
(2000) 04 AHC CK 0140
In the Allahabad High Court
Case No : Govt. Appeal No. 2385 of 1979

State of U.P.

APPELLANT

Vs

Bikrama Kandu and Others

RESPONDENT

Date of Decision : 06-04-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 151
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 427

Citation : (2000) CriLJ 3842

Hon'ble Judges : S.K. Agarwal, J;J.C. Gupta, J

Bench : Division Bench

Advocate : A.K. Dwivedi, A.G.A, for the Appellant; Rajendra Narain Rai, S.K. Verma, Amar Saran, R.P. Yadav and C.K. Rai, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Agarwal, J.—This appeal has been preferred by the State of U.P. against the order of acquittal dated 12-5-1979 passed in S.T. No. 275 of 1978 by Sri Ruri Mal, Sessions Judge, Ghazipur. By the aforesaid judgment the accused persons, viz. Bikarama Kandu, Rajendra Singh, Ramesh Rai, Sudhir Rai and Bijay Bahadur Rai, were acquitted of the offence punishable under Sections 148 and 302 read with Section 149, I.P.C.

2. We have heard Sri A. K. Dwivedi, learned A.G.A. on behalf of the State and Sri R. P. Yadav holding brief of Sri C. K. Rai, learned Counsel for the respondents.

3. The brief facts giving rise to this appeal are as under :

The complainant Shambhoo Nath Sinha (P.W. 1) is resident of village Karimuddinpur. He is a Homeopathic Practitioner. His Homeopathic Clinic is situated in the Bazar of the village. In the vicinity of the Clinic of complainant there were several shops on either side of the road. The residential premise of the complainant/informant was also there at some distance from his Clinic. The house of accused Bikrama Kandu is to the south of the informant's Clinic.

Another house of this accused is towards the north of the complainant/informant's Clinic. Accused Bijay Bahadur Rai is also resident of the same village.

3A. On 14-8-1978 at about 12.00 noon when the informant, Dr. Shambhoo Nath Sinha (P.W. 1) was at his residential house, his son deceased Virendra Nath Sinha was present at his Clinic. At that time all the five above said accused arrived at the scene of occurrence with a common object to fix an electric pole in the compound lying in front of the informant's Clinic. The compound belonged to the informant. As soon as the digging of a pit for the abovesaid purpose commenced, Virendra Nath Sinha arrived at the scene of occurrence and resisted the activity of the accused persons. Despite the objections, the accused persons continued with the digging of the pit. They rather asserted that the pit will be dug at that very place and the pole will also be got fixed. Virendra Nath Sinha retorted and told them that he would not allow the electric pole to be fixed in his compound. An exhortation to the other accused was given by accused Bikarama Kandu to kill Virendra Nath Sinha. In the consequence all the five accused persons started assaulting Virendra Nath with their respective weapons. Virendra Nath ran back towards the Clinic and lodged himself inside by bolting it from within on the western main roadside. These accused persons entered the Clinic through its southern door and started assaulting Virendra Nath there. Virendra Nath ran towards the northern room through the intervening door, but he was chased and also assaulted there. He was done to death in the northern room.

4. In the trial Court it has been asserted that one of the assailants, viz., Bikarma Kandu, brought an axe from his house and had broken open the northern door in order to assault the deceased. P.W. 1 Dr. Sinha was communicated the information of the assault upon his son, whereupon he rushed to the scene of occurrence. He claimed to have witnessed the entire incident. The F.I.R. shows also the presence of Mushafir Singh, Kamta Rai, Rajan Rai, Shivnarain Rai, Kameshwar Rai, etc. as witnesses of the occurrence. Some of the furniture and other articles present in the Clinic were also found damaged and broken. Due to the assault, his son, Virendranath, breathed his last.

5. P.W. 1 Dr. Shambhoo Nath Sinha prepared a written report of the incident and submitted it at the police station. It is marked Ext. Ka-1. It was registered at the police station at 12.45 p.m. on 14-6-1978. Constable Awadhesh Pathak prepared the check F.I.R. Ext. Ka-4 and registered the case in the G.D. against the abovesaid accused persons under Sections 147, 148, 302/149 and 427, I.P.C. After the investigation the charge-sheet in the case was submitted by the Station Officer Basdeo Singh. In the process he had prepared inquest memo, the site map, and memos of recovery of blood-stained earth and simple earth and some other articles. One of the accused Rajendra Singh was also injured. After his arrest he was sent along with a Chhitthi Majrubi to P.H.C., Mehammadabad for his medical examination along with a Constable. The injuries of accused Rajendra Singh was medically examined at the abovesaid dispensary on the same day at about 3.30 p.m. The injury report is available on record as Ext. Ka-7. The

presence of a electric pole was also noticed by the S.I. near the pit. He also recorded the statement of the informant, but no interrogation of other witnesses nominated in the F.I.R. could proceed on that day. Accused Rajendra was arrested on the same day. He was arrested in the Bazar of the village from a Gali (lane) near Gandhi Ashram.

6. The defence has set up a case of complete denial and claimed the trial.

7. Three of the accused persons, viz. Bikarma Kandhu, Bijay Bahadur Rai and Sudhir Rai are residents of the same village Karimuddinpur. Sudhir Rai initially was a resident of district Ballia. The position of the Clinic of the informant as well as the factum of some land lying in front of his Clinic is also admitted by the abovesaid accused persons. This situation is not admitted to the other two accused persons, viz. Ramesh Rai and Bijay Bahadur Rai.

8. The reasons recorded by the trial Court for the acquittal are as follows.

9. Firstly, that the prosecution has failed to prove the alleged motive. The trial Court has come to the conclusion that prosecution version that accused Bikarma Kandhu and Bijay Bahadur Rai were going to fix an electric pole in the open compound of the informant appears to be false and has not been proved by any reliable evidence. We need not go into the merits of the finding of the learned Sessions Judge as in our opinion the finding does not suffer from any infirmity. Secondly, the trial Court has also discarded the evidence of recovery of electric pole on the spot for cogent reasons. Thirdly, he has also discarded the prosecution evidence with regard to the digging of the pit to a depth of about one Balisht (a palm's length when stretched). The reason for this finding is that, if, as admitted by Dr. Sinha, two labourers were employed by them for digging the pit, then the pit would have been dug much deeper and not only a Balisht. The prosecution has failed to produce anyone of those two labourers in support of its case. The prosecution did not disclose even their names. Fourthly, the trial Court has also returned a finding that on account of litigation with Vijay Bahadur Rai, which started in the year 1971, in connection with the Chabutara, and was pending in the Court at the time of this incident, the enmity was existing between the informant and accused Bijay Bahadur and it is used for his implication by Dr. Sinha. Fifthly, the Court has also come to the conclusion that even if, for the sake of arguments, it is accepted that accused Bikarma Kandhu and Bijay Bahadur Rai were keen to take the electric line to their respective houses and shops from the compound of the informant, the version is not acceptable in the manner as stated by the informant. He has come to the conclusion that there is no possibility of all the five accused persons joining hands in this connection. The reasons recorded by the trial Court do not suffer from any infirmity in our opinion. The trial Court has also come to the conclusion that the prosecution has failed to prove, by any reliable evidence that accused Rajendra Rai, Ramesh Rai and Sudhir Rai are members of the group of Bikarma Kandhu and Bijay Bahadur Rai. We do not find any merit in the arguments of the learned Counsel for the State to interfere with these findings so as to reverse

them. The learned Sessions Judge finally has come to the conclusion that the version with regard to the incident, as narrated by P.W. 1 Dr. Shambhoo Nath Sinha, does not inspire confidence. The trial Court did not find the evidence of Dr. Sinha acceptable. It has discussed a number of discrepancies occurring in his testimony when read along with medical evidence which in his opinion discredit the presence of Dr. Sinha at the scene of occurrence at the relevant time. Even the medical evidence also, in the opinion of the learned Sessions Judge, corroborates this inference. He has held finally that Dr. Sinha is not at all a reliable witness. His opinion is that Dr. Sinha has not at all witnessed the incident and his testimony is quite concocted and false.

10. The law regarding the approach of the appellate Court while deciding an appeal against acquittal has ominously been settled by the Supreme Court in Ramesh Babulal Doshi Vs. State of Gujarat, , Doshi's case. Following guidelines emerge out from the aforesaid judgment:

(a) The appellate Court must record its conclusions first on the question whether the approach of the trial Court in dealing with the evidence is patently illegal or the conclusions arrived at by it were wholly untenable. It alone will justify an interference.

(b) Where on the basis of the evidence on record two views are reasonably possible the appellate Court cannot substitute its view in place of that of the trial Court. It is only when the approach of the trial Court in acquitting an accused is found to be clearly erroneous and unreasonable in its consideration of evidence on record and in deducing conclusions there from that the appellate Court can interfere with the order of acquittal.

11. The above view is again reiterated by Apex Court in another judgment 1998 Cri LJ 2924 : Sambasivan and Others Vs. State of Kerala,

12. We propose to examine the order of acquittal in the light of the abovesaid dicta.

13. The prosecution in support of its case has examined in all six witnesses. P.W. 1 Dr. Shambhoo Nath Sinha, is the lone eye-witness. P.W. 2 Dr. R. L. Rai has conducted the post-mortem examination on the person of the victim. Awadhesh Pathak is a Head Moharrir. He has prepared the check report and G.D. entries with regard to the registration of the F.I.R. P.W.6 Basdeo Singh is the first I.O. P.W.4 Paras Nath Singh is the second I.O. He has submitted the charge-sheet. P.W. 5 Parmatma Pandey is the Constable, who has escorted the body to the mortuary for autopsy. The defence has also examined D.W.I Nand Lal Rai and D.W.2 Triveni Rai to establish certain enmities.

14. Out of the aforesaid witnesses, only P.W. 1 Dr. Shambhoo Nath Sinha is a witness of fact. The evidence of Dr. Sinha has been found to be untrustworthy and unreliable by the trial Court. We now propose to examine his evidence. We are fully aware and conscious that there is no absolute rule not to act upon the

uncorroborated testimony of a solitary witness but, if such a witness is found to be interested and highly inimical, his evidence requires very cautious and careful scrutiny and the task becomes all the more tedious and cumbersome where the evidence of such a witness has not found favour with the trial Court which had the occasion to watch his demeanour.

15. P.W. 1 Dr. Shambhoo Nath Sinha is admittedly father of the deceased. It also could not be disputed that Dr. Sinha had filed a Civil Suit against accused for the demolition of Chabutra, which, according to the defence was in his possession since before the Zamindari Abolition and had vested in him under the provisions of U.P.Z.A. & L.R. Act. The suit was dismissed by the trial Court so also the First Appeal filed by Dr. Sinha and a Second Appeal is pending in this Court. The very fact that suit was filed for demolition of Chabutra supports the defence case that accused party in possession of the same and the land around it. No witness came forward to depose that the land where Telephone pole was to be fixed belonged to and possessed by Dr. Sinha. The theory regarding fixation of telephone pole at the relevant time has not been believed by the trial Court for more than one reason. We need not go into the merits.

16. On an examination of the evidence of P.W. 1 we find that the findings recorded by the learned Sessions Judge to the extent that there is a grave doubt of his having witnessed the occurrence, as alleged by him, cannot be said to be unreasonable. It is admitted to P.W. 1 Dr. Sinha that he left the shop as usual at about 11.00 a.m. for his house and the time of the incident he was not present in his Clinic. Only his son was present there. He used to stay in the Clinic from 7.00 O" Clock in the morning till 11.00 a.m. His son Virendra Nath Sinha was studying in Homeopathic College, Ghazipur, but because of the strike in the College he was in the village and was assisting him in the Clinic. As soon as he reached his house some 5/10 minutes afterwards 2/3 boys informed him that in the market, on the fixing of electric pole, a quarrel has occurred, he came to the spot. It was past 11.30 a.m. at that time. On arriving there he found a crowd assembled there and a pit was being dug. The digging of the pit only to a depth of one Balisht appear to us improbable, inasmuch as he had no positive information that his son is involved in this Marpit. In the absence of it he will be in no hurry to rush to the spot. Thus, the finding of the learned Sessions Judge in this connection cannot, by any stretch of imagination, be termed to be unreasonable or based on any hypothetical consideration. When his son protested and told the assailants that he would not permit the fixing of the pole at that place at any cost, Bikarma Kandu extended the exhortation "Maro Salo Ko Aur Jan Se Khatam Kar do". This made all the accused to commence the assault upon the victim. Sudhir Rai and Bijay Bahadur Rai were armed with Ballams and Bikarma Kandu, Rajendra Singh and Ramesh Rai were holding knives. All of them had attached Virendra Nath with their respective weapons in the compound itself. Virendra Nath retreated back towards the Clinic and picked up a chair in order to protect himself. In the process he entered into the Clinic from the western door and bolted it from inside. No recovery of any such chair was made by

Investigating Officer. The assailants entered the Clinic from the southern door, which was lying open and started assaulting Virendra Nath. In order to probabalise his presence he started saying that he was not only protesting but also was pleading for mercy with these assailants. He was trying to go up to the door of the Clinic to save his son but the witnesses used to hold him back. He introduced a new story that Bikarma Kandu withdrew to his house and returned back with an axe in his hand and had cut open the western door by that axe. Bijay Bahadur Rai was also striking at the door from the reverse side of the stick in which his Ballam was fixed. After breaking open the door Bikarma Kandu and Bijay Bahadur Rai entered the inner room along with others and assaulted the victim whereby his journey of life came to its end. He claimed that he witnessed the entire incident from the window of the Clinic. He has nominated the witnesses, who have already been named earlier in this judgment, as having witnessed the incident. He further stated that when the assailants were retreating after the incident he had seen blood coming out of the arm of Rajendra Singh. Thereafter he transcribed the report and went to the police station to lodge the same. We are unable to evaluate as to why Bikrama Kandu will go back to his house to fetch an axe to cut open the western door when the assailants had already entered the Clinic from southern door. It is no one's case that the deceased had bolted himself in this room and it was inaccessible to his assailants from southern side, from where they made their entry. In our opinion this has been made to reconcile the version with the F.I.R. Admittedly, there was no impediment inside the Clinic once an entry is made.

17. So far as the exact words of exhortation are concerned, we find serious discrepancies in the F.I.R. The precise words are "Sale Ka Dimag Kharab Ho Gaya Hai. Jan Se Markar Khatam Kar Diya Jai". In the trial Court he has stated "Maro Sale Ko Aur Jan Se Khatam Kar Do". He has introduced for the first time in the trial Court that the victim had tried to protect himself by lifting the chair. The F.I.R. as well as 161, Cr. P.C. statement does not show that the deceased was done to death in the northern room, deep inside the Clinic, by the assailants by entering from the southern door and thereafter the western door by the use of an axe and the back of the Lathi of the Ballam was opened by the two assailants Bijay Bahadur and Bikarma Kandu.

18. He has admitted in cross-examination that at a distance of 50-60 steps towards north the boundary of the railway line commences. He further stated that to the south of Ballia-Ghazipur road at a distance of 150 yards his residential house exists. He has further admitted that there exists a distance of about a furlong between the railway line and this metalled road. This distance he denied as 3 1/2 furlongs. Witnesses belonging to village Karimuddinpur reside in the vicinity of his house. From his door Gandhi Ashram is about half furlong towards south. From this Gandhi Ashram his residential house is about 1/4 furlong further in south. Thus from his own statement it is apparent that his residential house is far beyond 150 yards and the witness is trying to minimise this distance so as to probabalise his presence. He admitted his animosity with

Bijay Bahadur Rai on account of litigation with regard to the Chabutara. He has admitted enmity with other villagers also. He has admitted that his son had not allowed Gora to settle his wooden shop (Gumti) near his Clinic. Police has initiated proceedings u/s 151, Cr. P.C. against his son. No such proceedings were drawn against him. He has also admitted that some animosity is existing between him and Jagannath Rai and Uma Rai. Some reports were also lodged between them. He has further admitted that he had launched a civil case against Lallan son of Bibhuti Yadav. His suit was decreed but he failed to disclose that he had made any complaint to the police against the abovesaid Lallan for not vacating his land. He has admitted that his son Virendra Nath was earlier studying in the Polytechnic Institute at Allahabad. He was prosecuted for the murder of a student of that Institution and was convicted. An appeal was filed in this Court. The boy, who was murdered by Virendra Nath was son of a resident of Varanasi. He placed ignorance that the deceased boy was the son of a Deputy S.P. He was thrown a suggestion that even in the Homeopathy College at Ghazipur, Virendra Nath quarrelled with some students and the Principal of the College called him and he extended an assurance to the Principal that Virendra Nath will not quarrel with anyone in future. He also denied the suggestion that Virendra Nath had quarrelled with his patients on a number of occasions. All these facts show that the deceased was also ill-tempered and rowdy. He was also a convict.

19. He had failed to show by any reliable evidence that any application for fresh connection by his son and the accused persons, special Bijay Bahadur, was filed and any money was deposited by them in that connection. Whether any estimates were prepared. He admitted that he had never seen any person from the Electricity Department making any survey in this connection either at his or at the shops of Bijay Bahadur. According to him, on 12-8-1978 in connection with the fixing of a pole a compromise was arrived at between him and Bijay Bahadur had promised that the pole would be fixed as desired by him at the eastern end and southern end of the Chabutara. If such an agreement was arrived at between the parties we do not see any plausible reason or occasion for the assailants to insist upon the fixing of the pole in his compound on 14-8-1978. Admittedly, no member of the Electricity Department had visited the scene of occurrence for digging the pit. He had further admitted that the people present at the spot had informed him that the two labourers, who were digging the pit at his compound, belonged to the Electricity Department and these two persons were armed with a Pharsa when he had come to the spot. On seeing him these two person withdrew from the scene of occurrence. They had also witnessed the entire incident but astonishingly the prosecution had not bothered to discover their identity and examine them in evidence before the trial Court. In order to get over this difficulty this witness has taken a somersault and stated the people subsequently started saying that those two labourers did not belong to the Electricity Department and this witness never tried to find out who they were. He was confronted with his F.I.R. with regard to the fact that it did not contain that

all these five persons, who were standing, were armed with respective weapons to get the pit dug for fixing of the pole. The explanation is that since he was in a very poor mental state due to the murder of his son this omission had occurred.

20. When we test his statement that his son entered from the western door and bolted it from inside and was finally done to death in the southern room we cannot lose sight of the fact that there is no door in between the second room and the third room moving from west to south. The deceased bolted no other room. One of the accused had made their entry from the southern door there was none to stop them from assaulting the victim in any of the rooms of his clinic. This is very clearly available to us from his own testimony. In the middle room the entry to southern room was blocked partially by an Almirah. Thus, his case that after assaulting by entering from the southern door one of the accused came out and went to his house, brought an axe and broke open the western door not stand scrutiny. The statement in this regard of this witness appears to us wholly false and has been made in order to make his seeing the incident inside the Clinic feasible. This improvement is introduced to justify the case taken in the F.I.R. that the door was broken open and the victim was assaulted inside the Clinic by entering from this door. Once an entry inside has been made there was no need to break open any door. He has further stated that his son was also assaulted in the southern room, but he cannot say whether those blows landed on his person or not. He also stated that he had not noticed whether any blood had fallen on the floor or on any furniture of that room. He admitted that he had neither gone to the southern door nor to the door on the north to enter into the Clinic. He continuously attempted to enter the Clinic from the western door but the witnesses used to hold him back. He had further stated that the accused persons after making their entry from the southern door had opened the western door. All this clearly shows that this witness has no sanctity for truth. He admitted that he had not disclosed to the I.O. that the witnesses prevented him and, therefore, he could not enter the Clinic to save his son. With regard to the three accused persons, who were not residents of this village, he claimed that he knew them for the last two years because they were regularly visiting Karimuddinpur market. He further stated that he knew their parentage and residence as well. Moreover, the arrest of Bijay Bahadur on the same day shortly after the arrival of the Police Inspector at the spot also makes his participation in the incident highly doubtful. Had he been a party in the incident, as alleged by the informant, then it would have been most improbable for this accused to have been present in the market for the police to arrest him from there soon after the occurrence.

21. From the circumstances, we intend to discuss now that the F.I.R. too appear to be anti-timed, at least if not anti-dated. The dead body of the victim was sent on the next day from the police station for Ghazipur. It was despatched to the Police Station Karimuddinpur on 14-8-1978 at about 2.00 or 1.30 P.M. This fact is also not borne out from his own evidence. According to him the Police Inspector had arrived at the spot at about 2.00 P.M. If this is a fact then dead body cannot

be sent at 2.00 or 1.30 P.M. to the police station in a sealed condition after preparation of the inquest memo. He claimed that he continued to be present through out the day and the night at the police station near the dead body. If it was really sealed at the spot and Panchayatnama and F.I.R. were ready why was it detained at the police station for so long and not sent immediately for post-mortem is beyond our comprehension. All these circumstances establish that in this case the F.I.R. was not transcribed, the at the time alleged by the prosecution. It must have been prepared after due consultation with the police in this long duration for which the dead body was retained at the police station.

22. He admitted further that he had sent an application to the Home Minister of the State. He denied that in that application he had written that apart from these five assailants seven more persons had participated. He denied further that the police had not permitted him to name all the accused of this incident in the F.I.R. He pleaded ignorance about the place where the inquest memo was prepared. He stated that he couldn't say that his signatures were obtained on the inquest memo. He admitted that his signature was obtained on a paper, but which that paper he was unable to give out. Though stated this paper was about the details of the death of Virendra Nath. He clearly is referring to inquest memo. He denied any knowledge that in the inquest memo none of the accused was nominated. He further denied any knowledge about the boys and their place of residence, who informed him about the incident, but admitted that they belong to village Karimuddinpur. He further admitted that he has neither reported in the F.I.R. nor told to the I.O. that some boys informed him about the occurrence at his residence. He further stated that he had not noted any blood of Virendra Nath having felled outside the Clinic. He held no talks with the witnesses at the spot. He has stated that I.O. remained present at the spot until the evening and till then he also remained there. But this part of his statement is inconsistent with his earlier statement wherein he has stated that the dead body was sent to the police station at about 1.30 or 2.00 P.M. and since thereafter he remained there for whole of the night. He was unable to give out as to who carried the dead body on the cot to the police station. He claimed that he had reached the police station at about 3.00 or 4.00 P.M. along with the dead body. This is again contradictory to his earlier statement. He stated that he had not seen Rajendra at the police station. Although, admittedly, Rajendra was arrested during the day and sent to the police station. In order to explain the situation he had further stated that he remained outside the gate of the police station near the dead body and he had not met Rajendra at any place. Rajendra must have been taken to the police station through this gate. He admitted that he had sent the application to the Home Minister for an investigation by some superior agency in the incident. He stated that it is correct that he may have sought the investigation by the C.I.D. through that application. When an application was shown to him, he denied that this is his application. He denied his signatures on it also. It was marked as paper No. Ka-52 by the Court. This application shows that apart from the five accused six more persons were named in this application. He admitted

that he was not satisfied with the investigation conducted by the police of P.S. Karimuddinpur and, therefore, he had sent an application to the Home Minister. He stated that he had made an application in line with the F.I.R. to the Home Minister. He further admitted that the application given by him to the Home Minister was correct. He pleaded failure of memory to the fact whether in that application he has disclosed the names of the assailants of his son or not. He further stated that he did not remember whether he has given the number of the accused in that application. He further stated that he did not remember whether he has disclosed the weapons in that application or not. He further pleaded failure of memory to the question whether this application was a typed one or a hand written one. He stated categorically that he has no copy of that application. He denied his signatures on the application. This application, according to him, was sent after a month of the occurrence. The finding of the learned Sessions Judge, after an ocular comparison of his signatures on the application, is that this is the application"(paper No. Ka-52), which was given by him to the Home Minister. We do not find any need to form any opinion different for him.

23. The facts and circumstances, as discussed above, leaves no room for any doubt in our mind that the findings returned by the learned Sessions Judge, in no manner, can be said to be against the weight of evidence on record nor, in any manner, based on misreading of the evidence or suffer from any hyper sensitivity. We too have discussed his evidence threadbare and we have also been of the opinion that this lone eye witness is too fragile to handle. He is vacillating on material particulars. Holds no sanctity for truth. Consistently changed stands during evidence. Made material improvements in his evidence to probabalise his presence. By such inconsistent improvements his testimony has completely lost its punch and credibility. His presence has become wholly doubtful at the time of incident outside his clinic. He has made a vain attempt to bring down considerably distance of his house from his clinic. He has also introduced the breaking open of the western door by Bikrama Kandu by bringing an axe from his house. Lodging of F.I.R. at the alleged time is also rendered doubtful. He is a highly inimical and partisan witness. If a compromise "about fixing of the pole was entered into two days ago by the warring parties, we are at a loss to find any plausible reason for the accused person to disrupt the same for no rhyme or reason. The origin of Marpit, in the circumstances, is also rendered doubtful. In our opinion the incident has taken place for some other reasons, which the prosecution has kept close to its chest and independent witnesses, though nominated, were withheld from the Court. For the foregoing discussions and the reasons attributed above, we come to conclusion that the testimony of this witness is badly afflicted with infirmities and no conviction can be based on his sole evidence, especially when even the circumstances of the case do not, in any manner, corroborate his evidence.

24. In view of the above facts and circumstances, we do not find any plausible reason for reversing the judgment under appeal. This Government Appeal, thus, deserves to be dismissed and is accordingly dismissed. The accused persons are

on bail. They need not surrender, Their personal bonds and surety bonds are cancelled.