

(2021) 12 JH CK 0002

In the Jharkhand High Court

Case No : Criminal Revision No.990, 1064 Of 2012

Manoj Bhagar And Others

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 02-12-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 384

Code Of Criminal Procedure, 1973 — Section 144, 164, 313, 372

Citation : (2021) 12 JH CK 0002

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Ritu Kumar, D.K. Karmakar, Manoj Kr. Mishra, Alka Kumari

Final Decision : Dismissed

Judgement

Anubha Rawat Choudhary, J

1. Heard Mrs. Ritu Kumar alongwith Mr. D.K. Karmakar, the learned counsel appearing on behalf of the petitioners in both the cases.
2. Heard Ms. Alka Kumari, the learned counsel appearing on behalf of the Opposite Party No.2 in both the cases.
3. Heard Mr. Manoj Kumar Mishra, the learned A.P.P. appearing on behalf of the Opposite Party-State.
4. Both criminal revision applications are directed against the Judgment dated 24.09.2012 passed by the learned Addl. Sessions Judge-III, East Singhbhum, Jamshedpur in Criminal Appeal No. 89/2011 whereby and whereunder the learned appellate court has set aside the Judgment of acquittal dated 03.05.2011 passed by the learned Sub-Divisional Judicial Magistrate, Jamshedpur in C-1 Case No. 490 of 2007 / T.R. No. 909 of 2011 and convicted the petitioners under Section 384/34 of the Indian Penal Code and sentenced them to undergo Simple Imprisonment for one year and allowed the criminal appeal preferred by the

Complainant.

Arguments of the petitioners

5. Learned counsel for the petitioners submitted that the learned trial court had acquitted all the petitioners by a well-reasoned judgment, but by the impugned judgment, the learned appellate court has set-aside the judgment of acquittal and convicted all the petitioners under Section 384 /34 of the Indian Penal Code.

6. She further submitted that the place of occurrence was within the wall of the premises of the house of the Complainant. She submitted that the witnesses, who deposed in favour of the Complainant, particularly C.W.-2, who is said to be the neighbour of the Complainant and C.W.-4, who is a labourer doing work in the house of the complainant appear to be tutored witnesses. She submitted that the neighbour (C.W-2) could not have seen the occurrence as the incident had taken place within the premises, and so far as C.W.-4, the labourer is concerned, he has disclosed the name of the accused persons, but being a labourer, he could not have known the names of the accused persons. He has also disclosed the name of the mother of the Complainant. She submitted that this indicates that the witnesses were tutored.

7. Learned counsel submitted that the reasoning which has been given by the learned trial court is certainly one of the plausible reasons and once there was a judgment of acquittal, learned appellate court should have been very cautious in interfering with the judgment of acquittal as no perversity, as such, reflects from the judgment passed by the learned trial court, nor any perversity has been recorded by the learned appellate court. Learned counsel submitted that the learned appellate court has failed to exercise its jurisdiction properly while convicting the petitioners and accordingly, the impugned judgment passed by the learned appellate court calls for interference in revisional jurisdiction in order to meet the ends of justice.

Arguments of the opposite parties

8. Learned counsel appearing on behalf of the private opposite party in both the cases opposed the prayer and submitted that the judgment passed by the learned trial court was perverse as the learned trial court had rejected the evidence of the witnesses by indicating that they are chance witnesses, although C.W.-2 was the neighbour of the complainant party and C.W.-4 was a labourer who was working in the house of the Complainant. She submitted that the basic ingredients of the offence under Section 384/34 of Indian Penal Code are present in the present case and have been duly proved by the prosecution witnesses, but the learned trial court had wrongly acquitted the petitioners.

9. She further submitted that the petitioner-Manoj Bhagat was convicted for the murder of the mother of the Complainant and when he was released from jail, he came to the house of the Complainant alongwith other accused persons and committed the occurrence. She submitted that an amount of rupees three lacs

was demanded from the Complainant and out of which, Rs.10,000/- was immediately paid to him. She also submitted that learned appellate court has considered the reasoning of the learned trial court and has recorded a finding that C.W.-2 and C.W.-4 were not chance witnesses and there is consistency in their testimonies. She submitted that the reason given by the learned trial court to acquit the petitioners was itself perverse, which was interfered by learned appellate court and accordingly, there is no illegality or perversity in the impugned judgment. She also submitted that so far as the argument in connection with C.W.-4 is concerned, no question was put from the side of the defence regarding the allegation that he is a tutored witness as to the source by which he could know the names of the accused persons as well as the name of the mother of the Complainant. She submitted that the arguments advanced by the learned counsel for the petitioners with regard to the evidence of C.W.-4 are not borne from the record, in view of the fact that C.W.-4 was not cross-examined on the said point. She submitted that the incident has been witnessed by two independent witnesses, one is neighbour and other is the labourer i.e. C.W.-2 and C.W.-4 and their testimonies have been found to be consistent and accordingly, the case is proved against the petitioners beyond all reasonable doubts. Learned A.P.P. appearing on behalf the State supported the arguments advanced on behalf of the private opposite party.

Rejoinder arguments on behalf of the petitioners

10. In response, learned counsel for the petitioners submitted that the petitioner-Manoj Bhagat was convicted much prior to the date of incident and accordingly, it cannot be said that the incident had any relation or had any connection with his conviction in the case of murder of the mother of the Complainant.

Findings of this court.

11. The present case arises out of Complaint Case No. 490/2007. The case of the Complainant is that on 06.03.2007, when he was engaged in the construction of his house, the petitioners and one Deban Panjiara armed with deadly weapons came there and put him under threat to kill him and demanded three lakh rupees stating that the petitioner-Manoj Bhagat was convicted to undergo imprisonment for life for murder of the mother of the Complainant and Manoj Bhagat had to spend huge amount in fighting the case. At that time, the Complainant paid Rs.10,000/- to the petitioners with promise to pay the rest amount of the demanded money at later stage. It was further stated that on the date of occurrence, Manoj Bhagat was on bail granted by the Hon'ble Patna High Court.

12. After registration, the file was transferred to the court of the learned S.D.J.M., Jameshedpur for inquiry and disposal. After inquiry, cognizance of the offence was taken and the petitioners and Deban Panjiara were summoned to face the trial. Deban Panjiara was declared absconder on 24.11.2008 and the charge under Section 384/34 of the Indian Penal Code was framed against the petitioners which were read over and explained to them in Hindi to which they

pleaded not guilty and claimed to be tried.

13. In course of trial, the Complainant examined altogether four witnesses in support of his case.

14. After closure of the prosecution evidence, the petitioners were examined under Section 313 of the Cr.P.C. wherein they denied the incriminating evidences put to them and claimed to be innocent. The petitioners did not examine any witness in their defence.

15. The learned trial court considered the materials on record and recorded the admitted facts of the case that there is previous enmity between the parties and civil suits are pending between the parties at Civil Court, Banka and the accused Manoj Bhagat is the cousin of the Complainant. The learned trial court further recorded that it is very surprising that the Complainant is a party in civil suit in Banka and he was not fearful to litigate the suit at Banka, but he became fearful at Jamshedpur inside his house. The story of the Complainant was held to be unbelievable. The learned trial court also recorded that C.W.-1 stated that he was working in front of B.Ed. College, Birsanagar and the place of occurrence is inside the boundary. C.W.-2 stated that he saw the occurrence while he was going to market and C.W.-3 is the Complainant himself and C.W.-4 stated that when he came to Birsanagar to take his lunch, he saw the occurrence. Meaning thereby except the Complainant, all prosecution witnesses are chance witnesses.

16. The learned trial court further recorded that the Complainant exhibited certified copy of the Judgment passed by A.D.J.-IVth, Banka as Exhibit-1 which was pronounced on 14.07.2004 and exhibited the Complaint Petition as Exhibit-2 and the date of occurrence is 06.03.2007. The enmity between the parties is an accepted fact. The allegation against the accused persons is that they came from Banka to Tata at the house of the Complainant in an auto rickshaw, committed the offence and fled away and the occurrence was seen only by the chance witnesses and the P.O. was situated inside a boundary wall. C.W.-1 stated that at the time of occurrence, he alongwith Mritunjay was present there and except them no else outsider was present. C.W.-2 stated that the Complainant paid Rs.10,000/- to the accused persons which was kept for cement, but it has not been explained by the Complainant as to how C.W.-2 came to know that the said amount was kept for purchasing cement. C.W.-3 is the Complainant himself and he stated that the money was kept for purchasing cement. Meaning that the chance witnesses knew the entire facts of the case which was not part of the transaction of the ransom amount. On the basis of the aforesaid findings, the learned trial court acquitted the petitioners from the charge under Section 384/34 of the Indian Penal Code.

17. Thus, the learned trial court was of the view that except the Complainant, all other witnesses were chance witnesses and proceeded accordingly by stating that the evidence of the chance witnesses require cautious and close scrutiny and recorded as under: -

" CW-1 Niranjan Kumahar stated that at the time of occurrence he alongwith Mirtunjay were present there. Except them no else outsider was present. CW- 2 Bishwanath Kumahar has stated in his examination in-chief that the complainant paid Rs. 10,000/- to the accused persons which was kept for cement. It has not been explained by the complainant how this witness was knowing that the said amount was came for purchase of cement. CW-3 is the complainant himself has stated that this money was kept for purchase of cement. Meaning that the chance witnesses were knowing the entire facts of the case which was not part of the transaction of ransome amount. The establish principle of law is that suspicion even of high degree does not take place of legal proof. In the case of Padla Veera Reddy- Vrs- State of Andhra Pradesh AIR 1990 S.C. 79 it was held "where the case was one of circumstantial evidence, mere suspicion, however strong it may be, cannot be said to have established the guilt of the accused decisively since the suspicion cannot take the place of legal proof.

Having regard to the facts and circumstances discussed above all the accused persons named above are acquitted and discharged from their liabilities of bail bonds."

18. Being aggrieved by and dissatisfied with the judgment of acquittal passed by the learned trial court, the Complainant preferred a criminal appeal under Section 372 of Cr.P.C. before the learned appellate court below in which the learned appellate court considered the materials on record and recorded that from perusal of the testimony of the witnesses, it is crystal clear that all the witnesses are not chance witnesses, rather Bishwanath (C.W.-2) is a neighbour of the Complainant who has seen the occurrence while he was going to market and he has not stated that he saw the arrival of the accused persons in the house of the Complainant, but has seen the snatching of money from the Complainant and thus, he cannot be said to be a chance witness. Similarly, Niranjan Kumar (C.W.-1) was present there as stated by other witnesses and he proved the charge against the accused persons beyond all reasonable doubt. Bishundeo (C.W.-3) has categorically stated the entire facts of the case and delivery of money to the accused persons. C.W.-4 is a labourer who was doing work in the house of the Complainant and he cannot be said to be an interested witness or a chance witness. All the witnesses have supported the version without any discrepancy and their testimony is consistent. The learned appellate court further recorded that Bishwanath was the neighbour who was going to market and saw the occurrence. Similarly, C.W.-4 is a labourer who was working there can also not be said to be a chance witness and Niranjan also saw the occurrence and he is also not a chance witness.

19. The learned appellate court set aside the Judgment of acquittal passed by the learned trial court and held that the petitioners had common intention in demanding rangdari from the Complainant, which was paid to them by the Complainant. The learned appellate court convicted the petitioners under Section 384/34 of the Indian Penal Code and sentenced them to undergo Simple

Imprisonment for one year and allowed the criminal appeal.

20. The learned appellate court examined the materials on record and also examined as to whether the witnesses examined from the side of the prosecution can be said to be chance witnesses and categorically held that C.W-1, 2 and 4 were not chance witnesses. C.W-2, the neighbour was not a chance witness; Similarly C.W-1 was present there as stated by other witnesses; C.W-3 (complainant) has categorically stated entire facts of the case and about the delivery of money to the accused and CW- 4 is labourer who was doing work in the house of complainant and he could not be said to be an interested witness or a chance witness. The findings recorded in Paragraph-11 of the appellate court's judgment is quoted as under:

"11. From the perusal of the testimony of the witnesses it is crystal clear that all the witnesses are not chance witnesses rather Biswanath is neighbor of complainant who has seen the occurrence while he was going to market and he has not stated that he saw the arrival of the accused persons in the house of Bisundeo but has seen the snatching of money from complainant Bisundeo. Thus he could not be said to be a chance witness. Similarly Niranjana Kumar has also proved the charge u/s 384/34 of the IPC against all the accused persons beyond all reasonable doubt and he was present there as stated by other witnesses. Bisundeo has categorically stated entire facts of the case and delivery of money to the accused. CW- 4 is labourer who was doing work in the house of complainant Bisundeo Bhagat and he could not be said to be an interested witness or a chance witness. All these witnesses have supported the version without any discrepancies. Their testimony is consistent. On behalf of learned counsel for the appellant rulings have been filed which are AIR 2005 (SC) page 1064, and AIR 2004 (SC) page 3305 to 3309 and on perusal of the citation above mentioned it transpires that the facts and circumstances of the present case deals with the facts and circumstances of the rulings cited above. In AIR 2004 page 3305 the Hon'ble Court has dealt with the evidence Act (1 of 1872) Section 3 - Chance Witness- Reliability- Murder case- incident taking place on road- Evidence of independent witnesses can not be brushed aside or viewed with suspicion on ground that they are mere 'chance witnesses'. In the present case also Biswanath was the neighbor who was going to market and saw the occurrence. Similarly, CW- 4 is labourer who was working there can also not to be said chance witness. Niranjana also saw the occurrence he is also not chance witness."

21. C.W.-3 is the Complainant himself. He deposed that the occurrence is of 06.03.2007 at about 02.00 P.M. When he was engaged in construction work of his house, four persons came there in a tempo and surrounded him. Manoj and Tinku were having pistol in their hands and the other persons were holding knife. They demanded Rs.3,00,000/- from him. His mother was murdered 20 years ago in which Manoj Bhagat was convicted by Banka court and after getting bail, he came to him and said that he has spent Rs.3,00,000/- in fighting the case. He

handed over Rs.10,000/- to Manoj (accused) which he had kept for purchasing cement and Manoj said that the Complainant will have to give the rest amount, otherwise he would be killed. At that time, Niranjana (C.W- 1) and Pradip (C.W-4) were present and Bishwanath (C.W-2) also saw the occurrence. In his cross-examination, he admitted that Manoj Bhagat is his cousin and the accused persons had filed Title Suit No.3/2005 in Banka which has been dismissed and a proceeding under Section 144 of Cr.P.C. was also initiated between them. He could not say the tempo number. He further admitted that Bishwanath Kumhar (C.W-2) is his neighbour. On recall, he exhibited the Complaint Petition as Exhibit-2.

22. C.W.-1 is Niranjana Kumar who deposed that the occurrence is of 06.03.2007 at about 02.00 P.M. and he was getting some work done in front of Birsanagar, B.Ed. College. Four persons came and surrounded the Complainant. Manoj and Tinku were holding pistols and the rest two persons were having knife. They said that he had spent Rs.3,00,000/- in the case of murder and demanded the amount from the Complainant and threatened to kill him, if he would not pay the demanded amount. Manoj pointed pistol on the Complainant. Thereafter, the Complainant went to the upper floor and brought and handed over Rs.10,000/- and later, the Complainant told him that the money was kept for purchasing cement. He also deposed that the accused persons had asked the Complainant to pay the rest amount, otherwise they would murder him. Lastly, he stated that he had seen the occurrence with his own eyes. In his cross-examination, he admitted that he and Mritunjay were present and there was no outsider and the place of occurrence is inside the boundary. The accused persons had come in a tempo, but he cannot say the number of the tempo. He did not try to save the Complainant because the accused persons were having weapons. He further admitted that the names of the accused persons were told to him by the Complainant. He stated that the accused persons pointed pistol and demanded Rs.3,00,000/- from the Complainant which he heard and saw also.

23. C.W.-2 is Bishwanath Kumhar who is the neighbour of the Complainant and he stated that he saw the occurrence while he was going to market. The evidence of C.W.-2 clearly mentions that four persons had come to the house of the Complainant and they demanded Rs. 3 lakhs on the ground that they had incurred an expenditure of Rs. 3 lakhs while defending themselves in the case of murder of the mother of the Complainant. He has also stated that two persons were holding revolver and two were holding knife. He has also stated that the accused persons continued to abuse the Complainant and the Complainant gave Rs.10,000/- to the petitioners and the Complainant told this witness that he paid Rs. 10,000/- to save his life which he had kept for cement. He has further stated that after the incident, he went to the market. He identified one of the accused who was physically present in the court and also claimed that he could identify rest of the accused persons. He has been cross-examined from the side of the defence and in his cross-examination, he stated that he did not know the relationship between the accused and the Complainant. He has stated that he did

not see the accused while arriving, but had seen them while snatching the money. There is neither any cross-examination of this witness on the point as to whether he was a relation of the Complainant, nor there is any cross-examination to the effect as to whether he had any inimical relationship with the accused persons, nor there is any cross-examination to the effect as to how he could see the occurrence in spite of boundary wall. However, in his cross-examination, he has clearly stated that he had seen the accused persons snatching the money.

24. So far as C.W. 4 is concerned, he has also fully supported the case of the Complainant. He has stated that he was engaged in construction work with bricks in the house of the Complainant and he had taken out his tiffin during the lunch time and he saw that four persons came to the place of occurrence and told the Complainant that three lakhs rupees was spent by them in the case of murder of his mother and demanded money. Manoj Bhagat had put pistol and when the accused persons were forcibly trying to take away the Complainant, the Complainant brought Rs. 10,000/- and handed it over to them and the petitioner-Manoj Bhagat had threatened him to pay rest of the money, otherwise he would kill him. He has also claimed that he could identify the accused persons. He clearly stated in cross-examination that he is not a relative of the Complainant and that he did not note down the tempo number in which the accused persons had come.

25. This Court finds that there is neither any cross examination of C.Ws.-1, 2 and 4 on the point whether they are relation or a friend of the Complainant, nor there is any cross examination on the point as to whether there were any inimical terms between these witness and any of the accused persons. These witnesses have duly explained the circumstances under which they were present near the place of occurrence and are eye witnesses of the occurrence. These witnesses remained consistent throughout their evidence and there is nothing on record to disbelieve the evidence of these witnesses.

26. This Court finds that C.W.-2 in his examination-in-chief, has clearly stated that the Complainant told him that the money which he had given to the accused persons was kept by him for buying cement. This Court also finds that there is no cross-examination of C.W.-2 on the point as to how he could see the occurrence in spite of boundary wall and there is no cross-examination on the point of dimension of the boundary i.e. height, etc. Further, it is not in dispute that C.W.-2 is the neighbour of the Complainant. In the judgement passed by the Hon'ble Supreme Court reported in (2019) 7 SCC 476 (Ramesh Dasu Chauhan and Another Vs. State of Maharashtra) where one of the witnesses was a resident of the same building complex, was held to a natural witness and not a chance witness. In the present case, C.W.-2 being the neighbour of the Complainant cannot be said to be a chance witness, rather C.W.-2 was a natural witness who has explained as to how and why he could see the occurrence. It is further apparent from the evidence on record that C.W.-2 is neither a relative of

the Complainant, nor he has any inimical terms with that of the accused and there is no cross-examination of this witness on such point. Thus, the very treatment of C.W.-2 as a chance witness by the learned trial court is perverse. This witness remained consistent throughout his evidence and there is nothing on record to disbelieve the evidence of this witness. Thus, the learned appellate court has rightly held that C.W-2, being a neighbour, is not a chance witness.

27. The learned trial court, while considering the evidences, recorded that the place of occurrence is inside a boundary wall and referred to the judgement passed by the Hon'ble Supreme Court reported in AIR 1976 SC 2032 [Bahal Singh v. State of Haryana, (1976) 3 SCC 564] and recorded that, if by coincidence or chance, a person happens to be at the place of occurrence at the time it is taking place, he is called a chance witness. And if such a person happens to be a relative or friend of the victim or inimically deposed towards the accused, then his being a chance witness is viewed with suspicion. Such a piece of evidence is not necessarily incredible or unbelievable, but does require cautions and close scrutiny.

28. The learned appellate court referred to the judgement passed by the Hon'ble Supreme Court in the case of "State of A.P. v. K. Srinivasulu Reddy and Another" reported in (2003) 12 SCC 660 and held that the learned trial court wrongly treated the witnesses as chance witness, particularly C.W-2 (the neighbour of the Complainant) and considered the evidences and convicted the petitioners finding that the evidences were consistent. In the judgement passed by the Hon'ble Supreme Court in the case of "State of A.P. v. K. Srinivasulu Reddy and Another" reported in (2003) 12 SCC 660, while considering the evidence of the witnesses who were branded as "chance witnesses" in the trial, it has been held in Para-13 as under:-

"13. Coming to the plea of the accused that PWs 4 and 9 were "chance witnesses" who have not explained how they happened to be at the alleged place of occurrence, it has to be noted that the said witnesses were independent witnesses. There was not even a suggestion to the witnesses that they had any animosity towards any of the accused. In a murder trial by describing the independent witnesses as "chance witnesses" it cannot be implied thereby that their evidence is suspicious and their presence at the scene doubtful. Murders are not committed with previous notice to witnesses; soliciting their presence. If murder is committed in a dwelling house, the inmates of the house are natural witnesses. If murder is committed in a street, only passers-by will be witnesses. Their evidence cannot be brushed aside or viewed with suspicion on the ground that they are mere "chance witnesses". The expression "chance witness" is borrowed from countries where every man's home is considered his castle and everyone must have an explanation for his presence elsewhere or in another man's castle. It is quite unsuitable an expression in a country where people are less formal and more casual, at any rate in the matter explaining their presence."

29. In a recent judgement passed by the Hon'ble Supreme court in the case of

"Ramesh Dasu Chauhan and Another v. State of Maharashtra" reported in (2019) 7 SCC 476, it has been held in Para-32 of the judgment that a person living in the same complex is a natural witness and not a chance witness and his evidence was found to be trustworthy for more than one reason. Para-32 of the said judgement is quoted as under: -

"32. There are more than one reasons to trust PW 9 (Raisaheb Chourasyia). Firstly, there is no suggestion or even a whisper of any animosity between Raisaheb Chourasyia and the appellants. He had no motive to falsely implicate the appellants. Secondly, the presence of the appellants coming on red-coloured motorcycle and their entry to Rajnigandha Apartments, as seen by the witness, has not been expressly denied in his cross-examination. Thirdly, PW 9 being resident of the same complex, is a natural and not a "chance" witness. Fourthly, Raisaheb Chourasyia's version has been fully corroborated by the other prosecution witnesses like Rani Trivedi (PW 1), Baliram Fulari (PW 3) and Purnima Trivedi (PW 4). Fifthly, he is consistent throughout, may it be his statement under Section 164 CrPC and/or deposition on oath. Sixthly, the attempt made on the character assassination of the witness has miserably failed. We thus find no ground to suspect PW 9 for non-existent reasons."

30. In the present case, the petitioners were found to be present in the place of occurrence by consistent evidence of all the witnesses and the witnesses have also explained the reason of their presence at the place of occurrence and admittedly the Complainant and the petitioners are in inimical terms, but there is no explanation from the side of the petitioners about reasons of their presence at the place of occurrence and they are in complete denial under Section 313 of Cr.P.C. Further, the witnesses have consistently supported the factum of forcibly taking away of an amount of Rs.10,000/- from the Complainant and admittedly there is no enmity between the petitioners and the witnesses; the witnesses are not the relative or friend of the Complainant and C.W.-2 is the neighbour of the Complainant who is an independent witness and also a natural witness when seen in the light of the aforesaid judicial pronouncements particularly the case of Ramesh Dasu Chauhan (supra).

31. The learned trial court disbelieved the prosecution story on the basis that the occurrence was seen only by the chance witnesses i.e. C.W.-1, C.W.-2 and C.W.-4, although the place of occurrence was situated inside the boundary wall of the house of the Complainant.

32. The learned appellate court reversed the acquittal of the petitioners and convicted them in the case recording the findings that C.W.-1, C.W.-2 and C.W.-4 were not chance witnesses, rather they are the eye witnesses to the occurrence and all the witnesses have consistently supported the case of the Complainant without any discrepancy.

33. As discussed above, the learned trial court committed error of law in treating even the neighbour (C.W-2) of the Complainant, who is an independent witness,

as a chance witness. Moreover, the other witnesses i.e. C.Ws.-1 and 4 are also independent eye witnesses who have fully explained their presence near the place of occurrence and there is no material on record to discard their evidences. All the witnesses have been fully cross examined and their evidences are consistent.

34. In view of the aforesaid findings, this Court is of the considered view that the judgement of acquittal passed by the learned trial court by treating the evidences of all the witnesses, except that of the Complainant as chance witnesses and thereby treating their evidences as unreliable, is perverse, and has been rightly set-aside by the learned appellate court. This Court is also of the considered view that the judgement of the learned trial court is completely based on incorrect appreciation of materials on record and the learned appellate court has rightly set-aside the trial court's judgement of acquittal and has convicted the petitioners.

35. Consequently, both the criminal revision applications are hereby dismissed.

36. The office is directed to send back the Lower Court Records to the court concerned.

37. The learned court below is directed to take steps against the petitioners so that the petitioners may serve the sentence imposed by the learned appellate court in accordance with law.

38. Let a copy of this Judgment be communicated to the court concerned through "FAX / e-mail".