

(2015) 05 SHI CK 0011

In the High Court Of Himachal Pradesh

Case No : Criminal Appeals Nos. 331 and 453 of 2009

Nand Lal and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 05-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 313
Penal Code, 1860 (IPC) — Section 300, 302, 304, 304-II, 307

Citation : (2015) 05 SHI CK 0011

Hon'ble Judges : Sanjay Karol, J;Piar Singh Rana, J

Bench : Division Bench

Advocate : Ajay Kumar, Senior Advocate and Dheeraj Vashist, for the Appellant;
Ashok Chaudhary, V.S. Chauhan, Additional Advocates General and J.S. Guleria,
Assistant Advocate General, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sanjay Karol, J.—Since both these appeals arise out of the same judgment of the trial Court; hence, they are being decided by a common judgment.

2. Appellants-convicts Nand Lal, Dayala Ram, Smt. Neelam Kumari and Smt. Geeta Devi, hereinafter referred to as the accused, have filed Criminal Appeal No. 331 of 2009, assailing the judgment dated 30.7.2009/31.7.2009, passed by Additional Sessions Judge, Ghumarwin, District Bilaspur, H.P., in Sessions Trial No. 20/7 of 2006, titled as State of H.P. v. Nand Lal and others, whereby accused Nand Lal stands convicted for having committed offences, punishable under the provisions of Sections 304-II and 506-I/34 of the Indian Penal Code, and accused Dayala Ram, Neelam Kumari and Geeta Devi stand convicted for having committed offence, punishable under the provisions of Section 506-I/34 of the Indian Penal Code, and sentenced as under:

3. Cr. Appeal No. 453 of 2009 stands filed by the State.

4. The issue which arises for consideration in the present appeals is as to

whether findings returned by the Court below, holding accused Nand Lal to have committed an offence, punishable under the provisions of Section 304-II and Section 506-I read with Section 34 of the Indian Penal Code and co-accused Dayala Ram, Neelam Kumari and Geeta Devi, having committed an offence, punishable under the provisions of Section 506-I read with Section 34 of the Indian Penal Code, are based on correct appreciation of evidence on record or not? Primarily what needs to be considered is as to whether the prosecution has been able to prove that Nand Lal committed an offence of murder or not? Correctness, legality and perversity of all findings are to be adjudged.

5. In relation to FIR No. 196 of 2005 dated 1.12.2005 (Ex. PW13-/A), registered under the provisions of Sections 307, 336, 504, 506, 34 of the Indian Penal Code, prosecution filed challan against all the accused persons, namely Dayala Ram, his wife Geeta Devi, son Nand Lal and daughter-in-law Neelam Kumari, for having committed offences, punishable under the provisions of Sections 302 and 504, both read with Section 34 IPC. Finding no evidence, all the accused persons were discharged in relation to an offence, punishable under the provisions of Section 504 read with Section 34 IPC. Also, accused Dayala, Neelam Kumari and Geeta Devi stand discharged for having committed an offence, punishable under the provisions of Section 302 and 504, both read with Section 34 IPC. However, accused Nand Lal was charged for having committed an offence, punishable under Section 302 of the IPC as also section 506 read with Section 34 of IPC, and accused persons, namely Dayala Ram, Neelam Kumari and Geeta Devi, were charged for having committed an offence, punishable under Section 506 read with Section 34 of IPC.

6. As per prosecution story, the incident took place in village Kularu (District Bilaspur), between accused Dayala Ram and his family on one side, and the complainant party, including Chaman Lal on the other side. Complainant party wanted the accused to remove the obstruction so caused on the passage commonly used by the villagers. Houses of the complainant party and the accused are just adjoining to each other. Despite intervention of the Panchayat, accused failed to remove such obstruction. The accused were insistent of not doing so, for the reason that the alleged obstruction, in the form of stairs-case was not on public passage, but on their own land. On 1.12.2005, at 7.30 am, after convening meeting of the villagers, when Chaman Lal tried to remove the obstruction, accused threw stones at the villagers. One such stone, so pelted by accused Nand Lal hit Vijay Ram, as a result of which, he sustained injuries and was taken to the Civil Hospital, Ghumarwin, where he was attended to by Dr. Rakesh Dhiman (PW-10). Prakash Chand (PW-1) telephonically informed the police of the incident and entry (Ex. PW-12/A) was recorded by HC Rakesh Kumar (PW-16) in this regard. Shiv Chaudhary (PW-14) and Gian Chand (PW-17) conducted investigation, which revealed that the accused persons, with a guilty intent, pelted stones, with an object of committing murder, and also criminally intimidated Prakash Chand (PW-1) and other villagers present on the spot (witnesses examined in the court).

7. Finding condition of Vijay Ram to be serious, he was referred for further treatment to PGI, Chandigarh, where unfortunately he succumbed to the injuries. Since he remained unconscious, police could not record his statement. Postmortem of the dead body was conducted by Dr. Savita Mehta (PW-11), who issued report (Ex. PW-11/B). Upon receipt of report of the Chemical Examiner (Ex. PW-13/C) from the Forensic Science Laboratory, Junga, final opinion of the doctor was obtained, who issued report (Ex. PW-11/B). With the completion of investigation, which prima facie revealed complicity of the accused in the alleged crime, Challan was presented in the Court for trial.

8. Accused persons, who were charged, as aforesaid, did not plead guilty and claimed trial. Significantly, State did not assail the order of discharge of some of the accused persons in relation to certain offences.

9. In order to establish its case, prosecution examined as many as seventeen witnesses. Statements of the accused, under the provisions of Section 313 of the Code of Criminal Procedure, were also recorded, in which accused Nand Lal took the following defence:--

"We had dismantled out house 12 years back. Thereafter, we started constructing a new house after three years. When the land was vacant, Chaman Lal, used to cross there from. Thereafter, we constructed pillars of the house slowly and put a lintel there over and constructed walls. Thereafter, followed the work of second storey. We had kept space between two pillars to facilitate transportation of articles of construction of the upper storey of the house. The wall in such gape had been constructed 4-5 days before the incident., again started that I am not aware when the wall was constructed as I had come to the house a day before the incident and was working in connection with "Bee Keeping at Haryana. However, on the wall being given Chaman Lal gave an application to the Panchayat, at which we were asked to open the wall for the way but we refused. On the panchayat being convened, we refused to open the way. On 1.12.2005, while we were involved in daily routine, some people started coming in the house of Chaman Lal with Dandas etc. and started proclaiming that they shall eliminate use that day. At this, I went inside my house. When such persons started stoning our house, when I have a ring to the police at about 7.15- 7.30 AM. Thereafter, I took snaps of such persons with my camera from the roof of my house. While I was taking photographs, one stone hit me on the forehead at which I fell down. Thereafter, I do not know as to what happened and I regained consciousness in the hospital and at that time I saw my father Dayala Ram lying near me on the bed with bandage on his head. Thereafter, I was taken to police station at about 2.30-3.00 PM and was put behind the bars. My mother and wife were also put behind the bar at 9.00-9.30 PM by the police. I did not throw any stone. I do not know now as to what has happened to the wall. Had we been inside the wall we would have been killed by those present outside at the spot on that day."

10. While taking similar defence, remaining accused further elaborated that the villagers, who were armed with hammers and Darat, had criminally intimidated

them. In order to probablize their defence, accused examined three witnesses.

11. Appreciating the testimony of the witnesses and the material placed on record, trial court found all the accused persons guilty and sentenced them, as aforesaid.

12. We have heard Mr. Ajay Kumar, Sr. Advocate, assisted by Mr. Dheeraj Vashisht, Advocate, learned counsel, on behalf of the appellants-accused, as also Mr. Ashok Chaudhary and Mr. V.S. Chauhan, learned Additional Advocates General, and J.S. Guleria, learned Assistant Advocate General, on behalf of the State. We have also minutely examined the testimonies of the witnesses and other documentary evidence so placed on record by the prosecution. Having done so, we are of the considered view that no case for interference is made out at all. We find the findings returned by the trial Court to be based on complete, correct and proper appreciation of evidence (documentary and ocular) so placed on record. There is neither any illegality/infirmity nor any perversity with the same, resulting into miscarriage of justice. Prosecution has been able to prove its case to the extent so held by the trial Court, beyond reasonable doubt. The sentences imposed cannot be said to be disproportionately less.

13. Correctness of the decision is subject matter of these appeals, so filed by the convicts and the State.

14. Can it be said that defence of the accused stands probablized through the testimonies of their witnesses and cross-examination of the prosecution witnesses? Having minutely examined the same, we are of the opinion it to be not so.

15. The fact that dispute in relation to the obstruction caused on the passage was going on between the parties is not only admitted by the accused, but also established on record through the testimony of Prakash Chand (PW-1) and Chaman Lal (PW-3). The matter was also taken to the Panchayat. Accused Nand Lal admits that his brother, at the relevant time, was posted at the Police Station, Sadar. It be observed that in relation to the complaint so filed by this accused, none from the village came forward to support him and, as such, cancellation report was filed by the police. What happened thereafter is not evident from the record. Defence of this accused that he was hit with a stone, as a result of which, he fell down and became unconscious, does not inspire confidence. There is no material on record to substantiate such fact. One cannot lose sight of the fact that Nand Lal himself appeared as a defence witness. Medical record pertaining to treatment, which he undertook, was in his possession. Assuming that the police, despite his brother being in the police force and posted in the very same district, was not extending help, he could have himself produced such material in support of his case. But, then it was not so done. The photographs, so taken by him on the spot, cannot be said to have been proved in accordance with law. Krishan Lal (DW-1), who claims to be a Photographer, has categorically deposed that the photographs (Ex. P-1 to Ex. P-5) were not developed by him. Also, no

date/time is reflected in these photographs. Similarly, factum of telephonic conversation between the accused party and the police cannot be said to have been established on record, despite the testimony of Ramesh Kumar (DW-2), who admits not to have produced the original record pertaining to the person in whose name the said telephone was installed. Thus, the defence cannot be said to have been probablized.

16. From the conjoint reading of testimonies of Parkash Chand, Banti Devi, Chaman Lal and Ram Kumar, it is apparent that the incident took place on 1.12.2005, sometime between 7-7.30 am. It appears that Vijay Ram was immediately rushed to Civil Health Centre, Ghumarwin, where he was attended to at 8.45 am by Dr. Rakesh Dhiman (PW-10), who found the patient to be unconscious. On physical examination, the doctor found the patient to have sustained the following injuries:--

"1. There was swelling and abrasion on scalp extending from forehead to occipital region vertically placed and was 3.5 cm. wide.

2. A small abrasion on right hand. Dorsal portion with fresh blood present on the wound."

17. Despite application moved by the police, his statement could not be recorded as he was found not fit to do so. This doctor also admits to have examined Dayala Ram, who was also brought by the police for having suffered a lacerated wound on the left side of the parietal region.

18. Dr. Savita Mehta, who conducted the postmortem of the deceased, has categorically opined that there was fracture of skull just above the right eye from frontal point going back to parietal bone linear (there in extra dural haemorrhage). According to the doctor, death took place on account of shock caused due to extra dural haemorrhage due to head injury. These experts as is so deposed by them in the court are of the considered view that injury, which was fatal, could be as a result of blow received with a stone (Ex. P-8).

19. Presence of the accused, the deceased and the complainant party (prosecution witnesses) at the time of occurrence of the incident cannot be disputed. This fact not only stands established on record, but also admitted by the accused.

20. We shall now deal with the testimonies of spot witnesses. Chaman Lal states that in relation to obstruction so caused by the accused party, he had moved an application with the Panchayat and other authorities. A compromise was arrived at and the accused agreed to dismantle the stairs so constructed by them. In fact, some portion of the stairs was removed, which was re-erected by the accused party. This was so done on 30.11.2005. On 01.12.2005, he called a meeting of the villagers, in relation to the same. He, Vijay Ram, Rakesh Chand, Sarwan Kumar, Bhrami Devi and 2-3 other villagers went to the house of accused, where he found all the accused persons standing on the lintel of the

house, which was on the higher side. Vijay Ram asked the accused to come down for talks, which was opposed by them as they had wanted to decide the matter only from the place where they were standing. Thereafter, the accused started abusing and pelting stones on all the persons who were standing below. One stone thrown by accused Nand Lal hit Vijay Ram, as a result of which, he fell down. He was taken to the hospital. From the cross-examination, we find that the dispute, inter se the parties, was pending for more than 2- 2 1/2 years. This witness, however, does not probablize the defence, so taken by the accused that either or the other villagers had assembled with hammers/sickles for the purpose of removing the obstruction.

21. We find testimony of this witness to have been corroborated by Ram Kumar (PW-4), who has also deposed that Nand Lal refused to come down for talks, but "proclaimed that the decision shall be made from the upper side".

22. Prakash Chand (PW-1) further corroborates the version of these two witnesses by stating that hearing noise coming from the courtyard of Chaman Lal, he went and saw the accused throwing stones at Chaman Lal and Vijay Ram from the second storey of their house. He also saw the stone so thrown by accused Nand Lal hit Vijay Ram. Also accused extended threats of killing the persons present on the spot. The witness does state that he had seen Chaman Lal with a hammer in his hand, but then he does not state that the hammer belonged to Chaman Lal. This witness does not state that Chaman Lal had started breaking the wall for removing the obstruction and Vijay Ram was hit by the debris.

23. We find that on the complaint so lodged by Prakash Chand (PW-1), Rakesh Kumar (PW-16) made entry in the police record and went to the Community Health Centre, Ghumarwin, where he moved an application (PW-10/B) for recording statement of Vijay Ram. Since the patient was certified not fit, needful could not be done. Thereafter, he recorded the statement of Prakash Chand under the provisions of Section 154 of Code of Criminal Procedure (Ex. PW-1/A), which was sent to the Police Station for registration of FIR. Shiv Chaudhary (PW-14), SHO of the Police Station reached on the spot and conducted the investigation. He collected some of the stones (Ex. P-8 to Ex. P-15) lying on the spot vide a memo (Ex. PW-1/B). The spot map (Ex. PE-5/A) was prepared and necessary investigation conducted.

24. "Criminal intimidation" is defined in Section 503 of the Indian Penal Code. To constitute an offence of Criminal intimidation, prosecution is to prove the following essential ingredients:--

"1. Threatening a person with any injury.

(i) to his person, reputation or property; or

(ii) to the person or reputation of any one in whom that person is interested.

2. The threat must be with intent

(i) to cause alarm to that person, or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat."

25. It is a settled principle of law that the threat must be to the person with an intent to cause harm. Threat has to be real and not artificial. It must have an effect on the complainant party. It has to be specific and not vague.

26. Now in the instant case, Parkash Chand (PW-1), Banti Devi (PW-2), Chaman Lal (PW-3) and Ram Kumar (PW-4) are clear and consistent in their version with regard to not only presence of the accused on the spot, but also having hurled abuses and proclaimed of settling the matter, causing injury to the complainant party. Their intent being their preparedness of pelting stones. All the accused persons were together and shared common intention of having intimidated the complainant and the other persons present on the spot. In this view of the matter, it cannot be said that the Court below erred in convicting the accused for having committed an offence, punishable under the provisions of Section 506 read with Section 34 of the Indian Penal Code.

27. It has come on record that despite Chaman Lal having taken the matter before the Panchayat, there was no animosity or hostility inter se the parties and more specifically between Nand Lal and deceased Vijay Ram. In fact, Banti Devi widow of deceased Vijay Ram admits that relations between her family and that of the accused are cordial.

28. That deceased was hit with the stone, so pelted by Nand Lal, stands evidently established and proved through the testimony of Prakash Chand, Banti Devi, Chaman Lal and Ram Kumar. Stone (Ex. P-8), so recovered by the police, was shown to the doctors, who were of the view that injury No. 1, found on the body of the deceased, could have been caused with the same. Intent of Nand Lal, in killing the deceased, cannot be inferred from the testimony of the prosecution witnesses. After all, all the accused persons were throwing stones on the persons, who had gathered on the spot. Nand Lal did not, however, has any animosity against Vijay Ram, who happened to be there only on the asking of Chaman Lal, who, in fact, had filed a complaint with the Panchayat. The main dispute appears to be with Chaman Lal and not Vijay Ram. None of the prosecution witnesses has deposed that Nand Lal, with an intent of committing murder, threw the stone at Chaman Lal. Intent, if at all, could have been for causing bodily injury to Chaman Lal and not Vijay Ram. But then this is not the prosecution case. As such, the stone, with which Vijay Ram was hit, cannot be said to have been thrown with an intent of murdering Vijay Ram. However, the fact that stone weighing 1 Kg., which is so deposed by the doctor, would have caused injury is only reflective of the knowledge that in all probability and likelihood, death of the recipient could have been caused. The Court is aware of

the fact that stone was pelted from a height with Nand Lal being in an advantageous position, as he was standing on the lintel of his house, which is two storeys above the courtyard of Chaman Lal.

29. From the record, it cannot be said that there was premeditation of mind in the commission of crime. Also, motive or animosity to commit the same is absent. Provocation, if at all, on the part of the accused, was one day prior to the occurrence of the incident. It stands established, through the testimonies of the prosecution witnesses that it was Chaman Lal, who had taken the villagers to the spot for talks. It is not the other way round. To us, it appears to be a case of sudden quarrel and in the heat of moment, the accused started pelting stones. The assailants cannot be said to have taken undue advantage or acted in a premeditated manner.

30. It is a settled principle of law that the cause of quarrel or the wounds caused is not a factor, on the basis of which accused can be held guilty or let off for having committed an offence, punishable under Section 302 of the Indian Penal Code. *K. Ravi Kumar Vs. State of Karnataka*, (2014) 4 CCR 578 : (2015) 1 Crimes 7 : (2015) 1 DMC 159 : (2015) 1 JCC 430 : (2015) 1 RCR(Criminal) 189 : (2015) 1 SCJ 514 ; and *Murlidhar Shivram Patekar Vs. State of Maharashtra*, (2014) AIRSCW 5802 .

31. In *Balu and Others Vs. State of Maharashtra* (2015) 2 AD 290 : (2015) 2 RCR(Criminal) 143 : (2015) 2 SCALE 147 : (2015) 3 SCC 409 : (2015) 2 SCJ 515 , the Hon"ble Supreme Court of India, has reiterated the principles of law laid down by it in *Virsa Singh Vs. The State of Punjab*, AIR 1958 SC 465 : (1958) CriLJ 818 : (1958) 1 SCR 1495 and other decisions, as under:

"16 The learned Judge Vivian Bose in his distinctive style of writing and speaking for the Court succinctly stated as under: (*Virsa Singh Vs. The State of Punjab*, AIR 1958 SC 465 : (1958) CriLJ 818 : (1958) 1 SCR 1495)

"11. In considering whether the intention was to inflict the injury found to have been inflicted, the enquiry necessarily proceeds on broad lines as, for example, whether there was an intention to strike at a vital or a dangerous spot, and whether with sufficient force to cause the kind of injury found to have been inflicted. It is, of course, not necessary to enquire into every last detail as, for instance, whether the prisoner intended to have the bowels fall out, or whether he intended to penetrate the liver or the kidneys or the heart. Otherwise, a man who has no knowledge of anatomy could never be convicted, for, if he does not know that there is a heart or a kidney or bowels, he cannot be said to have intended to injure them. Of course, that is not the kind of enquiry. It is broad-based and simple and based on commonsense: the kind of enquiry that "twelve good men and true" could readily appreciate and understand.

12. To put it shortly, the prosecution must prove the following facts before it can bring a case under Section 300 "thirdly":

First, it must establish, quite objectively, that a bodily injury is present.

Secondly, the nature of the injury must be proved. These are purely objective investigations.

Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended.

Once these three elements are proved to be present, the enquiry proceeds further, and

Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.

13. Once these four elements are established by the prosecution (and, of course, the burden is on the prosecution throughout) the offence is murder under Section 300 "thirdly". It does not matter that there was no intention to cause death. It does not matter that there was no intention even to cause an injury of a kind that is sufficient to cause death in the ordinary course of nature (not that there is any real distinction between the two).

It does not even matter that there is no knowledge that an act of that kind will be likely to cause death. Once the intention to cause the bodily injury actually found to be present is proved, the rest of the enquiry is purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. No one has a licence to run around inflicting injuries that are sufficient to cause death in the ordinary course of nature and claim that they are not guilty of murder. If they inflict injuries of that kind, they must face the consequences; and they can only escape if it can be shown, or reasonably deduced, that the injury was accidental or otherwise unintentional."

17. Relying on the aforesaid principle of law, recently this Court in Pulicherla Nagaraju @ Nagaraja Reddy Vs. State of Andhra Pradesh, AIR 2006 SC 3010 : (2006) CriLJ 3899 : (2006) 8 SCALE 133 : (2006) 11 SCC 444 : (2006) 4 SCR 633 Supp : (2006) AIRSCW 4143 : (2006) 6 Supreme 339 , again examined the issue as to what relevant factors should be kept in consideration while deciding the question as to whether case in hand falls under Section 302 or 304 Part-I or Part-II. Justice Raveendran speaking for the Court held in para 29 as under:

"29. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters - plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion

may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not [pic] converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may."

32. Thus, in our considered view, prosecution has been able to establish guilt of the accused, beyond reasonable doubt, to the extent so held by the trial Court, by leading clear, cogent, convincing and reliable piece of evidence, not only ocular but also corroborative in the shape of recovery of weapon of offence.

33. For all the aforesaid reasons, we find no reason to interfere with the judgment passed by the trial Court. The Court has fully appreciated the evidence placed on record by the parties. There is no illegality, irregularity, perversity in correct and/or in complete appreciation of the material so placed on record by the parties. Hence, the appeal is dismissed.

34. From the material placed on record, it stands established by the prosecution witnesses that the accused are guilty of having committed the offences, they stood convicted for. There is sufficient, convincing, cogent and reliable evidence on record to this effect. The circumstances stand conclusively proved by unbroken chain of unimpeachable testimony of the prosecution witnesses. The guilt of the accused stands proved beyond reasonable doubt to the hilt. The chain of events stand conclusively established and lead only to one conclusion, i.e. guilt of the accused. Circumstances when cumulatively considered fully establish completion of chain of events, indicating the guilt of the accused and no other hypothesis other than the same. It cannot be said that accused is innocent or not guilty or that he has been falsely implicated or that his defence is probable or

that the evidence led by the prosecution is inconsistent, unreliable, untrustworthy and unbelievable. It cannot be said that the version narrated by the witnesses in Court is in a parrot-like manner and hence is to be disbelieved.

35. Thus, Criminal Appeal No. 331 of 2009, so filed by the accused-convicts is dismissed.

36. Findings of conviction can also not be assailed on the ground so urged by the State. Noticeably, State never challenged the initial order of discharge of some of the convicts.

37. Now coming to the appeal filed by the State for enhancement of sentence, we are of the considered view that, in the facts and circumstances of the present case, sentences imposed by the trial Court are adequate and no enhancement is required. Hence, Criminal Appeal No. 453 of 2009 is also dismissed.

Both the appeals stand disposed of, so also pending application, if any.