

(2013) 05 JH CK 0079

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 160 of 2013

Narayan Singh and Randur Singh @ Anil Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 01-05-2013

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 149, 302, 34

Citation : (2013) 4 AJR 714 : (2013) 3 JLJR 58

Hon'ble Judges : Shree Chandrashekhar, J;Dhirubhai Naranbhai Patel, J

Bench : Division Bench

Advocate : Gaurav, for the Appellant; T.N. Verma, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Shree Chandrashekhar, J.—The accused-appellants have preferred this Criminal Appeal challenging the judgment and order of conviction and sentence both dated 29.01.2013, passed by Principal Sessions Judge, Simdega in Sessions Trial No. 72 of 2008, whereby the appellants have been convicted for the offence u/s 302/ 34 of Indian Penal Code and both have been sentenced to undergo rigorous imprisonment for life for committing murder of the deceased, namely, Surendra Singh. Briefly stated, the case of the prosecution is that, on 01.02.2008 at about 7.30 P.M., when the informant and his brother Surendra Singh along with other family members were taking meal, someone called Surendra Singh from outside whereupon Surendra Singh came out of the house and immediately thereafter the informant heard the sound of firing in the verandah. The informant and other family members came out of the house and found Surendra Singh in the injured condition. He had bleeding injuries on his arm and right side of the stomach and he disclosed to his brother that Narayan Singh had called him for compromising the land dispute with Govind Singh and Krishna Singh and when he refused to compromise, Upendra Singh shot from his pistol. It has further been stated that the injured could not be taken to the hospital in the night as conveyance was not

available. Next day in the morning the injured was taken to the Kalebira hospital where he succumbed to his injuries. It is alleged that due to the land dispute between the deceased and Govind Singh, the accused persons namely, Upendra Singh, Randur Singh @ Anil Singh and Narayan Singh committed murder of Surendra Singh. The statement of the informant namely, Bhuduwa Singh was recorded in the hospital at about 9.50 A.M. by the officer-in-charge of Kalebira Police Station and on the basis of fardbeyan of the informant, Kalebira P.S. Case No. 06/2008 dated 02.02.2008 u/s 302/ 34 of Indian Penal Code was registered against Narayan Singh, Randur Singh @ Anil Singh and Upendra Singh.

2. On conclusion of the investigation, charge-sheet was filed against Narayan Singh and Randur Singh @ Anil Singh u/s 302/ 34 Indian Penal Code and u/s 27 of the Arms Act. Charge u/s 302/ 34 Indian Penal Code was framed against the appellants on 15.09.2008. The appellants pleaded not guilty and claimed to be tried.

3. During the trial, nine witnesses were examined by the prosecution in support of its case. The prosecution got proved and marked signature of Niranjana Singh on the Inquest Report as Exhibit-I, signature of Shambhu Baraik on the Inquest Report as Exhibit-1/1, Post-mortem Report as Exhibit-2, signature of the Doctor on post-mortem report as Exhibit-2/1 signature of Budhuwa Singh on fardbeyan as Exhibit-3, Fardbeyan as Exhibit-4, Endorsement on Fardbeyan as Exhibit-5, Formal. F.I.R. as Exhibit-6 and Carbon copy of the Inquest Report as Exhibit-7, the defence has not examined any witnesses.

4. The prosecution has examined Niranjana Singh and Shambhu Baraik as P.W. 1 and P.W. 2 respectively. They are witnesses of inquest Report. P.W. 3- Dr. Christ Anand Xaxa is the Doctor who has conducted post-mortem examination on the dead body of Surendra Singh., He stated that on 02.02.2008, he was posted at Sadar Hospital, Simdega and on examination of the dead body, he found the following injuries:--

(i) External Examination:

a. A sharp cut injury presents 5" above umbilicus in mid line and 2" lateral on right side size 1" x 1/2". Depth of the wound is intending in the abdominal cavity.

b. A sharp cut injury in Right Arm above cubital portion. Size 1"x 1/2" muscle deep.

c. A sharp injury in Right Arm above right epicondial.

Size 1/2" x 1/2" muscle deep.

(ii) Internal Examination:

a. Abdominal Cavity full of blood. There is sharp cut injury present interior wall of stomach. Size 2" x 1/2".

b. Sharp cut injury present. Posterior wall of the stomach. size 1/2"x 1/2".

c. Omentum of the abdominal wall and peritoneum reddish in colour.

d. All the injuries are ante-mortem in nature.

(iii) Weapon used: Sharp and long cutting object.

(iv) Time since death: Within 24 hours.

(v) Cause of death: Due to hemorrhage shock caused by above mentioned injuries.

5. The Doctor found that injuries on the dead body of Surendra Singh were ante-mortem in nature. In cross-examination he has stated that the length of the weapon used in the crime was about 12" and injury Nos. 2 and 3 are possible by same weapon due to separate blow. He has further clarified that such type of injuries are not possible by a single blow.

6. The informant-Bhuduwa Singh has been examined as P.W. 4 and he has supported the prosecution case in full. He has reiterated that the occurrence took place on 01.02.2008 at about 7.00 P.M. He along with his other family members were ready to take meal, when he heard a sound "Khatak" whereupon he came out from the room and he found his brother lying on veranda injured by fire arm. When he asked his brother about the incident, his brother informed him that Narayan Singh and Anil Singh had called him outside. The informant has further stated that he saw fire-arm injury on the arm and in the stomach of his brother Surendra Singh. He claimed to identify Narayan Singh and Anil Singh and identified the accused persons in the Court. He has denied any dispute with the appellants, Narayan Singh and Randur Singh @ Anil Singh, however, he has stated that he had some dispute with Krishna Singh which he won from the Hon'ble Supreme Court. In cross-examination he has stated that even after getting injured his brother was able to speak and thus, he told him the name of both the persons who called him outside. He has denied the suggestions that the deceased did not disclose the name of Narayan Singh and Randur Singh @ Anil Singh to him.

7. P.W. 5 is the wife of the informant. She has also supported the case of the prosecution by stating that the day on which the incident took place, she along with her family members were ready to take meal, when someone called her "devar" Surendra Singh outside. Immediately after Surendra Singh went out of the house, she heard sound of firing and Surendra Singh raised hulla. When they came out of the house they did not find anyone there. She has stated that Surendra Singh told her that Narayan Singh and Randur Singh @ Anil Singh had asked him to come outside the house and as soon as he came out, he was shot at and they fled away. In cross-examination she has stated that she has named both the accused before the police.

8. The daughter of the informant namely, Sulochani Devi has been examined as P.W. 6. She has also claimed to be present in the house at the time when the incident took place at about 7.30 P.M. She has stated that when the accused

persons called her uncle Surendra Singh to come out of the house and after her uncle went out, she heard the sound of firing. When they came out, she found her uncle lying in the injured condition. She has further stated that her uncle told her that Narayan Singh and Anil Singh fired at him and fled away. She has also stated that there was one fire arm injury on the right side of the stomach. She has also denied the suggestions that her uncle did not disclose the name of Anil Singh and Narayan Singh to her and at the instance of her parent she has named both the accused persons.

9. The prosecution has examined the wife of the deceased namely, Dewanti Devi as P.W. 7. She has stated that the incident took place at about 7.30 P.M. in the evening. She along with her husband were sleeping after taking meal when someone called him from outside. When her husband went out she also followed him. Suddenly, someone shot at her husband. The assailants were Narayan Singh and Anil Singh whom she has identified in the Court. She claimed that the incident took place due to land dispute. She has also claimed that her husband also told her that Narayan Singh and Anil Singh had fired shot at him. During cross-examination she has admitted that it was dark outside, however, her husband had a torch in his hand. She has stated that Narayan Singh opened fire, whom she has identified. She has also admitted in cross-examination that previously also an attempt was made by Akhileshwar Singh to kill her husband and she was a witness in the said case. However, she has clarified that Akhileshwar Singh was in Jail at the time when this incident took place. She has also denied any knowledge about any land dispute between the accused and the deceased.

10. The prosecution has examined Asha Devi as P.W. 9 who is the sister-in-law of the deceased. She had stated that the day on which the incident took place she was preparing food in her house. She had stated that Anil Singh and Narayan Singh called Surendra Singh outside the house and asked him that they wanted to watch TV. When Surendra Singh told them that the TV. was not working, both killed him and fled away. She has also claimed that Surendra Singh informed her that he was killed by Anil Singh, Narayan Singh and Upendra Singh. In her cross examination, she has stated that in the kitchen her elder sister-in-law. Dewanti Devi-P.W. 7 and her niece Sunita were there with her. She further admitted that she is not an eye witness and she came out of the house after about 5 (five) minute of the incident and when she come out of the house at that time her elder sister-in-law Dewanti Devi and her niece Sunita also accompanied her. She has also admitted that mere was not previous animity with Anil Singh and Narayan Singh.

11. The investigating officer has examined himself as P.W. 8. He has stated that on receiving the information about the incident, he made Sanha entry No. 101 in the Station Dairy and directed S.I. Sudershan Paswan for verification. He prepared the Inquest Report of the deceased Surendra Singh and recorded the re-statement of the informant and statement of other witnesses and inspected

the place of occurrence. He admitted in cross-examination that he did not seize any weapon or cloth of the deceased and he denied the suggestions that he has wrongly submitted the chargesheet against the accused persons.

12. The learned Trial Court on appreciation of oral and documentary evidence on record, recorded the findings that the prosecution succeeded to prove its case against the accused persons u/s 302/ 34 of Indian Penal Code beyond reasonable doubt and therefore, he convicted both the accused for offence u/s 302/ 34 Indian Penal Code and punished them to undergo rigorous imprisonment for life.

13. Heard learned counsel appearing for the appellants and learned A.P.P. at length and perused the documents on record.

14. This Criminal Appeal was admitted by order dated 01.04.2013 and records and proceeding of Sessions Trial No. 72 of 2008 were called for, from the Court of Principal Sessions Judge, Simdega which have been received by this Court. The case was set down for hearing on 22.04.2013. In view of the evidence on record, which has been perused by us and by the counsel appearing for both the parties, with the consent of the parties this Criminal Appeal is being heard today.

15. Learned counsel appearing for the appellants submitted that the learned Trial Court has completely mis-directed itself and has failed to appreciate the evidence on record properly. There is vital contradiction between the medical evidence and ocular evidence and that itself is sufficient for acquiring the petitioners of the charge levelled against them. There are major contradictions in the evidence of the prosecution witnesses and they are not reliable witnesses. He has further submitted that there is no eye witness to the occurrence and all the material witnesses are related witnesses and thus, highly interested witnesses and therefore, they are not trustworthy witnesses. On these ground he has submitted that the judgment and order of conviction and punishment dated 29.01.2013 recorded by the learned Principal Sessions Judge, Simdega in Sessions Trial No. 72 of 2008 is liable to set-aside.

16. As against this, the learned A.P.P. has submitted that in the cases where the medical evidence is not corroborated by the ocular evidence, the Court has to give primacy to the ocular evidence. He has further submitted that merely because the witnesses are related witnesses, their evidence cannot be discarded. The learned Trial Court has properly appreciated the evidence on record and the judgment under challenge does not suffer from any infirmity.

17. Adverting to the contention of the learned counsel appearing for the appellants that all the material witnesses are related witnesses and thus highly interested witnesses and therefore, their evidence must be discarded, we find that it has been settled by a series of judgments of the Hon''ble Supreme Court that in such circumstances the evidence of the witnesses must be scrutinized with due care and caution and merely because they are related witnesses, their evidence cannot be discarded.

18. In " Ramanand Yadav Vs. Prabhu Nath Jha and Others, , the Hon''ble Supreme Court has held:

15. ...But at the same time, if the relatives or interested witnesses are examined, the Court has a duty to analyse the evidence with deeper scrutiny and then come to a conclusion as to whether it has a ring of truth or there is reason for holding that the evidence was biased. Whenever a plea is taken that the witness is partisan or had any hostility towards the accused, foundation for the same has to be laid....

19. Again, the Hon''ble Supreme Court in " State of Himachal Pradesh Vs. Mast Ram, has held:

11. ...The law on the point is well settled that the testimony of relative witnesses cannot be disbelieved on the ground of relationship. The only requirement is to examine their testimony with caution Their testimony was thrown out at the threshold on the ground of animosity and relationship. This is not the requirement of the law....

20. Coming back to the facts of the case, we find that while the informant Bhuduwa Singh (P.W. 4), the wife of the informant namely. Jhario Devi (P.W. 5), and the daughter of the Informant Sulochani Devi (P.W. 6) have stated that at the time when the incident took place, they were ready to take meal, the wife of the deceased namely, Dewanti Devi (P.W. 7) has deposed in the Court that she alongwith her husband were sleeping after taking meal when someone called her husband from outside and when her husband went out she also followed him. Another witness namely, Asha Devi (P.W. 9) who is sister-in-law of the deceased has stated in the Court that when the incident took place she was preparing food in her house and her sister-in-law namely, Dewanti Devi (P.W.7) and her niece Sunita were with her in the kitchen. Thus, the evidence of the prosecution witnesses are at variance with the prosecution case. The witnesses have contradicted each other. The evidence of P.W. 9 indicates that P.W. 7 was not with her husband and the evidence of P.W.7, the wife of the deceased who deposed that she was sleeping with her husband when somebody called her husband, strikes at the root of the prosecution case in-as-much as the informant has stated that he along with his brother, Surendra Singh (deceased) and other family members were ready to take meal when someone from outside called Surendra Singh and thereafter Surendra Singh went out and the incident took place.

21. It is also appearing in the evidence of the P.W. 4 that his brother Surendra Singh has told him that Narayan Singh and Anil Singh had called him outside. The informant does not claim that his brother told him the name of the assailants. Whereas P.W. 5 and P.W. 6 have claimed that the deceased-Surendra Singh told them that Narayan Singh and Anil Singh had fired at him and fled away. The wife of the deceased namely, Dewanti Devi (P.W. 7) has claimed herself as an eye witness and stated in the Court that Narayan Singh opened fire.

P.W. 9 has narrated an entirely different story. She has stated in the Court that Anil Singh and Narayan Singh came to their house and called Surendra Singh outside the house and asked him that they wanted to watch T.V. When Surendra Singh told them that T.V. was not working, they killed him and fled away. She has also claimed that Surendra Singh informed her that he was killed by Anil Singh, Narayan Singh and Upendra Singh. Thus, we find that the evidences of the prosecution witnesses suffer from major contradictions, embellishments and improvements. The evidence of these witnesses cannot be relied upon for recording an order of conviction, particularly when the accused persons are facing murder trial. The prosecution witnesses are not reliable witnesses and their evidence must be discarded.

22. On a perusal of the Post-mortem Report and the evidence of the P.W. 3, who conducted the post-mortem examination over the dead body of Surendra Singh, we find that the Doctor has categorically stated (hat the injuries on the dead body of the deceased were caused by a sharp cutting weapon which was about 12" long. The Doctor has not found any gunshot injury on the body of the deceased. The specific case of the prosecution is that the deceased suffered 2 gunshot injuries; one on the arm and another on the right side of the stomach. The informant as well as P.W. 5. P.W. 6, P.W. 7 and P.W. 9, all have clearly stated that they heard sound of gun shot whereupon they came out of the house and the deceased himself informed them that the accused persons fired at him.

23. It is thus apparent, on the face of the evidence, that the medical evidence is not corroborated by the ocular evidence. A completely different case has been projected by the prosecution witnesses. The prosecution version of death caused to Surendra Singh by gun shot injuries, is not at all supported by the medical evidence in which the Doctor has categorically stated that the injuries on the dead body of the deceased were caused by a sharp cutting weapon. There is complete inconsistency in the evidence given by the prosecution witnesses and the medical evidence. It has been held by the Hon''ble Supreme Court that in such a situation, the medical evidence assumes importance and it will have priority over the ocular version as it goes to the root of the matter having effect to repel conclusively the prosecution version to be true. In such a situation the Court can draw adverse inference to the fact that the prosecution version as put forth before the Court is not trust-worthy.

24. At this stage, it would be useful to take note of the law as declared by the Hon''ble Supreme Court in this regard. In " Mohinder Singh Vs. The State, , the Hon''ble Supreme Court had held as under

10. ...In a case where death is due to injuries or wounds caused by a lethal weapon, it has always been considered to be the duty of the prosecution to prove by expert evidence that it was likely or at least possible for the injuries to have been caused with the weapon with which and in the manner in which they are alleged to have been caused. It is elementary that where the prosecution has a definite or positive case, it must prove the whole of that case, In the present

case, it is doubtful whether the injuries which are attributed to the appellant were caused by a gun or by a rifle. Indeed, it seems more likely that they were caused by a rifle than by a gun, and yet the case for the prosecution is that the appellant was armed with a gun and, in his examination, it was definitely put to him that he was armed with the gun. It is only by the evidence of a duly qualified expert that it could have been ascertained whether the injuries attributed to the appellant were caused by a gun or by a rifle and such evidence alone could settle the controversy as to whether they could possibly have been caused by a firearm being used at such a close range as is suggested in the evidence.

25. In "Kapildeo Mandal and Others Vs. State of Bihar, when it was found that although the eye witnesses categorically stated that the deceased was injured by the use of fire arm, the medical evidence did not indicate any fire arm injuries on the person of the deceased, the Hon'ble Supreme Court has observed as under:

23. It is now well settled by a series of decisions of this Court that while appreciating variance between medical evidence and ocular evidence, oral evidence of eyewitnesses has to get primacy as medical evidence is basically opinionative. [See *Mange v. State of Haryana* (conviction based on sole testimony of eyewitness), *State of U.P. v. Krishna Gopal* (SCC in para 24) and *Ramanand Yadav v. Prabhu Nath Jha* (SCC in para 17).] But when the court finds inconsistency in the evidence given by the eyewitnesses which is totally inconsistent to that given by the medical experts, then evidence is appreciated in a different perspective by the courts.

26. In the present case, the medical evidence is to the effect that there were no firearm injuries on the body of the deceased, whereas the eyewitnesses' version is that the appellant-accused were carrying firearms and the injuries were caused by the firearms. In such a situation and circumstance the medical evidence will assume importance while appreciating the evidence led by the prosecution by the court and will have priority over the ocular version and can be used to repel the testimony of the eyewitnesses as it goes to the root of the matter having an effect to repel conclusively the eyewitnesses' version to be true. The medical evidence when specifically rules out the injury claimed to have been inflicted as per the eyewitnesses' version, then the court can draw adverse inference to the effect that the prosecution version as being put forth before the court, is not trustworthy. In the present case, the medical evidence completely rules out the prosecution version of the injuries being caused by firearms, coupled with the fact that no evidence has been produced by the prosecution of any pellet or bullet being recovered from the place of incident or from the body of the deceased in the post-mortem. In the light of the fact that there was a previous enmity between the parties and the eyewitnesses examined are related to the deceased and are interested witnesses; and that in the absence of the lantern or the torch, in the light of which the incident was said to have been witnessed, the prosecution case as placed before the court is full of doubts, and as such the appellant-accused are entitled to the benefit of doubt.

26. In "" Ram Narain Singh Vs. State of Punjab, , the Hon''ble Supreme Court has held that:

Where the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence or the evidence of the ballistic expert, this is a most fundamental defect in the prosecution case and unless reasonably explained it is sufficient to discredit the entire case.

27. In " Mani Ram and Others Vs. State of U.P., , the Hon''ble Supreme Court has again reiterated the position in law in these words:

9. ...It is well settled by long series of decisions of this Court that where the direct evidence is not supported by the expert evidence then the evidence is wanting in the most material part of the prosecution case and, therefore, it would be difficult to convict the accused on the basis of such evidence. If the evidence of the prosecution witnesses is totally inconsistent with the medical evidence this is a most fundamental defect in the prosecution case and unless this inconsistency is reasonably explained it is sufficient not only to discredit the evidence but the entire case....

28. In " Amar Singh and Others Vs. State of Punjab, , the Hon''ble Supreme Court set-aside the order of conviction and sentence u/s 302/ 149 Indian Penal Code when it was found:

10. ...The medical report submitted by PW 2 shows that there were only contusions, abrasions and fractures, but there was no incised wound on the left knee of the deceased as alleged by PW 5. If her evidence that all the accused inflicted injuries on the deceased with their respective weapons has to be accepted, then there would be incised wounds all over the body of the deceased, but the medical report shows that not a single incised wound was found on the body of the deceased. Thus the evidence of PW 5 is totally inconsistent with the medical evidence. This Court in Ram Narain Singh v. State of Punjab has laid down that if the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence, this is a most fundamental defect in the prosecution case and unless reasonably explained, it is sufficient to discredit the entire case. There is no explanation for the apparent total inconsistency between the evidence of PW 5 and the medical evidence....

29. In " Khambam Raja Reddy and Another Vs. Public Prosecutor, High Court of Andhra Pradesh, , the Hon''ble Supreme Court has held as under:

19. The present case is an example of contradiction between the ocular evidence and the medical evidence, where the medical evidence is not borne out by the ocular evidence. In such a situation it was suggested on behalf of the appellants on the authority of a decision of this Court in State of M.P. v. Dharkole where the medical evidence was at variance with the ocular evidence, the testimony of the eyewitness should be decided independently and if found trustworthy, the same could not be discarded merely because it is at variance with medical opinion

While there can be no difference of opinion with the principle explained in the aforesaid decision, the application thereof will depend on whether the story as made out by the prosecution is trustworthy and can be related to the injuries suffered by the victim in the manner as sought to be projected. If the ocular testimony is such that it is not possible to relate the injuries with the circumstances in which they were said to have been inflicted, the court has the discretion not to accept the ocular evidence. The principle enunciated in Dharkole case may be applied in an appropriate case, but each case has to be determined having regard to its own set of facts.

30. In " Mahendra Pratap Singh Vs. State of Uttar Pradesh, , the Hon"ble Supreme Court has observed thus:

62. From the above discussion of the evidence of the eyewitnesses including injured witnesses, their evidence does not at all inspire confidence and their evidence is running in conflict and contradiction with the medical evidence and ballistic expert's report in regard to the weapon of offence, which was different from the one sealed in the police station. The High Court has, in our opinion, disregarded the rule of judicial prudence in converting the order of acquittal to conviction.

31. In the present case, the learned Trial Court has recorded a finding:

Lastly I scrutinized the evidence of doctor who has found altogether three sharp cut injuries on the person of the deceased. Further find that doctor has found sharp cut injury on the right arm as well as posterior wall of the stomach and the said fact has also been corroborated by P.W. 4 in his evidence but there are difference as the doctor has found sharp cut injury but the informant had seen fire arm injuries on arm and stomach of the deceased and this fact has also been corroborated with the evidences of other witnesses. In this respect the citation referred about 2003 (4) JLJR Sc 173 in which the Hon"ble Supreme Court has held that-Medical opinion in criminal trial variance between medical evidence and ocular evidence-oral evidence has to get primary and medical evidence is basically opinionative. Further held that a doctor usually confronted with such questions regarding different possibilities or probabilities of causing those injuries or postmortem features which he noticed in the medical report may express his views one way or the other depending upon the manner the question was asked. But the answers given by the witnesses to such questions need not become the last word on such possibilities. After all he gives only his opinion regarding such questions. But to discard the testimony of an eye witness simply on the strength of such opinion expressed by the medical witness is not conducive to the administration of criminal justice. Further find that all the witnesses in consistent way stated before the Court that deceased had received bullet injuries on his arm and stomach and in this view of the matter the aforementioned citation is fully applicable in the present case. In overall scrutiny of the oral evidence as well as citation referred above I am of the clear opinion that prosecution has succeeded to prove its case against the accused persons U/s. 302/ 34 of Indian Penal Code.

Accordingly, I find and hold both of them guilty for the offence U/s. 302/ 34 of Indian Penal Code and convict them thereunder. Their bail bonds stand canceled and they are taken in to custody.

32. We find that the learned Trial Court committed grave error in disregarding the clear medical evidence on record which is at complete variance with the case of the prosecution. It is the specific case of the prosecution that the deceased suffered fire arm injuries, whereas, the doctor has categorically stated that the injuries found on the body of the deceased were caused by sharp cutting weapon. Such contradiction would completely upset the prosecution case. None of the witnesses are eye witnesses. Their evidences are also contradicting each other on material aspects. The impugned judgment and order of conviction and sentence dated 29.01.2013 cannot be sustained in law. In view of the evidences on record, the prosecution has failed to prove the offence of murder of the deceased to have been committed by these appellants beyond reasonable doubt. We, hereby, set-aside the judgment of conviction and order of sentence dated 29th of January, 2013 passed by the Principal Sessions Judge, Simdega in Sessions Trial No. 72 of 2008. Both the appellants are acquitted from the charges levelled against them. The appellants shall be released forthwith from the judicial custody, if their presence is not required in any other offence. This criminal appeal is allowed.