

Appellants / Original Accused Nos.1 to 12 for the offence punishable

under Sections 148 read with 149 of the IPC and sentenced them to suffer R.I. for three Years with fine of Rs.200/Â? each, in default to suffer further

R.I. for 1 month each. The trial Court also convicted Appellants / Original Accused Nos.1 to 12 for the offence punishable under Sections 449 read

with 149 of the IPC and sentenced them to suffer R.I. for 10 Years with fine of Rs.500/each, in default to suffer further R.I. for 2 months each.Â

The trial Court also convicted Appellants / Original Accused Nos.1 to 12 for the offence punishable under Sections 302 read with 149 of the IPC and

sentenced them to suffer R.I. for lifeÂ and to pay fine of Rs.1000/Â? each, in default to suffer further R.I. for 3 months each.

The trial Court also convicted Appellants / Original Accused Nos.1 to 12 for the offence punishable under Sections 427 read with 149 of the IPC and

sentenced them to suffer R.I. for two Years with fine of Rs.300/Â? each, in default to suffer further R.I. for 1 month each. All the above sentences

were directed to be run concurrently. Hence these Appeals are filed by the Appellants challenging the conviction and sentence.

2. As all these Criminal Appeals are arising out of one and the same Judgment and Order passed by the trial Court, all these Appeals are being

decided by this common Judgment. In the Sessions Case before the trial Court, there were in all 12 accused, who were tried together. The trial Court

has convicted and sentenced all the twelve accused in the manner as already mentioned herein above in paragraph 1. Those twelve accused have

filed these different six Criminal Appeals which are being decided by this common Judgment.Â

3. The prosecution case, in brief, is as under:

[A] An informant (PWÂ16) Sau. Narsu Raju Jegali is married sister of Yellappa Pujari (PWÂ1), Yuvraj Pujari(PWÂ3) and deceased Hira Pujari. In

the year 2008, when the incident occurred, the informant had been at the house of her parents, wherein she herself, her mother, PWÂ1, PWÂ3 and

deceased Hira Pujari were residing jointly in the house situate at Gosavi Vasti, Karve Road, Pune. Their house consists of two partitioned rooms.Â

[B] The deceased Hira Pujari was jobless.

Hence on 11th October, 2008, he was at his house in between 11.00 a.m. to 12.30 noon. Likewise, informant Narsu was present in the house. The

other family members have been out of the house for attending their job. Thus, at the time of incident informant (PW¹⁶) and her brother Hira Pujari only were present in the house.

[C] It is alleged that on the said date at about 12.00 to 12.30 noon, accused Nos.1 to 12 along with the deceased accused Balaji Chavan, armed with

deadly weapons viz. swords, scythes and axe rushed towards the house of informant, caused damage to the glass window panel of the house and

house of neighbour Chand Shaikh. Therefore, the informant had made an attempt to close the door, but she was not allowed to do so by pushing the

door by the said accused. Some of the accused had entered into the house and some waited in the door and by means of the above said weapons,

had assaulted to Hira Pujari. Hence, the informant Narsu urged them not to assault her brother, but the accused did not pay any heed. Hence she

raised shouts. Listening to the shouts, her brother Yellappa Pujari [PW¹], Yuvraj Pujari [PW³] and their mother Nagamma Pujari rushed in front

of their house. However, the accused did not allow them to enter in the house. Yogesh Nimbare [PW²], the friend of deceased, Anita Nimbare

[PW⁵], Manda Khawale [PW⁶] also rushed on the spot. Meanwhile, PW¹ and PW³ and their mother made an attempt to enter into the house

but the some of the accused, who were in the door of the said house, did not allow them to enter in the house so as to rescue Hira Pujari from the

assault. On the contrary, the said witnesses were threatened with dire consequences on the point of swords and scythe. ^ ^ ^ ^ ^

[D] It is the prosecution case that in the said vicinity, there are two Ganesh Mandals, one of the group of PW¹ to PW⁴ and the deceased and, the

other of the group of accused. Thus, they were having animosity on the ground of said rival Ganesh Mandals and collecting contribution thereto.

Therefore, some cases were pending against the deceased Hira Pujari. Likewise members of group of Hira had filed cases against the accused.

[E] Further it is alleged that on 10th October, 2008 and 11th October, 2008 at about 10.45 a.m. to 11.00 a.m. quarrels took place between Santosh, the

brother of accused No.6, his father Prakash and PW² Yogesh Nimbare. Therefore, Santosh lodged report with Police. On the basis of said report,

Crime No.442 of 2008 under Sections 323, 504 of the IPC was registered against PW². Likewise PW² had lodged the report on 12th October,

2008 against accused No.6, his brother Santosh and father on the basis of which Crime No.444 of 2008 under Sections 323 and 504 of the IPC was

registered with the Police Station. Likewise, about the incident occurred on 10th October, 2008 at about 10.45 p.m., N.C. (Exhibit169) was lodged

by Santosh against PW2 about he being abused and assaulted. Thus, there being animosity between accused and PW1 to PW6, on the said

ground the incident of committing murder of Hira Pujari by using deadly weapons viz. swords, scythe, sticks and axe alleged to have been committed

by the accused by forming an unlawful assembly by committing the offence of rioting and murder of Hira Pujari by causing damage to the motor bike

of Shankar Sakhare and others in prosecution of their common object of unlawful assembly of the accused. ^ ^ ^ ^ ^ ^

[F] Thus, on the basis of report lodged by PW16 vide Exhibit177, Crime No.443 of 2008 under the above said Sections was registered with

Kothrud Police Station.

[G] After the report Exhibit177, the investigation of the said crime started. The Investigating Officer, Rajeshirke [PW23] had been to the spot on

the basis of information of the incident received from the PSO Thane Ammaladar.

Prior to that, the spot panchanama was prepared by PSI Tejaswani Yadav [PW19] in presence of two panchas by seizing one blood stained steel

handle and wood handles of swords, along with blood mixed earth and plain earth. She deposited the said property with Muddemal Clerk of the Police

Station.

[H] There was law and order situation. Therefore, till 4.00 p.m. dead body was not allowed to be removed by the relatives of the deceased to Sasoon

Hospital until the culprits are apprehended. Somehow the dead body was removed to the Sasoon Hospital for autopsy. ^ ^ ^ ^

[I] Dr.Vishal Survase [PW17] has conducted the autopsy on the dead body and issued P.M. notes (Exhibit155) and issued death certificate

(Exhibit156). P.I. Rajeshirke [PW23] had recorded statements of star witnesses on 12th October, 2008, and later on of other witnesses as per

their say. All the accused evaded their arrest. Therefore, PW23 had deputed special squad for the said purpose. Hence, accused Nos.1 to 6 were

arrested on 13th October, 2008. Thereafter, accused Nos.7 and 8 were arrested

on 16th October, 2008, accused No.10 was arrested on 13th April, 2009, accused No.12 was arrested on 7th January, 2009, likewise accused No.9 was also arrested.

[J] Further it is the case of the prosecution that on 14th October, 2008, the clothes of the accused Nos.1 to 6, which were on their person on the date of incident, were seized under panchanama ExhibitÂ178. Likewise, the clothes of accused Nos.7 and 8 were seized under panchanama ExhibitÂ 190, clothes of accused No.11 with sword were seized in consonance with memorandum statement ExhibitÂ212 and discovery panchanama ExhibitÂ213, drawn by P.I. Narnavar [PWÂ?22] on 24th August, 2009.Â Â Â

[K] Further it is the case of the prosecution that on 16th October, 2008, accused no.6 gave memorandum statement at ExhibitÂ179, in presence of panch witness Subhash Sharma and other panchas and pursuant to said statement sword was discovered from the standing grass situate by the side of Rajaram Bridge, Pune and it was seized under panchanama ExhibitÂ?180.Â

Â [L] On 16th October, 2008 when accused No.3 was in police custody, he made statement in presence of panch witness Prabhakar Kasab [PWÂ?

10] and other panch witness Sanjay Dalvi in discovering tempo No.MHÂ?12Â? QAÂ?7075, along with sword concealed in the tarpaulin/there under.

Hence in pursuance to the above memorandum, accused No.3 has discovered the above said tempo and two blood stained swords under panchanama

ExhibitÂ?181.Â Â

[M] On 16th October, 2008, at the instance of accused No.1 Deepak Sakharam, two swords, one without handle were discovered from the place

those were concealed, under panchanama Exhibit184.Â On 16th October, 2008, itself when accused no.2 was in police custody, he made statement

in presence of panch witness Ganesh Bhagat [PWÂ12] and other panch witness Shankar Kamble and discovered tempo No.MHÂ12ÂAQÂ6908 and

one axe, from the grass situate at Tukai Nagar, Sinhagad Road, Pune and those were seized under panchanama ExhibitÂ?186.Â Â

[N] On 17th October, 2008, when accused No.7 Dnyaneshwar was in police custody, made statement ExhibitÂ187 in presence of panch witness

Subhash Sharma and Aniket Mokar in discovering scythe from the place where it was concealed and in pursuance thereto led the police party near

the compound wall of Kirloskar Company and from the grass had discovered

blood stained scythe. The same was seized under panchanama

Exhibit 188.

[O] On 17th October, 2008, accused No.8 Vijay Chavan made statement Exhibit 189 to discover scythe from the place where it was concealed and

accordingly at his instance blood stained scythe was discovered from the ditch, backside of Pruthvi Hotel, under panchnama Exhibit 190. At the

instance of accused No.9, bamboo stick stained with blood was seized under panchnama. On 14th April, 2009 at the instance of accused No.10 Rahul

Padwal, at per seizure panchnama Exhibit 210, one blood stained stick was seized.

[P] In connection with the said crime, motorcycle NO.MH 12 EL 331 and scooter No.MH 12 KA 3336 were produced by the father of

accused No.6 viz. Prakash Mokar and father of accused No.3 Mohan Chavan. Hence the same were seized under Panchnama Exhibit 116.

Likewise, on 18th October, 2008 father of accused No.5 Tukaram Chavan and brother of accused No.8 Gokul Chavan had produced motorcycle Nos.

MH 12 EX 9033 and MH 12 CA 157, which were seized under panchnama Exhibit 117.

[Q] All the properties seized from the spot by PW 19, all the clothes of the accused and deceased, the muddemal articles discovered by the accused

in consonance to Section 27 of the Evidence Act, were sent to the Chemical Analyzer by PW 23 Rajeshirke on 24th October, 2008 with special

messenger and had collected in all 11 C.A. reports as per Exhibit 193 to 203. PW 24 P.I. Vilas Narnawar had sent the clothes of the accused

No.11 along with sword to the C.A. and collected the report of C.A. vide Exhibit 217. Supplementary charge sheet was instituted against accused

Nos.10, 11 and 12 respectively. After completion of the investigation, the investigating officer filed charge sheet against the accused persons in the

Court.

[R] As the offence punishable under Section 302 of the IPC is exclusively triable by the Court of Sessions, the learned Judicial Magistrate First Class,

Pune committed the case to the Court of Sessions. The charge vide Exhibit 59 came to be framed against the accused persons. Its contents were

read over and explained to the accused in vernacular to which they pleaded not guilty and claimed to be tried. The defence of the accused is of total

denial. Inter Alia the accused came with the specific defence that they have been falsely implicated in the case due to ill advise of PW 2 Yogesh

Nimbare, who was having animosity with the accused on the ground of previous quarrel. Â Â

4. Heard learned counsel appearing for the respective Appellants and learned APP appearing for the Respondent â?" State, at length. With their able

assistance, we have carefully perused the entire notes of evidence so as to find out whether the findings recorded by the trial Court are in consonance

with the evidence brought on record or otherwise.Â Â Â

5. First, we will examine the evidence of Medical Officer, who has conducted postmortem on the body of Hira. PW 17 Dr. Vishal Rajgopal Survase

is the Medical Officer, who conducted postmortem on the dead body of Hira. He deposed that following antemortem injuries were found on the body

of Hira:Â?

(1) Vertically oblique chopped wound of 5 cm above middle end of right eyebrow extending upwards for 13 x 1.5 cm. With clear cut fracture of

underline bone. Angles and margins were clean cut.

(2) Vertical chopped wound, 1.5 cm. Right lateral to injury no.1, starting from 5 cm above right mid eyebrow, 11.5 cm bone deep. Angles and margins

were clean cut.

(3) Oblique chopped wound, 5 cm above right ear extending posteriorly downwards 15 x 1.5 cm. Underline bone shows clean cut fracture. Angles and

margins clean cut.

(4) Vertical chopped wound, 4 cm below occipital protuberance, 8 x 1 cm. Angles and margins clean cut. Underline wound shows clean cut fracture.

(5) Horizontal and tangential incised wound. Incised wound 6 x 4 cm. Muscle deep with skin flap hanging partly separately. Angles and Margins clean

cut. Under line matabarple shows clean cut fractures on right side.

(6) Horizontal chopped wound, middle aspect of right wrist, 3 x 1.5 cm underline ulna shows clean cut fracture. Angles and margins clean cut.

(7) Incised wound posterior aspect of right shoulder 3 x 1 cm muscle deep. Angles and margins clean cut.

. PW 17 further deposed that all the above said injuries were fresh.

6. PW 17 Dr. Vishal further deposed that on internal examination following

injuries were found:Â?

(1) ScalpÂhaematoma all over. Skull Clean cut fracture of right side of frontal and parietal measuring 10 cm long, corresponding to external injury

no.1.

(2) Clean cut fracture, right parietal and occipital bone, measuring 11 cm lone, corresponding to external injury no.3.

(3) Clean cut fracture occipital bone 6 cm long, only outer table involved, corresponding to external injury no.4.

7. PWÂ17 Dr. Vishal further deposed that on the brain of Hira he noticed subdural and subarchnoid haemorrhage all over of brain surface and on the brain he also noticed the following injuries:Â?

Â (1) Chopped wound right frontal 3 x 5 x 1 cm.

(2) Chopped wound right parietal lobe 4 x 5 x 1 cm.

(3) Right parietal lobe 6 x 5 x 5.

(4) Right occipital lobe 3 x 5 x 1.5 cm.

8. PWÂ17 (Dr. Vishal) further deposed that in his opinion the death has been caused due to â??traumatic and hemorrhagic shock as a result of chopped injuriesâ??. Accordingly, autopsy report [Ex.155] was issued by him on the same day.

9. All the Advocates appearing for respective accused before the Trial Court, have declined to cross examine (PWÂ?17) Medical Officer.

Therefore, it appears that defense did not contest that death of Hira was 'homicidal' Upon careful perusal of the evidence of Medical Officer and the

injuries noticed by him on the dead body of Hira, it clearly appears that death of Hira was homicidal.Â But, the core question is that, who is the author

of the said injuries caused to Hira.

10. Now, we will examine the evidence of other prosecution witnesses. The prosecution has examined PWÂ1 Yallappa Jairam Pujari. He deposed

that since his childhood he is living with his family at Kothrud, Pune. His family consists of his parents, brother Yuvraj and Hira. At the time of

incident his sister Narsu was also present at his house. He further deposed that his brother Hira was doing the work of A.C. repairs. He knows all the

accused as they are residing in the same area where he resides. He further deposed that as his brother Hira belongs to one group [Mandal] and

accused belongs to other group, their relations were strained. His brother Hira belongs to Shrikrushna Mandal and accused belongs to Bholenath

Mandal.Â One Yogesh Nimbare (PWÂ2) was the friend of his brother Hira. A day prior to the incident, in the evening quarrel took place between

Yogesh Nimbare and accused. The said matter came to be reported to the Police.

11. PWÂ1 Yallappa further deposed that on 11th October, 2008, at about 11.00 to 11.30 hours in the morning his brother Hira and sister Narsu were

only present at the house. At that time he was present in the nearby flour Mill. He further deposed that at the relevant time he had seen Dhananjay

Chavan, Bandu Chavan, Vijay Chavan, Sagar Chavan, Dnyaneshwar Sathe, Navnath Pawar, Rahul Padwal, Sagar Mokar, Deepak Chavan with

weapons in their hands and while marching towards his house, therefore, he went towards his house.

At the relevant time Yogesh Nimbare and Sakhare were also seen on motorcycle while proceeding towards his home but after seeing the above

accused persons, Yogesh and Sakhare have left the motorcycle and escaped. At the relevant time the above persons entered into his house, they then

assaulted his brother Hira. On seeing those persons, he himself took shelter at adjacent house. He further deposed that after assaulting his brother

Hira, the above persons then went away. He then came at his home and seen his brother Hira with several injuries from which blood was oozing.Â

Then he himself, Sanjay Gokhale and one another person took his brother Hira at Shaswat Hospital. The Doctor treated him but in vain and his brother

Hira died. Then dead body was shifted to Sasoon Hospital. He further deposed that he knows all the accused by their names as they are residing in

his locality and he can identify them.

12. During the course of cross examination, PWÂ1 Yallappa stated that his duty hours commences from 10 hours in the morning and ends at 5 hours

in the evening. His brother Yuvraj is driver by profession, who used to proceed on work usually about 10 hours in the morning and return home about

7 p.m. His father also used to do the work and used to leave home at 9.00 hours in the morning and return home about 6.00 p.m. He further stated

that their financial condition is not sound. Police recorded his statement on the day of incident at about 6.00 to 7.00 p.m. He was unable to recollect

the exact time of recording statement of his sister and mother. He further stated

that on the date of incident at about 10 hours in the morning, he went on duty. On that day, the quarrel did not take place between his brother Hira and others. He further stated that on the day of incident about 9 hours in the morning, he learnt about the likelihood of assault over his brother Hira. The distance between his house and Alankar Police Chowki is about 15 minutes by foot. On that day he did not feel it necessary to inform the police about likelihood of assault over brother Hira. He is not aware as to whether his brother Hira anyway related with the dispute took place on the prior day or on the day of incident. He further stated that on that day about 11.30 hours in the noon when he came, he noticed that the glasses of windows of the house of Chand Shaikh, a neighbourer, were broken and house was locked. Similar was the condition of the glasses of windows of his house. He further stated that he was not accompanied with Hira in the Hospital. At that time his mother had been in the Hospital and he himself and his sister were at home. He further stated that he himself, not tried to lift his brother Hira, however, his sister and mother attempted to lift Hira.Â At the relevant time the clothes of his mother and sister were stained with blood. He further stated that his clothes had not stained with blood. He further stated that when police visited his house, he has not narrated about the incident to the police at the relevant time. He further stated that the cases were registered against the group of Yogesh Nimbare. He further admits that in some cases name of his brother Hira was also involved. He further admits that all those cases were instituted on the complaint by some of the accused. He further stated that his house is situate in thickly populated locality. He further stated that in his lane about twenty houses are there. He further stated that he has not gone through the contents of his statement recorded by police. While recording the statement he did not narrate to the police about the two groups i.e. Shrikrushna Mandal and Bholenath Mandal. He further stated that he had not narrated the police while recording the statement that one day prior to the incident quarrel took place in between accused and Yogesh Nimbare. Yogesh Nimbare was the friend of Hira since his childhood. The house of Yogesh situate about half kilo meter away from his house. Hira was on visiting terms at the house of Yogesh. He is not aware whether the cases were registered against Yogesh by police. He is not aware

whether Yogesh was in jail for some days. He further stated that their locality is hutment area, known as Gosavi Vasti. He admits that large number

of persons by name Chavan are residing in their locality. The distance between his house and Kothrud police station is about ten minutes by walk.

13. During the course of further cross examination PW¹ Yallappa stated that after the incident for about 15 minutes he was at home. At the time

of incident, large number of persons gathered there. At Shaswat Hospital, Police Officials had reached. At the relevant time simultaneously his mother

and sister went to lodge the complaint. He further stated that at Shaswat Hospital, police did not interrogate him and he did not talk to them at that

time. Prior to leaving for Sasoon Hospital, Police did talk to him, however, he did not disclose the entire incident to the police. He further stated that,

they were in Shaswat Hospital for about two hours and police were there all the while at the Hospital. Then other persons went to Sasoon Hospital

along with dead body and he went to Police Station. He told the entire incident to the Police and the police recorded the same in writing. He was

unable to recollect whether police obtained his signature on that day. He further stated that while recording the statement, he has not narrated to the

police that, in the incident took place at about 9.00 p.m. on 10th October, 2008

Santosh Mekar was involved. He further stated that the portion marked 'A' in his statement read over to him is incorrect. He was unable to state as to

why it was so recorded. He is not aware whether on next day quarrel took place between Santosh Mekar and Yogesh Nimbare. While recording

the statement, he had not stated to the police that on 11th October, 2008 at about 9.00 a.m. at Gosavi Vasti quarrel took place in between Yogesh

Nimbare and Santosh Mekar and then both the sides went at Alankar Police Chowki to lodge the report. He further stated that portion marked 'B'

from his statement, read over to him, is incorrect. He was unable to assign any reason as to why it was so recorded. He further stated that there was

no any dispute between deceased Hira and Rahul Padwal prior to the incident.

14. Thus upon careful perusal of the entire evidence of PW¹ Yallappa it appears that he was not present at the spot when the incident took place.

Various contradictions and improvements in his evidence are brought on record during the course of his cross examination. In his cross examination,

he stated that his duty hours are from 10 a.m. till 5.00 p.m. He specifically

admitted that on the day of incident, he went to attend his duty. Though he has stated that at about 11.30 a.m. he came to house and noticed that the glasses of windows of his house were broken, but as per the prosecution, the incident took place at about 12.00 to 12.30 noon and thus it appears that this witness is not deposing true facts. PW1 Yallappa has deposed that due to fear of accused persons he took shelter in the adjacent house. This conduct of the witness does not appear to be natural conduct as when his real brother was being assaulted, in such situation his natural conduct would have been to enter in the house and try to rescue his brother from the assault. His evidence further discloses that after the incident, he has not tried to lift his brother Hira to reach him to Hospital. It is pertinent to note that this witness is real brother of deceased Hira and his conduct in not lifting his brother Hira for reaching Hospital does not appear to be natural. Though it is the case of the prosecution that from the injuries sustained to Hira, blood was oozing and this witness claims that soon after the incident of assault, he reached at the spot of incident but still he specifically admits that his clothes were not stained with blood. It is unbelievable that, this witness has even not touched to the body or clothes of his real brother deceased Hira or not tried to help him, at least by offering drinking water if really he was present at the spot. Thus it appears that PW1 Yallappa is a god-up witness, and he was neither present at the spot when the incident took place nor he visited the spot soon after the incident. This witness claims that at the time of incident he was at the spot and witnessed the incident but when police visited the spot after the incident, he has not narrated the incident to the police, and when his statement was recorded on next day of the incident, then only he narrated the incident to the police. This is unbelievable. Therefore, upon perusal of the entire evidence of this witness, it does not inspire confidence. ^ ^ ^ ^ ^ ^ ^ ^

15. The prosecution has examined PW2 Yogesh Ajit Nimbare. He deposed that he is residing at Gosavi Vasti, Kothrud Pune since last 24 years. He knows all the accused as they are residing in the vicinity where he resides. He further deposed that he himself and his companions are members of the Shrikrushna Mitra Mandal whereas all the accused and their companions are the members of Jai Bholenath Mitra Mandal. Since last 5-6 years quarrels were going on amongst the members of the said two Mitra Mandals.

Regarding incident, he deposed that the incident of the present case had taken place on 11th October, 2008, in the noon at about 12.00 to 12.30 p.m. On the said date, at about 9.30 a.m. quarrel took place between him and Santosh Mokar, Sagar Mokar and father of accused No.6 Prakash Mokar, on the ground of earlier quarrel which took place at about 10.45 p.m. on 10th October, 2008. He further deposed that on 11th October, 2008 at 9.00 to 9.30 a.m. when he was proceeding from the side of house of Ganpat Sharma, accused No.6 and his father Sagar Mokar met him and abused him on the ground of incident occurred in the previous night. At that time Santosh Mokar had given blows of bamboo sticks over his head and therefore he had been to Alankar Police Chowki to lodge the report. After medical treatment, when he was proceeding towards above said Outpost by Pinac Society Road along with Shankar Sakhare, at that time some persons informed him that some boys had gathered in front of his house. Then by canal road they moved their motorcycle to the said Police Outpost. On the said spot, on the way accused No.11, accused No.8 Vijay Chavan, accused No.2 Bandu Chavan, accused No.3 Dhananjay Chavan, accused No.7 Dnyaneshwar Sathe, accused No.1 Deepak Shinde, accused No.5 Nitin Chavan, accused No.10 Rahul Padwal, accused No.4 Navnath Pawar, accused No.6 Sagar Mokar, accused No.12 Sharad Nana Chavan, deceased accused Balaji Chavan were found gathered. All the said accused were armed with swords, sticks and scythe. Accused came towards the witness and Shankar Sakhare when they were in riding condition on the motorbike but they could not turn the bike on that spot as the road situate thereon was under repair. Then they parked motorcycle on the said spot and came to back side of the house of Jayram Pujari where house of Gokul Khavale is also situate. He further deposed that they have closed themselves in the said house of Gokul Khavale for security. There they listened the shouts from the side of house of Hira (deceased).

16. PW2 Yogesh further deposed that Hira Jayram Pujari was member of their Mitra Mandal and hence was known to him. He further deposed that thereafter he himself and Shankar Sakhare came to their motor bike, at that time they noticed all the accused running armed with swords, scythes and sticks. Thus the said persons have given blows by means of the above said weapons and the sticks on their motorbike and caused damage to the

same. He further deposed that then he along with Shankar Sakhare came in front of the house of Hira Pujari. By that time injured Hira was moved by brother of the witness namely Mangesh and Sanjay Gokhale to the Hospital. He further deposed that thereafter they learnt about Hira Pujari being declared dead by the Doctor.Â

17. During the course of cross examination, PWÂ2 Yogesh stated that in respect of above stated incident, Investigating Officer has recorded his statement on 12th October, 2008. While making statement, the time of the incident occurred in the morning on 11th October, 2008 was not stated by him.Â While making statement, it was stated by him that when they reached to the Sasoon Hospital, they learnt by phone call about the injured being taken to the Shaswat Hospital. He admits that on 12th October, 2008, at 2.45 p.m. he had lodged the report against accused No.6, his father and one Santosh Mekar. On 11th October, 2008, at about 10.00 to 10.30 p.m. he had been to Alankar Police Outpost to lodge report. He further stated that the report dated 12th October, 2008, about the incident was correctly recorded as per his say hence he has signed it and the contents of the same are true and correct. He admits that quarrels were going on in between their Mitra Mandal and Mitra Mandal of the accused on the point of installation of God Ganesh and recovery of contribution thereto.Â He further admits that the Mandal of the accused had lodged police cases against them wherein he was also arrested. He does not know whether Mrs. Narsu Jegali is real sister of the deceased. He was unable to state whether said Narsu had been to Shaswat Hospital when they had been there but he states that Yallappa Pujari was present in the Hospital. On the date of incident, he had been back to home at about 4.00 to 5.00 p.m. and at the said time the police were present in their vicinity. At the said time due to confusion on account of incident, he did not feel it necessary to narrate the incident to the police. He further stated that after return from Shaswat Hospital, he did not visit the house of the deceased. In Shaswat Hospital, the incident was narrated by him to the Police Officer Rajeshirke. At that time only his name and address was noted down by the said Police Officer without recording fullÂfledged statement. His statement was completed on 12th October, 2008 in between 2.00 to 3.00 p.m.Â At that time other witness Rahul Kanjare, Sachin Thakar, Rajesh Shekhane, Sanjay Gokhale, Nikhil Thakar, his mother

Anita, brother Mangesh, Shankar Kamble, Shankar Sakhare, Aniket Makar etc. and others were present but he did not recollect their names. Narsu, Yallappa and Yuvraj Pujari were also present along with mother of deceased Naggappa. During further cross examination, he stated that their vicinity is hutment area. He further stated that the deceased might have been facing 2Â3 criminal cases including riot. Deceased was arrested under preventive detention at the time of Ganpati festival. He further stated that so far he is facing criminal trial in 4Â5 crimes. He was also detained during Ganpati festival. He further stated that after the incident of the present case, father of accused No.6 had lodged the report against him about the damage caused to his auto rickshaw and his wallet of cash amount being robbed by him. He further stated that the immediate neighbour of the deceased is one Shaikh but he did not recollect the name of other neighbour. He further stated that he does not know whether no case between deceased and accused No.11 was pending. He admits that accused No.11 is not accused in any of the crime registered on the basis of report lodged by them.

18. Thus, upon careful perusal of the entire oral testimony of this witness, it is crystal clear that PWÂ2 Yogesh has not witnessed the actual incident.

During the course of his examination in chief itself, he has stated that he along with Shankar Sakhare closed themselves in the house of Gokul

Khavale for security and thus they were not present at the spot when the incident took place. Though this witnessÂ claims that he was present near

the spot of incident when incident took place, but when he had opportunity to narrate the incident to the police on the same day at about 4.00 to 5.00

p.m., he had not narrated the incident to the police and on the next day i.e. on 12th October, 2008, when his statement was recorded by the police at

that time only he disclosed that he was present on the spot when the incident took place. PWÂ2 Yogesh admitted that so far he was facing criminal

trial in 4Â5 crimes and he was also detained by Police during Ganpati festival. Thus it is clear that this witness is deposing falsely that he was present

at the spot when incident took place and it appears that in fact he was not present on the spot at the time of incident. The trial Court has also

disbelieved the evidence of this witness PWÂ2 as the documents placed before the trial Court discloses that PWÂ2 came to know about the incident

from others and he was not present at the spot when incident took place. The evidence of PWÂ2 shows that on 11th October, 2008 he had been to

Police Station, Sasoon Hospital, and therefore, he was not anywhere near the place of incident and he does not know how deceased was assaulted,

but being highly interested and friend of deceased and having inimical terms with accused, PWÂ2 has posed himself as eye witness. This shows that

PWÂ2 is a got up witness. The trial Court hasÂ held that PWÂ2 has not witnessed the incident and therefore rightly observed that his evidence is of

no help to the prosecution as eye witness of actual incident.Â Â Â Â Â

19. The prosecution has examined PWÂ3 Yuvraj Jairam Pujari. He deposed that deceased was his real elder brother. He himself, his two brothers,

one sister and parents reside jointly.Â He further deposed that the incident had took place on 11th October, 2008, on Saturday at about 11.00 to 11.30

a.m. At that time he was present in Datta Mandir Chowk of there vicinity. The said Chowk situate at 40 to 50 feet from his house. He further

deposed that, at that time all the accused armed with stick, axes, scythes and swords rushed towards his house. He further deposed that accused No.1

Deepak, accused No.2, accused No.3, accused No.4, accused No.5, accused No.6, accused No.7, accused No.8, accused No.9, accused No.10,

accused No.11 and accused No.12, are the same persons. He knew the said accused since his childhood. At that time PWÂ2 and Shankar Sakhare

were proceeding by the motorcycle from the spot and after looking to the accused they have left the motorcycle and fled. Then the said motorcycle

was damaged by all the accused. Then the accused marched towards his house. He followed them at that time his sister Sau.Narsu tried to close the

door but the door was pushed by all the accused.Â At that time deceased was sleeping in the house on cot. Then his sister raised the shouts, till then

accused started assaulting to his brother Hira.Â Therefore, he himself, his brother Yallappa [PWÂ1] and mother rushed towards their house. At that

time accused No.2 given blows by means of an axe on the head of Hira.Â At the same time accused No.8 and accused No.7 assaulted his brother

by means of scythes. He further deposed that they tried to enter into the house but were not allowed by the accused Nos.1, 4 and 6. The said accused

were armed with swords and on the point of the same, they were threatened and not allowed to enter into the house. He further deposed that, then he

noticed Hira lying in blood pool. Then they requested all the accused not to assault his brother Hira but at that time accused No.4 instigated others

to kill Hira. Due to the said incident, attention of public was also attracted at the spot. Thereafter also accused Nos.10 and 12 threatened them not to

enter in the house. Then due to the arrival of the public and the crowd accused fled from the spot.

20. PW3 Yuvraj further deposed that, then one Sanjay Gokhale, Mangesh Nimbare had lifted injured Hira and carried him to Shaswat Hospital. He

also accompanied them. In the said Hospital, Hira was declared dead by the Doctor. Then as per the instruction of the Doctor, body of Hira was

carried to the Sasoon Hospital. He further deposed that in respect of the said incident, Investigating Officer has recorded his statement on 12th

October, 2008. He further deposed that he can identify above said sticks, axes, swords and scythes if shown.

21. During the course of cross examination, he stated that Narsu is his real sister, Yallappa is his real brother and the deceased was his step brother.

He further stated that Sau.Narsu after the marriage is residing with them. Deceased was jobless. Their vicinity is the thickly populated. He further

stated that Ganesh Mandal of his group and Ganesh Mandal of group of accused are separate and therefore on account of collecting contribution of

both the Mandals for installation of God Ganesh oftenly there used to be quarrels between the members of the said Mandals. He admits that the

accused have filed criminal cases against PW2 and the deceased. He further admits that accused have filed criminal cases against the members of

his Ganesh Mandal. He further stated that all the quarrels stated above had taken place during Ganpati Festival. He further admits that before the

incident in the night, quarrel took place between Yogesh Nimbare [PW2] and his rivals. He admits that Alankar Police Outpost situate 2-3 minutes

distance by walk from his vicinity. He further stated that his father possessed splendor plus motorcycle and his friends residing in their vicinity do

possess bikes. The distance between Alankar Police Outpost and their vicinity by walk is 15-20 minutes. He is Car Driver on the vehicle of one

Mrs.Mimli Datta and attends duties in between 10.00 a.m. to 6.00 p.m. and used to have weekly offs on each Saturday and Sunday. The culprits who

entered in his house had departed from there after 15 minutes. During the said span, all the culprits were continuously assaulting to his brother Hira by

means of weapons. They have forcefully given blows on the person of Hira by means of above stated weapons. He further stated that during the said

span of time, he had no occasion to enter into the house as he was not allowed to do so. During the period of said assault, his sister Sau.Narsu was

inside the house. He further stated that he had witnessed his sister rescuing his brother Hira from assault. He further stated that he had witnessed

each culprit having given 3-4 blows on the person of Hira. He further stated that he had no occasion to lift his injured brother for carrying him to

Hospital. He did not render assistance to the persons who had carried injured in the Hospital. While making statement before the Police, it was stated

by him that he followed Sanjay Gokhale and Yogesh Nimbare when they had carried injured in Shaswat Hospital, however, his statement is silent in

that respect. He was unable to assign any reason for the same. He further stated that at the relevant time cell phone was possessed by him and not by

PW-1. He further stated that on the said date it was possible to dial hundred number for police aid but on account of holiday, on Saturday and

Sunday, he used to switch off his cell phone completely. He further stated that when he visited Shaswat Hospital, Police had been to the Hospital,

however, at that time he did not approach the police, and did not narrate the said incident to them though he was feeling to narrate the same.

He further stated that, in Sasoon Hospital Police Outpost situate near entrance gate. He further stated that, to the said police also, he did not narrate

the incident, and such incident was not narrated by him to the police till the time of recording his statement.

22. During the course of further cross examination, PW-3 Yuvraj has stated that in the next day morning, he had dialogue with his sister Narsu about

lodging the report of the incident. He further stated that, he had dialogue with PW-1 and sister Narsu in mentioning the names of all the culprits. No

enquiry was made by him with the said witnesses, whether they have informed about it to the police. He further stated that on the muddamal articles

identified by him there is no specific identification mark on each and such property is easily available in market. He further stated that to all three sides

of their house, there was no window. He further stated that their house is having only one door and one window and at the time of incident, curtain

was applied to the window only. He further stated that deceased was facing criminal cases and PW-2 is also facing criminal cases. He further

stated that while making statement it was stated by him that Deepak Shinde [accused No.1] did not allow to enter into the house to save his brother

but further admits that his statement is silent to that effect and he was unable to assign any reason for the same. He further admits that PWÂ2

Yogesh Nimbare and PWÂ4 Mangesh Nimbare are his fast friends and likewise they were friends of the deceased. He admits that one day prior to

the incident quarrel took place between PWÂ2 and Santosh Mekar. He further admits that on 11th October, 2008, again quarrel took place between

said persons and father of PWÂ2.Â He further stated that till the date of recording his evidence, he was not aware whether police had prepared the

panchnama of the spot. He further admits that, they were not having any sort of strained relations with accused No.6, his brother Santosh and their

family members. He further admits that accused No.10 is not member of any Ganesh Mandal, and he is not resident of their vicinity. He further stated

that while making statement before the Police it was stated by him that accused No.10 had obstructed him from entering into the house for saving

brother Hira but his statement is silent to that effect and for which he was unable to assign any reason. He further stated that he has no strained

relations with accused No.11 and admits that said accused is not member of their Ganesh Mandal. A suggestion was put to this witness that due to

pendency of many criminal cases against deceased, he was having many more enemies. He denied the suggestion put to him that unknown persons /

enemies have committed murder of his brother hence he has falsely named the accused persons.

23. Upon perusal of evidence of PWÂ3 though he states that for 15 minutes the accused were continuously assaulting his brother Hira and further he

has seen that, each accused has given 3Â4 blows to Hira, but in next breath he stated that he was not allowed to enter in the house by the accused

persons. The prosecution has brought on record that entire incident took place in the house itself. When this witness was not allowed to enter in the

house, then, it is not possible to believe that he has witnessed the actual incident of assault. PWÂ3 further stated that for about 15 minutes

continuously all the assailants were assaulting his brother Hira. However, if the medical evidence is perused, it shows that deceased Hira received in

all 7 external injuries. If the evidence of PWÂ3 is accepted that 12 accused persons were continuously assaulting Hira for about 15 minutes with

deadly weapons which he has described, in such situation Hira would have received multiple and many more injuries, and therefore it appears that

evidence of PW³ has not witnessed the incident. PW³ Yuvraj further admits that at the said time of incident cell phone was possessed by him and

on the said date it was possible to dial hundred number for police aid. But he further stated that, on account of holiday on Saturday and Sunday, he

used to switch off his cell phone completely. It is difficult to believe that, when such serious incident of assault on his real brother Hira was taking

place, and he was very well present there, having cell phone with him, but he has not switched on his cell phone to call the police for reporting the

incident and saving his brother from the assault. Further he has stated that, he himself and his brother Yellappa (PW¹) have not tried to lift Hira and

take him to the hospital after the incident. This conduct of the witness appears to be unnatural.

PW³ further admits that for the first time, he has stated that Sanjay Ghokhale and Mangesh Nimbare carried Hira to Shashwat Hospital. This

material improvement shows that PW³ has tried to fill in the gap by making this additional statement. PW³ further admits that, till his statement

was recorded by the Police on 12th October, 2008, he did not disclose or narrate the incident to anybody. Thus it is difficult to believe that, this witness

was present on the spot when the incident was going on. The conduct of PW³ is not natural as he has not tried to rescue his brother Hira from the

assault. PW³ Yuvraj has specifically admitted that on the next day morning of incident, he had dialogue with his sister Narsu about lodging the report

of the incident and he had dialogue with PW¹ Yallappa and sister Narsu in mentioning the names of all the culprits. Thus it is clear that after due

deliberation with his sister Narsu and his brother Yallappa (PW¹), this witness decided to lodge the report and to name all the accused persons.

24. The prosecution has examined PW⁴ Mangesh s/o Ajit Nimbhare. He deposed that he born and brought up at Gosavi Vasti, Happy Colony,

Kothrud. He was knowing the deceased. The incident had taken place on 11th October, 2008 at about 12.00 to 12.30 noon. At that time he was in

lane No.1 near Ganesh Temple. At that time, accused Nos.3, 2, 8, 11, 7, 5, 6, 9, 4, 10 and accused No.12 armed with weapons noticed proceeding

towards the house of deceased. He followed them. At that time PW² and Shankar Sakre were proceeding by their bike by canal road, however,

they dropped their bike on that spot due to arrival of accused armed with weapons, and fled towards the house of Somnath Khavale. Then the accused persons had caused damage to the bike of PWÂ2 and Shankar Sakare. Then, they all proceeded towards the house of the deceased and entered into the house, therefore, there was commotion. Then they assaulted to Hira Pujari. Thereafter shouts were raised by the family members of Hira Pujari. After assault the accused left the house of Hira Pujari. Thereafter, he heard noise of weeping from the house of Hira Pujari, hence he had been there, and entered in the house. Then he noticed Hira Pujari lying in injured state in pool of blood in his house. Therefore this witness himself, Sanjay Gokhale, lifted injured in their arms and carried him in Shaswat hospital through auto rickshaw. Then within 2Â3 minutes police had been to the said hospital. Thereafter, doctor declared Hira Pujari dead. He further deposed that, when the police inquired with PWÂ1, PWÂ2 and he himself, as to who had assaulted Hira, then he informed the names of all the accused to police about being author of the incident. Police have recorded his statement.

25. During the course of crossÂexamination, PWÂ4 Mangesh Nimbare stated that, his statement has been recorded by the Investigating Officer in Shaswat Hospital itself. When he himself and Sanjay Gokhale lifted injured, their clothes were stained with his blood, however nothing was informed to the police in that respect. His shirt and shirt of Sanjay Gokhale were stained with blood. When police inquired him about the incident, no inquiry thereto was made by the police with Sanjay Gokhale. There was no impediment to inform the police that their clothes were stained with blood of the injured. After the statement recorded at Shaswat hospital, Investigating Officer has not made any inquiry with him nor has recorded statement. On 12th October, 2008 no statement was made by him before the Investigating Officer. PWÂ2 Yogesh is his real brother.Â At the time of inception of incident, PWÂ3 Yuvraj was not with him at Ganesh Temple as he was alone there. When the body was moved to Sasoon Hospital, he did not accompany it. He admits that PWÂ2 Yogesh was facing criminal trials. He further admits that from the spot where he was stand up at the time of incident, the incident going on in the house of Hira was not visible.Â When he lifted injured, he noticed injuries sustained on the body of Hira on

particular part.Â There were no injuries on calves of legs, thighs. No injuries were found on stomach, back, hand and shoulder of Hira. While making

statement, it was stated by him that from some distance, injured was carried to Shaswat Hospital, but he admits that his statement is silent to that

effect and for which he was unable to assign any reason.

26. During the course of further cross examination, PWÂ4 Mangesh stated that he does not know whether on 10th October, 2018, there was quarrel

between PWÂ2 Yogesh and Santosh Mokar.Â He does not know whether on next day also, quarrels took place between the said person and father

of Sagar Mokar. His statement was not read over by the Investigating Officer to him. The portion mark 'A' appearing in his statement is correct.Â

On next day also, quarrel took place.Â He does not know whether PWÂ2 Yogesh and Santosh Mokar have lodged report against each other with

Police. While making statement to the Police, name of accused No.6 was stated by him to the Investigating Officer, but he admits that his statement is

silent to that effect and he was unable to assign any reason for the same. While making statement, he has stated that accused Nos.9 and 10 armed

with weapons were witnessed by him, but he admits that his statement is silent to that effect and he was unable to assign any reason for the same.Â

He further stated that the population of their vicinity is of about 5000. It is hutment area and thickly populated. All the house situate in the said area

are attached to each other. He further stated that he is facing one criminal case of physical assault.Â

27. The perusal of evidence of PWÂ4 Mangesh shows that, he was not present on the spot at the time of incident.Â If entire evidence of PWÂ4 is

perused, he is silent about the presence of PWÂ1 (Yallappa), PWÂ2 (Yogesh), PWÂ3 (Yuvraj) and PWÂ16 (Narsu) at the spot of incident. This is

quite contradictory and conflicting evidence to that of the other witnesses. It appears that the statement of this witness and other prosecution

witnesses were recorded on 12th October, 2008 i.e. on the next day of the incident. The defence has brought on record material contradictions and

omissions in the evidence of this witness in respect of involvement of accused Nos.6, 9 and 10. This witness is also highly interested and real brother

of PWÂ2 and also friend of deceased and PWÂ1 and PWÂ3. The prosecution has failed to examine Sanjay Gokhale, who is material and important

witness. The prosecution has also failed to examine mother of the deceased. The case of the prosecution that PW4 along with Sanjay Gokhale took

the deceased to the hospital does not appear to be true.

28. The prosecution has examined PW5 Anita Ajit Nimbare. In her examination chief she stated that, she is residing at Happy Colony, Lane

No.2, Kothrud Pune, since last 25 years. She was knowing the deceased being resident of same vicinity. The incident had taken place on 11th

October, 2008 at about 12 to 12.30 noon when she was present in the entrance door of her house. At that time from lane No.1 towards lane No.2

some boys came, those were accused No.8, deceased Balaji Chavan and accused No.2. She further deposed that accused No.7 is shown as accused

No.11 and she was unable to name other persons, but she deposed that in all there were 12-13 boys. They were armed with swords, sticks and axes.

Out of the said boys somebody uttered words, catch up the mother of Yogesh. Thus, due to fear of the said boys, she hide herself in the house of one

Bhangarwala. As her son PW4 Mangesh was in the same vicinity, after 10-15 minutes, she had been in search of Mangesh. At that time, she

noticed commotion from the house of deceased. Then she entered in the house of deceased and noticed him lying in pool of blood. Then, PW4

Mangesh and Sanjay Gokhale had carried injured Hira to Shaswat Hospital.

29. During her cross examination, PW5 Anita stated that, Investigating Officer had recorded her statement on the date of incident. Statement of

mother of deceased, and PW2 Yogesh was also recorded by the police. Before statement of PW1 was recorded by the Investigating Officer,

she had dialogue with them. She further stated that, at that time informant and her mother informed her about Hira being assaulted by unknown

persons.

Accordingly, statement was made by her to the Investigating Officer. She admits, police had informed her to depose that, she had witnessed some

persons armed with sticks, axes and swords and accordingly she deposed.

30. Upon careful perusal of the evidence of PW5 Amita, it is crystal clear that she has not seen the incident nor she was present at the spot. During

her cross examination, she has specifically stated that, during the relevant time informant and her mother informed her about Hira being assaulted by

unknown persons, and accordingly statement was made by her to the

Investigating Officer. This admission given by PW 5 (Anita) washed out the entire prosecution case that accused persons assaulted Hira. She further admitted that police had informed her to depose that she had witnessed some persons armed with sticks, axes and swords and accordingly she deposed. Thus, it is clear that she has not seen accused persons going towards the house of the deceased, armed with weapons, prior to the incident. However, she has deposed about the same as per the say of the police. It is pertinent to note that PW 5 (Anita) is mother of PW 2 (Yogesh) and PW 4 (Mangesh), who are friends of deceased and his brothers, and therefore, highly interested witness.

31. The prosecution has examined PW 6 Sou. Manda Sarjerao Khavale. PW 6 in her examination in chief deposed that the house of the deceased situate to the back side of her house, hence deceased and his family members are known to her.

The incident had taken place on 11th October, 2008 at 12.00 noon, when she was cooking food in her house. At that time, PW 2 Yogesh and his friend rushed to her house. They asked her to allow them to have shelter in her house as some boys of Chavan were chasing them. Thereafter, she heard noise of breaking glasses and tin sheets and so she was frightened. After five to ten minutes she came towards canal and noticed some boys carrying blood stained scythes and proceeding towards 'nulha'. Out of the said boys, three were known to her namely Dhananji Chavan, Bandu

Chavan. Accused Nos.2 and 3 are the same Bandu and Dhananjay.

32. PW 6 Manda further deposed that, thereafter she had been to the house of Hira Pujari and noticed him lying in pool of blood in his house. In this regard, Investigating Officer has recorded her statement on next day of the incident.

33. During the course of cross examination, PW 6 Manda has stated that she had two sons namely Gokul and Somnath. She admits that prior to the incident on the allegations of house breaking of the house of accused Nos.2 and 3, her two sons were arrested by the Police. She admits that due to the said incident, relations between themselves and the accused were strained. She further admits that quarrel took place between PW 2 Yogesh and accused Nos.2 and 3. She further stated that after the incident, she witnessed police in front of the house of the deceased. At that time, she being

neighbourer of the deceased, Police made enquiry with her about the incident. Therefore, statement was made by her about having no knowledge who

was the author of the incident of killing Hira. She further admits that on the next day as per the call of PWÂ2 Yogesh, she had been to the police

station. She further admits that as the accused Nos.2 and 3 are resident of their vicinity, she had identified them. She further stated that she did not

remember whether she had made statement before the Police having had witnessed some boys passing from the side of house of Hira, armed with

blood stained swords, sticks and axes. Her statement is silent in that respect and she was unable to assign reason for the same.

34. Thus upon perusal of the evidence of PWÂ6 it has been stated that, she had noticed some boys carrying weapons, and named only two accused

persons i.e. accused No.2 Bandu and accused No.3 Dhananjay. She further stated that, statement was made before the Police that she was not

having knowledge about who was the author of the incident of killing Hira. Her statement was not recorded till next day of the incident nor she has

disclosed anything to the Police. Though she has deposed that she heard the noise of breaking glasses and tin sheets.Â However, the prosecution has

not brought on record any panchanama drawn to that effect. Thus it appears that at the instance of PWÂ1 to PWÂ5, PWÂ6 has given false oral

account.Â Further she has specifically admitted in her cross examination that, her sons were arrested by the police at the instance of accused Nos.2

and 3. Therefore, possibility cannot be ruled out that out of vengeance she has deposed against the accused persons.

35. The prosecution has examined PWÂ7 Rahul Jalindar Khandare. PWÂ7 Rahul in his examinationinÂchief stated that on 11th October, 2008 at

about 12.15 noon, he had been at his home for lunch. At that time he learnt about death of Hira Pujari, and he being taken to Shaswat Hospital and

therefrom to Sassoon Hospital. Hence, he had been in the said Hospitals. In between 4.30 to 5.15 p.m. dead body of Hira was shown to him in

Sassoon Hospital and the same was identified by him. He further deposed that on the person of Hira, four injuries were found on head and injuries on

right hand palm, arm and shoulder. Accordingly, inquest panchanama of the said body was drawn in presence of him and other panch Sanjay Gokhale.

This witness further stated that, after perusing the said panchanama, the same was signed by them. He identified the said inquest panchanama

[Exhibit113].

36. During his cross examination, PW⁷ Rahul has stated that he had been to Sasoon Hospital along with the dead body and that all the while when he was in Sasoon Hospital, PW³ Yuvraj and Sanjay Gokhale were with him. He further stated that Crime No.121/2008 has been registered against him with Kothrud Police Station, about damage caused to private property and accusations were made against him that he caused damage to the houses of accused Nos.2 and 3. Thereafter chapter case was also instituted against him in which PW² Yogesh and others are accused. Thus it appears that the prosecution has examined this witness to prove inquest panchanama Exhibit¹¹³.

37. The prosecution has examined PW⁸ Bhagwan Pandurang Lokhande to prove the seizure panchanama Exhibit¹¹⁹ regarding seizure of clothes on the persons of accused Nos.7 and 8 at the time of incident. However, this witness turned hostile and did not support the prosecution case. PW⁹

Ashok Devba Waghmare is a panch to the spot panchanama Exhibit¹²⁴. However, this witness turned hostile and did not support the prosecution

case. PW¹⁰ Prabhakar Vishwanath Kasab is a panch to the memorandum statement Exhibit¹²⁶ and discovery panchanama Exhibit¹²⁷

regarding discovery of three wheeler Tempo wherein swords were kept, at the instance of accused No.3. However, this witness also turned hostile

and did not support the prosecution case. PW¹¹ Anil Jannappa Devkar is a panch to the memorandum statement and discovery panchanama

regarding swords at the instance of accused No.1 and discovery of scythe at the instance of accused No.8. However, this witness also turned hostile

and did not support the prosecution case. PW¹² Ganesh Vijay Bhagat is a panch to the memorandum statement and discovery panchanama

regarding discovery of axe at the instance of accused No.2. However, this witness also turned hostile and did not support the prosecution case. PW[?]

13 Prakash Tippanna Manjulkar is a panch to the seizure panchanama of blood stained clothes of accused No.7 and accused No.8. However, this

witness turned hostile and did not support the prosecution case. PW¹⁴ Bhagwan Baban Chandere is a panch to the discovery panchanama of

wooden stick at the instance of accused No.9 and discovery of sword at the instance of accused No.11. However, this witness turned hostile and

did not support the prosecution case. PW¹⁵ Pandurang Bhikoba Dangat is a panch to the discovery panchanama of stick at the instance of accused

No.12 and wooden stick at the instance of accused No.9. However, this witness turned hostile and did not support the prosecution case.Â Â Â Â Â

38. Thus it is clear from the perusal of the evidence of PW⁸ to PW¹⁵ that these are the witnesses on memorandum statement and seizure

panchanama regarding the alleged weapons used in the commission of crime by various accused persons and clothes alleged to have been on the

person of accused at the time of incident. However, all these witnesses turned hostile and therefore the prosecution failed to prove the memorandum

statement and discovery panchanamas.

39. PW¹⁶ Narsu Raju Jegali is the informant. She deposed that she had three brothers and one sister. PW¹ (Yallappa) and PW³ (Yuvraj) are

her brothers. Deceased Hira was her brother. Regarding the incident, she deposed that the incident took place on 11th October, 2008 at 12.00 noon.

At that time, she was at her parents house along with her brother Hira. Her mother had been at neighbours house at the relevant time. PW¹ and

PW³ were also out of the house. House of her parents consists of two rooms, out of it, Hira was sleeping in the first room and she was in the

second room. At that time, 10¹⁵ persons having concealed their faces under handkerchief entered in their house. They were armed with swords,

scythes and axes. She further deposed that she could not witness their faces as those were concealed, hence she cannot state who were those

persons. She further deposed that all the above said persons had assaulted her brother Hira by means of above said weapons. In the said assault, Hira

had sustained bleeding injury on his head, hand and shoulder. Due to the said incident, she has raised shouts for help. After the assault, all the

assailants had fled from the spot. Thereafter, she had been in Alankar Police Outpost from where she was sent to Kothrud Police Station. Thereafter

oral report was lodged by her in the Police Station, which computerized by the said person. Thereafter, it was read over to her. Thereafter the report

was signed by her. Likewise her thumb mark was taken on the report. She identified the report dated 11th October, 2008, which bears her signature.

She further deposed that she cannot read and write Marathi. When, the contents of the report were read over to the witness in Marathi, she deposed

that she cannot state whether the contents of paras 3 and 4 are correct or not. She does not know whether accused Nos.1, 2, 3, 4, 7 and 8 are

the resident of their vicinity. She specifically denied that all the persons and accused had assaulted Hira by above said weapons, hence she had named

them in the report. At this point, the APP has sought permission of the Trial Court to cross examine the witness.

40. During the course of cross examination by the APP, PW16 has denied that all the accused present before the Court were resident of their

vicinity, hence she knew them. She further stated that, she does not know whether there was quarrel between the accused and deceased. She further

denied that she had actually witnessed that accused Nos.1, 2, 3, 4, 7 and 8 had entered in her house armed with swords, scythes and axes and

assaulted her brother Hira and caused him grievous injuries. Further, all the suggestions put to her by the APP were denied by this witness and thus

she has not supported the prosecution case. Â Â Â

41. During the course cross examination by the Advocate appearing for the accused, PW16 admitted that when the assailants entered into her

house, the door curtain was displayed in order. She further admitted that last assailant while departing from the spot had pulled the curtain, hence it

was torn and had fallen on the ground. She further admits that after the incident, injured Hira was taken to Shaswat hospital, wherein discussion had

taken place in between her, PW1 to PW3 and her mother, accordingly. She further specifically admitted that after the incident nobody from her

parents side was present in the house, hence by phone she had called PW1 and PW3 on the spot. She further admits that while lodging report, it

was stated by her that unknown persons had assaulted her brother Hira.

42. PW16 Narsu Raju Jegali is the informant and star witness of the prosecution. It is the case of the prosecution that when the incident of alleged

assault took place at that time along with deceased Hira, this witness Narsu was only present in the house and she has opportunity to witness the

entire incident. However, this star witness on whose oral testimony the entire prosecution case is based, has turned hostile and did not support the

prosecution case. In her examination in chief itself, she has specifically deposed that 10 to 15 persons having concealed their faces with handkerchief,

entered the house armed with scythes, swords and axes. She further deposed

that she could not witness their faces as those were concealed, hence she could not state who were those persons. During the course of her cross examination by APP on behalf of the prosecution, she has denied the suggestion put to her that she actually witnessed accused Nos.1, 2, 3, 4, 7 and 8 entering the house armed with swords, scythes and axes and assaulted Hira and caused grievous injuries. During the course of her cross examination by Advocate for accused, she admitted that while lodging report it was stated by her that unknown persons had assaulted her brother Hira.Â Thus upon careful perusal of the entire evidence of this witness, who is informant, she has specifically stated that 10 to 15 persons having concealed their faces with handkerchief entered the house armed with weapons. She has specifically admitted that while lodging report, it was stated by her that unknown persons had assaulted her brother Hira. As the informant itself turned hostile and did not support the prosecution case, the prosecution has failed to prove the contents of First Information Report itself. Furthermore, PWÂ16 Narsu was the first person, who saw the incident in the house and she herself was present at that time.

Â . The prosecution has brought on record that the deceased and his associates including PWÂ 1 to PWÂ4 and others were on inimical terms with the accused persons. There were cross cases against both the groups.Â We find considerable force in the argument advanced by the learned counsel appearing for the accused that, in fact if the incident has taken place in presence of PWÂ16 and the accused persons had really assaulted the deceased and done to death, then there is no reason for her to give different versions in favour of the accused and resile from her First Information Report.

43. On careful perusal of the evidence of the evidence of PWÂ5 (Anita), it is clear that she has specifically stated that she learnt from PWÂ16 and her mother that, some unknown persons have assaulted Hira.Â

44. PWÂ18 Sopan Maruti Nawadkar is a Police Naik, who visited the spot of incident at about 12.15 noon on 11th October, 2008 and noticed that Hira was being taken to Shaswat Hospital.Â PWÂ19 Kumari Tejaswani Jaisingh Yadav was the Police Sub Inspector, Kothrud Police Station, Pune at the relevant time, who conducted spot panchanama ExhibitÂ163.Â PWÂ20 Vijay Vasantrao Palsule was the Police Inspector, Deccan Police

Station, Pune at the relevant time, who arrested accused Nos.1, 2, 3, 4, 5 and 6 and taken entry in the Station Diary to that effect [Exhibit 166].

PW 21 Arun Balbhim Kadam was Police Inspector, Kothrud Police Station, Pune at the relevant time. He drew arrest panchanama [Exhibit 168]

of accused Nos.1 to 6 on 13th October, 2008. He has also arrested accused Nos.7 and 8. PW 22 Shekhar Vithalrao Koli was Police Inspector,

Kothrud Police Station, Pune at the relevant time, who arrested accused Nos.10, 11 and 12.

45. PW 23 Anant Yashwantrao Rajeshirke and PW 24 Vilas Narnawar are the Investigating Officers and they have deposed about the manner in

which they have carried out investigation in the crime.

46. We have carefully gone through the entire evidence brought on record by the prosecution. The prosecution has examined only interested

witnesses. PW 1 to PW 6 are from one and the same group and closely related to deceased Hira. As observed earlier, even the trial Court has

disbelieved the oral evidence of PW 2 (Yogesh), who claims that at the time of incident he was present at the spot and witnessed the entire incident.

The relations between the group of PW 1 to PW 5 and group of accused persons were strained and several cross complaints were registered

against each others. As observed earlier, as per the prosecution case, the incident took place at about 12.00 to 12.30 a.m. at which time PW 1 to

PW 4 were present on the spot. It is pertinent to note that none of these prosecution witnesses have approached the Police Station immediately nor

they had informed Police on phone about the incident and it is only when on the next day of incident, when their statements were recorded by the

Police, they have narrated the incident to the Police. The evidence on record reveals that though Police were making inquiry by visiting the house of

the deceased and also Shaswat Hospital where PW 1 to PW 5 and PW 16 were present, none of them had disclosed the names of the assailants

or accused to the Police. Police panchanama, inquest panchanama, making inquiry by visiting the place of incident, contacting the brothers, sisters,

mother in the house and also in hospital, clearly shows that investigation has already been started without any official First Information Report. The

non-disclosure of the names of the accused persons to the Police and doctor by the prosecution witnesses at the time when first opportunity was

available to them, clearly shows that nobody knew who were the real assailants. Though the witnesses were present immediately after the incident, in the house and also in the Hospital, there is no explanation as to why the Investigating Officer took time to record the statements till next day of the incident. None of the panch witnesses have supported the prosecution case and therefore all the recovery and other panchanamas are of no use to the prosecution. Therefore, we find considerable force in the argument advanced by the learned Counsel appearing for the appellants that the possibility of false implication of the accused persons cannot be ruled out.

47. Learned counsel appearing for the respective Appellants placed reliance upon the exposition of law in the reported Judgments in respect of their submissions regarding appreciation of evidence in a case where allegations are of large number of accused participated in the incident and several persons have claimed to have seen the incident.

48. Mr. Shirish Gupte, learned Senior Advocate appearing for the appellants, in support of his submission about how to appreciate the evidence of hostile witnesses, placed reliance on the observations made in paragraph 16, in the case of Paramjeet Singh alias Pamma Vs. State of Uttarakhand [2010] 10 SCC 439 .Â In para 16 of the said judgment, it is observed thus:

â??16. The fact that the witness was declared hostile at the instance of the Public Prosecutor and he was allowed to crossÂexamine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the court has to be very careful, as prima facie, a witness who makes different statements at different times, has no regard for the truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to it. The court should be slow to act on the testimony of such a witness; normally, it should look for corroboration to his testimony. (Vide State of Rajasthan V. Bhawani [2003] 7 SCC 291).â??

49. Mr. Shirish Gupte, learned Senior Advocate appearing for the appellants, in support of his submissions also relied upon the observation made in paragraph 26 in the case of Lahu Kamalakar Patil and another Vs. State of Maharashtra [2013] 6 SCC 417 .Â In para 26 of the said judgment, it is observed thus:

â??26. From the aforesaid pronouncements, it is vivid that witnesses to certain

crimes may run away from the scene and may also leave the place due to fear and if there is any delay in their examination, the testimony should not be discarded. That apart, a court has to keep in mind that different witnesses react differently under different situations. Some witnesses get a shock, some become perplexed, some start wailing and some run away from the scene and yet some who have the courage and conviction come forward either to lodge an FIR or get themselves examined immediately. Thus, it differs from individuals to individuals. There cannot be uniformity in human reaction. While the said principle has to be kept in mind, it is also to be borne in mind that if the conduct of the witness is so unnatural and is not in accord with acceptable human behaviour allowing variations, then his testimony becomes questionable and is likely to be discarded.â??

50. Mr. D.G. Khamkar, learned counsel appearing for the appellants, in support of his submissions, placed reliance upon the exposition of law in the case of Masalti Vs. The State of Uttar Pradesh AIR 1965 SC 202.â? In para 16 of the said judgment, it is observed thus:

â??16. â?|.....That, no doubt is true; but where a criminal court has to deal with evidence pertaining to the commission of an offence involving a large number of offenders and a large number of victims, it is usual to adopt the test that the conviction could be sustained only if it is supported by two or three or more witnesses who give a consistent account of the incident. In a sense, the test may be described as mechanical; but it is difficult to see how it can be treated as irrational or unreasonable. Therefore, we do not think that any grievance can be made by the appellants against the adoption of this test. If at all the prosecution may be entitled to say that the seven accused persons were acquitted because their cases did not satisfy the mechanical test of four witnesses, and if the said test had not been applied, they might as well have been convicted. It is, no doubt, the quality of the evidence that matters and not the number of witnesses who give such evidence. But sometimes it is useful to adopt a test like the one which the High Court has adopted in dealing with the present case.â??

51. Mr. D.G. Khamkar, learned counsel appearing for the appellants also relied upon the exposition of law in the case of Chandra Shekhar Bind and others Vs. State of Bihar [2001] 8 SCC 690.â? In para 9 of the said judgment, it is observed thus:

9. However, this is an incident in which a large number of accused had participated. The Constitution Bench of this Court has, in the case of *Masalti V. State of U.P.* AIR 1965 SC 202 held that under the Evidence Act, trustworthy evidence given by a single witness would be enough to convict the accused persons, whereas evidence given by half a dozen witnesses which is not trustworthy would not be enough to sustain the conviction. It was held that where a criminal court has to deal with evidence pertaining to the commission of an offence involving a large number of offenders, it is usual to adopt the test that the conviction could be sustained only if it is supported by two or three or more witnesses who give a consistent account of the incident. It was held that in a sense, the test may be described as mechanical, but it cannot be treated as irrational or unreasonable. It was held that even though it is the quality of the evidence that matters and not the number of witnesses, still it is useful to adopt such a mechanical test.

52. Relying upon the ratio laid down in the aforesaid reported Judgments, learned counsel appearing for the appellants submitted that, where large number of accused participated in the incident and several persons have seen the incident, it would not be unreasonable or irrational to adopt the test that conviction could be sustained only if it is supported by at least two or more witnesses, who give consistent account of the incident. In the facts of this case, we accept aforesaid submissions made by the learned counsel appearing for the appellants, in view of the number of accused involved and also seven witnesses claim either they have seen the accused proceeding to the house of Hira [deceased] or accused actually assaulting deceased or accusing going / returning back from the spot of the incident. If aforestated test laid down in the case of *Masalti* [supra] and *Chandra Shekhar Bind* [supra] is applied, in that case due to inconsistencies in the evidence of the prosecution witnesses and since *Narsu* [PW 16], who is star witness of prosecution case, turned hostile, it can safely be concluded that said test not satisfied.

53. It is pertinent to note that the articles like clothes and weapons were seized soon after the incident on various dates. The letters Exhibit 191 and Exhibit 214 shows that some of the seized articles were sent to the office of the Chemical Analyzer on 12th November, 2009 for Chemical

Analysis. Thus, it is clear that for considerable period the seized material was in the custody of the investigating officer. The prosecution has not

brought on record whether the said articles were properly sealed or not and kept in safe custody.Â The Rajasthan High Court in the case of The

State V. Motia and other Accused , A.I.R. 1955 in para no. 8 held that:

Â â??8. Learned counsel for Motia accused has raised a number of objections about this evidence against Motia. In the first place, he points out that

there is no evidence to show that after the various articles had been recovered from the possession of Motia, they were kept sealed so that it was not

possible for any one to sprinkle blood stains on them while they were in the custody of the police and before they were, sent for examination by the

Chemical Examiner. We must point out that this lacuna in the prosecution evidence is there. Whenever it is desired by the prosecution that certain

articles, which have been recovered from accused persons are to be identified, or are to be sent to the Chemical Examiner for analysis, it is necessary

that the officer recovering the articles should immediately take steps to seal them and evidence should be produced that the seals were not tampered

with till the identification is over, or till the articles are sent to the Chemical Examiner for analysis. In the absence of such precautions it would always

be open to the accused to say that the police later put human blood on the articles in order to implicate the accused. It is, therefore, necessary for the

prosecution to produce evidence that steps were taken at once to seal the articles, and that from the time the articles came into possession of the

police to the time they were sent for identification before a Magistrate or for examination to the chemical Examiner the seals remained intact. This

evidence is missing in this case. It is, of course, not difficult to sprinkle a few human blood stains on articles recovered if somebody wants to do so.

We do not say that this was done in the present case; but as precautions were not taken, the argument raised on behalf of the accused that this might

have been done remains unrefuted. Under these circumstances, we find that we cannot place the same reliance on the discovery of blood stains on

these various articles as we would have done if necessary precautions had been taken.â??

54. In the facts of the present case, we find considerable force in the argument advanced by learned counsel for the Appellants that muddamal

articles were in the custody of the investigating officer for considerable period and during the said period possibility of tampering with the muddemal

articles cannot be ruled out. Considering the over all evidence and the circumstances brought on record, explicit reliance cannot be placed upon the chemical analysis report.

55. Thus upon taking conspectus of entire evidence brought on record by the prosecution, it is clear that the informant herself has not supported the

case of the prosecution that the accused i.e., appellants, have assaulted Hira. PWÂ5 (Anita) has specifically stated that an informant and her mother

informed her about Hira being assaulted by unknown persons.Â As observed earlier, upon careful perusal of the evidence on record, it appears that

PWÂ1 to PWÂ5 have not at all witnessed the actual incident and therefore their oral evidence is not reliable. We are of the considered view that

upon such inconsistent and unreliable evidence, conviction cannot be based.

56. We have carefully perused the impugned Judgment of the Trial Court. The findings recorded by the Trial Court are perverse. In para 39 of the

judgment, the Trial Court has observed thatÂ at the time of incident PWÂ?1 to PWÂ?6 were standing just in front of the house or near the house of the

deceased. Still the Trial Court has recorded the findings that these witnesses have witnessed the actual incident which had taken place inside the

house. In this context, it is pertinent to note that the prosecution witnesses themselves have stated that at the time of incident, the door was closed by

the accused from inside. If it is so, then the question of witnessing the actual incident by PWÂ1 to PWÂ6 would not arise. In further part of the

Judgment i.e. in ParaÂ42 the trial Court has observed that,Â it is eloquent from the evidence of PWÂ1, 3 and 4 that the spot was not visible i.e. from

the place they did witness accused marching to the place where the incident had taken place. The above said findings recorded by the trial Court in

Para 42 are contrary to the findings recorded in Para 40 of the Judgment that, one cannot venture to say that these witnesses have not witnessed the

actual incident. Thus the findings recorded by the trial Court in Para 40 of the Judgment are perverse.

57. In Para 45 of the Judgment the trial Court has recorded the findings that PWÂ1, PWÂ3 and PWÂ4 gave evidence about Hira Pujari being

assaulted by 10 to 15 persons. Thus, the trial Court has recorded the findings

contrary to evidence brought on record. Though the statements of PW??

1 to PW4 recorded by the Investigating Officer bear the date as 12th October, 2008, the trial Court has recorded the perverse findings that PW1

to PW4 have categorically admitted that their statements were recorded by PW23 P.I. Rajeshirke on the day of incident i.e. 11th October 2018

itself.

58. In Para 69 of the Judgment the trial Court has recorded the findings that, from the evidence of the witnesses it is eloquent that all the accused in

order to accomplish the object of unlawful assembly had entered in the house of Hira Pujari so as to commit his murder by possessing deadly

weapons. In this context, it is pertinent to note that in view of the inconsistent evidence of PW1 to PW6 and medical evidence showing only seven

injuries out of it two fatal, it could not have been concluded that, all the accused in order to accomplish the object of unlawful assembly had entered in

the house of Hira Pujari so as to commit his murder by possessing deadly weapons. In fact only PW16 had witnessed the incident but she has not

supported the prosecution case.

59. The Trial Court has not appreciated the entire evidence brought on record in its proper perspective and reached to a wrong conclusion. The

findings recorded by the Trial Court are not in consonance with the evidence brought on record. The Trial Court itself has disbelieved the version of

PW2 Yogesh by observing that he has made futile attempt to prove himself to be eye witness of the entire incident. But his evidence stand falsified

on the basis of the report lodged by him vide Exhibit97. The Trial Court has further observed that the said witness (PW2) cannot be said to be eye

witness of the actual incident. Thus the Trial Court has disbelieved the evidence of prosecution witness PW2, who claims himself to be eye witness.

However, the Trial Court has believed the version of other prosecution witnesses, who claim to be witnessed the actual incident, though there are

various contradictions and omissions in their evidence and the same is not trustworthy. Thus it is clear that the reasoning given by the Trial Court is not

proper and contrary to the evidence on record.

60. We are conscious of the fact that, one person has lost his life in his young age. However, in absence of cogent, trustworthy, reliable and sufficient

evidence, we are unable to subscribe the view taken by the trial Court. We have

to remind ourself of the observations made by the Supreme Court in the case of Sarwan Singh Rattan Singh V/s State of Punjab AIR 1957 SC 637(1), which are reproduced as under :Â?

â??It is no doubt a matter of regret that a foul cold-blooded and cruel murder like the present should go unpunished. It may be as Mr. Gopal Singh strenuously urged before us that there is an element of truth in the prosecution story against both the appellants. Mr. Gopal Singh contended that, considered as a whole the prosecution story may be true; but between 'may be true' and 'must be true' there is inevitably a long distance to travel and the whole of this distance must be covered by legal, reliable and unimpeachable evidence.â??

61. Thus upon re-appreciation of entire evidence, we are of the considered opinion that, the evidence brought on record by the prosecution is not sufficient and cogent to form basis for conviction.Â So also, the evidence on record do not establish beyond reasonable doubt, that it is the accused persons, who have committed the act of murder of the deceased, and involvement of person other than accused is completely ruled out.Â There is no clinching and credible evidence to convict the accused for the offences levelled against them. The reasons and findings recorded by the Trial Court are found to be perverse and based upon improper appreciation of evidence on record and findings are not sustainable in law. We are of the view that the prosecution has failed to prove the guilt against the accused beyond reasonable doubt. Therefore, the accused deserves to be given benefit of doubt.

62. In the light of discussion in foregoing paragraphs, an inevitable conclusion is that the appellants are entitled for the benefit of doubt.

Hence we pass the following order :

(I) All the Criminal Appeals i.e.Criminal Appeal Nos.1138 of 2011, 181 of 2012, 1295 of 2011, 1126 of 2011, 1223 of 2011 and 447 of 2014 are hereby allowed.

(II) The Judgment and order dated 6th August, 2011, passed by the Additional Sessions JudgeÂ11, Pune in Sessions Case No.656 of 2009, thereby

convicting and sentencing the Appellants â?" original accused Nos.1 to 12 i.e. accused No.1 Â Dipak Sakharam Shinde, accused No.2 â?" Bandu

Mohan Chavan, accused No.3 â?" Dhananjay Mohan Chavan, accused No.4 â?"

Navnath Madhu Pawar, accused No.5 â?" Nitin Tukaram Chavan,
accused No.6 â?" Sagar Prakash Mokar, accused No.7 â?" Dnyaneshwar alias
Chadi alias Zipra Ramchandra Sathe, accused No.8 â?" Vijay

Bhanudas Chavan, accused No.9 â?" Mahendra alias Waghya Arun Waghmare,
accused No.10 â?" Rahul Laxman Padwal, accused No.11 â?

Sagar Hiranman Chavan and accused No.12 â?" Sharad Nana Chavan for the
offence punishable under Sections 143, 147, 148, 449, 302, 427 read with

149 of the Indian Penal Code, is quashed and set aside.

(III) All the Appellants â?" originalaccused Nos.1 to 12, are acquitted of the
offence punishable under Sections

143, 147, 148, 449, 302, 427 read with 149 of the Indian Penal Code. Fine
amount, if deposited as per the impugned Judgment and order, be refunded

to the Appellants.

(IV) The order passed by the trial Court to the extent of acquitting the
Appellants'original accused of the offence punishable under Section 25 (1B)

(b) read with 4 of the Arms Act, is hereby confirmed.

(V) The Appellants â?" original accusedare in jail, they be set at liberty forthwith,
if not required in any other case.

(VI) All the Appellants shall furnishPersonal Bond of Rs.15,000/â" each and surety
in the like amount each, under Section 437â" of the Code of

Criminal Procedure, before the concerned trial Court at Pune.

(VII) In view of the order passed in Criminal Appeals, Criminal Application
No.248 of 2018 in Criminal Appeal No.181 of 2012 and Criminal

Application No.249 of 2018 in Criminal Appeal No. 1138 of 2011 do not survive
and the same stands disposed of, accordingly.