

(2013) 05 MP CK 0089

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 643 of 1998

Rafiq

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 15-05-2013

Acts Referred:

Citation : (2013) CriLJ 4118 : (2013) 3 MPJR 142

Hon'ble Judges : U.C Maheshwari, J;B.D. Rathi, J

Bench : Division Bench

Advocate : V.K. Bhardwaj, Anvesh Jain and V.K. Saxena and Aditya Singh, for the Appellant; B.K. Sharma, Government Advocate, for the Respondent

Judgement

U.C. Maheshwari, J.—This judgment shall decide aforesaid both the Criminal appeals bearing No. 643/1998 (Rafiq S/o. Subrati v. The State of Madhya Pradesh) and No. 03/1999 (Smt. Kallo Bai Wd/o. Subrati v. The State of Madhya Pradesh), arising out of the impugned judgment. Appellants have filed this appeal u/s 374 of Cr.P.C. being aggrieved by the judgment dated 8.12.998 passed by 1st Additional Sessions Judge, Gwalior in S.T. No. 207/1988 whereby the appellant of Cr. A. No. 643/98 has been convicted and sentenced u/s 498A of IPC for RI two years with fine of Rs. 200/- while the appellant of Cr. A. No. 03/99 has been convicted and sentenced under Sections 302 and 498A of IPC for life imprisonment with fine of Rs. 200/- in earlier section and RI two years with fine of Rs. 200/- in later.

2. The facts giving rise to these appeals in short are that, the deceased Manno Bai was married with appellant Rafiq on 22.2.1987. Subsequent to marriage she was residing in her matrimonial home along with the appellant Rafiq and his mother Kallo Bai. The father of the deceased Anwar (P.W. 2) had given all necessary things in the dowry but a Television set was not given. So subsequent to marriage the deceased was asked by the appellants that her parents have given lessor dowry and Television was not given. Due to that the deceased was subjected to harassment in the matrimonial home. On receiving such information

by her father Anwar (P.W. 2), he visited her residence and tried his level best to satisfy the appellant Rafiq, at that time he was asked by appellant Kallo Bai to take away his daughter from her residence and they will get second marry (sic) of Rafiq. Subsequent to that appellant Rafiq had left Manno Bai to her parental home where she resided for two three months but near about before two months from the date of the incident i.e. 29.2.1988, the appellant after giving the assurance that they will not harass her in future took her with him to matrimonial home. Subsequent to that and before fifteen days of alleged incident nephew of aforesaid Anwar Chhote Khan (P.W. 9) apprised that Manno Bai has sent the intimation that she is under fear of her life in the matrimonial home, so she should be brought her back (sic) on some early date, Subsequent to that on 29.2.1988 said Anwar on receiving the information from Ravindra Goswami that Manno Bai has been taken to hospital in burn condition then after apprising such incident to his brother Noor Mohd. went to Kamla Raja hospital Gwalior where Manno Bai was admitted. In hospital he was apprised by Manno Bai that since last three days appellant Rafiq was carried out her beating and today Kallo Bai after pouring kerosene with intention to kill set ablaze on her, resultantly she sustained burn injuries. The incident was immediately reported by Anwar at 11.30 am on the same day at Police Station Padaw, on which FIR (Ex. P.3) was registered against the appellants for the offence of Sections 307 and 498A of IPC. On the date of incident Ajay Singh (P.W. 17), Station House Officer of aforesaid Police Station went to the place of the incident and prepared the spot map (Ex. P.6), so also seized the Can of kerosene, along with the plain and blood stained earth and the match box by preparing the seizure memo (Ex. P.7). The case diary statement of Manno Bai was also recorded in the hospital, in which she categorically stated that Kallo Bai after pouring kerosene on her set ablaze. On the request of the police to the Executive Magistrate as well as the doctor to record the dying declaration of Manno Bai, on the same day i.e. 29.2.1988 her dying declaration in presence of witnesses and Dr. M.K. Gupta was recorded by P.L. Sharma (P.W. 2), Naib Tahsildar/Executive Magistrate Gwalior, in which the deceased stated that Kallo Bai after pouring kerosene set ablaze on her. During the course of treatment Manno Bai succumbed to alleged burn injuries, on which inquest intimation No. 7/88 was registered, in which autopsy of her corpus was carried out and its report (Ex. P.4) was prepared. After holding further investigation on completion of the same the appellants were charge-sheeted for the offence of Sections 302 and 498A r/w Section 34 of IPC.

3. After committing the case to the Sessions Court on evaluation of the charge-sheet initially on 4.8.1988 the charges of Section 302 in alternate of Sections 302/34 and 498A of IPC, were framed against the appellants, on which they abjured the guilt, on which the trial was directed. Subsequent to it, during pendency of the trial vide dated 3.0.7.1996 additional charge of Section 304B, IPC was also framed against both the appellants, they again abjured the guilt, on which the trial was proceeded further. After recording the evidence on appreciation of the same by the impugned judgment the appellant Rafiq was held

guilty for the offence u/s 498A of IPC while appellant Smt. Kallo was held guilty for the offence of Sections 498A and 302 of IPC and they were punished for their respective offence with the punishment as stated above. Being dissatisfied with such conviction and the sentence the appellants have come to this court with their above mentioned separate appeals.

4. Shri V.K. Saxena, Senior Advocate assisted by Shri Aditya Singh, learned counsel for the appellant Kallo Bai, after taking us through the record of the trial Court including the evidence of the prosecution as well as the defence so also exhibited papers argued that the prosecution has utterly failed to prove the alleged offence against the appellant Kallo, on proper appreciation of the evidence the trial Court ought to have acquitted this appellant. Initially, he said that taking into consideration the evidence adduced by the prosecution as accepted in its entirety even then the ingredients of alleged offence are not made out against this appellant. In continuation he said that there is no evidence on record to show that subsequent to marriage at any point of time the deceased was subjected to cruelty or harassment on account of dowry in the matrimonial home by this appellant. He further said that witnesses examined from the parental family of the deceased have deposed contrary to the case diary statement recorded u/s 161 of Cr.P.C. while some of the witnesses have not supported the case of the prosecution. Thus, in the lack of any admissible and cogent evidence with respect of alleged cruelty towards the deceased by this appellant, her conviction u/s 498A of IPC is also not sustainable. He further said that the conviction of this appellant u/s 302 of IPC is not sustainable on various counts. In this regard firstly he argued that there is no any eye witness who saw the incident, in which after pouring the kerosene on the deceased this appellant set ablaze on her. As such entire case is based on three sets of dying declarations, first set is of oral dying declaration, as alleged which was given by the deceased to her father Anwar (P.W. 2) and her aunt Rashidan (P.W. 11). According to them when they reached the hospital to meet Manno Bai then they were apprised by the deceased that after pouring the kerosene on her appellant Kallo set ablaze. In this regard he said that looking to the nature of burn injuries sustained by the person of the deceased it could be assumed that she was not in a position to speak, therefore the story put forth by the deceased to this witness could not have been relied upon by the trial Court but contrary to it, the same was relied on as supporting evidence of other dying declaration. He further said that as per deposition of Deepak Bhargav (DW 6) the case diary statement of the deceased Manno Bai was recorded before registration of the offence, which does not appear to be natural. He further said before recording such case diary statement fitness certificate of the deceased has not been obtained from the doctor on the contrary it was specifically noted that both hands of the deceased Manno Bai are in burned condition and due to such reason her thumb impression or signature could not be taken on such case diary statement. Even on such statement it is not stated that the same was read over to Manno Bai and was admitted by her as correct. So in such premises, such case diary statement being

not in accordance with law could not have been a foundation to draw any inference against this appellant. There is another dying declaration (Ex. P.12) is on record as alleged the same was recorded by Shri L.P. Sharma, Naib Tahsildar (P.W. 12). Mere perusal of the deposition of such witness, it is apparent that it was not recorded by the aforesaid witness after taking the fitness certificate from the doctor regarding mental status of the deceased Manno Bai whether she is in a position to give the statement and even at bottom of the same no specific fitness certificate to show that during such statement she remained fit, was obtained from doctor. Merely on the basis of the signature of the doctor and Naib Tahsildar, this dying declaration could not be a foundation to hold guilty to (sic) the appellant. He further argued that the same was not written in the question-answer manner. In such premises and in the lack of fitness certificate and the deposition of aforesaid Dr. M.K. Gupta, who signed the dying declaration at the bottom mere on deposition of Naib Tahsildar L.P. Sharma, the same could neither be relied nor safe to hold conviction against the appellant. He further argued that aforesaid Anwar and Rashidan on recording their case diary statement to the police said that they have a doubt that Manno Bai sustained the burn injuries by the act of the appellant and on recording their deposition they have stated contrary to such case diary statements and implicated this appellant for setting ablaze on her. So in such premises also the story put forth by these witnesses in their Court deposition being contrary to the case diary statement could not be relied upon. So far, other witnesses are concerned, he said that various relative of the parental family have not supported the prosecution case and whatsoever evidence has come on record is not sufficient to hold the impugned conviction against this appellant. With these submission he prayed to extend the acquittal to this appellant by allowing this appeal. In support of his contention he placed his reliance on the reported decisions in the matter of Kanchy Komuramma v. State of A. P. , in the matter of Girdhar Shankar Tawade Vs. State of Maharashtra, , so also in the matter of Kanhaiya Lal Patel and Another Vs. State of Madhya Pradesh (Now State of Chhattisgarh), .

5. Shri B.K. Bhardwaj, Senior Advocate assisted by Shri Anvesh Jain, learned counsel for the appellant Rafiq, after taking us through the record of the trial Court including the evidence of the prosecution as well as the defence so also exhibited papers by adopting the arguments advanced by above mentioned Senior counsel Shri V.K. Saxena argued that in view of inconsistency between the case diary statement and the deposition of Anwar (P.W. 2), Nanhi Bai (P.W. 4), the mother of the deceased, Rashidan aunt of the deceased, they could not be relied on. He further said that even on taking into consideration the evidence adduced by the prosecution is accepted" in its entirety even then, offence of Section 498A of IPC is not made out against this appellant. He also referred the deposition of aforesaid witnesses and prayed to extend the acquittal to this appellant. He also placed his reliance on some reported decision.

6. On the other hand responding the aforesaid arguments by justify the impugned conviction and sentence of the appellant Shri B.K. Sharma, learned

Govt. Advocate said that the same being based on proper appreciation of the evidence is in conformity with law does not require any interference either for extending the acquittal to the appellant or modifying the impugned conviction in some other section and prayed for dismissal of this appeal.

7. Having heard the counsel keeping in view their arguments, we have carefully gone through the record of the trial Court including the evidence and exhibited documents.

8. True it is that entire case of the prosecution is based on circumstantial evidence, so also on aforesaid three dying declarations of the deceased, out of them as alleged first oral dying declaration of the deceased Manno Bai was made in the hospital to her father Anwar (P.W. 2) and her aunt Rashidan (P.W. 11), as stated by these witnesses in their case diary statement. On receiving the information of bringing Manno Bai after sustaining the burn injuries, the Police went to the Hospital and recorded her interrogatory statement (Ex. D.3) the same could also be treated to be the dying declaration and third dying declaration (Ex. P. 12) was recorded by L.P. Sharma, Naib Tahsildar(P.W. 12).

9. So far oral dying declaration made by Manno in the hospital to her father Anwar (P.W. 2) and aunt is concerned, on recording the deposition of Anwar he categorically stated in paragraph one that her daughter got married with the appellant Rafiq on 20.2.1987. In her marriage all the articles were given by him, he is not in a position to remember the same but said that list of the articles, was given. Subsequent to marriage Manno Bai visited her residence, on such visit she apprised him that on account of demand of dowry she is subjected to beating by the appellant Rafiq while she is subjected to harassment by her mother-in-law. Manno Bai was also resided with him near about "three months and thereafter on giving assurance by Rafiq she was sent to matrimonial home but again she was subjected to harassment in the matrimonial home for which she sent the information to him through his nephew Chhotelal intimating to take her because her life is in danger. Subsequent to such information only after three four days, Manno Bai was killed by Rafiq by setting ablaze on her. On receiving information he reached to hospital where she was admitted, on which she apprised him that she has been burnt by her mother-in-law appellant Kallo while she was subjected to slap and thereafter he went to the Police Station Padaw and lodged FIR (Ex. P.3) while Rashidan (P.W. 11) aunt of the deceased on recording her deposition she stated that in the lifetime of Manno apprised her that her husband and mother-in-law are not keeping her properly and she has been subjected to harassment, on which she resided for two months in the parental home where for some days the appellant Rafiq was also resided but after giving assurance that she will be kept properly in the matrimonial home the appellant took her away while Manno was not inclined to go with him saying that she will come back, in spite that she was sent to the matrimonial home by her parents. Thereafter, she was killed by setting fire. On receiving such information she accompanied with her sister-in-law (Devrani) and Nanhi Bai went to the

hospital. In her cross-examination she categorically stated that she was apprised by Manno that she has been killed by setting ablaze by appellant Kallo while she was subjected to slap by appellant Rafiq. So accordingly, both the witnesses have stated about oral dying declaration given by the deceased Manno to them in the hospital. They have also stated about cruelty and harassment given by the appellants to the deceased in the matrimonial home.

10. Coming to consider the interrogatory statement of the deceased Manno (Ex. P.3), recorded by Deepak Bhargav (DW 6), Sub Inspector of police. True it is, that the same was recorded without obtaining any certificate regarding health condition of Manno and it is also stated that the hands of the deceased is in bad condition, thereby her thumb impression could not be taken on it but the fact remains that trial Court has only treated to be supporting dying declaration to the dying declaration recorded by the Naib Tahsildar Shri L.P. Sharma and therefore in other available circumstances of the matter (Ex. D. 3) also appears to be recorded by the police official. Accordingly, Deepak Bhargav (DW 6) he himself, on receiving the information he went to the hospital and according to his deposition of para four such case diary statement was recorded by him. We have not found any evidence to show that Deepak Bhargava Sub Inspector have any enmity with any of the appellants. Therefore, it could not be said that such statement was falsely prepared by the witness just to implicate the appellants. In such interrogatory statement (Ex. D.3) Manno Bai categorically stated that appellant Rafiq is her husband and subsequent to marriage her mother-in-law harassed her, today when I was in the kitchen my mother-in-law came from the backside and after pouring the kerosene set ablaze with match box, on which she cried, her clothes were also burnt then she became unconscious.

11. Coming to consider the dying declaration of the deceased (Ex. P.12), recorded by Shri L.P. Sharma, Naib Tahsildar/Executive Magistrate. On perusing the same it is apparent that the same has not been stated/recorded in the question answer manner but in such statement Manno Bai stated her name, husband's name, age and her address. In further averments she stated that whatsoever I will state it will be true, she further stated that on 29.2.1988 at about 8.00 O'clock in the morning she was subjected to slap by her husband while her mother-in-law after pouring the kerosene ablaze her. She herself stated that she is fully conscious and hearing the talk of the Magistrate and understand the same. The same is also having thumb impression of Manno at bottom and one side of such thumb impression Naib Tahsildar and another side Dr. M.K. Gupta have put their signature. Out of them aforesaid Naib Tahsildar has been examined to prove such dying declaration. It is undisputed fact on record that Dr. M.K. Gupta has not been examined to prove the same.

12. The appellant's counsel by referring the above mentioned cited cases argued that in view of the principle laid down in these cases and on account of non-production of the doctor as witness who signed the dying declaration (Ex. P. 12) gives sufficient circumstances to draw the inference, that such dying declaration

is neither genuine nor could be taken into consideration against the appellant.

13. We have carefully gone through all the aforesaid cited cases but in view of the decision of the Five Judges Bench of the Apex Court in the matter of Laxman Vs. State of Maharashtra, , in the available circumstances of the present case any of the aforesaid cited case is not helping to the appellants. In above mentioned decision, the Apex Court has held as under:

.....But where the eye-witnesses state that the deceased was in a fit and conscious state to make the declaration, the medical opinion will not prevail, nor can it be said that since there is no certification of the doctor as to the fitness of the mind of the declarant, the dying declaration is not acceptable. A dying declaration can be oral or in writing and in any adequate method of communication whether by words or by signs or otherwise will suffice provided the indication is positive and definite. In most cases, however, such statements are made orally before death ensues and is reduced to writing by someone like a magistrate or a doctor or a police officer. When it is recorded, no oath is necessary nor is the presence of a magistrate is absolutely necessary, although to assure authenticity it is usual to call a magistrate, if available for recording the statement of a man about to die. There is no requirement of law that a dying declaration must necessarily be made to a magistrate and when such statement is recorded by a magistrate there is no specified statutory form for such recording. Consequently; what evidential value or weight has to be attached to such statement necessarily depends on the facts and circumstances of each particular case. What is essentially required is that the person who records a dying declaration must be satisfied that the deceased was in a fit state of mind. Where it is proved by the testimony of the magistrate that the declarant was fit to make the statement even without explanation by the doctor the declaration can be acted upon provided the Court ultimately holds the same to be voluntary and truthful: A certification by the doctor is essentially a rule of caution and therefore the voluntary and-truthful nature of the declaration can be established otherwise.

14. In view of the aforesaid law on examining the case at hand in view of the aforesaid discussion the same is applicable to the present case and also sufficient to act upon on the dying declaration (Ex. P. 12) recorded by the Naib Tahsildar/ executive Magistrate.

15. Apart (sic) the aforesaid in the matter of State of Karnataka Vs. Shariff, , in which it was held as under:

21. It is true that P.W. 11 and P.W. 14 were Police personnel and a Magistrate could have been called to the hospital to record the dying declaration of Muneera Begum, however, there is no requirement of law that dying declaration must necessarily be made to a Magistrate. In AIR 1997 234 (SC) on receiving message from the hospital that a person with gun shot injuries had been admitted a head constable rushed to the place after making entry in the police register and after

obtaining certificate from the doctor about the condition of the injured took his statement for the purposes of registering the case. It was held that the statement recorded by the head constable was admissible as dying declaration. Similar view was taken in Munnu Raja and Another Vs. The State of Madhya Pradesh, ; wherein the statement made by the deceased to the investigating officer at the police station by way of First Information Report, which was recorded in writing, was held to be admissible in evidence.

23. In Padmaben Shamalbhai Patel Vs. State of Gujarat, it was held that the failure on the part of the medical men to record the statement of the deceased in question and answer form cannot in any manner affect the probative value to be attached to then; evidence. This view was reiterated in State of Rajasthan v. Bhup Ram, 1997 (1) Crimes 62 and Jai Prakash and Others Vs. State of Haryana, .

16. In the, light of this decision, the conviction could be based even on the basis of dying declaration of the deceased recorded by the police, as such there is no requirement to record the same by the Executive Magistrate. It is also held" in this case that recording the dying declaration in question and answer form is not required and on that count, also the dying declaration could not be discarded. It is also held that dying declaration of the deceased could not be discarded to draw any inference on the basis of the injury report or post mortem report of the deceased.

17. Long before in the matter of Muniappan Vs. State of Madras, the Apex Court has held as under:

6. The dying declaration in the present case was as follows:

"Sir,

This day 24th January, 1960, in the noon at 12.30 Muniappan, son of Kola Goundan of Kannankurichi stabbed me in my body with knife.

Soon after he said these words, his speech stopped. His life was gone.

(Left thumb impression of) Elumalai witnesses:

1. (Signed in Tamil) Muthuswami Udayar.

2. (Signed) K: R. Perumal.

3. (Signed in Tamil) C. Kannan.

4. (Left thumb impression of) Kundaswami.

24th January, 1960. (Signed) S. A. Amir, Sub-Inspector.

Here, the accusation against the appellant was complete, and there is nothing to show that Elumalai wished to say anything more or that he had anything more to add. In so far as the dying declaration, goes, it is a complete statement, and

makes a very clear accusation against the appellant. If this dying declaration is taken into account, then it hardly needs corroboration in view of the decision of this Court in *Khushal Rao Vs. The State of Bombay*, . The Privy Council case, therefore, is clearly distinguishable on facts and does not apply to the dying declaration with which we have to deal. The Privy Council case was considered by this Court in *Abdul Sattar Vs. The State of Mysore*, , where also the dying declaration was incomplete but was quite categoric in character and definitely indicated that it was the accused in that case who had shot the deceased. The dying declaration was, therefore, acted upon. The learned counsel for the appellant attempted to distinguish *Abdul Sattar Vs. The State of Mysore*, on the ground that in that case there was corroboration of the dying declaration and contended that an incomplete dying declaration, if categoric in character, may be acted upon if corroborated but not if not so corroborated. In our opinion, corroboration would not always be necessary if the dying declaration is complete in its accusation and there is nothing to show that the maker of the statement had anything further to add.....

18. The question relating to the dying declaration on arising the occasion was also considered by the Apex Court in the matter of *Ram Bihari Yadav Vs. State of Bihar and Others*, , in which it was held as under:

11. From a plain reading of Exh. 2 as well as the statement of P.W. 7, it is clear that the learned magistrate has satisfied himself about the identity of Smt. Shivratri Devi; he put questions to her and satisfied himself about her condition that she was fit enough to make the statement. The statement itself consists of two sentences. Having regard to all the facts and circumstances both the courts below have relied upon the dying declaration and we find no cogent reason to take a different view of the matter. Having found that the dying declaration is true and acceptable there is no escape from the conclusion that the appellant was responsible for intentionally causing burn injuries to his wife Smt. Shivratri Devi, which resulted in her death.

19. Besides the aforesaid in the matter of *Smt. Paniben Vs. State of Gujarat*, , the Apex Court has held as under:

It would be a travesty of justice if sympathy is shown when cruel act like bride burning is committed. It is rather strange that the mother-in-law who herself is a woman should resort to killing another woman. It is hard to fathom as to why even the "mother" in her did not make her feel it is tragic deep rancour should envelope in her reason and drawn her finer feelings. The language deterrence must speak in that it may be a conscious reminder to the society,, Undue sympathy would be harmful to the cause of justice. It may even undermine the confidence in the efficacy of law. Mere fact v. that the accused, mother-in-law, has spent more than a decade in jail, can-not be a ground to show any leniency.

20. In view of aforesaid dictum mere satisfaction of the Magistrate regarding physical fitness of the person to record the dying declaration is sufficient and if

such statement has been proved by the Magistrate then in every case there is no necessity to obtain fitness certificate from the doctor or to prove fitness of the person by examining the doctor. In the aforesaid last cited case it was also held that mere on account of advance age of the accused like appellant Kallo no lenient view could be adopted by the Court either for holding conviction or imposing the punishment.

21. In the aforesaid premises dying declaration Ex. P.12 recorded by Shri L.P. Sharma, Naib Tahsildar/Executive Magistrate could not be held to be inadmissible. Mere such dying declaration is sufficient to hold the conviction against the appellant Kalloo.

22. In the case at hand as stated above besides the dying declaration Ex. P,12 recorded by the Executive Magistrate the story narrated by the deceased in the aforesaid dying declaration Ex. P.12, is also found to be supported with the dying declaration of deceased Manno recorded in the shape of case diary statement by Deepak Bhargav (DW 6), in which in some different words same thing has been stated, as stated in the Ex. P. 12. Thus mere on hyper technical ground any of the aforesaid dying declarations could not be disbelieved specially when the version stated in such dying declaration is further supported by Anwar (P.W. 2), father of the deceased and Rashidan (P.W. 11), aunt of the deceased, as stated above. So in such premises, we are of the considered view that the trial Court has not committed any error in holding the impugned conviction u/s 302 against the appellant Kallo by relying on all three dying declarations. Therefore, findings of the trial Court in this regard being not required any interference at this stage, are hereby affirmed.

23. So far the question of sustainability of conviction and sentence of both the appellants u/s 498A of IPC is concerned, it is apparent from written dying declarations (Ex. P.12) and (Ex. D.3) that on the date of the incident at the same place and the same time initially a slap was given by the appellant Rafiq to the person of the deceased and thereafter the appellant Kallo came from the backside and after pouring the kerosene set her ablaze. So, firstly this act at the same time and same place by the appellants gives sufficient circumstance to draw the inference against them that the deceased in her matrimonial home was subjected to cruelty, beating and harassment. Besides this, the Anwar (P.W. 2) and Nanhi Bai (P.W. 4), father and mother of the deceased respectively categorically stated in their depositions that in the lifetime deceased Manno Bai apprised them regarding cruelty, beating and harassment carried by the respective appellants on her. So in these premises, the approach of the trial Court holding guilty to both the appellants for the offence u/s 498A of IPC does not appear to contrary to the record and the same do not require any interference at this stage.

24. In view of aforesaid discussions and being distinguishable on facts the case law cited by the appellants" counsel in the matter of Girdhar Shankar Tawade v. State of Maharashtra (supra) and Girdhar Shankar Tawade Vs. State of

Maharashtra, are also not helping to the appellants.

25. In view of the aforesaid, we have not found any perversity, illegality, or irregularity or anything against propriety of law in the impugned judgment of the trial Court requiring any interference at this stage, Consequently, by affirming the judgment as well as conviction and sentence of aforesaid both the appellants as awarded are hereby affirmed and both the appeals being devoid of any merits are hereby-dismissed. The bail bonds of the appellants, are hereby cancelled Pursuant to it, the appellants are directed to surrender themselves before the trial Court, on or before 1.7.2013 for facing their respective remaining awarded jail sentence, failing which the trial Court shall be at liberty to is take appropriate steps to serve, the awarded jail sentence to them.

26. Separate copy of judgment is being placed in both the appeals. Let the record of the trial Court along with a copy of this judgment be sent to the trial Court immediately for compliance.