

(2016) 03 GUJ CK 0118
In the Gujarat High Court

Case No : Criminal Appeal Nos. 677, 1231 and 1233 of 2005

Dilipbhai Ganeshbhai Makwana

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 15-03-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313

Penal Code, 1860 (IPC) — Section 302, Section 34, Section 363, Section 366, Section 376

Citation : (2016) 03 GUJ CK 0118

Hon'ble Judges : K.S. Jhaveri and G.B. Shah, JJ.

Bench : Division Bench

Advocate : B.S. Patel and Ranjan B. Patel, Advocates, for the Appellant; C.M. Shah, APP, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—1. These appeals are preferred against the judgment and order dated 21.2.2005 passed by learned Additional Sessions Judge, Vadodara, in Sessions Case No. 167 of 2002. By the impugned judgment, accused No. 1 was held guilty for the offences punishable under Sections 363, 366 and 376 of the Indian Penal Code (for shot, "IPC") and sentenced to undergo rigorous imprisonment for five years and to pay fine of Rs. 1,000/- and, in default of payment of fine, further imprisonment of one month was imposed for each offence. All the sentences were ordered to run concurrently. Accused No. 2 was acquitted of all the charges levelled against him. Feeling aggrieved by the impugned judgment, accused No. 1 has preferred Criminal Appeal No. 677 of 2005, Criminal Appeal No. 1231 of 2005 is preferred by the State for enhancement of sentence imposed upon accused No. 1, while Criminal Appeal No. 1233 of 2005 is preferred against acquittal of accused No. 2.

2. The facts in brief giving rise to the filing of present appeal are as under:--

"2.1 It is the case of the prosecution that the complainant-Bashirkhan

Munshikhan Usmani filed a complaint before the Dabhoi Police Station, inter alia, alleging that on 24.5.2002 at about 10.30 a.m., accused No. 1 enticed away his minor daughter and taken her to different places. It is alleged that the prosecutrix was raped against her will by accused No. 1. It is alleged that accused No. 2 threatened to kill her and thereby abetted in commission of offence. With these allegations, a complaint was given against the accused persons.

2.2 On complaint being filed, investigation was carried out and the accused came to be arrested. At the end of investigation, charge-sheet was filed against the accused persons before the Magistrate Court. Since the offence was exclusively triable by the Court of sessions, the case was committed to Sessions Court. The trial was initiated and charge came to be framed. The accused pleaded not guilty and claimed to be tried.

2.3 In order to bring home the charges against the accused persons, prosecution has examined following witnesses.

2.4 The prosecution has also produced following documents in support of its case:--

2.5 At the end of trial, the Court below recorded further statements of accused persons under Section 313 of Cr.P.C. and thereafter, passed the impugned judgment and order. Being aggrieved and dissatisfied with the impugned judgment of the trial Court, present appeals are preferred before this Court."

3. At the time of hearing of these appeals, Mr. B.S. Patel, learned advocate for the appellant of Criminal Appeal No. 677 of 2005-accused No. 1 has taken us through the evidence and tried to establish that the prosecution has miserably failed to prove its case against the appellant. Mr. Patel submitted that the victim has stated during investigation that she was not taken away forcefully and she was neither raped nor any threat was given to her, therefore, there is contradiction in her statement before the police and the deposition recorded before the Court. He also submitted that the learned trial Judge has erred in relying on the evidence of the prosecutrix, as there are serious omissions and contradictions in her statement. He further submitted that this is a case of love affair and the victim had gone with the accused willingly and there was no force on the part of the accused. He further submitted that as per the prosecution case the victim was taken to different places by train or bus, therefore, she had a chance to run away or to make hue and cry, however, nothing is done by her. He also submitted that as per the medical evidence there were no injuries on the body of the victim, therefore, it is difficult to believe that the alleged offence is committed by the accused. He also submitted that for proving the age of the prosecutrix birth certificate is not produced and a certificate of Principal of a school is produced, which could not have been treated as a conclusive evidence. He further submitted that even ossification test has not been performed on the prosecutrix to ascertain her age. In view of these submissions, he prayed that

this appeal may be allowed by setting aside conviction of accused No. 1.

4. On the other hand, learned APP, Ms. C.M. Shah, appearing for the State has taken us through the evidence of the victim and other witnesses and submitted that the trial Court has rightly convicted the accused for offences punishable under Sections 363, 366 and 376 of IPC. She also submitted that from the evidence of the prosecutrix, it is clear that she was abducted by accused No. 1 and from the medical evidence it is clear that she has been raped by accused No. 1. So far as Criminal Appeal No. 1231 of 2005 is concerned, which is preferred for enhancement of sentence imposed on the accused No. 1, she has taken us through the evidence and contended that the trial Court has committed an error in imposing the sentence upon accused No. 1 inspite of voluminous evidence against him and contended that the trial Court ought not to have imposed such a lesser punishment. She also submitted that without appreciating the documentary as well as oral evidence available on the record of the case in its proper perspective, learned Judge has erred in imposing lesser punishment upon accused No. 1. She submitted that without appreciating the documentary as well as oral evidence available on the record of the case in its proper perspective the learned Judge has erred in imposing lesser punishment upon accused No. 1. She submitted that the reason put forth on behalf of the accused is not sufficient and reasonable for imposing lesser sentence on accused No. 1. Therefore also, as the sentence imposed by the learned Judge is not sufficient and reasonable, the same deserves to be enhanced by this Hon''ble Court. She also submitted that from the available material and from facts and circumstances of the case, it is clear that accused No. 1 deserves maximum sentence as provided under the aforesaid provisions of IPC as the offence in question is very serious in nature and it is required to be viewed seriously. It is a fit case wherein the sentence imposed on accused No. 1 deserves to be enhanced by this Hon''ble Court. She further submitted that the learned Judge has failed to appreciate that there is no any mitigating circumstance to impose lesser sentence and it is very clear from the facts and circumstances of the case available on the record of the case that there are aggravating circumstances in which learned Judge ought to have imposed the maximum sentence as provided under the law. She also submitted that the learned trial Judge has committed an error in taking lenient view while imposing sentence on accused No. 1 and, therefore, the sentence imposed is required to be enhanced.

5. On the other hand, Mr. Ramnandan Singh, learned counsel for the respondent-accused No. 1 has contended that the accused has been properly punished by the trial Court. He also submitted that accused No. 1 is not involved in any other offence and considering the age of the accused, learned trial Judge has not committed any error in imposing less punishment upon the accused. He, therefore, submitted that the sentence imposed upon accused No. 1 by the impugned order may not be enhanced and prayed that this appeal may be dismissed.

6. We have heard Mr. B.S. Patel, Mr. Ramnandan Singh, learned advocates for accused No. 1 and Ms. C.M. Shah, learned APP for the State. We have also gone through the impugned judgment and the evidence on record. In the evidence of the prosecutrix, PW-3, she has stated that when she went to the market, she was called by accused No. 1 and she was abducted by him. She also stated that she was raped by accused No. 1. It has also come on record that the prosecutrix and both the accused were found by the police at Junagadh Bus Stand. Accused No. 1 was also identified by her before the Court. PW-4 and PW-5 have turned hostile, however, PW-6, who is the father of the prosecutrix, has supported the case of the prosecution. This witness has produced the school leaving certificate of the prosecutrix to prove her age. From the said certificate, it is clear that the victim was less than 16 years of age at the time of commission of offence. We have also gone through the evidence of PW-7, Dr. Subhashchandra Jayantilal Shah and the report of FSL. Taking into consideration the evidence of the prosecutrix and the FSL report, it is clear that she was abducted and raped against her will and the prosecution has proved its case beyond reasonable doubt. From the clothes of the victim, semen marks were found and it is proved that it is of accused No. 1. Therefore, it is proved that accused No. 1 had intercourse with the victim. Not only that it is proved that the victim was minor at the time of the incident. Therefore, the trial Court has not committed any error in convicting accused No. 1 for offences under Sections 363, 366 and 376 of IPC.

7. In the case of *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* reported in , AIR 1983 SC 753, the Supreme Court observed as under:--

"7. It is now time to tackle the pivotal issue as regards the need for insisting on corroboration to the testimony of the prosecutrix in sex-offences. This Court, in *Rameshwar v. State of Rajasthan*, , (1952) 3 SCR 377 at p. 386 : (AIR 1952 SC 54 at p. 57), has declared that corroboration is not the sine qua non for a conviction in a rape case. The utterance of the Court in *Rameshwar* may be replayed, across the time-gap of three decades which have whistled past, in the inimitable voice of Vivian Bose, J. who spoke for the Court-

"The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the Judge.....

The only rule of law is that this rule of prudence must be present to the mind of the Judge or the Jury as the case may be and be understood and appreciated by him or them. There is no rule of practice that there must, in every case, be corroboration before a conviction can be allowed to stand."

8. And whilst the sands were running out in the time-glass, the crime graph of offences against women in India has been scaling new peaks from day to day. That is why an elaborate rescanning of the jurisprudential sky through the lenses

of "logos" and "ethos", has been necessitated.

9. In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion? To do so is to justify the charge of male chauvinism in a male dominated society. We must analyze the argument in support of the need for corroboration and subject it to relentless and remorseless cross-examination. And we must do so with a logical, and not an opinionated, eye in the light of probabilities with our feet firmly planted on the soil of India and with our eyes focussed on the Indian horizon. We must not be swept off the feet by the approach made in the western world which has its own social milieu, its own social mores, its own permissive values, and its own code of life. Corroboration may be considered essential to establish a sexual offence in the backdrop of the social ecology of the western world. It is wholly unnecessary to import the said concept on a turnkey basis and to transplant it on the Indian soil regardless of the altogether different atmosphere, attitudes, mores, responses of the Indian society, and its profile. The identities of the two worlds are different. The solution of problems cannot therefore be identical. It is conceivable in the western society that a female may level false accusation as regards sexual molestation against a male for several reasons such as:--

(1) The female may be a "gold digger" and may well have an economic motive-to extract money by holding out the gun of prosecution or public exposure.

(2) She may be suffering from psychological neurosis and may see an escape from the neurotic prison by phantasizing or imagining a situation where she is desired, wanted, and chased by males.

(3) She may want to wreak vengeance on the male for real or imaginary wrongs. She may have a grudge against a particular male, or males in general, and may have the design to square the account.

(4) She may have been induced to do so in consideration of economic rewards, by a person interested in placing the accused in a compromising or embarrassing position, on account of personal or political vendetta.

(5) She may do so to gain notoriety or publicity or to appease her own ego or to satisfy her feeling of self-importance in the context of her inferiority complex.

(6) She may do so on account of jealousy.

(7) She may do so to win sympathy of others.

(8) She may do so upon being repulsed.

10. By and large these factors are not relevant to India, and the Indian conditions. Without the fear of making too wide a statement, or of overstating the case, it can be said that rarely will a girl or a woman in India make false

allegations of sexual assault on account of any such factor as has been just enlisted. The statement is generally true in the context of the urban as also rural society. It is also by and large true in the context of the sophisticated not so sophisticated, and unsophisticated society. Only very rarely can one conceivably come across an exception or two and that too possibly from amongst the urban elites. Because:-- (1) A girl or a woman in the tradition bound non-permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred, (2) She would be conscious of the danger of being ostracized by the Society or being looked down by the society including by her own family members, relatives, friends, and neighbours, (3) She would have to brave the whole world. (4) She would face the risk of losing the love and respect of her own husband and near relatives, and of her matrimonial home and happiness being shattered. (5) If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family. (6) It would almost inevitably and almost invariably result in mental torture and suffering to herself. (7) The fear of being taunted by others will always haunt her. (8) She would feel extremely embarrassed in relating the incident to others being overpowered by a feeling of shame on account of the upbringing in a tradition bound society where by and large sex is taboo. (9) The natural inclination would be to avoid giving publicity to the incident lest the family name and family honour is brought into controversy. (10) The parents of an unmarried girl as also the husband and members of the husband's family of a married woman, would also more often than not, want to avoid publicity on account of the fear of social stigma on the family name and family honour. (11) The fear of the victim herself being considered to be promiscuous or in some way responsible for the incident regardless of her innocent. (12) The reluctance to face interrogation by the investigating agency, to face the Court, to face the cross-examination by counsel for the culprit, and the-risk of being disbelieved, act as a deterrent.

11. In view of these factors the victims and their relatives are not too keen to bring the culprit to books. And when in the face of these factors the crime is brought to light there is a built-in assurance that the charge is genuine rather than fabricated. On principle the evidence of a victim of sexual assault stands on par with evidence of an injured witness. Just as a witness who has sustained an injury (which is not shown or believed to be self-inflicted) is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of a sex-offence is entitled to great weight, absence of corroboration notwithstanding. And while corroboration in the form of eye-witness account of an independent witness may often be forthcoming in physical assault cases, such evidence cannot be expected in sex offences, having regard to the very nature of the offence. It would therefore be adding insult to injury to insist on corroboration drawing inspiration from the rules devised by the Court's in the western world (obeisance to which has perhaps become a habit presumably on account of the colonial hangover). We are therefore of the opinion that if the

evidence of the victim does not suffer from any basic infirmity, and the "probabilities- factor" does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from the medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming, subject to the following qualification : Corroboration may be insisted upon when a woman having attained majority is found in a compromising position and there is a likelihood of her having levelled such an accusation on account of the instinct of self preservation. Or when the "probabilities-factor" is found to be out of tune."

8. Taking into consideration the evidence of the victim and medical evidence, we are of the opinion that the prosecution has successfully proved its case for offences under Sections 363, 366 and 376 of IPC. Taking into consideration the act of accused No. 1 and the aforesaid decision of the Apex Court, the offence is required to be viewed very seriously. Therefore, we are of the view that conviction of accused No. 1 is not only required to be confirmed but the sentence imposed upon him is required to be enhanced. However, considering the fact that the incident is of 2002, more than 14 years have passed, as well as considering the fact that accused was less than 20 years of age at the time of commission of offence, we are not enhancing the sentence and we maintain it as it is.

9. So far as Criminal Appeal No. 1233 of 2005 preferred against acquittal of accused No. 2 is concerned, Ms. C.M. Shah, learned APP appearing for the State has submitted that the trial Court has committed an error in not believing the case of the prosecution as admittedly the victim had stated that accused No. 2 had threatened to kill her. She also submitted that accused No. 2 has abetted in commission of offence and he was found by the police along with accused No. 1 and the prosecutrix at Junagadh Bus Station, therefore, the trial Court has committed an error in acquitting accused No. 2 of the charges levelled against him. She has taken us through the evidence and contended that the trial Court has committed an error in acquitting accused No. 2 inspite of voluminous evidence against him. Therefore, she prayed to allow this appeal by convicting accused No. 2.

10. On the other hand, Mr. J.K. Parmar, learned advocate for the respondent-accused No. 2 has contended that this is a case of love affair and there is no allegation of rape against accused No. 2. He further submitted that accused No. 2 has not abetted in commission of offence. He further submitted that, in her statement before police, the victim has not given name of accused No. 2 and for the first time name of accused No. 2 is given before Court. He, therefore, submitted that the trial Court has rightly acquitted accused No. 2 from the charges levelled against him. He submitted that so far as acquittal appeals are concerned, the law is well settled and by taking us through the impugned judgment, he submitted that this Court may not interfere with the impugned judgment and the appeal may be dismissed.

11. We have heard Ms. C.M. Shah, learned APP appearing for the appellant-State

and Mr. J.K. Parmar, learned advocate for the respondent-accused No. 2. We have also gone through the oral as well as documentary evidence on record. From the impugned judgment, it is clear that accused No. 2 has not committed rape on the victim, nor it is proved that he was present at the time of commission of offence of rape by accused No. 1. It has come in the evidence that the victim has given the name of accused No. 2 for the first time before the Court and she had not given his name in her statement before police. In the impugned judgment, it is also found that even in the application Exh. 4 given by the father of the victim, no specific role of accused No. 2 was mentioned. Therefore, the trial Court has rightly acquitted accused No. 2 of the charges levelled against him. Not only that considering various decisions of Honourable Apex Court, when two views are possible, this Court should not interfere with the order of acquittal recorded by the trial Court. It is also required to be noted that the principles which would govern and regulate the hearing of appeal by this Court, against an order of acquittal passed by the trial Court, have been very succinctly explained by the Apex Court in a catena of decisions. In the case of *M.S. Narayana Menon @ Mani v. State of Kerala & Anr.*, (2006) 6 S.C.C. 39, the Apex Court has narrated the powers of High Court in appeal against the order of acquittal. In para 54 of the decision, the Apex Court has observed as under:

"54. In any event the High Court entertained an appeal treating to be an appeal against acquittal, it was in fact exercising the revisional jurisdiction. Even while exercising an appellate power against a judgment of acquittal, the High Court should have borne in mind the well-settled principles of law that where two views are possible, the appellate Court should not interfere with the finding of acquittal recorded by the Court below."

11.1 Further, in the case of *Chandrappa v. State of Karnataka*, (2007) 4 S.C.C. 415, the Apex Court laid down the following principles;

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate Court while dealing with an appeal against an order of acquittal emerge:

[1] An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded.

[2] The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate Court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

[3] Various expressions, such as, substantial and compelling reasons, good and sufficient grounds, very strong circumstances, distorted conclusions, glaring mistakes, etc. are not intended to curtail extensive powers of an appellate Court in an appeal against acquittal. Such phraseologies are more in the nature of flourishes of language to emphasise the reluctance of an appellate Court to interfere with acquittal than to curtail the power of the Court to review the evidence and to come to its own conclusion.

[4] An appellate Court, however, must bear in mind that in case of acquittal there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

[5] If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court.

11.2 Thus, it is a settled principle that while exercising appellate power, even if two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court.

11.3 Even in the case of *State of Goa V. Sanjay Thakran & Another*, , (2007) 3 S.C.C. 75, the Apex Court has reiterated the powers of the High Court in such cases. In para 16 of the said decision, the Court has observed as under;

"16. From the aforesaid decisions, it is apparent that while exercising the powers in appeal against the order of acquittal the Court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower Court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person and, therefore, the decision is to be characterized as perverse. Merely because two views are possible, the Court of appeal would not take the view which would upset the judgment delivered by the Court below. However, the appellate Court has a power to review the evidence if it is of the view that the conclusion arrived at by the Court below is perverse and the Court has committed a manifest error of law and ignored the material evidence on record. A duty is cast upon the appellate Court, in such circumstances, to re-appreciate the evidence to arrive to a just decision on the basis of material placed on record to find out whether any of the accused is connected with the commission of the crime he is charged with."

11.4 Similar principle has been laid down by the Apex Court in the cases of *State of Uttar Pradesh v. Ram Veer Singh & Ors*, , 2007 A.I.R. S.C.W. 5553 and in *Girja Prasad (Dead) by LRs v. State of MP* reported in , 2007 A.I.R. S.C.W. 5589. Thus, the powers, which this Court may exercise against an order of acquittal are well settled.

11.5 In the case of *Luna Ram v. Bhupat Singh and Ors*, , (2009) SCC 749, the Apex Court in paras-10 and 11 has held as under:

"10. The High Court has noted that the prosecution version was not clearly believable. Some of the so called eye witnesses stated that the deceased died because his ankle was twisted by an accused. Others said that he was

strangled. It was the case of the prosecution that the injured witnesses were thrown out of the bus. The doctor who conducted the postmortem and examined the witnesses had categorically stated that it was not possible that somebody would throw a person out of the bus when it was in running condition.

11. Considering the parameters of appeal against the judgment of acquittal, we are not inclined to interfere in this appeal. The view of the High Court cannot be termed to be perverse and is a possible view on the evidence."

11.6 Even in a recent decision of the Apex Court in the case of Mookkiah and Anr. v. State, rep. by the Inspector of Police, Tamil Nadu, , AIR 2013 SC 321, the Apex Court in para 4 has held as under:--

"4. It is not in dispute that the trial Court, on appreciation of oral and documentary evidence led in by the prosecution and defence, acquitted the accused in respect of the charges leveled against them. On appeal by the State, the High Court, by impugned order, reversed the said decision and convicted the accused under Section 302 read with Section 34 of IPC and awarded RI for life. Since counsel for the appellants very much emphasized that the High Court has exceeded its jurisdiction in upsetting the order of acquittal into conviction, let us analyze the scope and power of the High Court in an appeal filed against the order of acquittal. This Court in a series of decisions has repeatedly laid down that as the first appellate court the High Court, even while dealing with an appeal against acquittal, was also entitled, and obliged as well, to scan through and if need be re-appreciate the entire evidence, though while choosing to interfere only the court should find an absolute assurance of the guilt on the basis of the evidence on record and not merely because the High Court could take one more possible or a different view only. Except the above, where the matter of the extent and depth of consideration of the appeal is concerned, no distinctions or differences in approach are envisaged in dealing with an appeal as such merely because one was against conviction or the other against an acquittal. [Vide State of Rajasthan v. Sohan Lal and Others, , (2004) 5 SCC 573]"

11.7 It is also a settled legal position that in acquittal appeal, the appellate Court is not required to rewrite the judgment or to give fresh reasonings, when the reasons assigned by the Court below are found to be just and proper. Such principle is laid down by the Apex Court in the case of State of Karnataka v. Hemareddy, , AIR 1981, SC 1417, wherein it is held as under:--

"...This Court has observed in *Girija Nandini Devi V. Bigendra Nandini Choudhary* (1967) 1 SCR 93:(: AIR 1967 SC 1124) that it is not the duty of the Appellate Court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice."

12. Thus, in case the appellate Court agrees with the reasons and the opinion given by the lower Court, then the discussion of evidence is not necessary.

Moreover, learned APP is not in a position to show any evidence on record so as to take a contrary view in the matter or to conclude that the approach of the Court below is vitiated by some manifest illegality or that the decision is perverse or that the Court below has ignored material evidence while acquitting accused No. 2. Hence, we are of the considered opinion that the Court below has not committed any error in acquitting accused No. 2 of the charge levelled against him. We are in complete agreement with the reasonings given by and the findings arrived at by the Court below in the impugned judgment and, therefore, find no reasons to entertain this appeal. Hence, this appeal is also required to be dismissed.

13. For the foregoing reasons, all these Criminal Appeals are dismissed. The impugned judgment and order dated 21.2.2005 passed by learned Additional Sessions Judge, Vadodara, in Sessions Case No. 167 of 2002 is hereby confirmed. The period of sentence already undergone by accused No. 1 be given set off to him. Accused No. 1 shall surrender before the jail authorities within a period of twelve weeks from today to serve out the remaining period of sentence. Bail bond, if any, of the accused shall stand cancelled. Registry to return the R&P to the concerned trial Court forthwith.