
(1997) 08 AHC CK 0062

In the Allahabad High Court

Case No : Criminal Appeal Nos. 253, 431 of 1983

Santosh Kumar alias Bachcha and Ors.

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 22-08-1997

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (1997) 08 AHC CK 0062

Hon'ble Judges : D.K.Trivedi, J and I.P.Vasishtha, J

Final Decision : Dismissed

Judgement

I. P. Vasishtha, J.—Both these appeals are directed against one common judgment of conviction and order of sentence, dated 2431983 passed by J.P. Agrawal, the then Sessions Judge, Faizabad requiring them to undergo life imprisonment for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The appellants along with four others were prosecuted by Faizabad Kotwali police for having committed the murders of Smt. Bhagwati Devi, Smt. Rajdei, Km. Lata and an infant child Lachhman on 2121981 at around 12 noon in the heart of the town Faizabad. All of them were related inter se and members of an extended family including the appellants. The genesis of rancour lay in a family dispute over proeprty as according to the prosecution their ancestor Jagannath was quite a rich man with considerable agricultural and other landed properly situated at Faizabad and in some surrounding villages. He had three sons viz., Sant Kishore, Hans Kishore and the complainant PW 1 Tulsi Ram. In 1960 Sant Kishore separated from the family and got 35 bighas of land, two residential houses and a shop besides some cash in lieu of his share. In 1975 Hans Kishore also parted company at the insistence of his son Ajai Kumar (appellant) and that left Tulsi Ram alone with his parents.

3. The accused Santosh Kumar alias Bachcha is one of the sons of Sant Kishore who was stated to be a man of extravagant habits and so he took one muslim

lady as his keep. This relationship did not prove healthy for his immediate family members as it threw him in a lot of financial difficulties. Similarly, Hans Kishore also could not manage his affairs properly, firstly, because of lack of attention to the business on account of illhealth and secondly because he too had started living with a keep named Burma. Accused Ajai Kumar is one of the sons of his legally wedded wife.

4. Sant Kishore predeceased them all thus passing on the burden of the biological family to his son Santosh Kumar alias Bachcha and others. In 1975 Jagannath expired. Four years later Hans Kishore and former's wife also expired. It was stated that Tulsi Ram was a worldlywise and practical person who managed his affairs properly to keep intact his share of the property, though in the process it invited rancour and jealousy of the children of his brothers.

5. About eighteen years prior to the unfortunate occurrence of December, 1981, Tulsi Ram was married to one Nirmala Devi of village Chunar, district Varanasi. He got one son viz. PW 3 Vivek Kumar from that wedlock. However Nirmala Devi developed some psychic problem and so with her consent Tulsi Ram took Smt. Bhagwati Devi (deceased) as his second wife. From this marriage he was blessed with three children including the deceased daughter Lata and son Lachhman. Lata was around five years of age at the time of incident whereas Lachhman was an infant of about eight months only. The third child, namely, Pushpa was a primary class student.

6. It was against such backdrop of stark difference in progress and prosperity that the children of Hans Kishore and Sant Kishore were living in the same neighbourhood of mohalla Kandhari Bazar where Tulsi Ram was also putting up with his children in the ancestral home.

7. The topography of latter's house also appears to be relevant for the factual appreciation in as much as it had its main opening through the "Baithak", (normally used as the sitting room by the menfolk) situated towards the southern side of the street separated by an open space of about fifteen paces. In the northern wall of this room, there was an iron grillwindow and a door leading into the inner courtyard. Just adjoining this wall in the inner court yard, there was a staircase followed by two rooms towards the northern side. Then there were usual provisions like kitchen and bathroom etc. ultimately leading to a tin shed towards the extreme northern side with an opening into the courtyard of appellant Ajai Kumar. This courtyard itself had its opening in the northern side which ultimately joined the main road on the western side just adjoining the house of another collateral Gaya Din who was the immediate neighbour of Tulsi Ram and Ajai Kumar. The house of accused Santosh Kumar was of course, about 300 to 350 yards away from this location, though in the same Mohalla Kandhari Bazar.

8. It was alleged that Tulsi Ram's affluence was an eyesore to the children of his deceased brothers Sant Kishore and Hans Kishore headed by appellants Santosh

Kumar alias Bachcha and Ajai Kumar who, during the meanwhile, had themselves fallen into bad company to further aggravate their already mounting financial problems. It was due to Ajai Kumar's insistence to extract something even from Tulsi Ram's property, which had fallen to his share in the family settlement, that quite a few unpleasant incidents took place in preceding few years of this occurrence forcing Tulsi Ram to lodge various report with the police as evidence by Exts.Ka1 to Ka3.

9. Despite two decades old partition during the life time of his father Santosh appellant could not reconcile to Tulsi Ram's property's and thus on 18/9/1981 he intruded into his house and by placing a knife on the neck of his son Vivek not only slapped him but also impressed upon him to ensure a word to his mother Smt. Bhagwati Devi to arrange Rs. 20,000/ from Tulsi Ram failing which he (Santosh) would wipe out the family. When Smt. Bhagwati Devi brought this incident to the notice of Tulsi Ram, the obviously remonstrated and sent a complainant to the police under postal. Certificate Ext. Ka4 as during the meanwhile he himself was approached by accused Santosh Kumar and few others to part with the money at the risk of his life.

10. To purchase peace Tulsi Ram involved Sant Kishore's widow Chandra Devi to get recorded a formal document of partition. Ultimately the document was executed to the satisfaction of all in the presence of Smt. Sharda Devi, her two sons including Santosh Kumar and Ajai Kumar besides his mother Smt. Vishnu Devi, but it appears that the feelings of illwill and discontentment did not die down.

11. It was further alleged that on 21/2/1981, Tulsi Ram was at his Baithak as he could not go to attend his seedshop because of personal indisposition. On the preceding evening, he had asked PW 2 Abdul Gaffar, who plies a fruit Rehdi in front of his house to collect an empty gas cylinder from his shop and get it replaced by a filled one. So on the morning Abdul Gaffar went to his shop and took the empty cylinder from his Munim Mewa Lal PW 5. He brought the cylinder, placed it in a corner of the Baithak and starting giving him the accounts of the money received on the last evening, mean while Vivek Kumar was getting ready forgoing to school. Partition door which opened in the inner court yard was bolted from inside lest the family members should disturb him unnecessarily when he was not feeling well.

12. Even as Tulsi Ram was in the process of settling monetary accounts with Abdul Gaffar, he heard a bang on the said door and heard commotion inside the courtyard. All these three inmates immediately looked through the window and to their shock and horror saw that both the appellants alongwith two unknown persons had abruptly intruded there from the northern tin shed entrance and were in the process of assaulting the family. They had also chained the intervening door from inside the courtyard side lest any rescuer should disturb their nefarious operation. Both the accused Ajai Kumar and Santosh Kumar were armed with Gandasa where their unknown companions had a pharsa and (sic).

Accused Ajai Kumar inflicted fatal blows (sic) person of Smt. Bhagwati Devi, Santosh Kumar gave Gandasa blows to latter's mother Smt. Rajdei and their remaining two accomplice inflicted deadly blows on Km. Lata who was taking bath at the adjoining water pump and the infant child Lachhman who was lying on the cot.

13. All these witnesses raised hue and cry and rushed through the southern opening of the Baithak and reached in the inner courtyard by covering the link road on the western side of the immediate neighbour Gaya Din but by then all the four accused had bolted away from the very entry point of the northern tin shed which opened into the courtyard of accused Ajai Kumar.

14. On hearing of commotion a large crowd collected from the neighbourhood and that included a son of one of the collaterals Prem Prakash who had a motor cycle, Tulsi Ram took a lift from him and immediately went to the Police Station but since Moharrir on duty would not take his verbal complaint, therefore, Tulsi Ram drafted his report Ext. Ka6 and handed it over to head constable Ram Darash Singh PW 6 who recorded the formal FIR Ext.Ka12 at 12.50 p.m. A corresponding entry was made in G.D. also.

15. Inspector Ram Pratap Singh PW 7 took up the investigation on the same day. Without any loss of time he inspected the site, completed inquest proceedings and despatched the dead bodies to the mortuary in the custody of constables Ramdeo and Ram Pratap Singh. Blood stained earth and some plain earth was also taken over from the scene of crime by Inspector Ram Pratap Singh. On proper upkeep of the relevant packets, they were ultimately sent to the Chemical Examiner/Serologist for a scientific study.

16. As indicated here in before, all the assailants had successfully absconded from the spot and so the police set out in their search. On the next day on the receipt of a secret information accused Santosh Kumar alias Bachcha was arrested from a saw mill situated in village Rudauli. On interrogation, he made a disclosure statement and produced bloodstained Gandasa Ext. Ka4 from a suit case concealed at his house. He also took the police party to the house of his coaccused Ajai Kumar and got produced latter's bloodstained clothes and Gandasa from Km. Babli Rani and Smt. Vishnu Devi.

17. It may be worthwhile to note here that Km. Babli Rani is the sister and Vishnu Devi the mother of accused Ajai Kumar. They too were prosecuted in this case for an offence punishable under Section 201, IPC though later on acquitted for want of clinching credible evidence regarding their knowledge and intention. Be that as it may, all these articles were also kept properly under sealed parcels and in due course of time submitted to the Chemical Examiner/Serologist for a scientific study.

18. On 4121981 accused Fahim and Purshottam (both of them acquitted by the trial Court) were arrested from separate points on the assumption of being the aforesaid unknown assailants. Similarly, accused Ajai Kumar was also arrested on

the same night from near the bus stand.

19. On 3121981 PW 4 Dr. I.D. Mall performed postmortem on the dead bodies of Smt. Rajdei, Lachchaman, Smt. Bhagwati Devi and Km. Lata. All of them were found carrying multiple anlimortem wounds caused by sharpened weapons which were sufficient to cause death in the ordinary course of nature. The probable time of death assessed by Dr. Mall coincided with the story propagated by Tulsi Ram. Dr. Mall's detailed observations find place in the respective postmortem reports Ext.Ka7 to Ka10.

20. On completion of investigation, the police challenged both the appellants alongwith their accomplices Purshottam and Fahim besides Smt. Vishnu Devi and Km. Babli for the offences punishable under Sections 302/34 and 201 of the Indian Penal Code. The accused were charged accordingly and taken to trial as they pleaded not guilty.

21. In support, of the case, the prosecution examined all the above mentioned seven witnesses including the complainant Tulsi Ram, Abdul Gaffar and Vivek Kumar who gave the eyewitness account. Formal witnesses who had handled the case property and the deadbodies namely, M.M, Husain, constable Ramdeo Yadav, Ram Pratap Singh and Pardeshi Ram Yadav alongwith Mohd. Shabbir were examined byway of affidavits.

22. In their statements under Section. 313, Cr.P.C. denying the incriminating allegations, all the accused pleaded false implication. The obvious defence of Purshottam and Fahim was total unconcern with the case, whereas the remaining four accused including the two appellants came out with a counter allegation of false implication on account of rancour and property dispute. No defence was, however, adduced.

23. On completion of trial, the learned Sessions Judge concluded the guilt of both the appellants for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced them to life imprisonment as indicated hereinbefore, the remaining accused were, of course, acquitted for want of credible evidence beyond all reasonable doubt. Feeling aggrieved against the verdict Santosh Kumar alias Bachcha and Ajai Kumar brought their separate appeals, but as they arise out of a joint trial and common judgment, there fore, they are proposed to be disposed off by the instant common discussion.

24. In his bid to assail the trial Court's findings, the learned Counsel for the appellants argued that a gruesome under of the projected type required a strong motive which was completely lacking in this case as there was no immediate cause of provocation for the accused to plan the quadruple murders; that otherwise too if all the accused were to do it; it was Tulsi Ram who should have been their primary target and not the women folk or small children including an eight months old toddler, after all, they could not possibly have any grouse against them. That on the showing of the prosecution itself none of the assailants tried to force entry into the Baithak of Tulsi Ram despite noticing his presence

which defies logic. It was submitted that as a matter of fact Tulsi Ram was not even present in his house when the murders took place because it was a working day and in all probability he should have been attending to his customers at his shop. To crown it all, even Abdul Gaffar conceded that presence of Tulsi Ram at the shop by stating that it was only after Vivek Kumar informed him of the murders that Tulsi Ram left his shop and came to the house to find the dead bodies lying unattended.

25. It was further argued that the FIR itself was not, a genuine document because the occurrence is alleged to have taken place at a distance of 2 Km. from the Police Station at around 12.15 p.m. whereas the FIR was recorded within 35 minutes thereof on the written complaint of Tulsi Ram. It was felt that the conduct of Tulsi Ram in composing himself, without wailing or weeping despite a gruesome sight of the family massacre was highly unbecoming of human behavior and that probably explains the dishonest investigation inasmuch as the police did not make any effort whatsoever to apprehend the accused assailants on the same day. They did not even bother to visit their houses.

26. The learned Counsel was at pains to doubt the time and manner of occurrence as according to him there was an interpolation in the "time" column of the FIR by way of changing the original "18.50" to "12.50" hour and that was the reason that the inquest papers could not reach Dr. Mall before 1.30 p.m. on the next afternoon even though the inquest proceedings had been completed by 4 p.m. on the day of occurrence itself.

27. Elaborating his point the learned Counsel contended that the prosecution was guilty of inducing Mewa Lal as the link witness to justify the presence of Abdul Gaffar at the time of occurrence as there was no reference to him in the FIR; that Mewa Lal was not an employee of Tulsi Ram so as to attend to his shop on the day of occurrence and that in all probability even Vivek should have been attending his school at the relevant time because on his own admission the school normally starts functioning at 10 a.m.

28. Referring to the case of *Shanker, Lal G. Dixit v. State of Maharashtra*, 1991 (18) ACC 9(SC) (Sum), the learned Counsel concluded that in a case where the investigation is tainted, where concerted attempts are made to fabricate evidence on devising improvements over the police version and bogus witnesses are inducted on the scene, it would not be a safe position to condemn the accused for the gruesome crime particularly when some of the recoveries attributed to Santosh Kumar were inadmissible qua his co-appellant Ajay Kumar.

29. Even though there is no dispute with the legal proposition and the ratio of the case cited by the learned Counsel, yet the court is not inclined to sustain his view point primarily because each and every case requires adjudication in the light of its own peculiarities, facts and circumstances as it is usually observed that there is some slight difference in the salient features of the two given cases which, when appraised critically, makes all the materials difference. The

shortcomings and remissness, if any, in the investigation may put the court on its guard to accept the prosecution at its face value, but when credible the eyewitness account is available on records, the rule of prudence may not justify the throwing out the entire prosecution overboard only on this ground.

30. Motive is an important component to illuminate the backdrop of a case. It may provide some assistance to the court to have a peep into the reasons which prompted the accused to commit the crime, but if direct evidence of the crime is available, motive part is likely to pale into insignificance.

31. Be that as it may, in the instant case, it will be going too far to say that the accused did not have any motive to commit the crime. For a moment one may ignore the contention of the complainant Tulsi Ram that a proper family settlement, by metes and bounds had already taken place or that there remained nothing for the parties to share or prompt any kind of usurpations or grabbings, but all the same the defence version itself is indicative of some sort of dissatisfaction and discontentment. At the risk of repetition, it may be pointed out that in their statements under Section 313, Cr.P.C, the appellants charged Tulsi Ram of attempting to grab their part of the joint property. To put it in plain words, there was a controversy about the distribution of the joint property and a simmering element of rancour in the minds of the accused on that account, if not a feeling of jealousy, on the relative prosperity and affluence of the complainant Tulsi Ram.

32. It may be correct that under the normal circumstances Tulsi Ram might have been the primary elimination target for the appellants, but as to how and why he escaped their wrath is to be appraised in the totality of the material on record proposed to be discussed hereinafter. The contention that there were some interpolations and tampering of the timing part of the formal FIR with a view to deceive the court by propagating a prompt report requires summary rejection in the light of crossexamination of PW 6 head constable Ram Darash Singh who in the concluding part made a categorical statement that the special report was sent to the concerned authorities at 1.25 p.m. and the constable who delivered that report had also returned to the Police Station the same evening at 6.15 p.m. In the earlier part of his deposition, he denied the suggestion that Tulsi Ram complainant had reached the Police Station at 12.30 p.m. Moreover, there was not even an oblique suggestion either to Ram Darash Singh or to the Investigating Officer Ram Pratap Singh that Tulsi Ram exercised or was in a position to exert any influence over the police to antitime their records.

33. We have minutely examined the original FIR. It does appear to have a little bit of overwriting, but there is no indication that the original timing was ever recorded as "18.50". What appears to be the position is that at the time of taking down the report in the register there could be a slip of pen which was corrected then and there to synchronize with the actual timing of 12.50 and that was how that the constable alongwith special reports could leave the Police Station by 1.15 p.m. do deliver them to the appropriate authorities and as

mentioned hereinbefore, this clarification came by way of crossexamination, itself, so much so that he was back at the Police Station by 6.15 p.m. on the same evening with compliance report.

34. There is no dispute regarding the distance between the site of crime and the Police Station as both of them are situated in the same town; the passage was not more than 2 kms. and Tulsi Ram had the facility of a lift with one of his near relation on Jailer's motorcycle. So obviously he could make it within four or five minutes at the most, particularly when he had the natural urge to get immediate police assistance under the hope and expectation that they might do something to haul up the culprits. As to whether he should have preferred to wail and weep in his home by hugging and embracing the deadbodies of his near and dear or rush to the Police Station to seek the shelter of law is a matter which depends upon an individual perception. No two humans are likely to behave in the same stereotyped and computerised fashion in a given situation and otherwise too, he could have an apprehension to his own life as well to the security of his only surviving son Vivek if he were to stay unprotected at the site. He could legitimately have a sort of fear complex of the assailants lurking in the vicinity more so as they happened to reside in the same locality.

35. The central thrust of the prosecution revolves around the eyewitness account given by Tulsi Ram, his son Vivek and fruvendor Abdul Gaffar. Out of them at least Abdul Gaffar was completely a disinterested and detached witness. He had no bias or prejudice for or against either of the parties. His only closeness to the complainant could be that he used to hold his Rchdi stall in front of the former's house; but then it was the neighbourhood of the appellants also. He has fully corroborated the prosecution case right from the stage of having collected money from Tblsi Ram on the preceding evening to get replaced his cooking gas cylinder. He also revealed as to how he lied the empty cylinder on the fateful morning from Tulsi Ram's shop which was opened by PW Mewa Lal. Of course, Mewa Lal was not a whole time employees of Tulsi Ram, but the fact that Mewa Lal used to attend to the sundry jobs of Tulsi Ram is abundantly clear from his uncontroverted assertion that he was working as the Munim on that shop ever since the times of Tulsi Ram's father and even now be used to prepare his annual balancesheets. A little bit of such small services by old time family employees is nothing unusual in the countryside.

36. The submission that Mewa Lal's reference does not find place in the FIR is of no consequence because the FIR duly mentions about the presence of Abdul Gaffar in the context of gas cylinder. It was only by way of an elaboration that Mewa Lal deposed about the supply of gas cylinder at the instance of Tulsi Ram's previous instructions, Mewa Lal further affirmed that on the fateful day Tulsi Ram could not attend the shop because of his personal indisposition.

37. At one stage Abdul Gaffar did appear to have faulted by way of confusion about the opening to Tulsi Ram's shop and the information received by the latter through his son Vivek about the occurrence, but then he was also emphatic on

having seen the occurrence himself alongwith Tulsi Ram and Vivek in its entirety. The sort of confusion of Abdul Gaffar could not be anything except the creation of a lengthy and fishy cross-examination. Taken as a whole, it is completely consistent with the first and version provided by the complainant Tulsi Ram in the FIR lodged within half an hour of the occurrence and obviously it would be quite a ridiculous proposition to entertain, much less to hold, that during the meanwhile Tulsi Ram had contacted Abdul Gaffar and ensured that the latter would make a false statement for him for no rhyme or reason. After all, Abdul Gaffar had no particular equations with him and no animus against the appellants.

38. The testimony of Tulsi Ram and Vivek taken together rule out the possibility of Vivek Kumar's requirement in the school at 10 a.m. The fact that he was attending on Tulsi Ram at the Baithak till he started preparing for going to the school for the second shift starting at around the school for second shift starting at around 12 noon is further borne out by the affirmation of his presence there both by Abdul Gaffar and Tulsi Ram besides the reference thereto in the FIR.

39. The statements of all the three eyewitnesses fully establish that the intervening door between the Baithak and courtyard of Tulsi Ram was bolted by him from inside obviously because on account of his indisposition he (Tulsi Ram) required rest by avoiding any disturbance from the family folk. These witnesses categorically affirmed that immediately on intruding into the inner courtyard from the northern side tinshed, the appellants and their accomplices tried to force their entry into the Baithak by pushing through the partition door, but on finding it bolted from inside they chained it from the courtyard side also before indulging in the senseless violence on the available family members.

40. It will thus be going too far to say that they did not attempt to eliminate Tulsi Ram. This part of the story requires appraisal against yet another backdrop that the incident took place in broad daylight in a congested locality, there were inhabited houses all around. It was winter season when people mostly stay in the sun. So the accused would not possibly waste their time in rattling the door repeatedly. They had come armed with lethal weapons and wanted to settle old scores. An attempt had already been made to black mail the complainant for ransom. So on confronting helplessness in reaching their main target, they opted for eliminating the other family members.

41. Appellants involvement in the crime, as sought to be proved by the eyewitness account is corroborated not only by the contents of the FIR but also by way of an important preceding sequence of events as on the same day, a little after 10 a.m. appellant Ajay Kumar alongwith two or three other unknown characters raided the shop of Tulsi Ram and on finding Mewa Lal sitting there, threatened to grab the shop and when he pleaded reason, they assaulted him (Mewa Lal) and then escaped on a motorcycle. Mewa Lal lodged his report, Ext. Ka 11 shortly thereafter. To be precise, this particular incident which took place prior to the unfortunate murders was reported on the same day, preceding in point of time. Obviously by then Mewa Lal could not anticipate its implications.

42. In the same context, it may also be worthwhile to note that only two and a half months prior thereto, the appellant Santosh had tried to extort a ransom of Rs. 20,000/ from the complainant Tulsi Ram by gesticulating a knife towards his son Vivek and this incident, too, was reported by Tulsi Ram to the police as would be evident from the postal certificate Ext.Ka4. Thus there was a consistent chain of events culminating in the gruesome murders on 21/2/1981 within the full purview of Tulsi Ram and others.

43. The learned Counsel for the appellants was at pains to complain against the manner of investigation both with regard to the police failure to search for the accused at their houses on the same day and also with regard to the recoveries. We are not impressed by his logic because both Tulsi Ram as well as the Investigating Officer were categorical in stating that immediately after the crime, the accused had bolted away from scene and since they lived in the same neighbourhood, therefore, they would not wait for the police arrival. So if instead of wasting his time in immediate search for the accused at their residential houses the Investigating Officer prepared to complete the inquest part and record the statements of the witnesses, we find nothing wrong with his approach. All the accused were after all arrested within two days and at least Santosh was hauled up within 24 hours from the adjoining village Radauli.

44. The involvement of appellant Santosh further stands established by the recovery of a blood stained Gandasa Ext. 4 from a point of concealment relating to his suitcase kept at his house. Similarly, he led the police party and assisted them in the recovery of Gandasa Ext. P5 from the house of his co appellant Ajai Kumar. On scientific appraisal of these weapons, the Serologist affirmed the presence of B Group blood of human origin on the Gandasa Ext. P5 and the clothes of Smt. Bhagwati deceased. This recovery may not be directly attributed to appellant Ajai Kumar, but its recovery from his house coupled with the eyewitness account, which could not be shaken on the touchstone of human probabilities and a host of attendant circumstances as discussed hereinbefore, clinches the issue beyond all reasonable doubt about the involvement of Ajai Kumar in the gruesome crime. Similarly even the Gandasa Ext. P4 recovered from and at the instance of appellant Santosh Kumar itself was found containing traces of blood, which he failed to explain.

45. The learned Counsel for the appellants complained about the inordinate delay in taking deadbodies to the mortuary, but the laxity on the part of the concerned constable Ramdeo and Ram Pratap Singh carries no significance as the prosecution was not going to score any point by doing so. Moreover, despite opportunity, the learned defence counsel conducting the case in the trial Court did not like to call for the concerned constable to cross-examine them to this aspect of the issue in the light of their affidavits.

46. Hence for the reasons recorded above, in the totality of circumstances we find no reason to discard the eyewitness account properly appraised and accepted by the trial Court. It rather draws support from all the surrounding

circumstances to establish the guilt of both the appellants beyond all reasonable doubt. Thus we feel inclined and do here by affirm the findings of the learned trial Court on all fours.

47. Resultantly, both the appeals fail and are accordingly rejected. The appellants are on bail. They are directed to surrender forthwith in order to serve out the sentence. The Chief Judicial Magistrate concerned is directed to send compliance report within six weeks.