
(2012) 07 GUJ CK 0048
In the Gujarat High Court
Case No : Criminal Appeal No. 274 of 2007

Bachubhai Kabai Baria

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 13-07-2012

Acts Referred:

Evidence Act, 1872 — Section 27
Penal Code, 1860 (IPC) — Section 209, 302

Citation : (2012) 53 GLR 2400

Hon'ble Judges : Bhaskar Bhattacharya, Acting C.J.; J.B. Pardiwala, J

Bench : Division Bench

Advocate : Mrudul M. Barot, for the Appellant; K.P. Raval, Addl. P.P., for the Respondent

Final Decision : Allowed

Judgement

J.B. Pardiwala, J.—By way of this appeal the appellant-original accused seeks to challenge judgment and order passed by Presiding Officer, Fast Track Court No. 3, Vadodara dated 22-12-2006 in Sessions Case No. 58 of 2006, convicting the accused-appellant for the offence of murder punishable under Sec. 302 of Indian Penal Code and sentencing the appellant to undergo life imprisonment. The case of the prosecution in a nut shell is that P.W. 1-Nareshbhai Ratilal Baria, Exh. 9 lodged a First Information Report at Sankheda Police Station on 9-3-2006, inter alia alleging that on the date of the incident at around 9-00 O'clock in the morning he in the company of his wife and son went to their agricultural field. It is his case that at that point of time his mother, the deceased Diviben Ratilal Baria informed that after completing household work she would be going to the field for the purpose of cutting grass. It is the case of P.W. 1, son of the deceased that when they were working in the field one Ranjitbhai Sanabhai Baria resident of his village came on a cycle and informed him that his uncle (Daji) Bachubhai Kabai Baria, i.e. the accused has inflicted blows on the head of his mother (deceased). On learning this he immediately rushed to his residence and found that his mother was lying at the rear portion of the house in a pool of blood and

was groaning. P.W. 1 tried to talk to his mother but she was unable to speak anything and amongst the people who had gathered at the place where the deceased was lying, one Vitthalbhai Chottabhai Baria and Ranjitbhai Sanabhai Baria, the persons who had come to inform the first informant P.W. 1, informed the first informant that it was the accused who came with an axe in his hand and inflicted blows on the head of the deceased and left the place saying that the deceased was maintaining illicit relations in the village. The first informant thereafter arranged for a jeep to take her mother to the hospital but by the time the jeep came, she passed away at around 10-30 in the morning. P.W. 1, the first informant stated in the F.I.R. that it was the accused who inflicted blows on the head of his mother, as he had false suspicion as regards the character of the deceased. Police started investigation on the strength of the F.I.R. (Exh. 10) first by drawing panchnama of the scene of offence. The body of the deceased was sent for post-mortem and the post-mortem report revealed the following injuries :

- (1) 1 inch long, 1/2 cm. broad and 1/2 cm. deep wound on the left side of the face with clotted blood.
- (2) On the left side of the face 3 inch long, 1 cm. broad and 1 cm. deep wound up to the ear with clotted blood on the same.
- (3) Left ear was cut.
- (4) On the parietal region of the head 4 inch long, 1 cm. broad and 2 cm. deep wound right up to the bone with fracture of skull and brain was visible.

On the injury, brain tissues were visible. The internal examination of the dead body revealed fracture of the parietal bone; the meninges of the brain were torned; subdural and extradural haemorrhage was also noticed. The cause of death assigned in the post-mortem report was cardio vascular shock and haemorrhage due to multiple injuries over the head and brain.

2. Record reveals that during the course of investigation, the Investigating Officer recovered clothes of the accused which were blood-stained, under a panchnama. The Investigating Agency also discovered the weapon of offence from the place as pointed out by the accused by drawing discovery panchnama under Sec. 27 of the Evidence Act. Statement of the eye-witnesses and other witnesses were recorded and ultimately the Investigating Officer filed charge sheet against the accused-appellant for the offence punishable under Sec. 302 of I.P.C. in the Court of Judicial Magistrate, First Class, Sankheda, who in turn, committed the case to the Court of Sessions under Sec. 209 of I.P.C.

3. The trial Court framed charge against the accused at (Exh. 4) on 5th August, 2006 and proceeded with the trial.

Prosecution examined the following witnesses during the course of the trial :

- (i) P.W. 1, Nareshbhai Ratilal Bariya, Exh. 9, first informant and son of the

deceased,

- (ii) P.W. 2, Jaishbhai Ramanlal Baria, Exh. 11, panch witness of scene of offence,
- (iii) P.W. 3, Sureshbhai Kanchabhai Bariya, Exh. 14, panch witness of the panchnama of recovery of clothes of accused,
- (iv) P.W. 4, Manharbhai Nanabhai Bariya, Exh. 18, panch witness of the panchnama of discovery of weapon,
- (v) P.W. 5, Dr. Rajivbhai Dahyabhai Makwana, Exh. 21, Medical Officer who performed post-mortem,
- (vi) P.W. 6, Ranjitbhai Baria, Exh. 27, eye-witness,
- (vii) P.W. 7, Vitthalbhai Chhottabhai Baria, Exh. 26, eye-witness,
- (viii) P.W. 8, Bharatbhai Hirabhai Bariya, Exh. 27, eye-witness,
- (ix) P.W. 9, Ashok Kumar Ramjibhai Waghela, Exh. 28, Scientific Officer,
- (x) P.W. 10, Narsinghbhai Jaisinghbhai Bariya, Exh. 32, Police witness,
- (xi) P.W. 11, Sunit Kumar Dhulabhai Damor, Exh. 35, Investigating Officer.

4. On overall appreciation and evaluation of the evidence led by the prosecution and the defence, the trial Court came to the conclusion that prosecution has been able to prove the case against the accused beyond reasonable doubt and accordingly held the accused guilty of the offence of murder and sentenced the accused to undergo life imprisonment with fine of Rs. 2,000/-, and in default of payment of the amount of fine further rigorous imprisonment of 2 months. Hence, this appeal.

5. We have heard Shri Mrudul M. Barot learned Advocate appearing for the accused-appellant and Shri K.P. Rawal, learned A.P.P. for the State.

6. Contentions on behalf of the accused-appellant :

6.1. Shri Mrudul M. Barot, learned Advocate appearing for the appellant-accused vehemently contended that the trial Court has committed a serious error in convicting the accused for the offence of murder in the absence of any cogent, convincing, clinching and reliable evidence. Shri Barot further submitted that the trial Court committed grave error in relying upon the evidence of eye-witnesses as none of the eye-witnesses examined by the prosecution can be said to be truthful and reliable witnesses.

6.2. Shri Barot submitted that, if the oral evidence of eye-witness is discarded, then in that case the prosecution would be left only with two pieces of circumstantial evidence, i.e. recovery of clothes of the accused with blood-stains on the same, and discovery of the weapon of offence drawn under Sec. 27 of the Evidence Act. Shri Barot submitted that the trial Court ought to have outright rejected the evidence of recovery of clothes and the discovery of weapon. So far

as the panch witness of recovery of clothes of accused is concerned, he turned hostile and the contents of panchnama were not proved. He submitted that so far as the evidence of discovery of weapon is concerned the same could not have been relied upon by the trial Court as there is nothing in the panchnama as well as in the evidence of the panch witness P.W. 4 (Exh. 18) on the basis of which it could be said that it was the accused who voluntarily made a statement leading to the discovery of fact namely, the weapon of offence.

6.3. Shri Barot further submitted that the trial Court committed a serious error in relying upon the evidence of the Investigating Officer so far as the recovery of clothes of the accused and discovery of weapon of offence is concerned.

6.4. Shri Barot next submitted that the circumstances emerging from the evidence on record may cast a doubt on the involvement of the accused in the crime but suspicion however, strong cannot take place of proof and conviction cannot be based on mere doubt.

7. On the other hand, Shri K.P. Raval learned A.P.P. appearing for the State supported the judgment of the trial Court submitting that the trial Court has rightly convicted the accused on the strength of the evidence of eye-witnesses coupled with evidence of recovery of clothes of the accused with blood-stains on the same, as well as discovery of weapon of offence.

Shri Raval further submitted that the ocular version of eye-witnesses is corroborated by the medical evidence on record. Shri Raval submitted that all the eye-witnesses were residing in the Neighbourhood and their presence at the time of incident was quite natural. Shri Raval next submitted that blood was found on the weapon of offence and the clothes of the accused matching with the blood group of the deceased. He submitted that the conviction of the accused deserves to be confirmed.

8. Having heard learned Counsel for the respective parties, and on re-appreciation and re-evaluation of the entire evidence on record, we find that the trial Court has substantially based the conviction on the evidence of the so called eye-witnesses. While assessing and evaluating the evidence of eyewitnesses the Court must adhere to two principles, mainly, whether in the circumstances of the case it was possible for eye-witness to be present at the scene and whether there is anything inherently improbable and or unreliable. Credibility of the witness has to be decided by referring to his evidence and finding out how he has fared in cross-examination and what impression is created by his evidence taken in other context of the case and not by entering into the realm of conjectures and speculation. Keeping in mind the aforesaid principles we shall now proceed to examine as to whether the eye-witnesses can be said to be reliable and truthful witnesses.

9. P.W. 1-Nareshbhai Ratilal Bariya (Exh. 9), the original first informant and son of the deceased deposed that he knows the accused very well as he happens to be his uncle. He deposed that the accused inflicted blows on the head of the

deceased with an axe and thereby committed the murder. He deposed that at the time of incident he was at his agricultural field. One Ranjitbhai Shanabhai Bariya came to call him and when he reached the place of occurrence, he found that his mother was still lying and he tried to talk to her mother by saying "mother, mother" and at that point of time the mother is said to have shown the accused thereby pointing that it was the accused who inflicted blows. He has further deposed that they were not at home and for what reason the accused inflicted blows on the head of the deceased was also not known to him. It appears from his evidence that the motive attributed is that the accused wanted to make deceased his wife. There appears to be some confusion, so far as this part of the evidence is concerned as it is not very clear as to exactly what the witness wants to convey. He further deposed that at the time of incident his mother was at the rear part of the house and was doing some agricultural work. Deceased was lying in a pool of blood and other people of the village had gathered at the place of occurrence. This witness has deposed that one Darshaben Vitthalbhai Chhotabhai Bariya, who also happens to be his relative witnessed the actual assault on the deceased by the accused. He has also said that Ranjitbhai Shanabhai Bariya also informed him that it was the accused, who assaulted the deceased. He thereafter deposed that he fell unconscious and after some time he went to the Police Station and lodged the report in this regard. In his cross-examination this witness has deposed that he is not the actual witness of the incident but he learnt about the incident through one Ranjitbhai Shanabhai Bariya and Vitthalbhai Bariya. He admitted that he has not stated in his First Information Report about the accused entertaining doubt as regards the character of the deceased for which the accused is said to have assaulted the deceased.

10. So far as this witness is concerned, he learnt about the incident through Ranjitbhai and did not witness the actual incident. There is no reference in the F.I.R. as regards this witness trying to speak to his mother, i.e. the deceased, and the deceased in turn pointing out towards the accused saying that it was the accused who assaulted. Nothing turns around, so far as the evidence of this witness is concerned.

11. Evidence of P.W. 2, Jayeshbhai Ramanbhai Bariya (Exh. 11). This witness is one of the panch witnesses of the scene of offence. This witness has deposed that there was blood in front portion of the courtyard of the house. The soil stained with blood was collected and other formalities were completed in this regard. From the evidence of this witness one thing is revealed and i.e., the blood was found near the front courtyard of the house of the deceased. It appears that the contents of the scene of offence panchnama speaks otherwise. The scene of offence as reflected from the panchnama appears to be the rear portion of the house with flooring of cow dung.

12. P.W. 3, Sureshbhai Kanchanbhai Bariya (Exh. 14). This witness is one of the panch witnesses of the panchnama of recovery of clothes of the accused and he has not supported the case of the prosecution and failed to prove the contents of

the panchnama.

13. P.W. 4, Manharbhai Nanabhai Bariya (Exh. 14). This witness is one of the panch witnesses of the panchnama of discovery of weapon drawn as per Sec. 27 of the Evidence Act. This witness has deposed that on 10-3-2006 he was called at the Police Station, Sankheda as a panch. One another person, namely, Rajubhai Vitthalbhai Bariya was also with him as a second panch. This witness all alone travelled to village Damapura, i.e. the village of the accused and other persons reached on a Scooter. This witness has deposed, that thereafter, they went near the courtyard of the house of the accused where one tree was standing. This witness has further deposed that the panchnama was being written at his instance on the basis of questions which were being put by the Police. He has further deposed that Police seized the weapon which was beneath one tree of Amda. He deposed that, if the axe is shown to him, he would be in a position to identify the same and on showing the axe he identified the same. He has further deposed that when the axe was seized, he saw that there were blood marks on the same. In the cross-examination a suggestion was put to the witness that he had put his signature on a prepared panchnama to which this witness denied. The evidence of the discovery panchnama also does not help the prosecution. In any manner, this witness has not deposed as regards actual statement made by the accused in his presence and in the presence of other panch witness which ultimately led to the discovery of fact, namely, the weapon of offence. There is not a word uttered by this witness in this regard. In our opinion this is no discovery in the eye of law. Not even a word in the deposition that it was the accused who pointed out the place from where the weapon, i.e. axe was discovered. We have also noticed that in the panchnama also no such statement has been recorded.

14. P.W. 5, Rajivbhai Dahyabhai Makwana (Exh. 21). This witness is a Medical Officer, who performed the post-mortem of the dead body of the deceased. He indicated that the injuries which were found on the head of the deceased. This witness was shown the weapon of offence, i.e. axe. He opined that the injuries sustained by the deceased were possible, if the axe is inflicted straight on the head. He has deposed that the external injuries were interrelated with the internal injuries. He deposed that the cause of death was due to shock and haemorrhage. This witness in his cross-examination has turned down the suggestion put by the defence Counsel that such injuries were possible, if a person falls on a hard and blunt object.

15. P.W. 6, Ranjitbhai Shanabhai Bariya (Exh. 27). This witness is one of the main witnesses on whose evidence conviction has been based. This witness deposed that he is related to Vitthalbhai Chhottabhai Bariya residing at village Damapura. He had come to village on 9-3-2006 to work in the agricultural field of Vitthalbhai Bariya. This witness is a resident of village Raipur. At 7-00 O'clock in the morning he left village Raipur to come to village Damapura. He has deposed that when he was doing agricultural work, he observed that the accused

at a distance of around 200 feet was pipping from his house. He identified the accused as the same person who was pipping out of his house sitting in the court-room. This witness has further deposed that he saw that the accused went near the house of the deceased with an axe. After sometime one Kami Chim came and informed this witness that the accused has inflicted blows on the head of the deceased and is bleeding profusely. Kanti Chim asked this witness to go and inform the son of the deceased, i.e. P.W. 1, Nareshbhai Ratilal, who was working at that point of time in the agricultural field. This witness thereafter rushed at the place where P.W. 1-Nareshbhai Ratilal, son of the deceased was working. He saw that the deceased was lying in a pool of blood and the accused was standing there with an axe in his hand and was shivering. He further deposed that as he was afraid he surreptitiously left the place to call for the son of the deceased. This witness thereafter identified the axe which was shown to him as the same axe which was in the hand of the accused. In his cross-examination he has admitted that he has not witnessed the actual assault. He has further deposed that accused did not utter a single word at the time of incident and it was Kanti Chim, who came and informed this witness about the incident. From the evidence of this witness, it appears that he is not the resident of village Damapura, where the incident occurred. He is a resident of village Raipur and came on the date of the incident at the house of his relative one Vitthalbhai Bariya of Damapura to work in the agricultural field of Vitthalbhai Bariya. The first question that comes in our mind is as to whether this witness actually knew the other people of village Damapura including the family of the deceased as well as the accused. We do not find that this witness reliable and his evidence does not inspire confidence for more than one reason. This witness has tried to depose that he observed the accused pipping out of his house from a distance of around 200 feet. Thereafter this witness say the accused with an axe in his hand walking towards the house of the deceased. He has no idea as to what happened thereafter. The house of the deceased is very much adjoining the house of the accused. If this witness could see the accused pipping out of his house at a distance of 200 feet then, it is very difficult to believe that he was unable to witness the actual incident which occurred just next to the house of the accused. His conduct appears to be very unnatural. One Kanti Chim comes and informs this witness about the assault led by the accused on the head of the deceased. Who is Kanti Chim is a mystery. Kanti Chim has not been examined by the prosecution. Nothing emerges from the evidence on record as to whether Kanti Chim is a resident of village Damapura and residing nearby the place of occurrence. Kanti Chim seems to have asked this witness to go and inform the son of the deceased and while on his way to inform Nareshbhai Ratilal he saw the deceased lying in a pool of blood and the accused was standing there with an axe in his hand.

16. We are not prepared to believe this part of the story as put forward by the prosecution because it is the prosecution's own case that the accused ran away immediately after inflicting injuries on the head of the deceased. We have

noticed that suggestions have been put in the evidence of a witness, named Vitthalbhai Bariya, i.e. the uncle of this witness at whose house he had come to work on that particular date and the suggestion put by the Public Prosecutor to Vitthalbhai in cross-examination after declaring Vitthalbhai hostile was that in the Police statement Vitthalbhai had stated that he had seen the accused inflicting blows on the head and thereafter upon shouting that the deceased is maintaining illicit relations in the village ran away from that place of occurrence. The natural conduct of the person after committing offence would be to run away and a person after committing such heinous crime would not stand at the same place. Of course, it all depends how the person reacts and in a given case it is possible that the person may become nervous and remain standstill. In the present case considering the other evidence on record, it is difficult for us to accept this part of the story of P.W. 6, Ranjitbhai Shanabhai Bariya that he saw the accused standing near the place of occurrence with an axe in his hand and shivering.

17. P.W. 7, Vitthalbhai Chhotabhai Bariya (Exh. 26). This witness is a resident of village Damapura and is residing next to the house of deceased. The accused is also very much residing in the same line. Dashraben Vitthalbhai Chhotabhai Bariya is the wife of this witness. This witness has not supported the case of the prosecution, however this witness was confronted by the Public Prosecutor with his Police statement by reading that part of the statement, wherein this witness has stated that he had seen the accused assaulting the deceased with an axe, and thereafter, running away from the place saying that the deceased was having illicit relations. The evidence of Vitthalbhai Bariya is important despite the fact that he has not supported the case of the prosecution. This witness nowhere has stated that P.W. 6, Ranjitbhai Shanabhai Bariya is his relative and had come to his house on 9-3-2006 for the purpose of doing some agricultural work in the field. There is no reference of Ranjitbhai in the entire evidence of Vitthalbhai Bariya. The evidence of Vitthalbhai Bariya makes presence of P.W. 6, Ranjitbhai Shanabhai Bariya very much doubtful. It deserves to be noted that P.W. 1, Nareshbhai Ratilal Bariya, in his evidence deposed that Dashraben had witnessed the incident. However, Dashraben was not examined by the prosecution.

18. P.W. 8, Bharatbhai Hirabhai Bariya (Exh. 27). This witness is a resident of village Damapura and he has deposed that the accused resides next to his house and next to the house of the accused is the house of the deceased. He has deposed that at the time of the incident he was present at the place of occurrence and witnessed that the accused was inflicting axe blows on the deceased. This witness has gone to the extent of deposing that upon assault blood fell near the courtyard of his house. In his cross-examination he has denied to the suggestion that he had actually not witnessed the incident. He further deposed in the cross-examination that he has no idea as to what accused uttered at the time of incident and he was very much inside his house. This version of the witness appears to be highly doubtful and it is very difficult for us to believe this witness. The very fact that he has admitted in his cross-examination that he was in his house at the time of occurrence makes it

impossible for this witness to see the actual assault. If he was in the house, the next house is of the accused, and thereafter, the house of the deceased. If the case of the prosecution is that the place of occurrence is the rear part of the courtyard of the house of the deceased men how is it possible that he saw blood near the courtyard of his house.

19. P.W. 9, Ashok Kumar Raojibhai Waghela (Exh. 28). This witness is a Scientific Officer and was called by the Investigating Officer for the purpose of drawing samples of the blood-stained soil etc. Nothing turns around so far as the evidence of this witness is concerned.

20. P.W. 10, Narsingbhai Jesingbhai (Ext. 32). This witness is a Police witness. On 9-3-2006 he was on duty at Sankheda Police Station and he has deposed that Police Constable Hitendrabhai Somabhai produced the clothes of the deceased which were taken into custody in the presence of two panchas. This witness has nothing more to say.

21. P.W. 11, Sunilkumar Dholabhai Damor (Exh. 35). The Investigating Officer has deposed that on registration of F.I.R. as regards the incident, he started the investigation first by visiting the place of occurrence and drawing panchnama in the presence of two panchas. Dead body was sent for post-mortem examination and the panchnama of the scene of offence was drawn and sample of soil was collected for the purpose of Serological Test. The statement of witnesses were recorded and on finding the accused he was arrested. He has further deposed that thereafter a discovery panchnama of the weapon of offence was drawn upon the accused taking out the weapon of offence in the presence of the panchas. He has further deposed that the clothes of the accused were seized under panchnama and were forwarded to the F.S.L. Charge-sheet was filed. In his cross-examination the Investigating Officer has deposed that during the course of investigation nothing revealed that the accused wanted to get married with the deceased. Thereafter few other suggestions as were put to the Investigating Officer which were denied.

22. We have already discussed the evidence of the other witnesses more particularly the so-called eye-witnesses to the incident. We have already observed that it is very difficult to place reliance on the evidence of the eye-witnesses as they do not inspire any confidence. Once the evidence of eye-witnesses is taken out of consideration the prosecution would be left with circumstantial evidence in the form of discovery of weapon of offence and recovery of the clothes of the accused with blood-stains on the same.

23. We shall now proceed to discuss as to whether the aforesaid circumstances would help the prosecution in any manner or not. So far as the discovery of weapon is concerned, it is no discovery in the eye of law as contemplated under Sec. 27 of Evidence Act. We have carefully gone through the entire evidence of the panch witness, i.e. P.W. 4 (Exh. 18), Manharbhai Nanabhai. This witness has not said a word as regards, accused making statement on his own free will and

volition that he wanted to show the place, where he had concealed the axe which was used in the commission of offence. Such statement is not even being found in the main panchnama. Even the Investigating Officer has not deposed as to exactly what was the statement made by the accused which led to the discovery of a fact namely, the weapon of offence. By merely deposing that the discovery panchnama was drawn upon accused pointing out the place from where the axe was discovered is no discovery in the eye of law. Even, if it is believed that accused did point out the place from where the axe was discovered would only go to show knowledge and not the authorship of concealment. We have no hesitation in outright rejecting this part of evidence from consideration. Same is the case, so far as the recovery of clothes of the accused with blood-stains is concerned as the panch witness turned hostile. It is true that even if the panch witness has turned hostile and has failed to prove the contents of the panchnama the prosecution could have relied upon the evidence of the Investigating Officer in this regard but in the present case what we find is that the Investigating Officer has also failed to prove the contents of the panchnama of recovery of clothes of the accused with blood-stains on the same. On a plain reading of deposition of Investigation Officer we found that all he could prove is the fact of drawing panchnama and obtaining signature of panchas in his presence. As per settled legal proposition, contents of panchnama are required to be proved. It cannot be read as evidence rather as corroborative piece of evidence.

24. At this stage, we deem fit to deal with two submissions of Mr. Raval, learned A.P.P. appearing for the State. Mr. Raval vehemently submitted that there is no reason to disbelieve the oral evidence of the witnesses more particularly, the eye-witnesses to the incident. Mr. Raval submitted that there is no cross-examination worth the name to test the veracity of the witness or to impeach the credibility of the witnesses. Mr. Raval submitted that in the absence of any effective cross-examination the evidence in chief of the witnesses has remained undisturbed and practically accepted. We do not agree with the submission of Mr. Raval. Cross-examination is not the only method of discrediting a witness. If the oral testimony of certain witnesses is contrary to proved facts and if their testimony is on the face of it unacceptable, their evidence might well be discarded on that ground. Courts are not bound to accept their testimony merely because there was no cross-examination. Mr. Raval also submitted that if the appellant was not the person who committed the crime, then why did so many people conspire to involve him falsely. Mr. Raval submitted that none of the witnesses had any personal axe to grind against the accused. The answer to such question is not always easy to give in criminal cases. Different motives operate on the minds of different persons in the making of unfounded accusations. In the words of Supreme Court, as observed in the case of Shankarlal Gyarsilal Dixit Vs. State of Maharashtra, . "Besides, human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions."

25. In view of the aforesaid discussion we hold that the trial Court was not justified in convicting the accused-appellant for the offence of murder punishable

under Sec. 302 of I.P.C. The appeal succeeds and is hereby allowed. The judgment and order of conviction passed by Presiding Officer, Fast Track Court No. 3, Vadodara, dated 22-12-2006 in Sessions Case No. 58 of 2006 is hereby quashed and set aside. The accused-appellant is ordered to be released forthwith, if not required in any other case.