

(2011) 03 AP CK 0041

In the Andhra Pradesh High Court

Case No : Criminal Appeal No. 917 of 2007

State of Andhra Pradesh

APPELLANT

Vs

Rayapati Thirupathi Reddy and Others

RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 162, 235(1), 235(2), 378(3)
Explosive Substances Act, 1908 — Section 3, 5, 6
Penal Code, 1860 (IPC) — Section 120B, 147, 148, 149, 302

Citation : (2011) 03 AP CK 0041

Hon'ble Judges : V. Suri Appa Rao, J;V. Eswaraiah, J

Bench : Division Bench

Advocate : Public Prosecutor, for the Appellant; C. Padmanabha Reddy, representing C. Praveen Kumar, for the Respondent

Final Decision : Allowed

Judgement

V. Suri Appa Rao, J.—The State of Andhra Pradesh, represented by the Public Prosecutor filed this criminal appeal u/s 378 (3) and (1) of Code of Criminal Procedure, against the judgment dated 06-4-2005 in Sessions Case No. 370 of 2000 on the file of the II Additional Sessions Judge, Kadapa at Proddatur, whereby the accused were acquitted u/s 235(1) of Code of Criminal Procedure for the charges under Sections 147, 148, 302, 302 read with Section 149 of IPC and 392 of IPC and Sections 3, 5 and 6 of Explosive Substances Act, 1908.

2. The brief facts, which are necessary to dispose of this criminal appeal, are recapitulated as under:

The deceased Bala Gangi Reddy and his brother Ramachandra Reddy belong to the Congress-I Party. The accused belong to the Telugu Desam Party. There are ill-feelings between the two groups. In the elections, the deceased Bala Gangi Reddy and his brother Ramachandra Reddy supported the Congress-I Party, for which the accused bore grudge against the deceased Bala Gangi Reddy and his brother Ramachandra Reddy and decided to kill them. On 04-12-1999 in the

morning the deceased Bala Gangi Reddy, his brother Ramachandra Reddy and their family members were attending the agricultural works in their respective fields situated on the western side of Kodigandlapalli village at a distance of 2 furlongs from Mangapatnam Railway Gate and at about 6.30 a.m., P.W.1 Y. Ganga Bhavani (daughter of the deceased Bala Gangi Reddy), P.W.3 Y. Narayanamma (wife of the deceased Bala Gangi Reddy) and others heard the weeping cries and all of them noticed the dead body of one Rayapati Narayana Reddy, who died due to electrocution near by their fields. After that, they were again attending to their regular works. On the same day at about 7.30 a.m., the accused 1 to 8 came near the deceased Bala Gangi Reddy whistling war cries and hurling bombs with an intention to kill the deceased Bala Gangi Reddy. Therefore, due to fear of life the deceased Bala Gangi Reddy left the fields and was running towards Korrapadu road to go to the village. P.W.1 Ganga Bhavani also left the field and started going to the village. When P.W.1 reached the railway gate, P.W.2 Y. Ramakrishna Reddy, son of Ramachandra Reddy, came to know that some of the villagers were going to kill his family members working at the fields. He then immediately reached the railway gate. Both P. Ws.1 and 3 met P.W.2. Meanwhile, the deceased Bala Gangi Reddy came to the railway gate running on the tar road and from there, he was running towards Kodigandlapalli village. Then, accused No. 4 instigated the other accused to kill the deceased Bala Gangi Reddy. Accused 5 and 6 hurled bombs, which were exploded and caused injury to the right leg of the deceased Bala Gangi Reddy, due to which he fell down. Accused 1 and 2 hacked the deceased Bala Gangi Reddy with hunting sickles on his head. Bala Gangi Reddy died due to the injuries. Accused No. 3 then cut the right hand fingers of the deceased Bala Gangi Reddy and took away the fingers along with a gold ring. Meanwhile, accused 9 to 21 came near the body of the deceased Bala Gangi Reddy by hurling bombs and all the accused went towards the village by whistling cries. The incident was witnessed by P. Ws.1 to 3 and a complaint was given by P.W.1 Ganga Bhavani, daughter of the deceased Bala Gangi Reddy. P.W.10 the Inspector of Police investigated into the offence and conducted inquest over the body of the deceased Bala Gangi Reddy in the presence of P. Ws.4, 5 and others. He seized the shirt, dhoti, banian, waist thread of the deceased and blood-stained tar during inquest. On 05-12-1999 at about 6.30 a.m., he conducted observation of the scene of offence and seized half burnt thread pieces and chappals of accused No. 1 under the cover of panchanama in the presence of P.W.4 and others. Thereafter, he arrested all the accused in the presence of P.W.5 and others, and seized a plastic bucket of 3 country made bombs from the possession of accused No. 6 and two hunting sickles from the possession of accused 1 and 2 basing on their confessional statements in the presence of P.W.5 and others. P.W.6 Dr. V. Lakshmi Narayana Reddy, Medical Officer, Government Hospital, Jammala Madugu conducted post-mortem examination over the body of the deceased Bala Gangi Reddy and issued Ex.P-4 post-mortem certificate. After receiving the F.S.L. Report, the Inspector of Police filed charge-sheet against the accused.

3. The learned I Additional Sessions Judge, Cuddapah framed charges --under Section 147 of IPC against accused 1 to 8, u/s 148 of IPC against accused 1, 2, 5 and 6, u/s 302 of IPC against accused 1, 2, 5 and 6, u/s 302 read with Section 149 of IPC against accused 3, 4, 7 and 8, u/s 392 of IPC against accused No. 3, under Sections 3 and 5 of the Explosive Substances Act, 1908 against accused 5, 6 and 9 to 21 and u/s 6 of the Explosive Substances Act, 1908 against accused 1 to 4, 7 and 8. The accused pleaded not guilty.

4. In order to establish the above charges against the accused, the prosecution examined P. Ws.1 to 12 and marked Exs.P-1 to P-10 and M. Os.1 to 7. During the cross-examination of P. Ws.1 to 3, the defence got marked Exs.D-1 to D-7.

5. Considering the evidence on record and after hearing, the learned II Additional Sessions Judge, Kadapa at Proddatur found all the accused not guilty for the offences with which they were charged.

6. During trial, accused 10, 12 and 21 died and the case against them was abated.

7. In order to prove that the death of the deceased Bala Gangi Reddy was homicidal, the prosecution examined P. Ws.4, 5, 6 and 9 and relied on Ex.P-3 inquest panchanama attested by P. Ws.4 and 5 and Ex.P-4 post-mortem certificate issued by P.W.6.

8. P.W.4 M. Pedda Aswartha Reddy and P.W.5 D. Khader Basha, Village Administrative Officer of Mangapatnam village have stated in their evidence that the deceased Bala Gangi Reddy and his brother Ramachandra Reddy died about 3 1/2 or 4 years back. Both of them were present during inquest over the body of the deceased Bala Gangi Reddy and they noticed injuries over the body of the deceased Bala Gangi Reddy and attested Ex.P-3 inquest panchanama.

9. P.W.6 Dr. V. Lakshmi Narayana Reddy, Civil Assistant Surgeon, Government Hospital, Jammalamadugu has stated in his evidence that on 05-12-1999 at about 9.30 a.m., he conducted post-mortem examination over the body of deceased Bala Gangi Reddy on the requisition of the Circle Inspector of Police, Kondapuram and found the following injuries:

(1) A chap injury 6" x 3/4" x 2" in size extending from the middle of right cheek to lower part of right parietal bone. Cutting of ear present. Fracture of bone appearing at the site of injury. Brain appearing from the fracture site.

(2) A chap injury 6" x 3/4" 2" in size extending from the middle of right cheek to lower part of right parietal bone present 1" above the injury No. 1.

Cutting of ear present. Fracture of bone appearing at the site of injury. Brain appearing from the fracture site.

(3) Crush laceration of right hand up to wrist joint. Muscles are hanging.

Bone of hand are fractured into small pieces. Radius and ulnar bones of fore arm

are appearing at the wrist joint. Blackish discoloration present at the site of injury.

(4) An abrasion 4" x 1" present on the front of right upper arm.

(5) An abrasion 2" x 1" present 1" above the injury No. 4.

(6) An abrasion 2" x 1/4" present 1/2" below the injury No. 4.

(7) An abrasion 3 1/2" x 1/4" present 1" below the injury No. 6.

(8) An abrasion 2 1/2" x 1/4" present on the back of middle of right upper arm.

(9) A lacerated stab injury 1" x 1" x 1" present 4" above left elbow joint on the back of right upper arm.

(10) Multiple small punctured injuries with dried blood clot scattered on the front of left fore arm.

(11) A crushed lacerated injury 13" x 6" x 6" present on the outer side of right thigh, just above knee joint. Skin and muscles are not present at the site of injury. Bone is appearing at the site of injury. Blackish discoloration present at the site of injury.

(12) A lacerated stab injury 1" x 1/2" x 1" present on upper part of right scapula.

(13) A lacerated stab injury 1/2" x 1/4" x 1" present 1" lateral to the injury No. 12.

(14) A lacerated stab injury 1 1/2" x 1/2" x 1/2" present just below middle of right buttock.

(15) A lacerated stab injury 1 1/2" x 1/2" x 1/2" present above the middle of right buttock.

(16) An abrasion 4" x 1/4" present on the middle of right loin.

(17) Four abrasions 3" x 1/2" present on right posterior axillary fold.

(18) Eight small punctured injuries with dried blood clots scattered below right axilla.

10. On internal examination, he found the following injuries:

(1) Blood clots present under the skin at the site of injuries.

(2) A depressed fracture of right maxillary, temporal and mastroid bones present. Laceration of meninges and brain present at the site of fractured. Blood clots present on the brain at the site of injury.

(3) No fracture of ribs and sternum. Lungs are normal in size and shape.

Cut section is normal.

(4) Stomach is empty. Intestines are distended with gas.

(5) Bladder is empty. Rectum contains faecal matter.

(6) Testes are normal and not found any injury.

(7) Liver, spleen and kidneys are normal in size and shape, cut section is normal.

11. He further stated that he was of the opinion that the deceased Bala Gangi Reddy appeared to have died of cardiac arrest due to shock from fracture of skull bones and laceration of meninges and brain. He also stated that the injuries 1 and 2 are possible with sharp edged weapon like hunting sickle. Injury No. 3 may possible due to explosion of bomb. Injuries 9 and 12 to 15 are possible with tip of a hunting sickle. Injuries 10 and 18 are possible with splinters with explosion of bombs and injury No. 11 is possible due to direct hit of a bomb and explosion. Ex.P-4 is the post-mortem certificate issued by him.

12. P.W.9 the then Inspector of Police, Kondapuram Police Station has stated in his evidence that on 04-12-1999 at about 9 a.m., when he was at the Circle office, he received intimation about the murder reported at Kodigandlapalli village and he instructed the Sub Inspector of Police to take a complaint from the concerned and send the same to Muddanur Police Station for registering the cases. At about 3.30 p.m., he received a report from P.W.1 Y. Ganga Bhavani. Thereafter, he collected panchayatdars and conducted inquest over the body of the deceased Bala Gangi Reddy from 4 p.m., to 6 p.m., and found injuries due to explosion of bombs. He also prepared a rough sketch of the scene of offence and examined the witnesses. After that, he sent the body of the deceased Bala Gangi Reddy to the Government Hospital, Jammalamadugu for conducting autopsy over the body of the deceased.

13. Thus, by the evidence of P. Ws.4, 5, 6 and 9 the prosecution could able to establish that the death of the deceased Bala Gangi Reddy was homicidal.

14. The next point for consideration is, whether the accused are liable for causing the death of the deceased Bala Gangi Reddy ?

15. According to the prosecution, there were factions in Kodigandlapalli village. The accused were the supporters of Telugu Desam Party. The deceased Bala Gangi Reddy and his brother Ramachandra Reddy, who was also murdered on the same day, belonged to Congress-I Party. Therefore, the accused were waiting for an opportunity to kill the deceased Bala Gangi Reddy and his brother Ramachandra Reddy. On 04-12-1999 at about 7.30 a.m., when the deceased Bala Gangi Reddy and his brother Ramachandra Reddy along with their family members P. Ws.1 to 3 and others were attending agricultural works at their fields, the accused came there running by whistling war cries and hurling bombs and when the deceased Bala Gangi Reddy ran towards the railway gate, the accused attacked the deceased with bombs and hunting sickles and killed him and this was witnessed by P. Ws.1 to 3, who also ran along with the deceased Bala Gangi Reddy due to fear of the accused.

16. According to the prosecution, the accused came to the fields of the deceased

Bala Gangi Reddy by running with bombs and hunting sickles when the deceased Bala Gangi Reddy and his brother Ramachandra Reddy, who was also killed on the same day, along with P. Ws.1 to 3 were attending the agricultural operations. The prosecution, therefore, examined P. Ws.1 to 3, who are the eyewitnesses to the incident. Out of them, P.W.1 is the daughter of the deceased Bala Gangi Reddy, P.W.2 is the son of Ramachandra Reddy, brother of the deceased Bala Gangi Reddy and P.W.3 is the wife of the deceased Bala Gangi Reddy.

17. In the evidence, P.W.1 has stated that the deceased Bala Gangi Reddy was her father. On the date of incident, herself, her deceased father Bala Gangi Reddy, her junior paternal uncle Ramachandra Reddy, her junior paternal aunt Ramadevi, Gangadhara Reddy and Eswara Reddy went to their fields and when they were attending work in the fields, they heard weeping cries from the field of Rayapati Narayana Reddy and they found the dead body of Rayapati Narayana Reddy, who died due to electrocution. All of them stayed there for some time and returned back to their fields and were continuing their agricultural work. Then, accused 1 to 5, 7 and 8 chased her father. When her father ran towards the railway bridge, herself and her mother also followed him. After her father crossed the railway bridge, the accused hurled bombs on her father. When Ramakrishna Reddy came from their house by weeping towards them, they heard the sound of explosion of bombs. Her father came from the metal road to tar road escaping from the bombs. When accused No. 4 stated "champandira", accused No. 5 hurled a bomb, which hit the leg of her father and exploded. Accused No. 6 then hurled another bomb, which hit the right foot her father. When her father fell on the ground, accused 1 and 2 hacked her father with hunting sickles on his head. Then, accused No. 3 tried to take a gold ring from the ring finger of her father. When the ring did not come out, he cut the finger up to the palm and taken away the ring with fingers. Accused 1 and 2 hacked her father on the head, on the back of right and left shoulders and on the back of her father with hunting sickles. Accused 9 to 17 and 19 to 21 also came from the village by hurling bombs. Accused No. 11 hurled a bomb on the cut hand of her deceased father. Even after her father died, the accused threatened her, her mother and Ramakrishna Reddy by hurling a bomb. Then, all of them ran towards Korrapadu road and they came back to the place of incident only after 1 or 2 hours thereafter. By then, the Police were present at the scene of offence.

18. She further stated in her evidence that due to political rivalry existing in the village for the last 10 years, the entire village was burnt and 6 persons were killed. Her father belonged to Congress Party. Her father was a respectable person in the village. Her father disclosed that the accused hatched a plan to kill him and wept. The accused belong to Telugu Desam Party and killed her father. She also stated that Ex.P-1 is the complaint.

19. In the cross-examination, P.W.1 has stated that accused 1 to 5, 7 and 8 are accused in S.C. No. 374 of 2000 relating to the murder case of Ramachandra Reddy, her junior paternal uncle. She further stated that when an attack on her

father was going on, at the same time there was an attack on her junior paternal uncle Ramachandra Reddy. She further stated that she lodged Ex.P-1 complaint at about 12 noon. She met the Police prior to 12 noon but the Police did not take her oral complaint in spite of her request. She further stated that she met Eswara Reddy at about 2 or 2.30 p.m., and she has not enquired him whether he lodged a complaint or not. She also stated that after the incident she ran into the bushes along with her mother and Ramakrishna Reddy and returned to their house at about 10 or 10.30 a.m. By then the Police arrived at the scene of offence. She denied the suggestion that after consulting their leaders and thinking over whom has to be implicated, at 3 p.m., Ex.P-1 was lodged by implicating the accused. She also stated that they plucked up about 50 kgs., of tomatoes in the early hours on the date of incident. She further denied the suggestion that her father was holding a bomb in his right hand palm and the same was exploded when he tried to hurl and sustained injury to his right palm. She also stated that she got mentioned in Ex.P-1 that the accused threatened her, her mother and Ramakrishna Reddy by hurling a bomb. She also stated that she approached the Inspector of Police, Kondapuram and requested him to take a complaint but he refused.

20. P.W.2 Y. Ramakrishna Reddy is a child witness. Therefore, the learned Sessions Judge put some questions before recording his evidence and after satisfying that the witness is capable to understand the questions and able to answer, he recorded the statement of P.W.2. P.W.2 is the son of Ramachandra Reddy, who is the brother of the deceased Bala Gangi Reddy.

In the evidence, P.W.2 stated that the deceased is his senior paternal uncle, who was killed about 3 or 4 years back. He further stated that on 04-12-1999 at about 6 a.m., his father Ramachandra Reddy, mother Ganga Bhavani, sister Ramadevi, senior paternal uncle Bala Gangi Reddy, senior paternal aunt Narayanamma (P.W.3), elder sister Ganga Bhavani (P.W.1), junior paternal uncle Eswara Reddy and Gangadhara Reddy, son of Vema Reddy went to the fields and he was at his house. Accused 1 to 3, 5, 8 and 14 and some others went to their field. After some time he heard explosion of bombs. After hearing explosion of bombs, he went to Mangapatnam Railway Gate from his house. P.W.1 Ganga Bhavani and P.W.3 Narayanamma also came to the railway gate. Accused 1 to 3, 5, 7, 8 and 14 were found chasing the deceased Bala Gangi Reddy. Bala Gangi Reddy came from the road of Korrapadu to tar road and was running on the tar road. When accused No. 4 stated "champandira", accused No. 5 hurled a bomb on the deceased Bala Gangi Reddy and the same hit the leg of the deceased. Accused No. 6 hurled another bomb which hit the leg of Bala Gangi Reddy, due to which the deceased fell on the ground. Accused No. 1 hacked on the head of Bala Gangi Reddy with a sickle. Accused No. 2 also hacked the deceased Bala Gangi Reddy on the head with a hunting sickle. Accused No. 3 tried to remove gold ring of Bala Gangi Reddy but it did not come out. Then he cut off the fingers with a sickle. The remaining accused came from the village by hurling bombs. He also stated that accused No. 11 hurled a bomb which hit the right palm of Bala Gangi

Reddy. Due to fear of bombs, they ran away to Korrapadu. The people of Korrapadu were found coming to the scene. He accompanied them. By the time he returned back to the scene of offence at 10.30 a.m., the Police came there. The villagers could inform them that his father also was killed. He also observed the dead body of his father Ramachandra Reddy.

21. In the cross-examination, P.W.2 denied the suggestion that on the date of incident he went to the school and he did not witness the incident.

22. P.W.3 Y. Narayanamma, wife of the deceased Bala Gangi Reddy, who also witnessed the incident, has stated in her evidence that about 21/2 years back herself, her deceased husband Bala Gangi Reddy, Ramachandra Reddy, brother of the deceased Bala Gangi Reddy, Eswara Reddy, her sister Ganga Bhavani, her daughter Ramadevi and P.W.1 Ganga Bhavani went to their fields for agricultural operations. The son of her senior brother-in-law also accompanied them and they were attending agricultural works in their fields in the early hours and heard weeping cries from the field of Narayana Reddy. All of them went there to find out as to why they were weeping. They came to know that Narayana Reddy died due to electrocution at his fields. They stayed there for 10 minutes and returned back to their fields and were attending to their work. After one hour, accused 1 to 8 came from the village armed with bombs and hunting sickles suspecting that the deceased Bala Gangi Reddy and other family members were responsible for the death of Narayana Reddy. They chased her husband and when herself and her daughter P.W.1 also followed her husband towards railway track. The accused hurled bombs on her husband and chased him beyond railway gate. They heard explosion of bombs from the place of her junior brother-in-law Ramachandra Reddy. Then, they all reached the railway gate. P.W.2 Ramakrishna Reddy came there in opposite direction. Then, accused 4 and 5 hurled bombs. The bomb hurled by accused No. 5 hit the thigh of her husband. Accused No. 6 also hurled another bomb, which hit the right ankle of her husband and exploded. Accused No. 1 hacked her husband on his head with a hunting sickle. His father accused No. 2 also hacked on the head of her husband with a hunting sickle. Accused No. 3 then tried to remove a gold ring from the finger of her husband but it did not come out. Then he cut off the fingers and took them away. Accused 9 to 11 hurled bombs on her husband. Accused 12 to 14 also hurled bombs, which fell by the side of her husband. Accused 15, 16 and 18 to 20 also hurled bombs. They were exploded near her husband. After that, the accused threatened them. Then all of them hide themselves in the nearby bushes. At about 10 or 11 a.m., they returned back to the scene of offence after arrival of the Police officials. Police examined her and recorded her statement and told them that their people killed Narayana Reddy and took P.W.1 Ganga Bhavani in a jeep.

23. In the cross-examination, P.W.3 denied the suggestion that she has not stated before the Police that the accused hurled bombs on her husband and also did not state before the Police that the accused killed her husband due to suspicion that their people killed Narayana Reddy.

24. The learned Public Prosecutor submitted that the eyewitnesses examined by the prosecution supported the prosecution case and their evidence is reliable, consistent and corroborative in all material particulars and is supported by the medical evidence. But, the trial Court failed to appreciate the evidence of the prosecution witnesses and acquitted the accused only on the ground of defective investigation. It is further submitted that when there is sufficient evidence against the accused supported by the medical evidence, the trial Court was not justified in acquitting the accused on the ground of defective investigation. It is further submitted that the evidence of the eyewitnesses P. Ws.1 to 3 is consistent and reliable and therefore, the accused are liable for punishment for causing the death of the deceased Bala Gangi Reddy.

25. The learned Public Prosecutor in support of his contention placed reliance on a judgment of the Hon"ble Supreme Court in State of Punjab Vs. Gurmit Singh and Others, The Hon"ble Supreme Court held that failure of the investigating agency cannot be a ground to discredit the testimony of the prosecutrix. The prosecutrix had no control over the investigating agency and the negligence of an investigating Officer could not affect the credibility of the Statement of the prosecutrix.

26. The learned Public Prosecutor further placed reliance on another judgment in State of Rajasthan Vs. Kishore, The Hon"ble Supreme Court observed that, "mere fact that the investigating officer committed irregularity or illegality during the course of the investigation would not and does not cast doubt on the prosecution case nor trustworthy and reliable evidence can be cast aside to record acquittal on that account."

27. Lastly, the learned Public Prosecutor submitted that the occurrence in this case has taken place in a faction ridden village due to political rivalry and because the witnesses are closely related to the deceased, their evidence cannot be brushed aside in the absence of any independent corroborate witnesses. For the above proposition, the learned Public Prosecutor placed reliance on another judgment in Golla Peramasani Sivaiah @ Sivanna v. State of A.P. 2007 (1) ALD (Crl.) 255 . A Division Bench of this Court held that the testimony of interested/related/partisan witnesses cannot be brushed aside on the ground that it is not corroborated by independent witnesses. Conviction can be based on uncorroborated testimony of partisan witnesses depending upon the circumstances of each case provided their evidence is reliable and trustworthy. The evidence of partisan witnesses, however, has to be scrutinized carefully with more than ordinary care and caution with reference to probabilities, medical evidence and other circumstances.

28. On the other hand, the learned Counsel for the accused argued that P. Ws.1 to 3 are highly interested witnesses. Their presence at the time of the alleged offence is also doubtful. Therefore, their evidence cannot be accepted in the absence of any independent and corroborative evidence. It is further contended that there was an abnormal delay in giving the report though P. Ws.7 and 9 the

Police Officers visited the village at 10 a.m., no body come forward to give a report. Therefore, the conduct of the witnesses in not giving a report for nearly more than 6 hours is a clear indication that a report was brought into existence after due deliberations.

29. The learned Counsel for the accused mainly contended that the earlier statements of the material witnesses recorded by P.W.9 the investigating Officer have been suppressed as P.W.9 has clearly stated in his evidence that the statements were not in C.D. File. P.W.11 the then Sub Inspector of Police, Talla Proddatur Police Station also admitted that Section 161 Code of Criminal Procedure statements of P. Ws.1 to 3 are in his hand writing and that he has not actually recorded the statements of the witnesses. Therefore, an adverse inference can be drawn that the incident did not take place in the manner suggested by the prosecution.

30. It is further submitted by the learned Counsel for the accused that Ex.P-1 complaint is belated and the names of P. Ws.2 and 3 were not mentioned as eyewitnesses to the occurrence. There were only 4 or 5 injuries which could have been caused by explosion of bomb, but the medical evidence falsifies the evidence of the eyewitnesses. It is further submitted that on the same day at about same time one Ramachandra Reddy, brother of the deceased Bala Gangi Reddy, was also murdered at a different place, but the same accused were implicated as assailants. In that appeal, the accused were acquitted on 13-02-2007.

31. Lastly, the learned Counsel for the accused contended that unless the judgment of the trial Court is found to be perverse, the appellate Court cannot interfere with the order of acquittal.

In order to substantiate his contention, the learned Counsel for the accused placed reliance on a judgment of the Hon'ble Supreme Court in Babu v. State of Kerala 2010 (2) ALD (Crl.) 880 wherein it is held that unless there are compelling circumstances and judgment under appeal found to be perverse, the appellate Court cannot interfere with the order of acquittal. The appellate Court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters presumption of innocence of the accused and interference in a routine manner where the other view is possible should be avoided unless there are good reasons for interference.

32. The learned Counsel for the accused has also placed reliance on the judgment of the Division Bench of this Court in Golla Peramasani Sivaiah @ Sivanna's case (3 supra).

In the above case, the offence took place at 10 a.m. First Information Report reached to the police Station at 1.45 p.m. Thereafter, the Magistrate received the FIR at 4.50 p.m.

The Division Bench of this Court held that, had P. Ws.1 to 3 been really present

at the time of attack on deceased persons, they would not have behaved in a manner in which they are said to have behaved. Their conduct in keeping quiet without either going to the police station for giving report or sending somebody with a report to the police station also looks improbable.

33. The learned Counsel for the accused further placed reliance on another judgment of Division Bench of this Court in Kota Peda Nagesh v. State of A.P. 1999 (1) ALD (Crl.) 519. The Division Bench of this Court held that non-furnishing of the entire statements recorded from direct witnesses u/s 161 Code of Criminal Procedure, to the accused, the accused are entitled to be acquitted, when it occasioned prejudice to them.

34. The learned Sessions Judge at paragraph 50 of the judgment observed that P. Ws.1 to 3 are the main direct witnesses and there are discrepancies in their evidence. Though the prosecution has seized material objects like bombs, sickles etc., the valuable property i.e., gold ring was not seized and the prosecution failed to supply Section 161 Code of Criminal Procedure statements, which is the cause for the failure of this case. Therefore, he felt that it is a fit case to acquit the accused and accordingly acquitted all the accused.

35. He further observed in the same paragraph that, "it is fit case to take action against the investigation Officers for the fault of investigation for failure of the case against the accused by the Superior Officers and also not entrust any further investigation in such grave offences".

36. As seen from the above findings of the trial Court, the trial Court acquitted the accused merely on the ground that there are discrepancies in the evidence of P.Ws.1 to 3 and also prosecution failed to seize the gold ring from accused No. 3 and also due to the lapses of the investigation Officer for improper investigation.

37. P.W.11 D. Bhaskara Reddy, Sub Inspector of Police, Tallaprodatur Police Station has stated in his evidence that on 05-12-1999 at about 6.30 a.m., he was present along with Circle Inspector of Police, Kondapuram at the time of seizure of half burnt thread pieces due to bomb explosions on Korrapadu metal road and attested Ex.P-7 Police proceedings. He also stated that on the same day at about 8 a.m., he was present along with the Circle Inspector of Police and one Molaka Pedda Aswartha Reddy at the time of seizure of chappals of Korrapati Thimma Reddy and Rayapati Venkata Reddy under the cover of panchanama Ex.P-2. He stated that he has not recorded the statements of any witnesses in this case, but Section 161 Code of Criminal Procedure, statements of P. Ws.1 to 3 and L. Ws.4 to 7 are in his hand-writing and he has not actually recorded the statements.

38. P.W.10 A. Bala Subramanyam, the then Inspector of Police, Kondapuram has stated in his evidence that one Venkateswara Reddy, Inspector of Police conducted investigation in this case. After his investigation, he only laid charge-sheet on 18-3-2000.

39. P.W.9 A. Venkateswara Reddy, the then Inspector of Police, Kondapuram, who conducted investigation in this case, has stated in his evidence that on 04-12-1999 at about 9 a.m., while he was in the office he received information about the murders in Kodigandlapalli village. Immediately he called the Sub Inspectors of Police of Kondapuram and Tallaprodatur and staff and left Kondapuram and reached Kodigandlapalli village at about 10 a.m. The Sub Inspector of Police, Muddanur and staff also reached Kodigandlapalli village in the meanwhile. As there was faction in the village he moved in the village to maintain law and order to avoid further clashes. He instructed the Sub Inspector of Police, Muddanur to take a complaint from the concerned and sent the same to Muddanur Police Station for registering cases under appropriate Sections of law and to send express FI Rs to the concerned.

40. P.W.9 further stated that at about 3.30 p.m., P.W.1 presented a written complaint to the Sub Inspector of Police, Muddanur Police Station, who, in turn, sent the same to the police station and instructed H.C.629 for registration of the case who thereafter ascertained the Crime number as 138 of 1999 registered under Sections 147, 148, 302, 379 read with Section 149 of IPC and Section 120(B) of IPC and Sections 3 and 5 of the Explosive Substances Act. He then collected the panchayatdars and witnesses P. Ws.1 to 3 and held inquest over the body of the deceased Bala Gangi Reddy. He also found number of injuries on the body of the deceased. He also seized material objects 1 to 5 during inquest. He also seized bomb remnants, thread pieces and plastic bucket along with paddy husk M. Os.6 to 8 during inquest. He prepared Ex.P-6 rough sketch of the scene of offence. After inquest he examined P.W.1 Ganga Bhavani, Eswara Reddy L.W.4, Y. Ramadevi L.W.6 and Gangadhara Reddy L.W.7 and recorded their statements. His evidence further shows that subsequently on 16-12-1999 he arrested the accused and seized hunting sickles and a plastic bucket with bombs and the seized material objects were sent to the Regional Forensic Science Laboratory, Anantapur.

41. In the cross-examination, the investigating Officer P.W.9 has stated that he does not know who recorded the statements of Ganga Bhavani P.W.1, Narayanamma P.W.3, Eswara Reddy L.W.4, Ganga Bhavani, wife of Ramachandra Reddy, L.W.8, Rama devi L.W.6 and Gangadhara Reddy L.W.7. He further stated that he has not recorded the statements of the above witnesses. The carbon copies of the statements of the witnesses are available in the C.D. file and they are compared with Section 162 Code of Criminal Procedure statements of the witnesses. After the end of the statements, it is mentioned as "Sd/- D. Bhaskara Reddy, S.I. of Police, Tallaprodatur P.S." But the same is missing in the carbon copies in the C.D. file.

42. The Additional Public Prosecutor requested the trial Court time for verification in the Circle Office for the statements recorded by P.W.9. The trial Court thereafter posted the case to 04-01-2005. On 04-01-2005 P.W.9 was recalled and during the course of his further examination by the Additional Public

Prosecutor, he clearly admitted that he has recorded the statements in this case and those statements are not there in the C.D. file. After recording this evidence, it seems the trial Court put a question to P.W.9 that, "Whether the statements appearing in C.D. file are appearing to be contents are similar which you have recorded?" The witness answered "yes".

43. P.W.9 further stated in the cross-examination that only on the basis of his remembrance he deposed that the contents are appearing to be the similar statements in record. He further denied the suggestion that he has not recorded Section 161 Code of Criminal Procedure statements and deposing falsely to help the prosecution case. He further admitted that the signature in Ex.P-7 in the bottom is that of D. Bhaskara Reddy, but he cannot say who wrote Section 161 Code of Criminal Procedure statements of all the witnesses.

44. Thus, the important witness in this case is P.W.9, who conducted investigation. He stated in his evidence that he has not recorded the statements of the witnesses in this case and he does not know who recorded the statements of the witnesses P. Ws.1 to 3 and others. Though he was given time to verify and depose about the correctness or otherwise of his evidence regarding the statements of the witnesses P. Ws.1 to 3 recorded by him, he again stated in his evidence on 04-01-2005 that he has recorded the statements of the witnesses in this case, but they are not available in the C.D. file.

45. But, in the cross-examination P.W.9 has clearly admitted that carbon copies of the statements available in the C.D. file and also in the Court file indicate Sri D. Bhaskara Reddy, Sub Inspector of Police, Tallaprodatur Police Station, P.W.11, has recorded the statements of the witnesses. But, P.W.11 has stated in his evidence that he has not actually recorded the statements of the witnesses, however, he has admitted that Section 161 Code of Criminal Procedure statements of P. Ws.1 to 3 and L. Ws.4 to 7 are in his hand-writing. When P.W.11 has admitted that the statements of the witnesses are in his hand-writing, it is not known what made him again to depose that he has not actually recorded the statements of the witnesses. P.W.9, who is a responsible Police Officer, who conducted investigation, has clearly stated in his evidence that he recorded the statements of the witnesses in this case, but they are not available in the C.D. file.

46. Thus, both P. Ws.9 and 11, who are responsible Police Officers entrusted with the job of investigation in grave offences like this case, were negligent in conducting investigation on proper lines and gave false evidence before the trial Court and it is also not known what prevented the investigating Officer P.W.9 to produce Section 161 Code of Criminal Procedure statements of the witnesses when he actually recorded the statements of the witnesses during the course of investigation.

47. P.W.9 has further stated in his cross-examination that he cannot say who recorded Section 161 Code of Criminal Procedure, statements of all the

witnesses. However, after P.W.9 was recalled for further examination on 04-01-2005, he has clearly stated that Ex.P-7 Police proceedings contains the signature of Bhaskar Reddy P.W.11, who has clearly stated in his evidence that Section 161 Code of Criminal Procedure statements of P. Ws.1 to 3 and 4 to 7 are in his handwriting. Admittedly, Section 161 Code of Criminal Procedure statements of the witnesses which are in the handwriting of P.W.11 are filed in the Court. Therefore, we have no hesitation to hold that P.W.11 has recorded Section 161 Code of Criminal Procedure statements of the witnesses.

48. The learned Public Prosecutor fairly conceded that the trial Court has rightly pointed out that there are lapses on the part of the prosecuting Officers in conducting prosecution in this case. He also pointed out that Sri P. Rama Subba Reddy, Ex-MLA and Ex-Minister was also figured as the last accused in the First Information Report and his name was deleted in the charge-sheet after investigation.

49. In Ex.P-1 complaint given by P.W.1 about the incident, it has been clearly mentioned that the accused and MLA Rama Subba Reddy conspired to kill the deceased Bala Gangi Reddy, father of P.W.1 Ganga Bhavani, as the deceased supported the Congress Party during the last MLA elections. Admittedly, on the basis of Exs.P-1 complaint lodged by P.W.1, the Head Constable of Muddanur Police Station registered a case in Crime No. 138 of 1999 under Sections 147, 148, 302, 379 read with Section 149 of IPC and Section 120(B) of IPC and also Sections 3 and 5 of Explosive Substances Act. Thus, Section 120(B) of IPC was also included in the FIR along with other Sections basing on the contents of Ex.P-1 complaint that there was conspiracy by the then MLA Rama Subba Reddy and the accused, who killed the deceased Bala Gangi Reddy. The investigating Officer P.W.9 in his evidence has not stated anything about the evidence collected by him whether there was any conspiracy by the then MLA Rama Subba Reddy and the accused to kill the deceased. But, in the charge-sheet the Circle Inspector of Police has mentioned that there is no evidence to prove conspiracy against P. Rama Subba Reddy, Ex-MLA, who was figured as the last accused in the FIR and hence, his name was deleted. Admittedly, the so-called material, which discloses no evidence to prove conspiracy, also was not produced by the prosecution. But, in the charge-sheet, it has been simply mentioned that there is no evidence to prove conspiracy against the Ex-MLA P. Rama Subba Reddy.

50. Thus, it appears that P.W.9 suppressed the earlier statements of the witnesses regarding the incident since he has clearly stated in his evidence that he has recorded the statements of the witnesses even after he was given time to verify the records available in the police station. P. Ws.9 and 11 thus gave false evidence before the trial Court with regard to recording of the statements of the witnesses.

51. The evidence of P.W.1 clearly indicates that though she met the Police at 12 noon and lodged Ex.P-1 complaint, the Police did not take her oral complaint in spite of her request and on the other hand, they took her in a jeep to the police

station.

The evidence of P. Ws.1 to 3 clearly shows that after the accused killed the deceased with bombs and sickles, they threatened the witnesses with bombs and therefore, they hide themselves in the bushes and came out only after the arrival of the Police.

The evidence of P.W.1 clearly shows that soon after the arrival of the Police she met the Police even prior to 12 noon and requested them to take her oral complaint, but they did not take her statement and on the other hand, they took her in a jeep to the police station.

52. The evidence of P.W.1 further shows that one Nagarjuna Naidu is the scribe of Ex.P-1 complaint. It appears that Ex.P-1 complaint was drafted only at the police station after P.W.1 was taken to the police station. It is also in the evidence of P.W.1 that the said Nagarjuna Naidu, scribe of Ex.P-1, has not read over the contents of Ex.P-1 complaint because she is an illiterate.

53. Thus, by the evidence of P.W.1 it is clear that though P. Ws.1 to 3 came to the scene of offence after the accused left the place and on seeing the arrival of the Police to the scene of offence even before 12 noon and even after P.W.1 offered to give oral complaint to the Police, they refused to record her statement and she was made to go to the police station and after securing the scribe only, she could able to lodge a complaint to the Police. Therefore, there was delay in lodging FIR to the Police. The delay was only due to the conduct of the Police and non-cooperation of the Police for the reasons best known to them. P.W.1, daughter of the deceased Bala Gangi Reddy, who met the Police officials even before 12 noon and offered the statement about the incident, the Police Officers ought to have recorded her statement immediately and registered the same, instead P.W.1 was sent to the police station and she was made to secure the scribe for giving the complaint.

54. Therefore, in view of the facts and circumstances of the case, we are of the opinion that such delay in lodging FIR is not fatal to the prosecution and the delay was properly explained by P.W.1. Therefore, the contention of the learned Counsel for the accused that the FIR was lodged after due deliberations and consultations due to political factions in the village, cannot be accepted.

55. In Ex.P-1 written complaint given by P.W.1, she has mentioned that accused 1 to 8 came from the village by raising cries "kobali-kobali". When her deceased father Bala Gangi Reddy ran towards the village through Korrapadu road, she heard bomb explosion sounds and her father came running near railway gate and from there he ran towards the village, accused No. 2 instigated the other accused to kill her father. But, accused 5 and 6 hurled bombs on her father. Thereafter, accused 1 and 2 hacked on the head of her father with hunting sickles. Accused No. 3 cut the right hand fingers. She further mentioned that in the meantime, the other accused 9 to 21 came there by hurling bombs. But in the evidence P.W.1 has stated that accused 4 and 5 hurled bombs which hit the

right leg of her father. Accused No. 6 hurled another bomb which hit the right foot of her father and when her father fell down, accused 1 and 2 hacked her father with hunting sickles on the head. Accused No. 3 tried to take away a gold ring from his fingers and when the gold ring did not come out he cut the fingers up to the palm. She further stated that accused 9 to 17 and 19 to 21 hurled bombs on her father even after the death of her father.

56. According to P.W.2, accused 1 to 3, 5, 8 and 14 and some others went to the fields. He heard the explosion of bombs after some time and went to Mangapatnam railway gate. He found P.W.1 at the gate. The accused 1 to 3, 5, 7, 8 and 14 were chasing the deceased. When accused No. 4 instigated the other accused "champandira", accused 5 and 6 hurled bombs. Then the deceased fell down. Accused 1 and 2 hacked the deceased with hunting sickles. Accused No. 3 tried to remove the gold ring and when it did not come out, he cut off the fingers with a sickle. In the evidence P.W.2 has further stated that the remaining accused came from the village by hurling bombs. Out of them, accused No. 4 hurled a bomb which hit the right palm of the deceased and he has not stated the names of the other accused who hurled bombs on the deceased.

57. P.W.3, wife of the deceased, has stated that accused 1 to 8 first came from the village armed with bombs and hunting sickles, chased her husband beyond the railway gate.

Then, her self and her daughter followed the deceased. They heard the explosion of bombs from the place where her junior brother-in-law Ramachandra Reddy was there. By the time they reached the railway gate, P.W.2 came in opposite direction. Accused 4 to 6 hurled bombs on the deceased. Accused 1 and 2 hacked on the head of the deceased with hunting sickles. Accused No. 3 tried to remove the gold ring and when it did not come out, he cut off the fingers and took them away. She also stated that accused 9 to 16 and 18 to 20 also hurled bombs on the deceased. She has not stated about the participation of accused 17 and 21 in hurling the bombs.

58. As per Ex.P-4 post-mortem certificate, the deceased received 18 injuries, out of which injury Nos. 1 and 2 are chap injuries extending from middle right cheek to lower part of the right parietal bone. Crush laceration injury on the right hand up to wrist joint i.e., injury No. 3. Injury Nos. 4 to 8 are the abrasions. Injury Nos. 9 and 10 are lacerated injuries. Injury No. 11 is punctured injury. Injury Nos. 12 to 15 are again lacerated injuries. Injury Nos. 16 and 17 are abrasions and injury No. 18 is punctured injury.

59. According to the Medical Officer P.W.6, the deceased died with cardiac arrest due to shock from fracture of skull bones and laceration of meninges and brain i.e., due to injury Nos. 1 and 2. Thus, according to the eyewitnesses, injury Nos. 1 and 2 are caused by accused 1 and 2 with hunting sickles. The other injuries may be caused due to hurling of the bombs.

60. In Section 161 Code of Criminal Procedure statement before the Police, P.W.1

also stated that accused No. 4 instigated the other accused "champandira" then accused 5 and 6 hurled bombs on her father which hit his legs. On that her father fell down. Then accused 1 and 2 axed her father with sickles. Accused No. 3 cut the right hand fingers and took away the same along with a ring. After that, accused 9 to 20 came there hurling bombs. She further stated before the Police that Ex-MLA Rama Subba Reddy and all the accused have hatched up a plan to kill her father and all the family members and that her father informed her that he wanted to perform her marriage as early as possible. In the meanwhile, the accused killed her father. She further stated that she came to know that her junior paternal uncle Ramachandra Reddy was also killed near their fields.

61. Thus, before the Police as well as in the evidence, P.W.1 has clearly stated about the presence and active participation of accused 1 to 8 for attack on her father Bala Gangi Reddy with hunting sickles and bombs. The second part of her evidence clearly indicates that the other accused i.e., accused 9 to 20 hurling bombs came from the village after the attack on her father by accused 1 to 8. She further stated that accused No. 11 hurled a bomb on the cut hand of her deceased father. She has clearly stated in the evidence that the other accused who came from the village hurled bombs even after the death of her father.

62. P.W.2 also clearly stated about the presence and active participation of accused 1 to 8 in the evidence. He further stated that the remaining accused came from the village hurling bombs after the attack on the deceased Bala Gangi Reddy by accused 1 to 8. He also stated that accused No. 11 hurled a bomb which hit right palm of Bala Gangi Reddy.

63. P.W.3, wife of the deceased Bala Gangi Reddy, also corroborated the evidence of P. Ws.1 and 2. She also narrated the incident right from the beginning that all the accused chasing the deceased, and herself and P.W.1 following the deceased due to fear of the accused. She also stated about the presence and active participation of accused 1 to 8 in her evidence. She also stated that accused 9 to 21 came there by hurling bombs. But she has not stated about the specific overt acts of accused 9 to 21 except saying that all of them hurled bombs near her husband. She also stated in her evidence that while coming accused No. 11 also hurled a bomb on the cut palm of her husband.

64. P. Ws.2 and 3 also stated before the Police about the active part played by accused 1 to 8 in attacking the deceased Bala Gangi Reddy and after that, the other accused came there and hurled bombs. P.W.2 also stated before the Police that his father Ramachandra Reddy was also killed.

65. The learned Public Prosecutor submitted that on the complaint given by Eswara Reddy, another brother of the deceased Bala Gangi Reddy, on the same day i.e., on 04-12-1999 at 3 p.m., the Station House Officer, Muddanur Police Station registered another case in Crime No. 137 of 199 alleging that the accused in this case and some others killed his another brother Ramachandra

Reddy also on the same day and at the same time when he was fleeing away on cycle due to fear of the accused. The learned Public Prosecutor further submitted that in that case some of the accused were convicted by the trial Court and a Division Bench of this Court allowed the criminal appeal filed by the convicted accused and that the prosecution filed an appeal before the Hon"ble Supreme Court of India and the same is pending.

66. It is, therefore, clear that on the same day when the deceased Bala Gangi Reddy and his brother Ramachandra Reddy tried to escape from the fields on seeing the accused, they were chased and killed when the deceased Bala Gangi Reddy was running and another brother deceased Ramachandra Reddy tried to escape on a cycle. Both the murders have taken place in the day-light i.e., in the early hours of 04-12-1999. P. Ws.1 and 3 have clearly stated in their evidence that when the deceased Bala Gangi Reddy and Ramachandra Reddy, another brother Eswara Reddy and others were attending agricultural operations, all the accused came by raising cries "kobali kobali" with dangerous weapons, the deceased ran towards the village expecting that the accused may harm the deceased and they also ran in the same direction towards the deceased Bala Gangi Reddy and had seen the incident. Their evidence further shows that P.W.2 was found coming in the opposite direction near the railway bridge. Therefore, P. Ws.1 to 3 were the most probable witnesses as P. Ws.1 and 3 were following the deceased Bala Gangi Reddy at the material point of time.

In spite of detailed cross-examination, nothing could be elicited by the defence to discredit their evidence. The evidence of P. Ws.1 to 3 cannot be discarded or thrown out solely on the ground of mere relationship with the deceased, if their evidence is found to be correct and reliable and worthy of acceptance. Therefore, the evidence of interested witnesses needs to be scrutinized with more than ordinary care and caution.

67. In State of U.P. Vs. Ballabh Das and Others, the Hon"ble Supreme Court dealing with the appreciation of evidence has observed as follows:

There is no law which says that in the absence of independent witnesses, the evidence of interested witnesses should be thrown out at the behest of or should not be relied upon for convicting the accused. What the law requires is that where the witnesses are interested, the Court should approach their evidence with care and caution in order to exclude the possibility of false implication. In a faction village it will really be impossible to find independent versions to come forward and give evidence and in a large number of such cases only partisan witnesses would be natural and probable witnesses.

68. Admittedly, the motive that was ascribed by the prosecution against the accused for the murder was that the family of the deceased Bala Gangi Reddy supported the Congress Party and the accused supported the Telugu Desam Party and there are factions in the village. Prior to the incident the accused hatched up a plan to kill the family of the deceased Bala Gangi Reddy. Therefore,

the deceased discussed with his family members and decided to perform the marriage of his daughter Ganga Bhavani P.W.1 as early as possible. The prosecution thus proved motive for the accused to commit the offence of murder of deceased Bala Gangi Reddy.

69. After careful scrutiny of the evidence of the eyewitnesses, we find that P. Ws.1 to 3 were the most probable and natural witnesses at the material point of time. Though there are some discrepancies in their evidence, but, in our view, those discrepancies do not go to the root of the matter touching the core of the material aspects of the prosecution case.

70. The medical evidence i.e., the injuries found on the body of the deceased Bala Gangi Reddy also corroborated the evidence of the eyewitnesses. The prosecution thus succeeded in proving that the deceased Bala Gangi Reddy died due to the injuries caused by accused 1 to 8 and 11 with hunting sickles and bombs and they are liable for punishment. The manner in which the incident took place clearly indicates that the accused 1 to 8 and 11 shared the common intention of committing the murder of the deceased Bala Gangi Reddy.

71(a). The accused 1 to 8 and 11 are, therefore, found guilty for the offence u/s 302 read with Section 149 of IPC.

They are further found guilty for the offences under Sections 3 and 5 read with Section 6 of the Explosive Substances Act, 1908 and are liable for conviction for the said offences.

(b) As no independent and specific overt acts are attributed against the other accused i.e., accused 9 and 13 to 20, they are entitled for acquittal. The impugned judgment passed by the trial Court insofar as acquitting accused 9 and 13 to 20 of all the charges framed against them is confirmed.

(c) Accused 1 to 8 and 11 are, therefore, convicted u/s 235(2) of Code of Criminal Procedure, and sentenced to undergo "imprisonment for life" and also to pay a fine of Rs. 1,000/- (Rupees one thousand only) each, in default to suffer simple imprisonment for one month each for the offence u/s 302 read with Section 149 of IPC.

(d) Accused 1 to 8 and 11 are further convicted u/s 235(2) of Code of Criminal Procedure, and sentenced to undergo rigorous imprisonment for one year each and also to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default to suffer simple imprisonment for one month each for the offence u/s 3 read with Section 6 of the Explosive Substances Act, 1908.

(e) Accused 1 to 8 and 11 are further convicted u/s 235(2) of Code of Criminal Procedure, and sentenced to undergo rigorous imprisonment for one year each and also to pay a fine of Rs. 500/- (Rupees five hundred only) each, in default to suffer simple imprisonment for one month each for the offence u/s 5 read with Section 6 of the Explosive Substances Act, 1908.

(f) The above sentences and the sentence awarded for the offence u/s 302 read with Section 149 of IPC shall run concurrently.

(g) The accused are entitled to the benefit of set off as per Section 428 of Code of Criminal Procedure

(h) The trial Court is directed to issue Warrants of Arrest against the accused 1 to 8 and 11 to serve the sentences awarded to them.

72. The criminal appeal is allowed in part accordingly and the impugned judgment of acquittal passed by the trial Court is set aside to the extent indicated above.