

(2009) 04 GAU CK 0059

In the Gauhati High Court

Case No : Criminal Ref (H) 09 (AP) of 2007 and Criminal Appeal No. 09 (AP) of 2007

State of Arunachal Pradesh

APPELLANT

Vs

Onong Ratan and Others

RESPONDENT

Date of Decision : 24-04-2009

Acts Referred:

Assam Frontier (Administration of Justice) Act, 1945 — Section 30(1)
Criminal Procedure Code, 1973 (CrPC) — Section 313, 313(1), 313(2), 313(3), 313(4)
Penal Code, 1860 (IPC) — Section 34, 363, 366, 376

Citation : (2009) 3 GLT 417

Hon'ble Judges : P.K. Musahary, J; I.A. Ansari, J

Bench : Division Bench

Advocate : T. Jamoh and T. Pertin, for the Appellant; N. Lowang, for the Respondent

Final Decision : Dismissed

Judgement

I.A. Ansari, J.—By judgment and order, dated 25-26.09.2007, passed, in Sessions Case No. 242/2003, the learned Addl. Sessions Judge (Fast Track Court), Basar, has convicted the two accused persons, namely, Onong Ratan and Taran Ering, under Sections 363 and 376 read with Section 34 of the Indian Penal Code and sentenced each one of them, for their conviction u/s 366 read with Section 34 IPC, to undergo rigorous imprisonment for three years and pay fine of Rs. 2,000/- and, in default of payment of fine, to undergo rigorous imprisonment for a further period of three months. For their conviction u/s 376 read with Section 34 IPC, the two accused persons are further sentenced to undergo rigorous imprisonment for ten years with fine of Rs. 5,000/- and, in default of payment of fine, to undergo further rigorous imprisonment for a further period of six months, both the sentences having been directed against the two accused persons to run consecutively and not concurrently. A reference has accordingly been registered by the High Court in terms of the provisions of Section 30(1) of the Assam Frontier (Administration of Justice) Regulations,

1945. Aggrieved by his conviction and the sentence passed against him, one of the convicted persons, namely, Taran Ering, has preferred an appeal, which has given rise to Criminal Appeal No. 09 (AP)/2007. No appeal has, however, been preferred by the other convicted person. As both--the reference as well as the appeal--have arisen out of the judgment and order, dated 25-26.09.2007, aforementioned, we propose to dispose of the reference as well as the appeal by this common judgment and order.

2. We have heard Mr. T. Pertin, learned Counsel, as amicus curiae, and Mr. T. Jamoh, learned Counsel, for the Appellant. We have also heard Mr. N. Lowang, learned Public Prosecutor, for the State.

3. The case of the prosecution may, in brief, be described thus:

On 17.01.1993, at late hours of the night, the two accused persons, namely, Shri Onong Ratan and Taran Ering, came to the house of PW2, where he used to live with his wife (PW3) and his 9-10 years old daughter (PW1). Both the accused forcibly entered into the house of PW2, when the inmates of the house were asleep. The accused asked PW3 to cook food for them. Being threatened and forced, PW3 cooked food for both the accused. After having their meals, the two accused asked PW2, who was a driver, to go to the nearby sawmill and find out if the vehicle of the sawmill had arrived at the sawmill or not. When PW2 was going towards the sawmill, his young daughter (PW1), out of fear, followed him to the road. The two accused did not let the said child (PW1) accompany her father to the sawmill. Not expecting that the two accused would cause any harm to his child, PW2 went to the sawmill looking for a truck; but, on not finding the truck, when PW2 returned to the place, where he had left the two accused and his daughter, he found none of the three persons present there. As a matter of fact, when PW 2 had left for the sawmill, both the accused forcibly carried the said female child to the nearby jungle, gagged her mouth, intimidated her by showing a dao to her, removed her wearing apparels, put her on the ground and, thereafter, both the accused, one after the other, had sexual intercourse with the said child. The said child sustained injuries on her vagina, and, due to severe pain, she fainted. Having not found his daughter and the two accused at the place, where he had left them, when PW2 reached home, he found that his daughter had not come home either. The parents of PW1 looked for their daughter, but they could not trace out her whereabouts. The police was, then, telephonically informed. After some time, on search being conducted, the said child was found lying, in injured condition, in a drain near her house, in unconscious state. The child was carried to the hospital, examined and treated there. Upon recovery of the child, a formal written complaint was made to the police by PW2 and this complaint was registered as the FIR. On completion of investigation, the police laid charge-sheet against both the accused under Sections 363/376/34 IPC.

4. During trial, charges under Sections 363 and 376 read with Section 34 IPC were framed against the two accused. To the charges, so framed, both the

accused pleaded not guilty.

5. In support of their case, prosecution examined altogether six witnesses. While the accused, Taran Ering, alleged that he had been falsely implicated by co-accused, Anong Ratan, the case of the accused, Anong Ratan, was that it is accused, Taran Ering, who had forcibly taken away the child and had sexual intercourse with her and though he (accused Anong Ratan) was present there, he (accused Anong Ratan) had not committed rape on the said child. No evidence was, however, adduced by the defence.

6. Having found both the accused guilty of the charges framed against them, the learned trial Court convicted them accordingly and passed sentences against them as mentioned hereinabove.

7. We, first, deal with the evidence of PW3, who is mother of the alleged victim. According to her evidence, she knew both the accused by face, the two accused broke open the door of the house of PW3 and entered into their house at late hours of the night and asked her husband (PW2), who was a driver, to go to the sawmill and find out if vehicle of the sawmill had arrived or not. The two accused also forced PW3 to cook food for them and she accordingly prepared food for them. Having taken their food, the two accused asked PW3's husband, PW2, to go with them to the sawmill. The accused not only assaulted her with a gun on her thigh, but also, with the blunt edge of a dao, on her back. It is in the evidence of PW3 that when her husband was being taken towards the sawmill, her daughter, PW1, cried and went after her father, whereupon the two accused took the child (PW1) too with them. It is also in the evidence of PW3 that after some time, her husband came back alone and enquired if their daughter had reached home, but PW3 told her husband that PW1 had not returned home, whereupon they looked for their daughter, but having not found her, they telephonically informed Pasighat Police Station, but the police were late in arriving and after the police had arrived, their search led them to a nearby nallah, where they found their daughter lying, in unconscious state, soaked in blood, her daughter's private part was badly injured and the doctor had to stitch the injured private parts of her daughter. PW3 has also deposed that her daughter's condition became so serious that she was not in a position to pass urine or stool and it was after a week that she, gradually, came back to her senses and reported to them that the two accused had taken her away to the jungle and forcibly had sexual intercourse with her. The defence cross-examined PW3; but her evidence, in all material particulars, remained wholly unshaken and unchallenged.

8. Close on the heels of the evidence of PW3, the evidence of her husband (PW2) is that the two accused, who were known to him by face, entered into their house and asked his wife to prepare meal for them and, then, they asked him to go and look for a vehicle from sawmill, whereupon he went to the sawmill, but did not find any vehicle there. Thereafter, he came back to his house and told the accused that no vehicle was available there. The two accused asked him to

accompany them and find out as to why no vehicle was available at the sawmill. PW2 has further deposed that when he went out of his house, his daughter, out of fear that he (PW2) might be beaten up, also came running and when they covered a little distance, both the accused asked him to go to the sawmill, look for the vehicle and, accordingly, he went inside the sawmill, while his daughter (PW1) remained with the accused as the accused had told him to leave his daughter with them. It is in the evidence of PW2 that expecting that the two accused would not cause any harm to the little child, he went to the sawmill leaving his daughter with the accused. Having not found any vehicle at the sawmill, when PW2 reached the place, where he had left her daughter with the accused, he found none of them present there. It is also in the evidence of PW2 that when he reached home, he found that his daughter had not returned home. Thereafter, he informed one of his neighbours, namely, Tater Ering, about the matter, they searched for his daughter and also informed the police that his daughter was missing. After information given to the police, they found his daughter lying in a drain near the house, she was picked up from there, brought to the house and, then, taken to the hospital, where the doctor examined and treated her by stitching the injured portions of the private parts of his daughter. It is in the evidence of PW2 that at the time of the occurrence, the age of his daughter was about 9 years.

9. Though PW2 has also been cross-examined by the defence, nothing could be specifically elicited from his cross-examination to show that his evidence is not believable. In fact, even the evidence of PW2 has remained, on all material particulars, wholly unchallenged.

10. The above discussion of the evidence of PW2 and PW3 brings us to the evidence of PW1. Her evidence is that the two accused, armed with dao, came to her house and asked her mother to prepare meals for them, her mother accordingly prepared meals for them and, after having taken their meals, they asked her father to see them off and also told that if he failed to bring any vehicle, he would be beaten up. PW1 has deposed that apprehending that her father might be beaten up, she ran after her father, but the two accused did not allow her to go with her father to the sawmill, which was at a distance of about half-a-kilometer away from her house. PW1 has also deposed that after her father left for the sawmill, the two accused persons threatened her by showing a dao, took her inside the jungle, removed her clothes and, as it was dark, nothing was clearly visible. What PW1 described, in her evidence, is extremely important and needs to be carefully noted. The relevant portion of the evidence of PW1, in this regard, reads:

Thereafter, they got me lied down on the ground and one of them caught my both hands and Anr. caught my both legs and set over me and during which I pressed my legs closed to resist them. Then the person on my body hit my legs because of which I got severe pain and thereafter he drew my legs apart not only that they also put the dao on my private part and got me injured on my private

part and thereafter when I could not resist one of them had forceful sexual intercourse on me. After the first person completed his turn he caught my hands and Anr. accused in turn had forcible sexual intercourse with me as in the manner done by the first person. Thereafter, I became unconscious as I was then of a small girl of nine years. And, thereafter, I did not know anything about what had happened to me. Subsequently, I was told by my father and mother that I was found thrown near a nallah that lies near our house and my father and mother accordingly informed the police on the same night at around 2 A.M. Police came late in the morning as I was told by my parents. But I did not know all about these and even I do not know when I was brought to medical as I was senseless until I was recovered of my health and brought to my house from hospital.

11. We have minutely scrutinized the cross-examination of PW 1 by the defence and what we notice is that the description of the occurrence, given by her, remained wholly unchallenged. This apart, we see no reason to disbelieve any part of the evidence of PW 1.

12. From a combined reading of the evidence of PW1, PW2 and PW3, what distinctly transpires is that the accused had come to the house of PW2, they forced his wife to prepare meals for them, they had their meals and, then, asked PW2 to go the sawmill to see if any vehicle was available. When PW2 was going out of his house along with the two accused, PW1, out of fear, followed he father, but she was not allowed by the two accused to accompany her father to the sawmill; rather, the two accused sent her father to the sawmill and after her father had left for the sawmill, they forcibly took her to the nearby jungle and, then, had, forcibly, one after the other, sexual intercourse with her in such a dastardly manner that PW1's vagina got ruptured. The fact that PW1 had sustained injuries on her private parts is supported by the medical evidence on record inasmuch the evidence of PW4 (Dr. D. Kampu) is that on 18.01.1993, while he was on emergency duty, at Pasighat General Hospital, PW1 was brought to the hospital in a semi-conscious, dehydrated, anemic and toxic state, her pulse was then 110 per minute, blood pressure was 90/90 MM HG. PW4 has deposed that on examining PW1, he found abrasions over her face, right cheeks, neck, back and thigh, bleeding from private parts, injury to the vulva, hymen was torn with second degree perennial tear and vaginal wall torn.

13. From the oral evidence given by the victim, corroborated by the evidence of her parents, and supported by the medical evidence on record, it becomes abundantly clear that the evidence given by PW1, PW2 and PW3 was completely true. This apart, there is no reason for any of them to falsely implicate any of the two accused.

14. Though the prosecution had relied on the judicial confession of accused Taran Ering, we keep the judicial confession excluded from the purview of our consideration inasmuch as the statement, which has been recorded as the confessional statement, is, strictly speaking, no confession at all inasmuch as

this accused has entirely put blame on the co-accused and does not admit of having, voluntarily, either taking the child to the jungle or having sexual intercourse with her. However, even if the judicial confession is not relied upon, the evidence of the victim and her parents coupled with the medical evidence on record, clearly prove that the two accused had taken away the said child and forcibly had sexual intercourse with her.

15. We may also pause here to point out that while denying, in his examination, u/s 313 Code of Criminal Procedure, that he had committed rape on the said child, accused Onong Ratan responded by stating, "I do not admit the allegation that I have forcible sexual intercourse with victim. It was the Anr. accused Taran Ering himself who forcefully took the victim and had sexual intercourse with her and he also purchased a bottle of "Roxy" for me. It is true that I was involved with him. That is to say we both were with the victim and her father and I went with the father of the victim inside the sawmill while the victim was carried by the accused Taran Ering but I cannot say whether he raped her or not."

16. From the above statement, given by accused Onong Ratan, what becomes clear is that this accused admits that the two accused had gone to the house of PW2 they had asked PW 2 to go to the sawmill and at the time, when PW 2 had proceeded towards the sawmill, the said child (PW1) was present with her father. Though the accused Onong Ratan has denied that he had committed rape on the child or taken her away, the fact remains that when the admissions, so made by him in his statement u/s 313 Code of Criminal Procedure, are considered in the light of the other evidence on record, particularly, the evidence of the victim child, there remains no room for doubt that this accused had, indeed, forcibly taken away along with his co-accused, namely, Taran Ering, the said female child to the jungle and committed rape on her.

17. So far as the Appellant, Taran Ering, is concerned, though he too has denied that he had committed rape on PW1, the fact remains that the evidence on record, as discussed above, does not leave any shadow of doubt in our mind that the Appellant and his co-accused, in furtherance of their common intention, had taken the child to the jungle and forcibly had sexual intercourse with her and thereby committed offence of kidnapping and rape.

18. Before proceeding any further what is important to bear in mind is that though a statement, recorded u/s 313 Code of Criminal Procedure, is not a statement made on oath and is not, strictly speaking, evidence, yet the statement, so made, can, indeed, be taken into consideration, at the trial, against the accused for the purpose of arriving at the guilt or otherwise of the accused. In no uncertain words made the Apex Court clear this position of law, when it observed and held, in the State of Maharashtra Vs. Sukhdeo Singh and another Vs. State of Maharashtra Through C.B.I. Vs. Sukhdev Singh alias Sukha and others, as follows:

51. That brings us to the question whether such a statement recorded u/s 313 of

the code can constitute the sole basis for conviction. Since no oath is administered to the accused, the statements made by the accused will not be evidence *stricto sensu*. That is why Sub-section (3) says that the accused shall not render himself liable to punishment if he give false answer. Then comes Sub-section (4), which reads: "313 (4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

Thus, the answers given by the accused, in response to his examination, u/s 313, can be taken into consideration in such inquiry or trial. This much is clear on a plain reading of the above sub-section. Therefore, though not strictly evidence, Sub-section (4) permits that it may be taken into consideration in the said inquiry or trial. See *State of Maharashtra Vs. Dr. R.B. Chowdhary and Others*, This Court, in the case of *Hate Singh Bhagat Singh Vs. State of Madhya Bharat*, held that an answer given by an accused u/s 313 examination can be used for proving his guilt as much as the evidence given by a prosecution witness. In *Narain Singh Vs. State of Punjab*, this Court held that if the accused confesses to the commission of the offence with which he is charged, the Court may, relying upon that confession, proceed to convict him. To State the exact language in which the three Judge bench answered the question, it would be advantageous to reproduce the relevant observations at page 684-685:

Under Section 342 of the Code of Criminal Procedure by the first sub-section, insofar as it is material, the Court may, at any stage of the enquiry or trial and after the witnesses for the prosecution have been examined and before the accused is called upon for his defence, shall put questions to the accused person for the purpose of enabling him to explain any circumstance appearing, in the evidence, against him. Examination u/s 342 is primarily to be directed to those matters on which evidence has been led for the prosecution to ascertain from the accused his version or explanation, if any, of the incident, which forms the subject-matter of the charge and his defence. By Sub-section (3), the answers given by the accused may "be taken into consideration" at the enquiry or the trial. If the accused person in his examination u/s 342 confesses to the commission of the offence charged against him, the court may, reiving upon that confession, proceed to convict him; but if he does not confess an, explaining circumstance, appearing in the evidence against him, sets up his own version and seeks to explain his conduct pleading that he has committed no offence, the statement of the accused can only be taken into consideration in its entirety.

Sub-Section (1) of Section 313 corresponds to Sub-section (1) of Section 342 of the old Code except that it, now, stands bifurcated in two parts with the proviso added thereto clarifying that in summons case, where the presence of the accused is dispensed with, his examination under Clause (b) may also be dispensed with. Sub-section (2) of Section 313 reproduces the old Sub-section (4) and the present Sub-section (3) corresponds to the old Sub-section (2)

except for the change necessitated on account of the abolition of the jury system. The present Sub-section (4) with which we are concerned is a verbatim reproduction of the old Sub-section (3). Therefore, the aforestated observations apply with equal force.

[Emphasis is supplied]

19. From what have been observed and laid down in Sukhdev Singh (supra), it becomes transparent that if an accused person, in his examination u/s 313 Code of Criminal Procedure, confesses to the commission of the offence (s) charged with, the Court may, relying upon such confession, proceed to convict the accused and it is only when the accused does not confess and/or the accused chooses to explain the circumstances appearing in the evidence against him or sets up his own version of the occurrence claiming to the effect that he had committed no offence, the statement of the accused, made during the course of examination u/s 313 Code of Criminal Procedure, can be considered in its entirety along with other pieces of evidence on record. To put it a little differently, there is no impediment in law for a Court to found conviction of an accused on his confession made by him during his examination u/s 313 Code of Criminal Procedure and/or to rely upon an admission of facts made by an accused during his examination u/s 313 Code of Criminal Procedure.

20. It further logically follows from what have been observed and laid down, in Sukhdev Singh (supra), that an admission of a piece of evidence, which an accused may voluntarily make, at the stage of his examination u/s 313 Code of Criminal Procedure, can be relied upon and there is no impediment, in law, in convicting an accused on such admission made in the statement u/s 313 Code of Criminal Procedure if such statement, taken in its entirety, in the light of the other evidence on record, proves beyond doubt that the accused is the one, who has committed the offence.

21. The legal position, as discussed above, with regard to the object and scope of Section 313 Code of Criminal Procedure, is further reinforced by a three Judge Bench decision in State of U.P. Vs. Lakhmi, In order to appreciate the law, on the use of the statement of an accused made u/s 313 Code of Criminal Procedure, it is necessary to take note of the material facts of the case in Lakhmi (supra), wherein accused Lakhmi faced the charge of murder for having put his wife to death intentionally. Prosecution's case was largely based on the testimony of PW2 (Ramey). On the day of the occurrence, according to prosecution, Lakhmi inflicted blows with a phalli (a spade-like agricultural implement) on the head of the deceased. Her skull got smashed and she died on the spot. Ramey, who claims to have been working in the adjacent field, claimed that on hearing the screams of the deceased, he had rushed to the house of the accused and, on peeping through the windows, witnessed the accused smashing his wife's head by giving her blows with a phalli and, on hue and cry being raised by him (PW2), some neighbours, who heard the noise, came to the place of occurrence, broke open the door, which was bolted from inside, and overpowered the assailant.

During the course of examination of the accused, u/s 313 Code of Criminal Procedure, in Lakhmi (supra), one of the questions, put by the Court to the accused and the answer to the question read as follows:

What have you to say about the evidence of Ramey (PW2) that he peeped through the window and saw you standing near her bed and you killed her with phalli (Ex. Ka-1) and Kunda (Ex.Ka-2)?

The answer of the accused to the said question was this:

It was not like that. I murdered her with a kunda and not with a phalli.

22. The learned Sessions Judge, in Lakhmi (supra), convicted the accused and sentenced him to imprisonment for life. The High Court, while acquitting the Appellant, held the evidence of PW2 (Ramey) was not credit worthy and at any rate, his evidence had received no corroboration from any other reliable evidence. While so acquitting the accused, the High Court did not attribute any importance to the answers, given by the Appellant, which we have reproduced hereinabove, wherein, he had practically, admitted, that he had killed his wife.

23. In the circumstances, as mentioned above, the Supreme Court, in Lakhmi (supra), has pointed out that answers to questions put to the accused may be, on most of the occasions, flat denial or outright repudiation of those circumstances, but, in certain cases, the accused would offer some explanations to the incriminating circumstances and in very rare instances, the accused may even admit or own incriminating circumstances adduced against him, perhaps, for the purpose of adopting legally recognized defences. In all such cases, points the Apex Court in Lakhmi (supra), the court gets the advantage of knowing the version of the accused about those aspects and it helps the court to effectively appreciate and evaluate the evidence in the case. If an accused admits any incriminating circumstance, appearing in the evidence against him, there is no warrant for the proposition that those admissions should altogether be ignored merely on the ground that such admissions were advanced as a defence strategy.

24. Having pointed out that Sub-section (4) of Section 313 amounts to a legislative guideline for the courts to give due weight to the answers, which an accused may give to the question put to him, the Court has clarified, in Lakhmi (supra), that when answers, given by an accused, contain admissions of circumstances appearing against him and when such admissions are not de-linked from the evidence, such admissions can be used for arriving at a finding that the accused had committed the offence.

25. In the light of the position of law as discussed above, it becomes clear that the statement made by the accused u/s 313 Code of Criminal Procedure, in the present case, must be considered in the light of the evidence on record and the admission, if any, in such statement can, indeed, be used against the accused. When considered, in this light, the evidence on record and the statements of the two accused, recorded u/s 313 Code of Criminal Procedure, there remains

absolutely no room for doubt that the Appellant and his co-accused, in furtherance of their common intention, if we may reiterate, taken the said female child to the jungle and forcibly had sexual intercourse with her and thereby committed offences of kidnapping and murder.

26. During the course of hearing of this appeal, it has been pointed out, on behalf of the Appellant, that in the FIR, the informant has written that on the following day morning, his daughter had come back home in serious condition, whereas the evidence on record is that the said child was found lying, in unconscious state, in a drain near the house of PW2. Hence, according to the learned Counsel for the Appellant, the prosecution has not presented before this Court a true case.

27. While dealing with the above aspect of the case, it needs to be noted that the FIR was, admittedly, not written by PW2, but was written by the police. In such circumstances, contradiction, if any, between the evidence given by PW2 and the contents of the FIR cannot be given any importance, particularly, when the evidence on record has, otherwise, as already discussed above, remained completely unshaken. This apart, attention of PW2 was not drawn to that statement, made in the FIR, which is sought to be contradicted by the Appellant on the basis of the evidence on record. When the attention of a witness is not drawn to the statement made by him, in writing, the evidence given by him cannot be taken to have been contradicted by the contents of the statement, which might have been reduced into writing. This apart, in the present case, the said statement of PW2 is, in law, not an FIR at all inasmuch as it was lodged long after investigation by the police, on the basis of telephonic information, had commenced and the injured child had already been recovered.

28. An attempt has also been made, at the time of hearing of the appeal, to show that accused Taran Ering was a juvenile. This is attempted to be sustained, because of the reason that while recording his statement, u/s 313 Code of Criminal Procedure, his age has been mentioned as 28 years. While considering this aspect of the case, it needs to be noted that at no stage, either during the course of investigation or even at the trial, it had been contended, on behalf of the Appellant, that he had been juvenile at the time of the alleged occurrence. In fact, a close scrutiny of the appeal petition shows that even in the appeal petition, it has not been contended by the Appellant that he was a juvenile. In such circumstances, when the age, recorded in the course of examination u/s 313 Code of Criminal Procedure, is from no authenticated source, we do not find that the Appellant has been able to establish that he was a juvenile at the time of the alleged occurrence.

29. It has also been submitted, on behalf of the Appellant, that though the Appellant had stated, during his cross-examination u/s 313 Code of Criminal Procedure, that he would adduce evidence, no evidence was allowed to be adduced. However, in the light of the statement, so made, when we examined the relevant records, we found that on the date fixed for recording of evidence, it

was submitted, on behalf of the Appellant, at the trial, that he would not adduce any evidence. In such circumstances, it cannot be held that the Appellant was not allowed to adduce evidence in his defence. When the orders, passed in this regard, by the learned trial Court were brought to the notice of the learned Counsel for the Appellant, the learned Counsel for the Appellant conceded that the accused had abandoned his plea that he would adduce evidence in support of his defence.

30. Because of what have been discussed and pointed out above, we are in complete agreement with the findings, reached by the learned trial Court, that the two accused had, in furtherance of their common intention, kidnapped and forcibly committed rape on PW1. We, therefore, affirm the findings of guilt reached against the two accused by the learned trial Court and maintain their conviction under Sections 363 and 376 read with Section 34 IPC.

31. We have heard the learned Counsel for the parties on the sentences passed against the two convicted persons. We do not find that the sentences, passed against the two convicted persons, are either harsh or unreasonable. In such circumstances, even the sentences passed against the two accused call for no interference by this Court.

32. In the result and for the reasons discussed above, the conviction of the two accused persons and the sentences passed against them are hereby maintained. The reference shall accordingly stand answered.

33. The appeal, preferred by the accused, Taran Ering, thus, fails and the same shall accordingly stand dismissed.

34. Send back the LCR.