angered accused admonishing and threatening the deceased that he will see him anytime. PW4—Nazir Ahmed, deposed that police had taken his signatures at the time of postmortem on blank paper. However, he proved to have received the dead body of the deceased (Ext. PW-NH). PW5—Riyaz Ahmed also while proving the receipt of dead body of the deceased, deposed that 20-25 days after the death of deceased, police seized a register from the shop of deceased, to which he was the witness. PW7—Mohammad Ramzan stated that when he visited the hospital in the year 2006, the clothes were put off from the body of the deceased in his presence. Accordingly he witnessed the seizure of clothes of the deceased and put his signature on the seizure memo (Ext. PW-MR). Mohd. Saleem (PW8) also deposed that police seized the clothes of the deceased and he had put his signature on the seizure memo. PW11—Ishteyaq Ahmed and PW12—Amjad Hanif also supported the prosecution case in toto.

21. Upon consideringthe evidence of defence witness Jan Mohd. (DW1), it appears that at the relevant time he was working as ASI, he can very well write and read Urdu, whereas the I.O. (PW14) could not write Urdu. Therefore, on the directions of I.O., he prepared exhibits such as site plan (Ex. PW NA), seizure memo (Ex. PW SH II), Fard Inkshaf (Ex. PW NH), Fard Baramdgi (Ex. PW NH I), Fard Suprdnama (Ex. PW SH III), Fard Jama Talashi (Ex. PW NAV) and statements of witnesses, in his own handwriting. In his cross-examination, it has been revealed that he is a distinct relative to the accused and educated only up to middle standard. Investigation has not been carried out by him, but only on the instructions of I.O. he drafted the memos wherein his integrity remained doubtful as he tried to alter the prosecution case. In such a case, we cannot give any weightage to his deposition.

22. It was contended that the accused was not at all a guarantor to the alleged transaction and he had been unnecessarily implicated in this case. In our view, there is no need for this Court to go into the roots of the financial transaction to find out whether the deceased, a smalltime merchant of hardware items, kept his account books in proper order or not and who is debtor and who is guarantor. Our concern is to see whether the accused has committed the overt act

that led to the death of deceased and whether the accused is liable to be punished in accordance with law. The trial Court appears to have misguided itself in appreciating the evidence on record and acquitted the accused by ignoring the material and legal aspects surrounding the case.

23. In view of the above discussion, we are of the considered view that the direct oral evidence available on record coupled with the medical evidence, points at the guilt of the accused and not proving the motive for commission of the offence lost its significance in the facts of the case.

24. The learned senior counsel submits that in the present case, according to the prosecution, Sajad Ahmed, father of the deceased (PW9) was the only person who was present at the scene of offence at the time of occurrence. The entire case, therefore, depends on the veracity of his evidence. PW9, being father of the deceased, the appellant—accused had naturally made the allegation that he is an interested witness and therefore his evidence is not reliable. We are not able to appreciate such contentions. This Court considered the aspect of truthfulness of an interested witness in several cases. In *Dalip Singh & Ors. v. State of Punjab*[9], it is observed:

> "Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that here is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth".

25. In *Masalti v. State of U.P*[10]., this Court observed:

> "There is no doubt that when a criminal Court has to appreciate evidence given by witnesses who are partisan or interested, it has to be very careful in weighing such evidence. Whether or not there are discrepancies in the evidence; whether or not the evidence strikes the Court as genuine; whether or not the story disclosed by the evidence is probable, are all matters which must be taken into account. But it would, we think, be unreasonable to contend that evidence given by witnesses should be discarded only on the ground that it is evidence of partisan or interested witnesses. Often enough, where factions prevail in villages and murders are committed as a result of enmity between such factions, criminal Courts have to deal with evidence of a partisan type. The mechanical rejection of such evidence on the sole ground that it is partisan would invariably lead to failure of justice".

26. There is no proposition in law that relatives are to be treated as untruthful witnesses. On the contrary, reason has to be shown when a plea of partiality is raised to show that the witnesses had reason to shield actual culprit and falsely implicate the accused [See *Harbans Kaur & Anr. v. State of Haryana*[11],].

27. If the evidence of an eyewitness, though a close relative of the victim, inspires confidence, it must be relied upon without seeking corroboration with minute material particulars. It is no doubt true that the Courts must be cautious while considering the evidence of interested witnesses. In his evidence, the description of the incident by PW9 clearly portrays the way in which the accused attacked the deceased causing fatal head injury as propounded by the prosecution. The testimony of the father of deceased (PW9) must be appreciated in the background of the entire case.

28. In our opinion, the testimony of PW9 inspires confidence, and the chain of events and the circumstantial evidence thereof completely supports his statements which in turn strengthens the prosecution case with no manner of doubt. We have no hesitation to believe that PW9 is a 'natural' witness to the incident. On a careful scrutiny, we find his evidence to be intrinsically reliable and wholly trustworthy.

29. The argument that the evidence of PW9 cannot be weighed with as he was walking one meter ahead of the deceased at the time of incident and he cannot say that it was accused who hit the deceased with iron rod, does not sound correct and it cannot be given any weight considering the circumstance as a whole. It was also contested that the eyewitness did not suffer any injury. It is not necessary that to prove an offence, every eyewitness who had seen the accused hitting the victim should also receive injuries. Such contentions are meritless and do not fall for consideration.

30. When analyzing the evidence available on record, Court should not adopt hyper technical approach but should look at the broader probabilities of the case. Basing on the minor contradictions, the Court should not reject the evidence in its entirety. Sometimes, even in the evidence of truthful witness, there may appear certain contradictions basing on their capacity to remember and reproduce the minute details. Particularly in the criminal cases, from the date of incident till the day they give evidence in the Court, there may be gap of years. Hence the Courts have to take all these aspects into consideration and weigh the evidence. The discrepancies and contradictions which do not go to the root of the matter, credence shall not be given to them. In any event, the paramount consideration of the Court must be to do substantial justice. We feel that the trial Court has adopted an hyper technical approach which resulted in the acquittal of the accused.

31. The learned counsel strenuously submitted that in an appeal against acquittal, the scope of interference by the appellate Court is very narrow and the High Court erred in interfering with the well considered judgment of acquittal. It is appropriate to refer *Padam Singh v. State of U.P*[12]., in which while explaining the duty of the appellate court, this Court has expressed thus:

> "It is the duty of an appellate Court to look into the evidence adduced in the case and arrive at an independent conclusion as to whether the said evidence can be relied upon or not and even if it can be relied upon, then whether the prosecution can be said to have been proved beyond reasonable doubt on the said evidence. The credibility of a witness has to be adjudged by the appellate court in drawing inference from proved

and admitted facts. It must be remembered that the appellate court, like the trial court, has to be satisfied affirmatively that the prosecution case is substantially true and the guilt of the accused has been proved beyond all reasonable doubt as the presumption of innocence with which the accused starts, continues right through until he is held guilty by the final Court of Appeal and that presumption is neither strengthened by an acquittal nor weakened by a conviction in the trial court.

32. The power of the appellate Court in an appeal against acquittal is the same as that of an appeal against conviction. But, in an appeal against acquittal, the Court has to bear in mind that the presumption of innocence is in favour of the accused and it is strengthened by the order of acquittal. At the same time, appellate Court will not interfere with the order of acquittal mainly because two views are possible, but only when the High Court feels that the appreciation of evidence is based on erroneous considerations and when there is manifest illegality in the conclusion arrived at by the trial Court. In the present case, there was manifest irregularity in the appreciation of evidence by the trial Court. The High Court based on sound principles of criminal jurisprudence, has interfered with the judgment of acquittal passed by the trial Court and convicted the accused as the prosecution was successful in proving the guilt of the accused beyond reasonable doubt.

33. In view of the foregoing discussion and a conspectus of all the material would pave way to conclude that the prosecution has proved the case beyond reasonable doubt and the appeal preferred by the accused is bereft of any substance and accordingly dismissed.

[1](2011) 11 SCC 0140
[2](2002) 6 SCC 0650
[3](2010) 13 SCC 0657
[4](1973) 2 SCC 0793
[5](2008) 16 SCC 0073
[6](2002) 7 SCC 0117
[7](2009) 9 SCC 0719
[8]AIR 1973 SC 0055
[9](1954) 1 SCR 0145
[10](1964) 8 SCR 0133
[11](2005) CriLJ 2199
[12](2000) 1 SCC 0621