
(2012) 10 GAU CK 0028
In the Gauhati High Court

Case No : Criminal Appeal No's. 14 (J) , 16 (J) and 45 (J) of 2010

Nanigopal Pal @ Gopal Pal and Others	APPELLANT
Vs	
State of Tripura	RESPONDENT

Date of Decision : 18-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 162, 164, 313, 374
Evidence Act, 1872 — Section 21, 24, 25, 26, 27
Penal Code, 1860 (IPC) — Section 201, 300, 302, 34

Citation : (2013) 1 GLD 675 : (2013) 1 GLT 593

Hon'ble Judges : U.B. Saha, J;S.C. Das, J

Bench : Division Bench

Advocate : P.K. Biswas, for the Appellant; A. Ghosh, Addl. PP, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.—The 3 (three) criminal appeals, aforementioned, filed by the convict-appellants separately, challenging the judgment and order of conviction and sentence dated 16.2.2010, passed by learned Additional Sessions Judge, Dharmanagar in Sessions Trial No. Case No. ST 17 (NT/D) 2007, wherein the convict-appellant Nanigopal Pal alias Gopal Pal, appellant of Criminal Appeal No. 45 of 2010 has been found guilty of committing offence punishable u/s 302 and Section 201 read with Section 34 of IPC and sentenced him to suffer imprisonment for life and to pay a fine of Rs. 10,000/- in default of payment, to suffer R.I. for one year for committing offence punishable u/s 302 of IPC and further sentencing him to suffer R.I. for 5 years and to pay a fine of Rs. 5000/- in default to suffer S.I. for 6 months for committing offence punishable u/s 201 of IPC read with Section 34 of IPC.

Convict-appellant Bapi Nandi, appellant of Criminal Appeal No. 14 of 2010 and the convict-appellant Bandhav Ghosh, appellant of Criminal Appeal No. 16 of 2010, both have been found guilty of committing offence punishable u/s 201 of IPC and sentenced them to suffer R.I. for 5 (five) years and to pay a fine of Rs.

5000/- each in default to suffer R.I. for 6 months each for committing the offence punishable u/s 201 of IPC.

Being aggrieved, the accused appellants preferred the present appeals u/s 374 of Cr.P.C.

2. Since the appeals filed challenging the one and same judgment and common question of fact and law involved for decision, on the prayer of learned counsel of both side, these three appeals have been heard together and is disposed of by this common judgment.

3. Heard strenuous argument advanced by learned counsel, Mr. P.K. Biswas for all the appellants and learned Addl. P.P. Mr. A. Ghosh for the State respondent.

4. Facts of the case may be summarised thus:

4.1 On 21.07.2006 at about 11-12.00 a.m. the accused appellants Bapi Nandi, Bandhav Ghosh and the accused Debabrata Dhar (died during trial), along with the deceased victim Pinku Roy alias Pintu together went out with a Maruti Car bearing No. TR02-B-0285 (red colour), on a tour, to visit the house of Ramjanam Rabi Das (P.W. 17) and the accused Nanigopal alias Gopal Pal (herein after mentioned as Gopal) at Dharmanagar. The vehicle was belonged to one Sanjib Banik which was kept under the care and custody of Ajit Kr. Mandal (P.W. 16) and from the house of Ajit Kr. Mandal, the accused Bandhav Ghosh who is a driver by profession, took the vehicle saying that they would go to Dharmanagar to attend an invitation. Telephonic information was given to Ramjanam Rabi Das by the deceased accused Debabrata Dhar about their visit and accordingly, Ramjanam Rabi Das was waiting at Dharmanagar motorstand. Accused Bapi, Bandhav and Debabrata along with deceased victim (herein-after mentioned as Pinku), at evening time reached Dharmanagar motorstand and were received by Ramjanam. Ramjanam also boarded the vehicle and on the way they searched for accused Gopal and met him. They, together went to the house of accused Gopal at Radhapur Dharmanagar. Accused Gopal was a resident of the locality of deceased Pinku and a few years ago after selling his house, he left for Dharmanagar with family and built his house there at Radhapur. On reaching the house of accused Gopal, they took tea and snacks and gossiped for some time. Thereafter all of them together left for the house of Ramjanam (P.W. 17) and took dinner in the house of Ramjanam. At about 12-00 p.m. of the night the accused Bapi, Bandhav, Debabrata along with Pinku and accused Gopal together returned to the house of Gopal to sleep.

4.2. At about 3-00 a.m. of the night, they woke up hearing alarm raised by Rupa, wife of Gopal and at that time, Gopal along with his wife (accused Rupa) and his two tenants namely Sajal Deb and Kajal Deb (both absconders) tied up Pinku with a RCC pillar built for construction of the house, with a nylon rope and started beating Pinku. Gopal with his tenants dragged Bapi, Bandhav and Debabrata inside a room meant for the tenants and locked the door. Gopal with his wife and tenants beaten up Pinku with brick, apiece of wood and a wooden

roller (meant for preparing bread). Pinku received severe injury due to assault. Bapi, Bandhav and Debabrata were requesting Gopal from the room to release Pinku and to hand over him to police and also to release them from the room.

4.3. At dawn, neighbours while passing through the road found Gopal and his tenants beating up a young man tied up with the RCC pillar in his courtyard and P.Ws. 4 and 5 are the eye witnesses of the occurrence. At about 7/8.00 am. Pinku died because of the beating by accused Gopal and his tenants. Thereafter, Gopal opened the door of his rented hut where Bapi, Bandhav and Debabrata were kept under lock and key and when they came out, dead body of Pinku was lifted in the back seat of Maruti Car and they together went to the house of Ramjanam. Bapi, Bandhav and Debabrata reported the incident to Ramjanam to which Ramjanam advised them to go to P.S.

4.4. Thereafter all the accused persons together boarded the vehicle along with wife of accused Gopal and with the dead body left for Kailashahar. At Kailashahar Paitur-bazar, wife of Gopal namely accused Rupa, got down and she was handed over to accused Sanjay Saha, the brother in law of accused Gopal and thereafter Sanjay Saha arranged 10 liters of petrol from a local Petrol Pump and the accused persons together left Kailashahar with the dead body. On the way by the side of Kailashahar-Fatikrai Road, they had thrown away the dead body in a road side ditch and Gopal got down from the vehicle. Accused Bapi, Bandhav and Debabrata, thereafter, with the vehicle returned to Agartala. They washed the vehicle and the towels of the seat at Kamarpukur tank, Agartala and handed over the vehicle to P.W. 16 from where it was taken. Thereafter they together went to East Agartala P.S. at about 10-00 p.m. and narrated the occurrence to the police officer. The statement made by accused Bandhav Ghosh recorded by the O.C. of the P.S. (RW. 9), reduced to writing by P. W. 10 and the facts stated by the accused Bandhav Ghosh entered in East Agartala P.S. GD. Entry No. 1482 dated 22.07.2006. The statement was recorded in the form of an FIR and was signed by accused Bandhav Ghosh as well as P.Ws. 9 and 10,

4.5. An information was sent to the mother of Pinku over phone from P.S. about the death of Pinku and she rushed to P.S. P.W. 11, elder brother of Pinku followed her and on reaching P.S., he found Bapi, Bandhav and Debabrata were sitting there and from their mouth, he heard the entire story as narrated by them that Pinku was beaten to death by accused Gopal, his wife and his tenants and thereafter, they together dumped the dead body in the jungle at Natingcherra, by the side of Kailashahar-Fatikrai Road.

4.6. The statements of the accused persons, signed by accused Bandhav Ghosh, in his words, recorded as GD. No. 1482 dated 22.07.2006 (proved as Exbt. 4), since very important for decision of the case, is reproduced herein thus:-

Today, the 22,07.2006 A.D. at about 10-00 pm., I Sri Bandhav Ghosh (36), S/o Sri Nanigopal Ghosh of Banamalipur, B.K. Road, P.S. East Agartala by profession driver, along with my two friends namely Debabrata Dhar (36), S/o Lt. Rajendra

Ch. Dhar, resident of North Banamalipur, Marachowmohani, P.S. East Agartala and Bapi Nandi (35), S/o Lt. Santosh Kr. Nandi, resident of Banamalipur, B.K. Road, P.S. East Agartala after arriving at East Agartala RS, and knowing you to be the officer in charge of the P.S., lodging the ejahar stating the fact that, yesterday 21.07.2006 A.D., a Friday at about 12-00 a.m., we along with our another friend Pinku Roy (36) alias Pintu, S/o Lt. Matilal Roy of Banamalipur, B.K. Road, P.S. East Agartala by profession a fruit seller, together with a red colour Maruti vehicle bearing No. TR 02-B-0285 left for Dharmanagar from Agartala on a tour to the house of our friend Ramjanam Rabi Das at Dharmanagar, Halflong. At about 8-00 p.m. we reached Dharmanagar motorstand and as usual our friend Ramjanam Rabi Das was waiting at the motorstand for us. We took Ramjanam in our vehicle and started for his house. After proceeding to a little extent, we met a friend of Pinku Roy namely Gopal Pal on the road. From there along with Gopal we went to the house of Gopal Pal, Thereafter, along with Gopal we together went to the house of Ramjanam Rabi Das at halflong and we took our dinner there together. At about 12-00 p.m., we along with Gopal Pal returned to the house of Gopal at Radhapur to sleep there at night. At about 3-00 a.m. of the night we woke up hearing alarm raised by Rupa Pal, W/o Gopal. Rupa was telling everybody that Pinku had touched her body. Then Gopal Pal along with his tenant started beating Pinku. We went to rescue Pinku Roy to which Gopal tied up Debabrata with a pillar in the courtyard with a rope and myself (Bandhav) and Bapi inside the hut of the tenant and kept under lock and key. We were requesting Gopal with raised voice not to beat Pinku rather to hand over him to the P.S. Through a gap of fencing of the room, we found Gopal and his two tenants beating Pinku with brick. Thereafter, today the 22.07.06 Pinku died at about 7-00 a.m. Then Gopal Pal at about 8-00 a.m. in the morning with our friend Bapi went to Rajbari and stated the entire fact to the wife of Nawab. By that time, the tenants of Gopal forcefully taken the key of Maruti Car from me and dumped the dead body of Pinku in the back seat of the vehicle and locked it. At about 9-00 a.m. Gopal with his wife along with us boarded the Maruti vehicle TR01-B-0285 and drove the vehicle towards Kailashahar, He was driving the vehicle. At Panichauki Bazar, Kailashahar, near BOC, Gopal called his brother in law and his wife got down and she was handed over to his brother in law. From that place through Kailashahar Fatikrai Road after proceeding to some extent dead body of Pinku Roy was dumped in the jungle and Gopal also got down. Thereafter with the vehicle we returned to Agartala and washed the vehicle at Kamarpukur, The vehicle was returned to the house of Mana Mandal at Gandhi Ghat and then we came to P.S. and narrated the occurrence. Prior to that, we never visited Dharmanagar, This is my ejahar and since it was written as per my statement and being satisfaction, I put my signature.

4.7. After recording the above statement and making the GD. entry, P.W. 10 detained accused Bapi, Bandhav and Debabrata and on the following day forwarded the statement to O.C., Dharmanagar P.S. along with the detained persons.

4.8. On 23.07.2006 Kishore Roy (P.W. 11) along with some of their neighbours and relatives went to Dharmanagar and visited Radhapur.: They found some local people gathered there in front of the house of accused Gopal and enquired about the occurrence. Thereafter P.W. 11 lodged a written FIR with the O.C., Dharmanagar P.S. narrating the same fact what was narrated by accused Bandhav at East Agartala P.S. The said written complaint filed by Kishore Roy (P/W. 11) was registered as Dharmanagar P.S. Case No. 123/2006 under Sections 302/201 read with Section 34 of IPC and S.I. Samir Roy of Dharmanagar P.S. was entrusted with the charge of investigation.

4.9. On that day itself, S.I. Samir Roy along with P. W. 11 and his other companions went to Kailashahar P.S. and arrested accused Bapi, Bandhav and Debabrata in connection with the case. He interrogated them and recorded their statements since they disclosed that they would be able to show the dead, body of Pinku Roy where it was dumped. Accordingly, the accused persons led the I.O. and other witnesses to Natingcherra by the side of Kailashahar-Fatikrai Road and shown the place where the dead body of Pinku was dumped and the dead body was recovered. Inquest report was prepared by I.O. (P.W. 24) in presence of the witnesses and the dead body was forwarded to Kailashahar District Hospital for postmortem examination with a written requisition I.O. also arrested accused Gopal and his wife Rupa from their house and in the course of investigation, took the accused persons to police custody and interrogated them.

4.10. It is the case of the prosecution, that in course of interrogation, accused Gopal made a statement that he would be able to hand over the bricks, piece of wood and the wooden roller with which the deceased Pinku Roy was beaten and accordingly, the accused was taken to his house and those articles were seized on production by accused marked as Exbt. (I) series. The tenants of accused Gopal namely Sajal Deb and Kajal Deb absconded and they could not be arrested.

4.11. P.W. 10 after forwarding the accused Bapi, Bandhav and Debabrata along with the recorded statement of accused Bandhav Ghosh to Dharmanagar P.S., also seized the Maruti vehicle No. TR02-B-0285 from the house of P. W. 16 by preparing a seizure list. In the course of investigation, I.O. (P.W. 24) resealed the same by preparing a seizure list and he also seized the seat covers, cushions and back seat piece of leather where marks of blood were present I.O. also collected blood stains from the head of the deceased and forwarded the seized towels and seat cover etc. of the vehicle with the blood sample of the deceased to Forensic Science Laboratory and got report that the blood sample collected from the body of the deceased was of "A"- group and that blood sample so far found in the seat cover and leather sheet etc. of the vehicle, were also of human blood group-"A". On completion of investigation, I.O. submitted charge sheet against the accused persons for committing offence punishable u/s 302 and 201 read with section 34 of IPC.

5. In course of trial, the learned Additional Sessions Judge framed charges against the accused persons including the deceased person Debabrata Dhar for

commission of offence punishable under Sections 302/201 read with Section 34 of IPC to which they pleaded not guilty and claimed to be tried.

6. Prosecution examined 24 witnesses to prove the charge.

7. After closure of the prosecution evidence, accused persons were examined u/s 313, Cr.P.C. and thereafter the accused persons were asked to adduce defence evidence if any, but they declined to adduce any defence evidence. Defence case is nothing but a bare denial of the prosecution case.

8. Out of the 24 witnesses examined by the Prosecution, P.Ws. 1 and 2 are the witnesses to the collection of blood sample from the head of the deceased.

P.Ws. 4 and 5 are the eye witnesses of the occurrence, who, at dawn while passing through the road in front of the house of accused Gopal, found a person tied up with a RCC pillar in the premises of the accused by nylon rope and was being beaten up.

P.Ws. 11 and 22 are the brothers of the deceased Pinku Roy and P. W. 14 is the wife of the deceased Pinku Roy. Out of them, P.W. 11 lodged the FIR. P.W. 12 is the scribe of the FIR.

P.Ws. 9 and 10 are the Inspector and Sub-Inspector of police attached with East Agartala P.S. and P.W. 10 reduced the statement of accused Bandhav Ghosh which is proved as Exbt. 4 and P.W. 9 made the GD. Entry based on the facts stated by the accused Bandhav Ghosh.

P.Ws. 3, 6, 7, 15 and 23 are the witnesses to the recovery of the dead body from Natingcherra and out of them, P.W. 23 is the photographer who took the photographs of the dead body on the spot, wherefrom it was recovered and the photographs with negatives marked as Exbt. 13 series.

P.W. 16 is the witness from whom the Maruti vehicle was taken by the accused persons and the deceased for a tour to Dharmanagar..

P.Ws. 5 and 18 are the witnesses to the seizure of Exbt. I series i.e. the brick, wooden pile, wooden roller, nylon thread, etc. seized from the house of accused Gopal.

P.Ws. 16 and 8 are the witnesses to the seizure of the towels, seat covers, leather sheets etc. with marks of blood from the vehicle. P.W. 16 is also the witness to the seizure of the vehicle.

P.Ws. 3 and 11 are the witnesses to the Inquest report.

P. W. 19 is the Scientist of State Forensic Science Laboratory report in respect of blood sample examination.

P. W20 is the Autopsy Surgeon who along with a team of seven doctors conducted postmortem examination over the dead body.

P.W. 24 is the I.O. of the case.

9. Upon hearing learned counsel of both side and going through the evidence and materials and record, following points are emerged for consideration of the appeals.

I. Whether Pinku Roy alias Pintu died a homicidal death?

II. Whether deceased Pinku alias Pintu along with Bapi Nandi, Bandhav Ghosh and Debabrata Dhar together on 21.07.2006 with a Maruti Car No. TR02-B-0285 went to the house of accused Gopal and P.W. 17?

III. Whether Pinku Roy was beaten up in the house of accused Gopal in the late hours of night (in between 21.07.2006 and 22.07.2006) and at dawn causing injuries?

IV. Whether the statement of accused Bandhav Ghosh recorded at East Agartala P.S. as FIR and proved as Exbt. 4 in admissible in evidence?

V. Whether the dead body of Pinku Roy was discovered at the instance of the accused persons.

VI. Whether exbt.(I) series- the bricks, wooden pile, wooden roller (meant for preparing bread), nylon thread etc. were discovered and seized at the instance of accused Gopal?

VII. Whether there was any provocation for assaulting Pinku?

VIII. Whether the punishment of the accused in the facts and circumstances of the case, inflicted by the learned court, is justified?

10. Point No. 1: Whether Pinku Roy alias Pintu died a homicidal death?

10.1. The postmortem report has been proved as Exbt. 11 by P.W. 20, one of the 7 (seven) doctors, who in a group conducted postmortem examination over the dead body. In his deposition P.W. 20 stated that, on 24.07.2006 he was working as a medical officer of Rajiv Gandhi Memorial Hospital, Kailashahar and on that day he along with doctor Sasanka Deb, doctor Gitesh Bhatta-charjee, Dr. Satyajit Pal, Dr. Ramendra Nath, Dr. Sankar Deb Roy and Dr. S. Nath conducted postmortem examination over the dead body of Pinku Roy, S/o Matilal Roy, aged 34 years of B.K. Road, Banamalipur, Agartala, at Kailashahar Hospital morgue and they submitted a detailed report with the description of the injury found on the dead body. The cause of death was coma following head injury due to external violence. Postmortem was done on 24.07.2006 at about 3-30 p.m. and the time of death will be about 48 hours to 72 hours prior to postmortem examination. He proved the Postmortem report as Exbt. 11.

In cross examination, he stated that the Board of 7 doctors was constituted as per the direction of Medical Superintendent of Rajiv Gandhi Memorial Hospital, Kailashahar. Viscera was collected. In case of any toxic-ation of the deceased that can be ascertained from viscera. In the present case, it was clearly

mentioned about the head injury as the cause of death. A similar head injury may sustain in case of a fall from any vehicle and in contact with any hard and blunt substance.

10.2. On going through the postmortem report, we find that the team of doctors on examination of the dead body observed thus:-

Fully developed, putrefactive signs positive. Greenish to bluish discolouration, foul odour, causing nausea, softening of eye balls, exudation from nose and mouth, moving maggots, blebs over body, peeling of cuticle, loosening of hair. Limbs swollen and putrefied. Eyes swollen, soft, cornea opaque, Lips swollen & existing froth reddish fluid from mouth and nostrils. Penis & scrotum enlarged.

Fracture of the squamous part of left temporal bone & zygomatic bone. On opening there was a clot (4"X3 "X1/2") over temporal (left) lobe.

10.3. From the above evidence, it is evident that the deceased Pinku Roy died a homicidal death because of the injury on his head.

10.4. Learned counsel, Mr. Biswas has submitted that according to the prosecution, the deceased was beaten up by accused Gopal and his tenants with bricks, wooden pile and wooden roller continuously from late hours of night till early morning of 22.07.2006, whereas, no external injury was found by the I.O. at the time of preparation of Inquest report and the Autopsy Surgeon also found only one fracture injury but noted no external injury. Under such circumstances, the entire prosecution case is liable to be disbelieved for the inconsistency between the ocular evidence and the medical evidence. He relied on the decision of the Hon"ble Apex Court in the case of Raj Pal and Another Vs. State of Haryana, ; Ashim Das and Etc. Vs. State of Assam, and Mani Ram and Others Vs. State of U.P., .

10.5. Learned Additional PP. has submitted that the deceased was beaten up by hard blunt object and so, no external injury was visible since the body was decomposed. The doctor found head injury which was sufficient to cause death and such injury may be caused with hard blunt object like brick, wooden pile and wooden roller which have been seized and proved as Exbt. (I) series. There is no contradiction or inconsistency between the ocular evidence and the medical evidence and so, defence submission carries no merit.

10.6. We have considered the submissions of learned counsel of both side. The Inquest report is proved as Exbt. 2. P.W. 24 prepared the inquest report in presence of P. Ws. 3, 11 and others. The Inquest report so prepared by the I.O. shows that on the right side of the head some white coloured substance was found in hair. There was an injury measuring about 4/5" on the forehead. Both the eyes were found in closed condition, swollen and there was blackening. There were black spots on both the hands and legs of the deceased. The group of doctors found the fracture injury in the left temporal bone and zygomatic bone. There was blood clot over left temporal lobe. The inquest report does not clearly

show that there was any injury found in the left side of the head. There is overwriting of the I.O. in respect of the injury found by him, whether it was left side or right side of the forehead. Further, we find no reason to disbelieve the cogent evidence of P.W. 20 in respect of the injury found by the doctors. The eye witnesses of the occurrence simply stated that they found a person being tied up was beaten up in the courtyard of the accused Gopal. There is nothing that the ocular evidence is directly in conflict with the medical evidence.

10.7. In the case of Rajpal (*supra*) there was clear inconsistency and conflict between the ocular and medical evidence. Similar is in the case of Mani Ram (*supra*) and Asim Das (*supra*): The ratio of those decisions, therefore, cannot be applied in the facts and circumstances of this case.

10.8. Inquest report was prepared by the I.O. at the spot on 23.07.2006 at about 6-00 p.m. that means after about 36 hours of death of the deceased. The dead body was dumped in the jungle. I.O. may not clearly record the injury found on the head of the dead body. There is overwriting as I find in the Inquest report as to whether the injury was in the left side of the forehead or right side of forehead. On that ground, we find no reason at all to discard the prosecution case as a whole, since there is other cogent evidence on record.

10.9. The submission of learned defence counsel is that since the inquest report is suspicious and not disclosing clearly about the injuries alleged to have been found by the Autopsy Surgeon, the entire prosecution case should be disbelieved and rejected. We are unable to agree with the submission of learned defence counsel on that score. If a person is beheaded in front of the witnesses., question of postmortem examination over the dead body is only academic, but where death is alleged to have occurred otherwise, because of physical assault, postmortem examination becomes important and the finding of the Autopsy Surgeon if not controverted in the witness box, should not be rejected by the court of law simply because the inquest report does not clearly reflect such an injury as found by the Autopsy Surgeon. The fracture injury was found by the Autopsy Surgeon after dissection. Therefore, clear non-mention of the injury in the left side of the head by the I.O. in the inquest report, cannot be a ground to reject the prosecution case as a whole, where it is proved with other supporting evidence.

11. Point No.II:

Whether deceased Pinku alias Pintu along with Bapi Nandi, Bandhav Ghosh and Debabrata Dhar together on 21.07.2006 with a Maruti Car No. TR02-B-0285 went to the house of accused Gopal and P. W. 17?

11.1. P. W. 11 in his deposition stated that on 21.07.2006 at about 11.00 a.m. his brother Pinku along with accused Bapi, Bandhav and Debabrata left for Dharmanagar on a tour with a Maruti vehicle. When they started for Dharmanagar, he was present at the gate of their house. They told him that they would be visiting the house of accused Gopal at Radhapur as Gopal was their

friend. This statement of P. W. 11 has not been shaken in cross-examination. P.W. 14, wife of the deceased also stated that on 21.07.2006 her husband along with the accused Bandhav, Bapi and Debabrata left for Dharmanagar from their house and on the following day, i.e. on 22.07.2006, at night, she got the information that her husband was killed at Dharmanagar. Her statement was also not shaken in the cross examination. P.Ws. 4 and 5 stated that they found a red colour Maruti vehicle in front of the house of accused Gopal and that a person was tied up and was being beaten in the premises of the house of Gopal. P.W. 16 categorically stated that the accused Bandhav Ghosh, a driver of Maruti car of his son-in-law on 21.07.2006 took the vehicle from his house, the car used to be kept in his house by his son in law, saying that they would go to attend a marriage ceremony and would pay the cost of fuel. On the following day, at about 8.00 p.m., Bandhav Ghosh left the vehicle in his house. P. W. 17 stated that he was informed about the visit of his friend Debabrata along with the other accused persons and he was waiting at Dharmanagar motorstand and at evening time, Debabrata with other three persons including the deceased, reached Dharmanagar motorstand with a red colour Maruti vehicle. In Exbt. 4, accused Bandhav made a categorical statement that they visited Dharmanagar with Maruti car vehicle No. TR02-B-0285. In course of investigation, I.O. seized the towels, seat covers, cushions and pieces of leather sheets from the vehicle which contained marks of blood and those were examined in the State Forensic Science Laboratory (SFSL) with the blood collected from the head of the deceased. It was found that in some of the seat covers and leathers etc., seized from the vehicle, were containing some human blood as that of the blood group of the deceased. Learned counsel, Mr. Biswas argued that P.W. 17 should not be believed since he was examined by the I.O. on 08.08.2006 and there was no explanation for delayed examination. Further, according to P.W. 16, the vehicle was belonged to Sanjib Banik and that Sanjib Banik has not been examined and therefore, prosecution case is liable to be disbelieved.

11.2. Learned Additional P.P. has submitted that I.O. has given explanation in his deposition regarding delayed examination of P.W. 17. He further submitted that non examination of the owner of the vehicle is of no consequence since the vehicle was taken from the house of P.W. 16 and returned by the accused Bandhav in his house only. Regarding ownership of the vehicle, there is no controversy.

11.3. We have considered the submission of learned counsel and also taken note of the evidence on record. We find that P.W. 17 Was examined by I.O. on 08.08.2006. He was thereafter forwarded to the court of learned SDJM, Dharmanagar for recording his statement u/s 164 Cr.P.C. and accordingly, his statement was recorded by learned Magistrate on 08.08.2006 itself. In cross examination, P.W. 24, stated that he recorded the statement of Ramjanam Rabi Das as he was not available during that period of investigation before 08.08.2006. While such an explanation was given by the I.O., we find nothing to consider the submission of learned defence counsel, Mr. Biswas on that score.

Non examination of owner of the vehicle in the facts and circumstances of the case, in our considered opinion, has reflected no shadow on the veracity of the prosecution case.

12. Point No. III:

Whether Pinku Roy was beaten up in the house of accused Gopal on the late hours of night (in between 21.7.2006 and 22.7.2006) and at dawn causing injuries?

12.1. P.Ws. 4 and 5 are the eye witnesses of the occurrence. P.W. 4 stated that about a year ago in the month of Bhadra (Bengali calendar month), on a certain day in the early morning, at about 5.00 a.m., she heard cry in the house of accused Gopal Pal who was a driver by profession. Hearing cry, she went at the gate of their house and found that a person was fastened with rope along with a pucca pillar which was erected for construction of a new house and said person was being beaten by a piece of brick. She found the accused Gopal Pal and asked him what happened with the said person, to which Gopal threatened her and told her to go away from there and therefore, she went back to her house. She also found a Maruti car (red colour) at the gate of the house inside the house complex. In cross examination she stated that her husband Amulya Nath had a dispute with accused Gopal in respect of one and half decimal of land inside the house complex of accused Gopal, but she voluntarily stated that the matter was settled about 1 year prior to the date of incident. She did not see the face of that person who was being beaten at that time. Seeing the incident, she did not raise any alarm but she told the occurrence to other two persons who were having morning walk through the road.

12.2. P. W. 5 stated that in the last year, at the time of planting paddy seedlings, in the month of Shravana (Bengali calendar month), on a certain day, in the morning, at about 4/5 a.m., he was proceeding towards paddy field for ploughing and at that time found a lady and a young boy were seeing something in the house of accused Gopal Pal through the gaps of bamboo fencing. He also peeped through the bamboo fencing towards the house and found brick bat in the hand of accused Gopal Pal. He also found two tenants of accused gopal Pal, one armed with a piece of wood and another armed with a wooden roller (meant for preparation of bread). He also found a person fastened with a rope along with a pucca pillar and the said three persons were beating the said person. At that time, another rented hut of the accused Gopal was closed but from inside that hut, some persons were trying/pushing the door to open and were telling "friend don't beat him". He also found two Maruti vehicles and one auto rickshaw in the said house complex of accused Gopal. Seeing the same, he went to his paddy field for ploughing his land. Subsequently, during investigation, I.O. seized the roller, piece of wood and brick as well as a ganjee from the house of the accused and he put his thumb impression in the seizure list. He also proved those articles, marked as Exbt.- (I) series.

In cross examination, he stated that the paddy field where he went to plough was near the house of accused Gopal and the land belonged to Goura Nath, He told the family members of land owner about the incident occurred in the house of Gopal, but not to Goura Nath, since he (Goura) was not present in house. He did not know the children and women who were peeping through the bamboo fencing of Gopal. He knew Amulya Nath of that area and he is not his relative. Goura Nath and Amulya Nath were brothers in law. He did not raise any and did not inform about the incident of beating to others. He voluntarily stated that he got afraid seeing the incident and left for his field.

12.3. P.W. 17 stated that he was informed by his friend accused Debabrata of Agartala over telephone that Debabrata with 3/4 persons coming to Dharmanagar on a tour and accordingly, he received them at Dharmanagar motorstand. They came by a red colour Maruti car. They enquired about Gopal Pal of Radhapur and he told them that he did not know Gopal Pal. They enquired in the motorstand to some other persons. Thereafter, they got information from one person about the house of Gopal Pal and thereafter they were on way to the house of Gopal. At about 6-30 p.m., they caught Gopal on the road crossing them plying a Maruti Van. Gopal told them to go to his house and he will return to his house after dropping the passengers. They all took tea and snacks in the house of Gopal and thereafter along with Gopal they together went to his (PW-17) house and took their dinner. Thereafter, they returned to the house of Gopal to sleep. At that night, he was on night duty in his office. He returned home at about 6-30 p.m. (6-30 a.m., might have been typed as p.m. and seems to be a typographical mistake) and slept at about 8-00 a.m. Debabrata with his two companions came to his house and told him that though they intended to stay at Dharmanagar but they could not as there was an incident occurred on the last night that one of their friend caught hold the hand of wife of Gopal Pal and so, he was assaulted and the situation was aggravated. He then came to the road and found in the Maruti Van in the back seat a person was lying having bleeding injuries. He advised them to go to P.S. They then went away and he also left for his house. He identified all the accused persons in the dock. There is nothing material in the cross examination of the witness to throw any doubt on his testimony

12.4. P.W. 11 narrated the same fact. The evidence reproduced above, makes it clear that Pinku Roy was beaten up in the courtyard of accused Gopal, after being tied up with a RCC pillar, with brick bats, wooden plank and wooden roller etc. by accused Gopal and his two tenants.

Learned defence counsel has argued that P.Ws. 4 and 5 cannot be believed since they are inimical to the accused Gopal and therefore, they have falsely entangled him. He has also argued that their conduct was unnatural since they neither raised any cry nor informed the other people about the occurrence and therefore they cannot be believed. In support of his contention, learned counsel referred a case law between the State of Tamilnadu Vs. Suber @ Md. Suber reported in AIR

Learned Addl. P.P. on the other hand, has argued that P.W. 4 is a neighbour of the accused and she made a natural statement. Regarding enmity, what is argued by learned defence counsel cannot stand since she categorically stated that a boundary dispute was amicably settled about one year ago. He has also argued that P.W. 5 is a most trustworthy witness of simple and candid nature. The defence tried to connect him referring to a dispute with his owner who is a relative of Amulya Nath and connecting that relation, learned defence counsel made attempt to destroy the evidence of P.W. 5 which cannot stand in the eye of law,

12.5. We have meticulously examined the statement of P.Ws. 4 and 5. They are found to be very simple and candid neighbours of accused Gopal. P.W. 4 admitted that they had a boundary dispute but that was settled more than a year ago. Accused neither adduced any defence evidence nor in his examination u/s 313, Cr.P.C. made any statement that he had inimical relationship with P.Ws. 4 and 5 and therefore, they made a false statement implicating him. The conduct of witnesses in the facts and circumstances of the case cannot be doubted simply on the ground that they did not raise any alarm and did not immediately go to report the incident to others. They were residents of that locality. They do not know who was beaten up and attacked. What was the intention of beating? While they were not connected neither with the accused nor with the person detained and beaten up, it was not unnatural for those candid villagers in not reporting the incident to others. The ratio of the decision referred by learned defence counsel, has no manner of application in the facts of the present case since the fact of both the cases are diametrically different and therefore, we find no justification to discuss the ratio laid down in that case, P.W. 17, in our considered opinion was rightly relied by the trial court since his evidence has not been touched or shaken in any manner and his sole evidence so corroborated by the evidence of P.Ws. 4 and 5, is enough to hold that the accused Gopal with his tenants tied up the deceased Pinku Roy with a RCC pillar in his courtyard and beaten up with brick, wooden plank, wooden roller etc.

12.6. Learned counsel, Mr. Biswas has drawn our attention to several minor discrepancies in the evidence on record. It is a settled law that over much importance should not be given to minor discrepancies. Discrepancies which do not go to the root of the matter and do not touch the basic version of the prosecution case should not be attached with undue importance. It is also a settled law that minor discrepancies what are pointed out by the learned defence counsel, in our considered opinion, are rather guarantee of truth. Regarding presence of three vehicles, in the house of the accused, as pointed out, we find that one vehicle, the Maruti Car No, TR02-B-0285 (red colour) was taken by the accused Bapi, Bandhav, Debabrata and the deceased Pinku and was kept inside the house of accused Gopal. Accused Gopal also had two vehicles, one Maruti Van and another auto rickshaw. He was a driver by profession. I.O. during

investigation, apart from seizure of the vehicle No. TR02-B-0285 from Agartala, also seized the other two vehicles of accused Gopal from his house which makes it clear rather made the evidence of P.W. 5 as authentic since he stated that he found three vehicles in the house of the accused Gopal when he witnessed the incident.

12.7. In the case of Krishna Mochi and Others Vs. State of Bihar, , his Lordship Justice B.N. Agarwal while speaking for the Bench observed -

It is matter of common experience that in recent times there has been a sharp decline of ethical values in public life even in developed countries much less a developing one, like ours, where the ratio of decline is higher. Even in ordinary cases, witnesses are not inclined to depose or their evidence is not found to be credible by courts for manifold reasons. One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high-ups in the Government or close to powers, which may be political, economic or other powers including muscle power. A witness may not stand the test of cross-examination, which may be sometimes, because he is a bucolic person and is not able to understand the question put to him by the skilful cross-examiner and at times under the stress of cross-examination, certain answers are snatched from him. When a rustic or illiterate witness faces an astute lawyer, there is bound to be imbalance and, therefore, minor discrepancies have to be ignored. These days it is not difficult to gain over a witness by money power or giving him any other allurance or giving out threats to his life and/or property at the instance of persons, in/or close to powers and muscle men or their associates. Such instances are also not uncommon where a witness is not inclined to depose because in the prevailing social structure he wants to remain indifferent. It is most unfortunate that expert witnesses and the investigating agencies and other agencies which have an important role to play are also not immune from decline of values in public life. Their evidence sometimes becomes doubtful because they do not act sincerely, take everything in a casual manner and are not able to devote proper attention and time.

77. Thus, in criminal trial a prosecutor is faced with so many odds. The Court while appreciating the evidence should not lose sight of these realities of life and cannot afford to take an unrealistic approach by sitting in an ivory tower. I find that in recent times the tendency to acquit an accused easily is galloping fast. It is very easy to pass an order of acquittal on the basis of minor points raised in the case by a short judgment so as to achieve the yardstick of disposal. Some discrepancy is bound to be there in each and every case which should not weigh with the Court so long it does not materially affect the prosecution case. In case discrepancies pointed out are the realm of pebbles, court should tread upon it, but if the same are boulders, the court should not make an attempt to jump over the same.

12.8. We have no hesitation to apply the principles enunciated by Hon''ble Justice

Agarwal in the case of Krishna Mochi (supra). In the case of Krishna Pillai Sree Kumar and Another Vs. State of Kerala, , the Supreme Court has observed -- it is no doubt true that the prosecution evidence does suffer from inconsistencies here and discrepancies there, but that is a short coming from which no criminal case is free. The main thing is to be seen whether those inconsistencies etc., go to the root of the matter or pertain to insignificant aspects thereof. In the former case the defence may be justified in seeking advantage incongruities obtaining in the evidence. In the later, however, no such benefit may be available to it.

12.9. In view of the discussions made above, we find no merit in the argument made by learned counsel, Mr. Biswas.

13. Point No. IV:

Whether the statement of accused Bandhav Ghosh recorded at East Agartala P.S. as FIR and proved as Exbt. 4 is admissible in evidence?

13.1. We have already reproduced the statement of accused Bandhav Ghosh recorded by P.Ws. 9 and 10, when they appeared at East Agartala P.S. and G.D. entry No. 1482 dated 22.07.2006 of East Agartala P.S. was made. Exbt. 4 has been proved by P.Ws. 9 and 10 with the endorsement made by them. It was signed by accused Bandhav Ghosh. No evidence adduced by the defence to controvert that statement. In his examination u/s 313, Cr.P.C. the accused only stated that it was false and nothing stated that his signature was obtained otherwise in the statement. Except suggestion, there is nothing in the cross examination of P.Ws. 9 and 10. We find no justification at all to reproduce the evidence of P.Ws. 9 and 10 who made categorical statement that the accused persons Bapi, Bandhav and Debabrata at about 10.00 p.m., appeared at P.S. and narrated the occurrence in presence of the witnesses and P.W. 10 recorded it as per the statement of accused Bandhav, read it over to him, to which he admitted to be correctly recorded. It was recorded in the form of FIR on the following day but before it reached the O.C., Dharmanagar P.S., P.W. 11 reached there and lodged the FIR in writing and the investigation was taken up. The statement, i.e. Exbt. 4, kept on record and has been proved in evidence. We have already reproduced at the very inception of this judgment the whole contents of Exbt. 4. It is absolutely an exculpatory statement made by accused Bandhav. The contention of learned counsel, Mr. Biswas is that, the said statement being made by accused in the course of investigation of the case, cannot be applied against them. Learned Additional P.P., on the other hand, has pointed out that it was an exculpatory statement made by the accused persons and therefore, it may be accepted as an evidence for consideration. In support of his contention, learned counsel, Mr. Biswas referred the case of Shri Murli alias Denny Vs. State of Rajasthan, . In that reported case, the Apex Court has held that a confessional FIR cannot be used for any purpose in favour of the prosecution and against the accused but if there is admission in favour of the accused that may be taken into account to examine whether the

case falls under any exception to Section 300 of IPC particularly, in the circumstances when there is no evidence disclosing as to how the attack taken place. The ratio of that decision as referred by learned counsel, Mr. Biswas, to our anxious consideration cannot be applied in this case since Exbt. 4 can in no way be termed as confession rather it amounts to an admission made by the accused persons Bapi, Bandhav and Debabrata through the mouth of accused Bandhav which set the prosecution case in motion. Had they not appeared before the P.S. and narrated the occurrence, investigation would not have been started on 23.07.2006. What has been done by P.Ws. 9 and 10 cannot be termed as an investigation of the offence but they have simply recorded the statement marked Exbt. 4, detained the three accused and forwarded the statement along with the accused persons to the O.C., Dharmanagar P.S.

13.2. Regarding the. FIR lodged by an accused, law has been clearly laid down by the Supreme Court in the case of Aghnoo Nagesia Vs. State of Bihar, . In that reported case, the accused committed the murder of 4 persons (close relatives) and thereafter produced himself before the O.C. of the Police Station and narrated the occurrence in details as to his motive, preparation, opportunity, weapon of offence used, the intention and concealment of the weapon and subsequent conduct etc. and his statement was reduced into writing by the police officer and was relied upon by the prosecution at the trial. The Apex Court while appreciating that statement divided it into 18 parts and has observed that the statement disclosed the motive for the murder, the movement and opportunities of the accused before the murder, the intention behind the murder, the actual execution of the offence of murder and the concealment of the dead body as well as the weapon of offence, etc. The court held that the statement made by accused in Aghnoo Nagesia (supra) before the police officer, was a confession and proof of confession, made before a police officer or in the presence of the police officer, is excluded by Sections 24, 25 and 26 of the Evidence Act as a matter of public policy and, therefore, the entire statement, with all its particulars including the admission of minor incriminating fact, has also to be excluded unless proof of it is permitted by some other sections, such as, Section 27 of the Act.

13.3. In the case at hand, there is no element of confession in Exbt. 4. Therefore, the ratio laid down in Aghnoo Nagesia cannot be applied in this case.

13.4. We may, however, apply the ratio laid down by the Apex Court in the case of Faddi Vs. The State of Madhya Pradesh, wherein the accused had killed his step-son and, thereafter, put the dead body in a well and, subsequently, lodged an FIR informing about the incident to the police officer making some exculpatory statement, the Supreme Court, under such circumstances of the fact held that the First Information Report, being neither a confession nor a statement made to a police officer during the course of investigation, not barred either u/s 25 of the Evidence Act or Section 162 of Cr.P.C. The Court observed that where the person, who lodges the first information report regarding the

occurrence of a murder, is subsequently made accused of the offence and tried, and the report, lodged by him, in the form of First Information Report, is not a confession, but an admission by him of certain facts, which have a bearing on the question to be determined by the Court, viz., how and by whom the murder was committed or whether the statement of the accused, in the court, denying the correctness of certain statements of the prosecution witnesses is correct or not, the first information report is admissible to prove his admissions, which are relevant u/s 21 of Evidence Act.

13.5. In Exbt. 4, the accused persons have given a vivid description as to their purpose of visiting Dharmanagar; the date and time of their leaving Agartala and reaching Dharmanagar; meeting their friends; the accused Gopal and R W. 17; stay at Dharmanagar and all the subsequent incidents in details. They have only put the liability of the offence on accused Gopal and his tenants. This statement as made by the accused Bandhav cannot be legally applied against accused Gopal being a co-accused of the offence in respect of accusation against Gopal but in all other aspects, it may be taken into consideration in view of the provision laid down in Section 21 of the Evidence Act.

14. Point No. V:

Whether the dead body of Pinku Roy was discovered at the instance of the accused persons?

14.1. We have already arrived at a conclusion that Exbt. 4 cannot be treated as a confession but it was an admission of certain facts as narrated by the accused Bandhav in presence of his other co-accused Bapi and Debabrata (since deceased). P.W. 24 stated that on 23.07.2006 he along with P.W. 11 and others left for Kailashahar P.S. and got accused Bapi, Bandhav and Debabrata there in the P.S. and he interrogated them and recorded their statements so far, for the purpose of Section 27 of the Evidence Act to discover the fact of dead body of Pinku Roy which was dumped in the jungle by the side of Kailashahar- Fatikrai Road. RWs. 3, 6, 7, 11 and 15 are the witnesses to the discovery of the dead body from Natingcherra by the side of the road in a ditch type land. We find substantive corroboration in the evidence of those witnesses regarding recovery of the dead body. P.W. 11 stated that accused Gopal also was there with accused Bapi, Bandhav and Debabrata at the time of recovery of the dead body and (hey identified the spot. P.W. 24 stated nothing about the presence of accused Gopal. The Inquest Report i.e. Exbt. 2, shows that the dead body was recovered as shown by accused Bandhav Ghosh, Bapi Nandi and Debabrata Dhar. There is nothing that accused Gopal was present. That Inquest Report was signed by P W. 11 and he proved his signature therein. It seems, that part of the statement of P.W. 11 regarding presence of accused Gopal was not correct and it was an exaggeration of the fact. For that reason, the entire evidence of P.W. 11 cannot be discarded. It is a settled law that the "maxim (falsus in uno falsus in omnibus) is neither a sound rule of law nor a rule of practice. Hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate

exaggerations, embroideries or embellishments. It is, therefore, the duty of the court: to scrutinize the evidence carefully. But, it cannot obviously disbelieve the substratum of the prosecution case or the material parts of the evidence and reconstruct a story of its own out of the rest. (Ugar Ahir and Others Vs. The State of Bihar,).

14.2. P.W. 11 lost his younger brother. To substantiate the allegation against accused Gopal, he might have tried to embroider the fact to make the allegation stronger and therefore, exaggerated the fact about presence of accused Gopal which is not true. That apart, the rest of the statement of P.W. 11 can in no way be suspected to draw an inference otherwise than, what is drawn by the trial court. It is not disputed fact that Pinku Roy died a homicidal death. He went to Dharmanagar with other accused persons. He did not return with them. His dead body was found lying by the side of the road in the jungle where from it was recovered. Definitely, the accused persons have thrown the dead body there in the jungle to eliminate the evidence of murder. The recovery of dead body, therefrom, at the instance of the accused Bapi, Bandhav and their deceased friend Debabrata, has been proved with sufficient evidence on record and the decision of the learned trial judge on the issue is founded on sound reason. Learned defence counsel, Mr. Biswas pointed out several pits and holes here and there in the deposition of the witnesses but those in our considered opinion can in no way be treated as fatal to throw the prosecution case overboard. We find nothing to attach importance to those minor discrepancies in the deposition of RWs 3, 6, 7, 11 and 15..

15. Point No. VI:

Whether exbt.(i) series the bricks, wooden pile, wooden roller (meant for preparing bread), nylon thread etc. were discovered and seized at the instance of accused Gopal?

15.1. Exbt. (I) series, namely the brick bat, one wooden pile, one wooden roller, one nylon thread, one white colour vest were seized from the house of accused Gopal Pal in presence of P.Ws. 5 and 18. I.O.(PW-24) stated that while on an interrogation in police custody, accused Gopal made a confession that he would be able to hand over the said articles and that he had kept those articles hidden in his house and accordingly, he was taken there and brought out the articles and those were seized. P.Ws. 5 and 18 as already stated above are the witnesses to the seizure of those articles but they stated nothing that it was seized in presence and production of accused Gopal. I.O. has recorded the statement of accused Gopal proved as Exbt. 17 but in the absence of any evidence that accused Gopal handed over those articles to the I.O. in presence of witnesses, the fact of leading to discovery of those articles as required u/s 27 of the Evidence Act cannot be said to have proved. It is, however, proved that those articles were seized from the house of accused Gopal and those were used in beating the deceased Pinku in the house of accused.

16. Point No. VII:

Whether there was any provocation for assaulting Pinku?

16.1. In Exbt. 4 we find that at about 3.00 p.m. accused Bandhav, Bapi and Debabrata woke up hearing alarm raised by accused Rupa and they were told that the deceased Pinku caught the hand of Rupa and thereafter the incident of assault occurred. P.W. 17 also stated that he was reported by accused Debabrata, Bapi and Bandhav about the occurrence which resulted in beating of Pinku by accused Gopal and his tenants. Neither in cross examination of prosecution witnesses nor adducing defence evidence, accused persons stated anything regarding the fact that deceased Pinku caught the hand or body of Rupa at night. Learned counsel, Mr. Biswas argued that it was a prosecution story itself from the mouth of the prosecution witnesses and therefore, it should be considered as a provocation on the part of the deceased if the prosecution case is at all believed. This argument advanced by learned counsel, Mr. Biswas cannot be appreciated in view of the fact that if such an incident occurred, it by itself cannot vest a right on the accused to beat or assault the victim to death. Bapi, Bandhav and Debabrata were constantly requesting the accused not to assault Pinku but accused Gopal with his tenants after tying up Pinku with a RCC pillar by a nylon rope, mercilessly beaten him from late night till the dawn when P.Ws. 4 and 5 witnessed the occurrence. It is in the evidence that the accused Gopal and his tenants taken the law in their hands and beaten up the deceased Pinku causing injury on head which has resulted internal haemorrhage and death of the deceased.

16.2. Under such circumstances, we find nothing to accept the argument of learned counsel, Mr. Biswas that on sudden provocation, the accused might have committed the offence. The extent of commission or omission done by accused Gopal can in no way absolve him from the punishment of murder.

17. Point No. VIII:

Whether the punishment of the accused in the facts and circumstances of the case inflicted by the learned court is justified?

17.1. The trial court found the accused Gopal guilty of committing murder. The facts which have been brought on record is that Pinku was mercilessly beaten after tying his hands and legs. In a helpless condition he was beaten up. The request of Bapi, Bandhav and Debabrata were turned down. He was not beaten up only by fists and blows but by brick, wooden pile and wooden roller. The knowledge and/or intention of accused Gopal is therefore, evident from the manner the offence was executed, that he really intended to finish the victim and not simply assault the deceased to teach him a lesson for the wrong alleged to have done by him. Under such circumstances, there is no escape for the accused Gopal from the punishment as rightly awarded by the trial court for murder.

17.2. Accused Bapi, Bandhav and their companion Debabrata while facilitating

accused Gopal to disappear the evidence of murder and to screen the offender had thrown the dead body in the jungle and therefore, they were rightly held guilty u/s 201 of IPC and in the facts and circumstances of the case, we find nothing to interfere with the punishment inflicted on accused Bapi and Bandhav.

18. In view of the discussions made above, the appeals filed by the convicts are dismissed.

19. The convicts should serve out the sentence. Send back the L.C. record along with a copy of this judgment.