

(2013) 10 GUJ CK 0156
In the Gujarat High Court

Case No : Criminal Appeal No. 1034 of 2008 with Criminal Appeal No. 1256 of 2008

Ramubhai @ Rameshbhai Manjibhai Ghevariya

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 04-10-2013

Acts Referred:

Citation : (2013) 10 GUJ CK 0156

Hon'ble Judges : K.S. Jhaveri, J;K.J. Thaker, J

Bench : Division Bench

Advocate : Pravin Gondaliya in Criminal Appeal No. 1034 of 2008 and Mr. Y.S. Lakhani, Mr. R.J. Dholakia in Criminal Appeal No. 1256 of 2008, for the Appellant; K.P. Raval, Public Prosecutor, for the Respondent

Judgement

K.J. Thaker, J.—Since, both the appeals arise out of the same incident, they are heard together and disposed of by this common judgment. Criminal Appeal No. 1034 of 2008 is preferred by the original accused in Sessions Case No. 196 of 2001, assailing the judgment and order of the Additional Sessions Judge, 2nd Fast Track Court, Amreli, Dated: 15.02.2008, whereby, he was convicted for the offence punishable u/s 324 of the IPC and was sentenced to undergo simple imprisonment for two years and to pay fine of Rs. 5,000/- and in default to undergo further simple imprisonment for one year.

2. Criminal Appeal No. 1256 of 2008 is preferred by the original accused Nos. 1 to 3 in Sessions Case No. 195 of 2001, assailing the judgment and order of the Additional Sessions Judge, 2nd Fast Track Court, Amreli, Dated: 15.02.2008, whereby, they were convicted for the offence punishable u/s 302 read with Section 34 of the IPC and were sentenced to undergo imprisonment for life and to pay fine of Rs. 5,000/- by each of them and in default to undergo further simple imprisonment for one year. The appellants were also convicted for the offence punishable u/s 323 and 324 of the IPC, however, no separate sentences were imposed on them under the said sections.

3. Here, it is pertinent to note that original accused No. 3 in Sessions Case No. 195 of 2001 was a minor, at the time of commission of the offence, and hence, his case was referred to the Juvenile Justice Board. Therefore, Criminal Appeal No. 1256 of 2008 would, now, survive only qua original accused Nos. 1 and 2 - the appellant Nos. 1 and 2, therein.

4. In view of the fact that both the appeals challenge different orders in different sessions cases arising out of the cross-complaints lodged in respect of the same incident, we would first like to advert to the facts of the case emerging from the record of Criminal Appeal No. 1034 of 2008 in brief, which reads as under;

5. A complaint came to be filed by one Parsottam Madhubhai on 02.11.1996, wherein, it was stated that on the date of the alleged incident the complainant along with his brother Kantibhai had gone to their farm and while they were uprooting the plants of nilgiri, neem etc., the accused-Ramesh and his brother, Kalubhai, came there and started abusing them and then, the deceased-Kalubhai, who had khampali in his hand inflicted blows on the head, legs, hands of the complainant and when the brother of the complainant, Kanti Madhu, tried to intervene, the accused, herein, namely Ramesh, inflicted injury on Kanti. Then, on hearing commotion, one Babu Bhangi and son of the complainant came there and on seeing them, the accused run away, threatening them of dire consequences. On registration of the offence, police carried out investigation and filed charge-sheet against the accused-Ramesh, on finding prima facie evidence against him. At the time of trial, the accused- Ramesh, did not plead guilty, and hence, he was tried for the alleged offence.

6. In support of its case, the prosecution examined the following witnesses;

7. The prosecution also placed reliance on the following documentary evidences;

8. At the end of the trial, the trial Court convicted and sentenced the accused-Ramesh, as referred to herein above. Hence, the present appeal.

9. Heard, learned Counsel for the appellant, and Mr. K.P. Raval, learned APP, on behalf of the respondent-State, and perused the material on record with their assistance.

10. To establish his case, the complainant -P.W.-1 examined himself at Exhibit-36. P.W.-1, in his examination-in-chief, narrated the entire incident in detail and stated that after he made the khampali fall from the hands of Kalubhai, he and Kalubhai were struggling with each other and at that time, the accused Ramesh made an attempt to inflict a blow of iron pipe on his head, but, since, P.W.-1 turned aside, the aforesaid blow landed on the head of Kalubhai. Then, on hearing the commotion, since, one Babu Bhangi and the son of P.W.-1, Rakesh, came there, the accused fled from the scene of offence. P.W.-1, then, stated that Kalubhai expired on account of infliction of pipe blow by the accused Ramesh and that they were falsely arrested in connection with the said offence. This witness, then, identified the muddamal pipe as the one, which was in the

hand of the accused-Ramesh. In his cross-examination, this witness denied the suggestion that on account of the alleged incident, there was tense situation and out of fury, the persons, who had gathered there, caused injuries to them. This witness also denied the suggestion that with a view to save himself from the complaint filed against him, he had filed the cross-complaint.

11. P.W.-2, who happens to be the brother of the complainant, i.e. P.W.-1, fully supported the case of the prosecution and he reiterated the facts given in the complaint. In his cross-examination, this witness stated that it was not true that for the first time he was telling that Kalubhai sustained the blow of pipe inflicted by the accused-Ramesh.

12. P.W.-4, who was serving as MO at hospital at Savar Kundla and who had examined P.W.-1 and P.W.-2 on the date of the alleged offence was examined at Exhibit-44. P.W.-4 stated that he had noticed about seven injuries on the body of P.W.-1 and about three injuries on P.W.-2. This witness stated that he was given the history of attack by khampali and stick. In his cross-examination, P.W.-4 stated that it is not true that, though, P.W.-1 and P.W.-2 were not required to be kept admitted in the hospital, they were kept as indoor patient up to 05.11.1996 and on account of that corrections were done in their case papers.

13. So far as other witnesses are concerned, P.W.-3 did not support the case of the prosecution and was declared hostile, whereas, P.W.s-5, 6 and 7 were the police witnesses.

14. Having undertaken the aforesaid exercise, if, the complaint Exhibit-59 given by the complainant-P.W.-1 is examined, he has stated, therein, that on the date of the alleged offence, the accused Ramesh and the deceased, Kalubhai, were cutting trees from their land and when, P.W.-1 and P.W.-2 tried to prevent them, they attacked them and that the accused Ramesh inflicted pipe blows on P.W.-2 and when his son, Rakesh, and others came there, the accused run away, whereas, in their respective examinations-in-chief, P.W.-1 and P.W.-2 came out with a new story that while the accused Ramesh tried to inflict blow on P.W.-1, since, P.W.-1 moved aside, the blow landed on the head of Kalubhai and Kalubhai subsequently expired. Naturally, at the time of filing of the Complaint (Exhibit-59) or at any time before the police P.W.-1 and P.W.-2 never took the aforesaid defence. Thus, it becomes clear that the same is nothing, but, an afterthought and that during his cross-examination, P.W.-1 fairly conceded the said fact stating that in the complaint given by him, he did not disclose the aforesaid fact. Hence, the trial Court rightly inferred that P.W.-1 and P.W.-2 were not disclosing the true and correct facts. It is also pertinent to note that as per the evidence of P.W.-1 and 2, on seeing Rakeshbhai and Babu Bhangji, the accused fled from the scene of offence. However, none of them was examined by P.W.-1 in support of his say, as stated above. It may also be noted that on the iron pipe, which was allegedly wielded by the accused Ramesh, at the time of the offence, no blood marks were found, whereas, on the iron pipe alleged to be held by P.W.-1, the marks of blood of blood group of the deceased, Kalubhai, were

found. Hence, the trial Court rightly did not believe the story of P.W.-1 of infliction of injury on the deceased by the accused Ramesh. However, from the evidence of P.W.-1 and P.W.-2, which gets support from the evidence of P.W.-4, it is clearly borne out that the accused Ramesh had inflicted injuries on P.W.-2. We are, therefore, of the opinion that the trial Court was justified in holding the accused Ramesh guilty u/s 324 of the IPC.

15. As regards the aspect of sentence is concerned, here, it would be relevant to refer to the provisions of Section 324 of the IPC, which reads as under;

324. Voluntarily causing hurt by dangerous weapons or means:--whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

16. Thus, from the above provisions it is clear that for the offence u/s 324 of the IPC, the accused could either be ordered to undergo imprisonment for a certain term or alternatively to pay fine, as the Court may deem fit, or with both. In the present case, the offence took place as back as in the year 1996. We are, therefore, of the opinion that by sending the accused behind the bar after this many years would not serve any purpose, however, the ends of the justice would met, if, the sentence to undergo imprisonment for two years imposed by the trial Court on the accused-Ramesh is modified and he is ordered to pay fine of Rs. 50,000/- in lieu thereof and out of the said amount, Rs. 25,000/- be paid to each of the injured witnesses.

17. Now, coming to the case of the prosecution, as set out before the trial Court, insofar as Criminal Appeal No. 1256 of 2008 is concerned, same reads as under;

18. A complaint came to be filed by one Rameshbhai Manjibhai, on 02.11.1996, wherein, it is stated that they are two brothers, i.e. the complainant himself and Kalubhai, and they own about 40 bighas of land. Out of the aforesaid land, about 8 bighas of their land is situated on the road leading to village Dolti and besides the said land, there is the land of Parsottam Madhubhai, who is the complainant in Session Case No. 196 of 1996 and who happens to be the son of their grandfather. The complainant, then, went on to narrate the offence stating that on the date of the alleged offence, he along with his brother Kalubhai, Chandrikaben W/o. Kalubhai and one Bhagwan Nanjibhai were going to their farm, since, pipes were to be laid in their farm. The complainant was driving their bullock cart, whereas, Kalubhai and Bhagwanbhai were coming behind them, on foot. When they reached near the boundary of their farm, the accused Nos. 1 and 2, who were armed with iron pipes, and accused No. 3, who was

armed with a dhariya, rushed towards them and accused No. 1 inflicted a pipe blow on the complainant and on account of that the complainant fell down from the cart and when Kalubhai tried to intervene, the accused No. 3 inflicted a dhariya blow on the head of Kalubhai, and hence, Kalubhai also fell down. Pursuant thereto, accused Nos. 1 and 2 started inflicting pipe blows on Kalubhai and when Chandrikaben tried to intervene, she was also beaten-up by the accused persons. At that time, on hearing the commotion, one Parsottam Nagjibhai, Bhagwan Nanji and Nathabhai Mohanbhai came there, and hence, the accused fled the scene of offence. The injured were then taken to the Hospital and a complaint was given. Later on, since, the injured, Kalubhai, succumbed to the injuries sustained by him, the offence u/s 302 of the IPC came to be added.

19. On registration of the offence, police carried out the investigation and on finding, prima facie evidence against the original accused Nos. 1 to 3, therein, filed charge-sheet against them. The case being exclusively triable by a Court of Sessions, same was committed before the Sessions Court, Amreli, for trial. At the time of trial, the accused did not plead guilty and claimed to be tried. Hence, the accused were tried for the alleged offence.

20. To bring home the charges leveled against the accused, the prosecution examined the following witnesses;

21. The prosecution also placed reliance on the following documentary evidence in support of its case;

22. On completion of the trial, the statement of the accused u/s 313 of the Cr.P.C. came to be recorded, and then, the trial Court passed the judgment and order, as referred to herein above. Hence, the present appeal by accused Nos. 1 and 2.

23. To examine the aspect, whether, the deceased, Kalubhai, expired due to injuries inflicted on him by the accused Nos. 1, 2 and 3 and whether, the same would amount to culpable homicide punishable u/s 302 of the IPC, here, it would be relevant, first, to refer to the evidence of P.W.-1.

24. P.W.-1, who was the victim as well as the eye-witness of the alleged offence, was examined at Exhibit-82. In his examination-in-chief, P.W.-1 stated that on the date of the alleged incident he along with the deceased and the wife of the deceased was proceeding towards their farm, since, pipes were to be laid in their farm. P.W.-1 and the wife of the deceased were riding the bullock cart, whereas, the deceased was coming behind them on foot along with one Bhagwan Nanji and Natha Mohan and when they reached near the farm of accused No. 1, all the three accused rushed towards them. Accused Nos. 1 and 2 were armed with iron pipes, whereas, accused No. 3 was carrying "dhariya". The complainant, then, narrated the facts given by him in his complaint, stating as to how accused No. 1 inflicted pipe blow on him and when the deceased tried to intervene as to how he too was inflicted injuries with dhariya and pipes by the accused. P.W.-1, then, identified the weapons used by the accused Nos. 1 to 3, as muddamal articles

No. 8 as dhariya, No. 13 as big iron pipe and No. 14 as small iron pipe. This witness was exhaustively cross-examined by the defence. In his cross-examine, this witness categorically stated as to how the accused, first, surrounded him and then started inflicting blows on him indiscriminately. This witness, then, stated that he had seen the original accused No. 3 inflicting dhariya blow on the deceased. This witness denied the suggestions that he was lying that the accused Nos. 1 to 3 had inflicted injuries on the deceased and that no such incident has taken place. P.W.-1 also denied the suggestion that with a view to frame the accused, he made up the story of lying pipes in the farm.

25. The evidence of P.W.-1 gets support from the evidence of P.W.-2, who is another eye-witness of the incident. This witness also fully supported the case of the prosecution and narrated the entire incident, in her examination-in-chief. This witness also identified the muddamal weapons as well as the clothes put on by the deceased, Kalubhai, at the time of the offence. This witness was also thoroughly cross-examined by the learned Advocate for the accused Nos. 1 to 3, but, he failed to bring out anything which would help their case.

26. P.W.-17 and P.W.-20, who were accompanying the deceased and the complainant on the date of the alleged offence for helping them in the work of laying pipes, were examined at Exhibits-118 and 125, respectively. These witnesses also categorically narrated the entire incident, and then, identified the muddamal articles Nos. 8, 13 and 14 as the weapons used by the accused Nos. 1 to 3, stating that (1) article No. 8, Dhariya, was in the hand of accused No. 3, (2) article No. 13, iron pipe, was in the hand of accused No. 2, whereas, (3) article No. 14, another iron pipe, was in the hand of accused No. 1. In their respective cross-examinations, these witnesses also denied the suggestions that on the date of the alleged offence, they did not go to the farm of the deceased and that they had not seen anything.

27. P.W.-3, who was a witness to the panchnama of place of offence, was examined at Exhibit-88. This witness fully supported the case of the prosecution on the aspect of procedure as well as the seizure of muddamal from the place of offence. In his cross-examination, this witness emphatically stated that the panchnama was recorded in his presence, as witnessed by him.

28. P.W.-4 was one of the witness to the Inquest Panchnama of the body of the deceased. P.W.-4 also fully supported the said panchnama. In his cross-examination this witness denied the suggestion that the panchnama was not done in his presence.

29. P.W.-14, who was serving as MO at K.K. Hospital at Savar Kundla, was examined at Exhibit-103. This witness in his examination-in-chief stated that he had noticed about two injuries on the head of the deceased and about four injuries on the body of the complainant. This witness was of the opinion that the injuries sustained by the deceased could be caused with iron pipe and with the handle of the dhariya. Thus, the evidence of this witness supports the case of the

prosecution on the aspect of injuries sustained by the deceased and the complainant as well as the weapons alleged to be used by the accused Nos. 1 to 3 in committing the offence.

30. P.W.-15, who had performed PM on the body of the deceased, in his examination-in-chief stated that he had noticed following injuries on the body of the deceased;

1. one wound with stitches on the left side of the head, on contraportite occipital region, which was about 8" cm. Long, about 3" inches above the left ear and about 2.5" inches back side from the left brow,;

2. one wound with stitches on the left parietal, about 6 cms. long, which was ranging from 4" inches above the left ear with swelling and there was clotting of blood and blood stains, thereon;

3. there was swelling on right forearm.

31. This witness, further, stated that the injuries sustained by the deceased were sufficient enough to cause his death in general course. P.W.15 also opined that the injury Nos. 1 and 2 found by him on the body of the deceased could be caused by blunt portion of muddamal article No. 8, dhariya, and by muddamal article Nos. 13 and 14 as well, i.e. iron pipes. From the cross-examination of this witness, the learned Advocate for the accused Nos. 1 to 3 failed to bring out anything which would help their case.

32. P.W.-19, who prepared the map of the place of offence, also fully supported the case of the prosecution and the cross-examination of this witness do not help the case of the accused Nos. 1 to 3 in any manner.

33. P.W.-21, who conducted the investigation in the alleged offence, fully supported the case of the prosecution and from the cross-examination of this witness also, nothing significant could be brought out.

34. P.W.-22, who had examined the deceased on the date of the alleged offence, was examined at Exhibit-160. This witness also supported the case of the prosecution on the aspect of head injuries sustained by the deceased. The cross-examination of this witness is not of much relevance.

35. Insofar as the evidence of P.W. Nos. 5, 6, 7, 9, 10, 11, 12, 13, 16 and 18 are concerned, they did not support the case of the prosecution and were declared hostile, and hence, we do not propose to go into the details of the evidence of these witnesses. However, the note of the fact may be taken that the hostile stand taken by these witnesses do not affect the case of the prosecution in any manner, since, the same stands corroborated by the account of the offence given by the eye-witnesses, which in turn stands corroborated by the medical evidence.

36. The evidence of P.W.-1, who was an injured eye-witness, stands fully corroborated by the evidence of P.W.-2 and P.W.s-19 and 20, who were independent eye-witnesses as well as by the evidence of P.W.-3, who was a

witness to the panchnama of place of offence, and P.W.4, who was witness to the inquest panchnama. In view of the above, we are of the opinion that the learned Judge committed no error in holding the accused Nos. 1 and 2 guilty for the act of causing death of the deceased.

37. In the case on hand, it has come on record that on the date of the alleged offence, while the complainant and the deceased, Kalubhai, and others were proceeding towards their farm, the original accused Nos. 1 to 3 attacked them and caused injuries to them and on account of that the injured Kalubhai expired, subsequently. Hence, the trial Court was justified in not accepting the plea of accused Nos. 1 to 3 of self-defence. Thus, having discussed the oral as well as the documentary evidence, as stated above, we are of the opinion that the prosecution has succeeded in establishing its case beyond reasonable doubt against the original accused Nos. 1 and 2. Now, what we have to determine is whether the trial Court was justified in recording the conviction of the appellant u/s 302 of the Indian Penal Code or not.

38. Before proceeding, further, here it would be relevant to refer to the provisions of Section 299 read with Sections 300 and 304 of the Indian Penal Code, which are as under;

299. Culpable homicide:--Who ever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

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300. Murder:--Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or-

2ndly--If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or--

3rdly--If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or--

4thly--If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

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304. Punishment for culpable homicide not amounting to murder:--Whoever commits culpable homicide not amounting to murder shall be punished with 1[imprisonment for life],or imprisonment of either description for a term which

may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death,

Or

With imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

39. Keeping in mind the aforesaid provisions of law, if the facts of the present case are examined, then, it has come on record that in the alleged offence both the sides sustained injuries, which fact is borne out from the evidence of P.W.-14, who in his cross-examination stated that on the date of the alleged offence he had examined original accused Nos. 1 and 2. P.W.-14, further, stated that accused No. 1 had given him the history of injury by "khampali" and he had found about seven injuries on accused No. 1 and about three injuries on accused No. 2. We are, therefore, of the opinion that the trial Court committed an error in convicting the accused Nos. 1 and 2 u/s 302 of the IPC and instead the case of the accused Nos. 1 and 2, in view of the above discussion, would fall within the provisions of Section 304 (Part I) and if, they are imposed the sentence to undergo imprisonment for 10 years, same would serve the ends of justice.

40. In view of the fact that the present is a case of group fight, in respect of which cross-complaints were filed by both the sides, it would be relevant to refer to a decision of the Hon'ble Apex Court in the case of Ankush Shivaji Gaikwad Vs. State of Maharashtra, In that case, while the original accused Nos. 1 to 3 were passing through the filed of the deceased, wherein the crop of sugar-cane was taken by the deceased, the dog of the deceased started barking at them and being aggrieved thereby original accused No. 1 hit the dog with an iron pipe and when the deceased objected to the same, there was exchange of hot words, which resulted into a scuffle, during which original accused Nos. 2 and 3 delivered kick and fist blows to the deceased, whereas, accused No. 1 inflicted blow of iron pipe on the head of the deceased, on account of which the deceased expired, subsequently. The trial Court as well as the High Court held the accused No. 1 guilty for the offence of murder and convicted him u/s 302. Being aggrieved there by the accused No. 1 approached the Hon'ble Apex Court and the Apex Court, taking into consideration the facts and circumstances of the case that there was a sudden quarrel, modified the conviction of the accused No. 1 from Section 302 to Section 304(II) of the Indian Penal Code.

41. Thus, in view of the fact that in the instant case also the incident took place in the year 1996, the impugned judgment and order was rendered by the trial Court in the year 2008, i.e. nearly after 12 years from the date of the alleged offence, and in view of the fact that both the sides had received injuries during the incident, the accused Nos. 1 and 2, the appellant Nos. 1 and 2 in this appeal,

deserve to be given the benefit of the aforesaid judgment of the Apex Court in the case of "Ankush Shivaji Gaikwad" (Supra). We are, hence, of the opinion that, if, the accused Nos. 1 and 2, i.e. the appellants in Criminal Appeal No. 1256 of 2008, are ordered to be released forthwith giving them the benefit of decision in "Ankush Shivaji Gaikwad" (Supra), on their making payment of Rs. 1,00,000/- by each of them towards compensation, which shall be paid to the widow of the deceased Kalabhai, the same would be just and proper.

42. For the reasons recorded herein above, following order is passed;

43. In the result, Criminal Appeal No. 1034 of 2008 is PARTLY allowed and the judgment and order of the trial Court rendered in Sessions Case No. 196 of 2001, Dated: 15.02.2008, convicting the original accused- the appellant, therein, u/s 324 of the Indian Penal Code and imposing sentence of imprisonment for two years is Modified and the same is substituted with fine of Rs. 50,000/-, which will be paid by him within a period of Eight Weeks from today, failing which the original sentence, as imposed by the trial Court, will automatically stand Revived. On depositing of the aforesaid amount by the accused appellant, therein, each of the injured witnesses will be paid Rs. 25,000/- by way of account payee cheque towards compensation, as provided u/s 357 of the Cr.P.C. The accused-appellant in this appeal is on bail, and hence, his bail bonds stand Discharged.

44. Criminal Appeal No. 1256 of 2008 is also allowed in Part and the judgment and order of the trial Court rendered in Sessions Case No. 195 of 2001, Dated: 15.02.2008, convicting the original accused Nos. 1 and 2-the appellants, therein, u/s 302 read with Section 34 of the Indian Penal Code and imposing sentence of imprisonment for life is partly modified and they are convicted u/s 304 (PART-I) of the Indian Penal Code and are sentenced to undergo imprisonment for Ten Years. However, in view of the ratio laid down by the Hon"ble Apex Court in the case of "Ankush Shivaji Gaikwad" (Supra) and in view of the provisions of Section 357 of the Code of Criminal Procedure, if, the original accused Nos. 1 and 2 pay a compensation of Rs. 1,00,000/- each, within a period of Eight Weeks from today, then, the period of imprisonment already Undergone by them till date will be treated as sufficient and they will be released from the custody forthwith, if, they are not required in connection with any other case. On depositing of the aforesaid amount, the same shall be paid to the heirs of the deceased, Kalubhai, by way of an account payee cheque.

45. In view of the fact that the original accused No. 3 in Sessions Case No. 195 of 2001 was a minor and his case was referred to the Juvenile Justice Board by the concerned trial Court, no order is required to be passed in that regard. A copy of this judgment and order be sent to the concerned jail, forthwith.