
(2016) 02 GUJ CK 0094
In the Gujarat High Court
Case No : Criminal Appeal No. 1979 Of 2006

State of Gujarat

APPELLANT

Vs

Munna @ Rajaf Farid Shah

RESPONDENT

Date of Decision : 11-02-2016

Acts Referred:

Citation : (2016) CriLJ 4097 : (2017) 1 Crimes 130 : (2016) 3 GCD 1829 :
(2016) 3 GLR 1809

Hon'ble Judges : Mr. M.R. Shah and Mr. Mohinder Pal, JJ.

Bench : Division Bench

Advocate : Ms. Moxa Thakkar, A.P.P, for the Appellant; H.C.L.S Committee, with
Mr. Manraj A Barot, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Mr. M.R. Shah, J.(Oral)—Feeling aggrieved and dissatisfied with the impugned judgment and order of acquittal dated 12.05.2006 passed by the learned Additional Sessions Judge (Fast Track Court No.3), Bharuch, Camp at Ankleshwar (hereinafter referred to as "Special Court") in Special Atrocity Case No.23/2005 by which the learned Special Court has acquitted the respondent herein - original accused for the offence punishable under section 302 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "Atrocity Act"), the State has preferred the present Criminal Appeal.

2. The prosecution case in nut-shell is as follows:

2.1 That one Amratbhai Jamshubhai Vasava of village Jinal had filed the complaint with Ankleshwar Rural Police Station on 15.03.2006 against the respondent herein - original accused under section 302 of the IPC and section 3(2)(v) of the Atrocity Act. It was stated in the said complaint that on that day the complainant was informed by one Nalinbhai Naginbhai Vasava about his

brother Sunil who was lying in the sim of village and was injured with knife. It is further the prosecution case that the complainant immediately went to his residence, wherein again he was informed by his younger brother Mahesh that Sunil (deceased), Mahesh and Chandrasingh of village Sangana and one Girish Vasava had gone to graze the cattle near bid and at that time at about 10.00 a.m. the respondent herein had came there and had asked Chandrasingh to send Sunil to him. That on being informed by the accused, Sunil had gone there and the respondent herein had given kick and fist blow to Sunil and had also put hand on the neck of Sunil. It is further the prosecution case that Sunil had tried to escape from the clutches of the respondent herein and all of a sudden he fell down and at that time the respondent herein came and had assaulted with "Gupti" on deceased Sunil. That Chandrasingh and one Giriyo had immediately went to the spot and on seeing these persons, the respondent herein had made his escape good.

2.2 That the aforesaid complaint given by the original complainant - Amratbhai Jamshubhai Vasava, which was given just within 2 to 3 hours from the time of incident was registered with the Ankleshwar Police Station as ICR No.28/2005.

2.3 That the said FIR was investigated by the Deputy Superintendent of Police, Ankleshwar Division - Shri Naresh Ambalal Muniya (PW20), as one of the offence alleged was under the provisions of the Atrocity Act. That initially the complaint was recorded by the PI, Ankleshwar (Rural) and even he also had drawn the inquest panchnama and subsequently the investigation was conducted by the aforesaid IO Shri Naresh Muniya. The Investigating Officer had drawn the panchnama of the place of incident on the very day of incident, he recorded the statement of the eyewitnesses. On the next day, accused came to be arrested. His arrest panchnama was drawn. That thereafter at the instance of the accused he recovered the clothes of the accused having blood stains and also recovered the weapon (Gupti) used in commission of the offence, which was also having blood stains. The Investigating Officer drawn the panchnama of discovery of clothes of the accused and the weapon used. He sent the clothes of the accused and the weapon to the FSL and obtained Serological report. That he also recorded the statement of other witnesses. That thereafter on conclusion of the investigation and having found prima facie case against the accused, the Investigating Officer filed the charge-sheet against the accused for the offence punishable under section 302 of the IPC and section 3(2)(v) of the Atrocity Act.

As the case was exclusively triable by the Court of Sessions/Special Court, the learned Magistrate committed the case to the Special Court which was transferred to the Court of learned Additional Sessions Judge (Fast Track Court No.3), Bharuch, Camp at Ankleshwar and which was numbered as Special Atrocity Case No.23/2005. That the learned Special Court framed the charge against the accused for the aforesaid offences.

The accused pleaded not guilty and therefore, he came to be tried by the learned Special Court for the aforesaid offences.

2.4 To prove the case against the accused, prosecution examined the following prosecution witnesses

PW No.

Name of the witness

Exh.No.

1

Dr. Shri Binoykumar Taraknath Sharma

8

2

Gomanbhai Prabhubhai

10

3

Nitinbhai Roopsinh

18

4

Naginbhai Mohanbhai

20

5

Kantilal Chimanlal Modi

24

6

Tineshbhai Bhaijibhai

25

7

Jagdishbhai Manubhai

27

8

Sunil Babubhai

31

9

Govindbhai Manilal

32

10

Amrutbhai Jamshubhai

35

11

Maheshbhai Jamshubhai

39

12

Girishbhai Ramanbhai

40

13

Chandrasing Vishwas

41

14

Jitubhai Jamshubhai

42

15

Ramanbhai Haribhai Vasava

43

16

Jesingbhai Khetiyabhai

48

17

Subhashchandra Dahyabhai Tailor

51

18

Maheshkumar Gunvantray Vasani

54

19

Ambubhai Nagjibhai

55

20

Naresh Ambalal Muniya

56

2.5 Through the aforesaid witnesses, the prosecution also brought on record the following documentary evidences.

Sr.No.

Particulars of the evidence

Exh.No.

1

Complaint of Amratbhai Jamshubhai

36

2

Panchnama of place of offence

17

3

Inquest Panchnama

19

4

Panchnama of discovery of clothes of deceased

21

5

Panchnama of physical condition of deceased

26

6

Panchnama of clothes (pant & shirt) worn by the accused at the time of incident

28

7

Panchnama of discovery of Gupti used in offence

34

8

Note of Post Mortem conducted on body of the deceased

49

9

Caste certificate of Jamshubhai Chhaganbhai

52

10

Caste certificate of Sunilbhai

53

11

FSL Report along with forwarding letter

57

12

Yadi written by Police Station Officer, Ankleshwar Rural to the Police Inspector, Rural for investigation of the offence

45

13

Police report to be sent to the Civil Surgeon for post mortem along with the dead body.

58

14

Chits duly signed by the panchas taken for the purpose of panchnama

11, 12, 13, 14, 15, 16, 22, 23, 29, 30, 31

15

Zerox of Station Diary

44

16

Map of place of offence

50

Yadi written to the Circle Inspector, Ankleshwar for showing the place of the offence

2.6 After the closing purshis submitted by the prosecution, further statement of accused came to be recorded under section 313 of the Code of Criminal Procedure, 1973 in which the accused denied having committed any offence and stated that he is falsely implicated in the case.

2.7 That thereafter at the conclusion of the trial, by impugned judgment and order the learned Special Court has acquitted the respondent herein - original accused mainly on the ground that all the eyewitnesses who are examined by the prosecution are all relatives/family members of the deceased and no other independent witness has been examined.

2.8 Feeling aggrieved and dissatisfied with the impugned judgment and order of acquittal passed by the learned Special Court, the State has preferred the present Criminal Appeal.

3. Ms. Moxa Thakkar, learned Additional Public Prosecutor appearing on behalf of the State has vehemently submitted that in the facts and circumstances of the case, learned Special Court has committed grave error in acquitting the original accused.

3.1 It is vehemently submitted by Ms. Thakkar, learned APP appearing on behalf of the State that in the present case the finding recorded by the learned Special Court while acquitting the accused are perverse and/or contrary to the evidence on record and the same has resulted into miscarriage of justice. It is vehemently submitted that in the present case all the eyewitnesses who were examined by the prosecution i.e. PW11, PW12 and PW13 have fully supported the case of the prosecution and as such their depositions are by and large corroborated by the deposition of other witnesses and even the medical evidence.

3.2 It is further submitted by Ms. Thakkar, learned APP appearing on behalf of the State that in the present case as such the accused had no denied his presence at the time of commission of the offence. It is submitted that even the occurrence of the incident is not disputed by the original accused.

3.3 It is further submitted by Ms. Thakkar, learned APP appearing on behalf of the State that in the present case the accused gave multiple injuries on the deceased who was as such handicapped i.e. he was only having one hand and that too after he fell down while running away. It is further submitted that in the present case even there are discoveries of the clothes of the accused having blood stains of the deceased and even there is a discovery of weapon (Gupti) used by the accused while committing the offence. It is submitted that though the panch witness of discovery/recovery of the clothes has turned hostile,

however the panchnama of the discovery of the clothes has been proved by the prosecution by examining the Investigating Officer. It is submitted that as such no question has been asked in the cross by the defence disputing the discovery of the clothes having blood stains of the deceased. It is submitted that even the clothes were not only having blood stains having blood group of deceased, even the shirt of the accused was also found torn from the collar and even button was also broken which suggest that there might be some scuffle between the accused and the deceased.

3.4 It is further submitted by Ms. Thakkar, learned APP appearing on behalf of the State that so far as the discovery of the Gupti/weapon used by the accused which was recovered from the place shown by the accused has been proved by the prosecution by examining the panch witness as well as the Investigating Officer. It is submitted that the witness who are examined by the prosecution are all natural, reliable and trustworthy. It is submitted that considering the fact that the incident occurred in the field where the eyewitness and the deceased went for grazing cattle, naturally other persons might not were there. It is submitted that therefore the learned Special Court has committed a grave error in acquitting the original accused on the ground that no other independent witnesses have been examined and that the witnesses who are examined are the relatives and/or family members of the deceased.

Making above submissions, it is requested to allow the present Criminal Appeal and quash and set aside the impugned judgment and order of acquittal and consequently convict the original accused for the offence for which he was tried and impose the maximum punishment provided under section 302 of the IPC and section 3(2)(v) of the Atrocity Act.

4. Present Criminal Appeal is opposed by Shri Manraj Barot, learned advocate appearing on behalf of the respondent herein - original accused.

4.1 It is vehemently submitted by Shri Manraj Barot, learned advocate appearing on behalf of the respondent herein that as such this is an appeal against the order of acquittal passed by the learned Special Court. It is submitted that therefore unless and until it is found that the findings recorded by the learned Special Court are perverse and/or contrary to the evidence on record, the interference of this Court in exercise of appellate jurisdiction is not called for.

4.2 It is submitted that in the present case the finding recorded by the learned Special Court are all on appreciation of evidence and therefore, the same is not required to be interfered by this Court in exercise of appellate jurisdiction.

4.3 Shri Barot, learned advocate appearing on behalf of the respondent herein has vehemently submitted that as such there are contradictions in the deposition of PW11, PW12 and PW13. It is submitted that one of the witness has stated in the cross-examination that he could not see actual occurrence of the scuffle/quarrel as there was Tuber crop.

4.4 Shri Barot, learned advocate appearing on behalf of the original accused has further submitted that in the present case even the panchas of discovery panchnama of the clothes of the accused has not supported the case of the prosecution.

4.5 It is submitted that therefore when considering the overall facts and circumstances of the case and on appreciation of evidence and more particularly when all the eyewitnesses were the relatives of the deceased and no independent witness has been examined and thereafter when the learned Special Court has acquitted the original accused, same is not required to be interfered by this Court in exercise of appellate jurisdiction.

4.6 Now, so far as the offence under section 3(2)(v) of the Atrocity Act is concerned, Shri Barot, learned advocate appearing on behalf of the original accused has vehemently submitted that as such no case is made out by the prosecution for the aforesaid offence. It is submitted that all the ingredients of section 3(2)(v) of the Atrocity Act has not been satisfied. It is submitted that therefore the learned Special Court has rightly acquitted the original accused for the aforesaid offences.

4.7 In the alternative it is submitted by Shri Barot, learned advocate appearing on behalf of the original accused that at the most it can be a case under section 304(II) or section 304 (I) of the IPC. Therefore, he has requested to impose lesser punishment for the aforesaid offences. No other submissions have been made.

5. Heard learned advocates appearing for respective parties at length. Perused the impugned judgment and order of acquittal passed by the learned Special Court. We have re-appreciated the entire evidence on record.

5.1 On re-appreciation of entire evidence on record more particularly the deposition of PW11, PW12 and PW13 and the original complainant, we are satisfied that as such there are no major contradictions which create doubt about the credibility and/or trustworthiness of the said witnesses. All the aforesaid three witnesses are as such eye witnesses and their presence at the place of incident is natural. All of them went to the agricultural field for grazing the cattle along with the deceased. There is no reason to doubt their deposition. Even whatever is stated by them in the deposition have been corroborated by other witnesses and even the medical evidence. All the witnesses as such are thoroughly cross-examined by the defence, however all of them have stuck to what they have stated in the deposition and they have fully supported the case of the prosecution.

5.2 It is also required to be noted that as such the learned Counsel appearing on behalf of the original accused has not disputed the presence of the accused at the time of the incident. However, through the question asked to one of the eye witness asked in the cross-examination, it seems to be the case on behalf of the accused that the deceased was the aggressor. Meaning thereby the presence of

the accused at the time of commission of the offence/incident is not disputed.

5.3 From the evidence on record it appears that in the present case there is discovery of clothes of the accused as well as the weapon used in commission of the offence i.e. Gupti at the instance of the original accused. Though the panch witness to the discovery panchnama of the clothes had turned hostile, however the said discovery panchnama has been proved by the prosecution by examining the Investigating Officer. No question has been asked to the Investigating Officer in the cross by the defence disputing the discovery of the clothes. At this stage the decisions of the Hon''ble Supreme Court in the case of *Modan Singh v. State of Rajasthan* reported in AIR 1978 SC 1511; another decision of the Hon''ble Supreme Court in the case of *State Govt. of NCT of Delhi v. Sunil and Another* reported in (2001)1 SCC 652 and the decision of the Division Bench of this Court in the case of *Vinugiri Motigiri v. State of Gujarat* reported in 2002(1) GLH 176 are required to be referred to and considered. In the case of *Modan Singh (Supra)*, it was found that the witnesses who were examined for testing the seizure did not support the prosecution version and on behalf of the defence it was submitted that the seizure witnesses were man of status in the village and their not supporting the recovery would be fatal to the prosecution. Considering the aforesaid situation the Hon''ble Supreme Court has observed that even in such a case, if the evidence of the Investigating Officer who recovered the material objects is convincing the evidence as to recovery need not be rejected on the ground that seizure witnesses do not support the prosecution version.

5.4 While considering the provisions of section 27 of the Evidence Act and section 114 III (e) thereof, the Hon''ble Supreme Court has held that there is no requirement either under section 27 or under section 161 of the Code of Criminal Procedure, 1973 to obtain signature of independent witnesses on the record in which the statement of an accused is written. In the case before the Hon''ble Supreme Court there was a recovery of Nicker and the seizure memo was signed by the Investigating Officer and the High Court declined to place any weight on the said circumstance purely on the ground that no other independent witness has signed the memo but it was signed only by highly interested persons. While setting aside the order passed by the High Court, the Hon''ble Supreme Court in paras 19 to 22 has observed and held as under:

"19. In this context we may point out that there is no requirement either under Section 27 of the Evidence Act or under Section 161 of the Code of Criminal Procedure, to obtain signature of independent witnesses on the record in which statement of an accused is written. The legal obligation to call independent and respectable inhabitants of the locality to attend and witness the exercise made by the police is cast on the police officer when searches are made under Chapter VII of the Code. Section 100(5) of the Code requires that such search shall be made in their presence and a list of all things seized in the course of such search and of the places in which they are respectively found, shall be prepared by such officer or other person and signed by such witnesses. It must be remembered

that search is made to find out a thing or document which the searching officer has no prior idea where the thing or document is kept. He prowls for it either on reasonable suspicion or on some guess work that it could possibly be ferreted out in such prowling. It is a stark reality that during searches the team which conducts search would have to meddle with lots of other articles and documents also and in such process many such articles or documents are likely to be displaced or even strewn helter-skelter.

The legislative idea in insisting on such searches to be made in the presence of two independent inhabitants of the locality is to ensure the safety of all such articles meddled with and to protect the rights of the persons entitled thereto. But recovery of an object pursuant to the information supplied by an accused in custody is different from the searching endeavour envisaged in Chapter VII of the Code. This Court has indicated the difference between the two processes in the *Transport Commr., A.P., Hyderabad v. S. Sardar Ali*. Following observations of Chinnappa Reddy, J. can be used to support the said legal proposition: (SCC p.254, para 8)

"Section 100 of the Criminal Procedure Code to which reference was made by the counsel deals with searches and not seizures. In the very nature of things when property is seized and not recovered during a search, it is not possible to comply with the provisions of subsection (4) and (5) of section 100 of the Criminal Procedure Code. In the case of a seizure [under the Motor Vehicles Act], there is no provision for preparing a list of the things seized in the course of the seizure for the obvious reason that all those things are seized not separately but as part of the vehicle itself."

20. Hence it is a fallacious impression that when recovery is effected pursuant to any statement made by the accused the document prepared by the Investigating Officer contemporaneous with such recovery must necessarily be attested by independent witnesses. Of course, if any such statement leads to recovery of any article it is open to the Investigating Officer to take the signature of any person present at that time, on the document prepared for such recovery. But if no witness was present or if no person had agreed to affix his signature on the document, it is difficult to lay down, as a proposition of law, that the document so prepared by the police officer must be treated as tainted and the recovery evidence unreliable. The court has to consider the evidence of the Investigating Officer who deposed to the fact of recovery based on the statement elicited from the accused on its own worth.

21. We feel that it is an archaic notion that actions of the police officer should be approached with initial distrust. We are aware that such a notion was lavishly entertained during British period and policemen also knew about it. Its hang over persisted during post-independent years but it is time now to start placing at least initial trust on the actions and the documents made by the police. At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law the presumption should be the other way

around. That official acts of the police have been regularly performed is a wise principle of presumption and recognised even by the legislature. Hence when a police officer gives evidence in court that a certain article was recovered by him on the strength of the statement made by the accused it is open to the court to believe the version to be correct if it is not otherwise shown to be unreliable. It is for the accused, through cross-examination of witnesses or through any other materials, to show that the evidence of the police officer is either unreliable or at least unsafe to be acted upon in a particular case. If the court has any good reason to suspect the truthfulness of such records of the police the court could certainly take into account the fact that no other independent person was present at the time of recovery. But it is not a legally approvable procedure to presume the police action as unreliable to start with, nor to jettison such action merely for the reason that police did not collect signatures of independent persons in the documents made contemporaneous with such actions.

22. In this case, the mere absence of independent witness when PW17 recorded the statement of A2 Ramesh and the nicker was recovered pursuant to the said statement, is not a sufficient ground to discard the evidence under Section 27 of the Evidence Act."

Relying upon the aforesaid decisions of the Hon"ble Supreme Court, the Division Bench of this Court in the case of Vinugiri Motigiri (Supra) has also observed that though the panch witnesses to the discovery of the weapon have turned hostile, the evidence of recovery can be relied upon, when a police officer gives evidence in Court that certain article was recovered by him on the strength of statement made by the version to be correct if does not otherwise shown to be unreliable. In the said decision the Division Bench of this Court has observed that recovery of an object pursuant to the information supplied by an accused in custody is different from the searching endeavour envisaged in Chapter VII of Code of Criminal Procedure, 1973.

5.5 Applying the law laid down by the Hon"ble Supreme Court in the aforesaid two decisions and applying the decision of the Division Bench of this Court in the case of Vinugiri Motigiri (Supra) to the facts of the case on hand, in the present case there is a discovery of clothes of the accused and weapon used by the accused in commission of the offence, pursuant to the information supplied by the accused in custody. It is true that panch witnesses have turned hostile. However, the recovery of clothes of the accused and the weapon/gupti used by the accused in commission of offence which were recovered pursuant to the information supplied by the accused in custody has been established and proved by the prosecution by examining the Investigating Officer who recovered the clothes of the accused and the knife used in commission of the offence on the strength of the statement and pursuant to the information supplied by the accused in custody. There is no reason to doubt the evidence of the Investigating Officer. The evidence of the Investigating Officer is found to be reliable and is found to be trustworthy. As observed herein above even no question has been

asked by the defence to the said witness in cross-examination doubting the recovery of the clothes of the accused and the gupti used by the accused in commission of the offence, which were recovered pursuant to the information supplied by the accused. Under the circumstances, conviction can be based relying upon the deposition of the Investigating Officer and recovery of the clothes of the accused having blood stains and the recovery of gupti used by the original accused in commission of the offence.

5.6 It is not in dispute that the clothes of the accused were having blood stains. The clothes were sent to the FSL and as per the Serological Report the blood stains were of "B" group, which was of the deceased.

Even there is a discovery of weapon (Gupti) at the instance of the original accused. The panchnama of the discovery of the weapon which was at the instance of the accused has been established and proved by the prosecution by examining the panch witness as well as the Investigating Officer. The panch witness has fully supported the case of the prosecution and the discovery panchnama. The Gupti which has been discovered at the instance of the accused was having blood stains of "B" group which was of the deceased.

5.7 Considering the aforesaid facts and circumstances of the case and the clinching evidence on record, the learned Special Court as such ought to have convicted the original accused more particularly when at the time of incident except the eye witnesses - PW11, PW12 and PW13, who were at some distant place of 100-150 feet and except the accused and deceased nobody was there. As observed herein above the learned Counsel appearing on behalf of the original accused is as such not disputing the presence of the original accused at the time of incident. Despite the above the learned Special Court has acquitted the original accused mainly on the ground that all the witnesses who are examined i.e. PW11, PW12 and PW13 are all relatives/family members of the deceased and no other independent witness has been examined. However, as observed herein above, the incident has taken place in the agricultural field and the deceased and the eye witnesses PW11, PW12 and PW13 were grazing their cattle and at that time the accused came there. Even otherwise as per the cardinal principle of law merely because the eye witnesses are the relatives and/or family members of the deceased, by itself cannot be a ground to discard their deposition/evidence. If the eye witnesses, may be relatives and/or family members of the deceased, are found to be reliable and/or trustworthy then there can be conviction based upon the testimony of the said witnesses. In the present case, as observed herein above, all the three witnesses are trustworthy and reliable. There is no reason whatsoever to discard their deposition/evidence.

5.8. Now, so far as the alternative submission on behalf of the accused that case might fall either under section 304 II or 304 I of the IPC is concerned, the aforesaid cannot be accepted. From the evidence on record it emerges that the accused went to the agricultural field with weapon (Gupti). The deceased was handicapped as his one hand was already amputated earlier because of the

electrocution. It has also come on record that after the deceased fell down while running away, the accused gave multiple blows by Gupti. Under the circumstances, the case would certainly fall under section 300 of the IPC and case would not fall either under section 304 II or section 304 I of the IPC as submitted by learned Counsel for the original accused.

5.9. Considering the number of injuries found on the deceased and the cause of death and the manner in which the accused had committed the offence in which one young boy lost his life, the case would not fall either under section 304 II or section 304 I of the IPC.

5.10. Now, so far as the charge against the accused for the offence punishable under section 3(2)(v) of the Atrocity Act is concerned, from the deposition of none of the witnesses it has come out that the accused committed the offence against the deceased on the ground that the deceased was a member of a Scheduled Caste or Scheduled Tribe. In absence of such evidence it cannot be said that the original accused has committed the offence punishable under section 3(2)(v) of the Atrocity Act. Under the circumstances on the basis of the evidence on record the accused cannot be held guilty for the aforesaid offence. Under the circumstances, the impugned judgment and order passed by the learned trial Court insofar as acquitting the original accused for the offence punishable under section 3(2)(v) of the Atrocity Act is not required to be interfered with and is hereby confirmed.

5.11. From the aforesaid it emerges that the finding recorded by the learned Special Court are all perverse and contrary to the evidence on record. That prosecution has been successful in proving the case against the accused. Under the circumstances, the impugned judgment and order of acquittal acquitting the original accused for the offence punishable under section 302 of the IPC cannot be sustained and the same deserves to be quashed and set aside as the acquittal by the learned Special Court has resulted into miscarriage of justice.

6. In view of the above and for the reasons stated above, present Criminal Appeal succeeds. Impugned judgment and order of acquittal dated 12.05.2006 passed by the learned Additional Sessions Judge (Fast Track Court No.3), Bharuch, Camp at Ankleshwar in Special Atrocity Case No.23/2005 is hereby quashed and set aside and the respondent herein - original accused is hereby held guilty for the offence punishable under section 302 of the Indian Penal Code, 1860 and is sentenced to undergo life imprisonment with fine of Rs.1000/- and in default of payment of fine to undergo further 3 months" R.I. The impugned judgment and order passed by the learned Special Court acquitting the respondent herein - original accused for the offence punishable under section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is hereby confirmed. Time to surrender to the respondent herein - original accused to undergo the sentence as per the present judgment and order is granted upto 14.03.2016. Record & Proceedings be sent back to the learned Special Court forthwith.