
(1997) 02 J&K CK 0005
In the Jammu And Kashmir High Court
Case No : 28/92

Sultan Mohmmad son of Sh.Faquir Khan & Ors.	APPELLANT
Vs	
State of J & K	RESPONDENT

Date of Decision : 24-02-1997

Acts Referred:

Jammu and Kashmir Criminal Procedure Code, 1989 — Section 154

Citation : (1997) KashLJ 351 : (1997) KashLJ 350

Hon'ble Judges : A.Q.Parray, J and G.D.Sharma, J

Bench : Division Bench

Advocate : Sunil Sethi, Advocates appearing for the Parties

Judgement

1. The appellants (accused) namely, Sultan Mohmmad, Khursheed Ahmad, Wazir Mohmmad, Mohmmad Tariq, Mohmmad Rashid and

Mohmmad Riaz have filed this appeal against their convictions and sentences dated 16.11.1992 and 30.11.1992 respectively passed by the

learned Sessions Judge, Poonch in session case No. 64 of 1988.

2. The appellant Sultan Mohmmad has been convicted and sentenced to undergo the following punishments:

3. Under section 341 RPC for one month's simple imprisonment, under section 447 RFC for one month's simple imprisonment, under section 448

RPC one years' simple imprisonment, under section 323/149 to three months simple imprisonment, under section 324/149 RPC one years simple

imprisonment, under section 304II read with Section 149 RPC to three years simple imprisonment and under section 302 read with section 149

RPC to life imprisonment and a fine of Rs. 1000/ and in default of payment of fine to undergo simple imprisonment for six months.

4. The appellant Khursheed Ahmad has been convicted and sentenced to undergo these punishments:

5. Under Section 447 RPC to three months simple imprisonment, under Section 148 RPC simple imprisonment for one year, under section 341

read with section 149 RPC to one months simple imprisonment, under section 323 read with section 149 RPC for two years simple imprisonment,

under section 304II read with section 149 RPC to simple imprisonment for five years and under section 302 RPC to life imprisonment a fine of Rs.

500 and in default of payment of fine to undergo simple imprisonment for one year.

6. The appellant Wazir Mohammad has been convicted and sentenced to undergo the sentences:

7. Under section 447 RPC to one month's simple imprisonment, under section 148 RPC to simple imprisonment for one year, under section 341

read with section 149 RPC to one month's simple imprisonment, under section 324 RPC to one years simple imprisonment, under section 323

read with section 149 RPC to three months simple imprisonment and under section 302 read with section 149 RPC to life imprisonment and a fine

of Rs. 1000/. In default of payment of fine he has to further undergo simple imprisonment for one year.

8. The appellant Mohammad Tariq has been convicted and sentenced to undergo the following punishments:

9 Under Section 447 RPC to one month's simple imprisonment, under section 148 RPC to one years simple imprisonment, under section 323

RPC to three months simple imprisonment, under section 324 read with section 149 RPC to one year's simple imprisonment, under section 304II

read with section 149 RPC to three years simple imprisonment and under section 302 read with section 149 RPC to life imprisonment and a fine

of Rs. 1000 and in default of payment of fine, to further undergo simple imprisonment for six months.

10. The appellant Mohammad Rashid has been convicted and sentenced to undergo the punishment in the way that under section 447 RPC to one

months simple imprisonment, under section 148 RPC to one year's simple imprisonment, under section 323 to three months simple imprisonment,

under section 324 read with Section 149 RPC to one month's simple imprisonment, under section 341 read with section 149 RPC to three years

simple imprisonment and under section 302 RPC read with section 149 RPC to simple imprisonment for life and a fine of Rs. 1000. In default of payment of fine he is to undergo further simple imprisonment for six months.

11 The appellant Mohammad Riaz has been convicted and sentenced to undergo simple imprisonment for one month and under section 148 RPC

to one year's simple imprisonment, under section 323 RPC to three months simple imprisonment, under section 324 RPC read with Section 149

RPC to one year's simple imprisonment, under section 341 read with section 149 RPC to one month's simple imprisonment, under section 304II

read with section 149 RPC to three years simple imprisonment and under section 302 RPC read with section 149 RPC to simple imprisonment for

life and a fine of Rs. 1000. In default of payment of fine, he has to further undergo simple imprisonment for six months.

12. The said convictions and sentences have been ordered to run concurrently.

13. The genesis of the prosecution case is the internecine fight which took place on 5.8.88 with regards to the possession of land comprising of

Khasra Nos. 83 and 84 situate in village Bachhai Tehsil Surankot. Khan Mohammad Khan PWNo.1 lodged the written report EXPWA in Police

Station, Surankot wherein it was alleged that he alongwith his brother were in possession of the above said land. The appellant Khursheed Ahmad

resides quite adjacent to the said land and he had conspired with the appellant herein (no. 1,3,4,5, and 6) as well as accused Mir Mohd, Mohd

Alam, Mohd Sadiq, Mohd Nazir and Mohd Sabir to take the forcible possession thereof. On 5.8.1988 at about 9 a.m., the appellant Khursheed

Ahmad let loose his cattle in the said land. Complainant Khan Mohd Khan could not bear with this interference and he sent his brother namely,

Mohd Bashir (P.W.) to the house of Chowkidar Bagga Khan PW with a message that the latter should come to the spot and by using his good

office prevail upon the accused to take away his cattle from the land. At about 12 a.m., the said Bagga Khan was fetched on the spot and he

impressed upon the accused to take out the cattle from the land whereupon the accused Mir Mohd Khan alongwith other accused declared that,

whatsoever would come confront of them, they would not leave him alive. The accused had assembled there after arming themselves with axes and

sticks. At that time, complainant's brother namely, Mohd Yousaf and Mohd

Suliaman Khan (deceased) were also present there. When the complainant Khan Mohd Khan made an attempt to take out the cattle of the appellantaccused Khursheed Ahmad, all the accused attacked him and his brother with axes and sticks. The accused Mir Mohd and Khursheed Ahmad gave axe blows on the head of Mohd Suleman who fell down and appellantaccused Wazir Mohd inflicted an injury with an axe from its blunt side on his face. The injured Mohd Suleman became unconscious. Mohd Yousaf (brother of the complainant) was attacked by appellant Wazir Mohd and Mohd Alam with axes from the sharp ejed sides and injuries were inflicted on the head. Appellant Mohd Rashid inflicted a blow with the stick. At this time, complainant Khan Mohd Khan wanted to run away from the spot but accused Mir Mohd and appellant Wazir Mohd gave axe blows from the sharp edged sides on his head. An injuiry was caused on the hand also when he had used it to stave off the injuries on the head. An other brother of the complainant namely, Mohd Bashir PWhad also intervened to save his brothers. The appellant Sultan Mohd caught hold of him from the waist while accused Mohd Sadiq and Mohd Nazir inflicted injuries with axes on his head and appellant Mohd Tariq and Mohd Riaz caused injuries with sticks. Sufficient alarm was raised on this macabre incident which attracted many villagers on the spot who showed samaritan spirit as they lifted the injured complainant Khan Mohd Khan and his brothers to Surankot Hospital. All the accused ran away from the spot.

14. On the same day at 4 p.m., written report (EXPWA) was lodged in the police station, Surankot and under FIR No. 133 of 1988, case for the commission of offences falling under sections 307/447, 148, 149 RPC was registered. The SHO Police Station Surankot prepared the injury statements. EXP4 is the injury statement of Suliaman Khan. He was got examined by the Doctor (BMO) at 4.30 p.m. but could not survive and died at 7.30 p.m. Injured Mohd Yousaf was also examined at the same time by the said Doctor (BMO) and he gave his opinion on the injury statement EXP5. His condition was serious and he was referred to District Hospital Poonch where he succumbed to the injuries on 25.8.1988.

The complainant Khan Mohd Khan was also examined by the said Doctor and he gave his opinion on the injury Statement EXP13. According to

the opinion, the injuries on his person were simple in nature and caused by blunt object. The doctor also examined Haji Mohd Bashir and gave his

opinion on injury statement EXP6. One injury was caused by sharp object weapon and others by blunt object. All the injured persons were the

real brothers.

15. After the completion of the investigation report was submitted for the commission of the offences falling under Section 302, 307, 447, 148,

324, 323/149 RPC. The accused Mohd Alam, Mohd Sadiq and Mohd Sabir were acquitted by the trial court. Accused Mir Mohd died during

the trial and accused Mohd Nazir has been absconding. He has been declared as a proclaimed offender. The remaining six accused were

convicted and sentenced as stated above and they through the medium of this appeal have challenged their convictions and sentences on the

following grounds:

16. The trial court has misappreciated the prosecution evidence. The complainant and his brothers never possessed the land where the alleged

occurrence took place. The prosecution witness namely, Ghulam Sarwar patwari, PW24 in his statement had stated from the revenue record that

appellant Wazir Mohd possessed 2 kanals and 15 marals of land in survey No. 984 while accused Mir Mohd (now dead) possessed 3 kanals and

12 marals. The complainant Khan Mohd Khan possessed 10 kanals and 14 marals of land from the said khasra number but at a distance often

Jareeb"" from the place of occurrence. The total area of Khasra No. 984 is about 1113 kanals and is in the ownership of the state and the

classification of the land is forest. From the prosecution evidence, it is thus established that the complainant and his brothers had trespassed into the

land which was possessed by appellant Wazir Mohd and accused Mir Mohd. They were trespassers and the prosecution story of letting loose

cattle and then making a preplanned attack falls to the ground.

17. Bagga Khan PW4 has deposed that though on his persuasion the accused had driven their cattle from the land yet they had not reconciled.

Both the parties were grumbling and simmering when all the sudden accused Mir Mohd went out of control as he could not bear with the presence

of deceased Suleman on spot. Accused Mir Mohd was not favourably disposed towards deceased Suleman who was a near relation of his

restwhile brotherinlaw namely, Bashir Khatak PW27 who had divorced his sister. The attack on the complainant and his brothers was not

preplanned but occurred at the spur of the moment. In these circumstances, the conviction and sentences of the appellants accused under section

302 RPC read with section 149 RPC was not justified.

18. The appellant Wazir Mohd had injuries on his person but the prosecution has failed to explain such injuries. He remained as an indoor patient in

the District Hospital Poonch. The prosecution has failed to render any explanation with regard to these injuries. Mohd Bashir PW 18 has deposed

in his statement that land under survey No. 984 was never in possession of his brother Suliaman Khan but he was in possession of survey No.

983. This fact also clearly establishes that the complainant party was an aggressor. No weapon of offence has been recovered at the instance of the

accused. This was also a lacuna and the accused could not be convicted. The report lodged on behalf of the accused Wazir Mohammad and

Khursheed Mohd was entered in the police station at 4 p.m. but the trial court has not taken any cognizance of the same.

19. The appellant accused Sultan Mohd is an aged man of 80 or 85 years. He was unarmed and had only tried to stop the fighting and in this

process he tried to stop Mohd Bashir from entering the fray. His Conviction and sentence was unjustified.

20. In the FIR it is not alleged that appellant Mohd Tariq was also armed. No prosecution witness ascribed any particular or specific overt act to

him. His conviction and sentence was not justified.

21. All the incriminating circumstances appearing in evidence were not put to the appellants for the purpose of getting explanation from them. Thus

great prejudice was caused to them.

22. The learned Sessions Judge, Poonch has also made a reference (NO. 45/92) for the confirmation of the convictions and the sentences passed

by him. By this common judgement the appeal as well as the said reference will be disposed of. Heard the arguments.

23. The defence counsel at the outset contended that FIR EXPWA/1 contains tainted and coloured version because it was subscribed by Mohd

Bashir khatak, PW27 who had divorced accused Mir Morjd's sister and thereafter was having strained relations with him. Said Mohd Bashir

Khatak was also not favorably disposed towards accused Mohd Riaz as the latter had married the said divorcee Mst. Sarwar Jan. As all the

accused were closely related to each other so in order to take revenge the scribe embellished the report by falsely implicating his adversaries. In

order to buttress his argument the counsel referred the contents of the letter written by Mohd Bashir Khatak, PW27 in reply to the letter written to

him from jail by the accused Mir Mohd(now dead). It is further argued that FIR EXPWA/1 is not the first report. According to the counsel, in

reality the FIR was lodged by Mohd Latif PW23 who in his statement has deposed that when Begga Khan PW4 had narrated him the incident

immediately thereafter he himself had seen the accused Mir Mohd, Mohd Khurseed, Mohd Sadiq, Wazir Mohd. and Mohd. Tariq returning from

the place of occurrence. Even accused Mir Mohd (now dead) had told him (Mohd Latif PW23) that Suleman and Mohd Yoisaf had been killed

and he (witness) should bring their dead bodies. At this suggestion he (the witness) had gone to the spot and seen (deceased) Suleman and

(deceased) Mohd Yousaf in a critically injured condition. Complainant Khan Mohd Khan and his brother Mohd Bashir PW27 were also seen there

who too had injuries.

24. Wazir Mohd and Mohd Akbar PWs had already reached there. The witness returned to village Lathong and gave a telephonic message to the

police about this incident. After some time, he (witness) himself went to the police station and orally told the police personnel that a fight had taken

place and they should go the spot. In response to this information, the police sent a truck to the spot. The injured were boarded in the truck and

brought back to the police station. The counsel has concluded his argument by stating that real FIR has been suppressed and fabricated FIR

EXPW/1 is not worthy of any credence. The whole edifice of the prosecution story built upon such FIR cannot sustain. 25. These specious

arguments of the learned defence counsel do not carry any weight because they are not based upon facts of the case. There is not even an iota of

official record which even suggests that Mohd Latif PW23 had laid telephonic information of the incident in the police station or personally had

lodged thereafter an oral report. Mohd Latif PW23 in his statement has admitted that in his telephonic conversation he had not disclosed his name

to the police and that afterwards when he visited the police station he did not narrate the incident but had simply told that a fight had taken place

and the police should visit the spot. According to him, at this information a truck was sent and the injured were brought. During his examination as

a prosecution witness, no information was elicited by the defence from the Investigating Officer regarding the lodging of report by Mohd Latif

PW23. In case he had suppressed this valuable piece of evidence, he could be confronted by calling the relevant record from the police station.

Similarly, no question was put by the defence in cross-examination to Mohd Latif PW23 regarding his lodging of the report because that should

have been under signatures. The FIR is not substantive evidence. It can be used only to contradict the maker thereof or for corroborating his

evidence and also to show that the implication of the accused was not an afterthought. On the contrary, the allegation made in FIR EXPWA/1 by

the complainant (Khan Mohd Khan) that his injured brothers were brought to the Surankot Hospital has found corroboration in the Hospital

record prepared by Dr. G.S. Bindra who has recorded that injured Suleman Mohd Yousaf and Mohd Bashir were brought in the Hospital by their

relations whereas, injured (complainant) Khan Mohd Khan was brought in the Hospital by the SHO. The police record is also to the effect that the

Investigating Officer had examined the injured except the complainant in the Hospital when he prepared the injury statements. Complainant Khan

Mohd Khan is categorical in owning his signatures under the written report EXPWA on the basis of which case under FIR EXPWA 1 was

registered. The alleged occurrence took place after 12 a.m. and the police station was situated at a distance of 9 K.M. which was not linked

throughout by a motorable road. The trial Judge has even transposed his personal knowledge in the record by holding that the injured had to be

bodily lifted for crossing a wide nallah before reaching to the site of a motorable road. It was thus natural that some time was spent to reach the

site of the motorable road and arranging the truck and subsequently getting the written report EXPWA scribed. Under these circumstances the

registration of the case at 4p.m. on the same day cannot be ascribed as an act of deliberate delay for the purpose of consultations and

confabulations. 26. The trial judge has compared the handwriting of Mohd Bashir Khatak PW27 with the contents of written report EXPWA and

opined that he was the scribe of the said report. The complainant Khan Mohd Khan was categorical in making a statement in his deposition that

complaint EXPWA was got written by him from a stranger at the site of a village Spring. Here, it has been contended by the defence counsel that

the suppression of the name of the scribe by the complainant speaks volumes for inferring that FIR EXPWA/1 was not voluntary but fabricated at

the behest of the scribe who was the villain behind the scene. He came out in his true colors from hibernation when he spoke his latent mind in the

contents of his letter written in reply to the letter of accused Mir Mohd received from jail. In the reply letter, it was clearly stated that had this letter

been written two years ago, the circumstances would have been different. He was reminded of those good days when acting on his (Khatak's)

advice he was always remaining lucky and adversity was kept off. According to the defence counsel, these innuendos were purposely made to

realise accused Mir Mohd that he had been reattributed for opposing the scribe.

27. These submissions of the defence counsel can be taken into account after proper scrutiny of the record. It is an admitted fact that in this

macabre incident four real brothers were made the object of preplanned attack in which two lost their lives and the surviving two namely, Khan

Mohd Khan and Mohd Bashir had also received multiple grievous and simple injuries.

28. In normal human conduct it was not expected that they would have liked to see the real culprits getting exculpated and the innocent inculpated.

Rather, they would not have allowed any grass to grow under their feet in seeing that the actual perpetrators of the gory crimes are punished with

all certainty and proptitude. In other words, the complainant was so permeated to avenge that in order to avert any sort of criticism he might have

thought it advantageous to suppress the name of the scribe of the report EXPWA whose enmity with some of the accused was not a secret affair.

In the presence of such a reasonable explanation, it can not be conclusively inferred that the scribe of the report EXPWA had a free hand to

implicate his foes in the commission of the offences. Such an argument had lost its significance even at that stage when the complainant Khan Mohd

Khan in his statement on oath had admitted its execution and contents.

29. At this stage, it has to be determined whether the contents of the letter

produced by the accused Mir Mohd are of such evidentiary value that they establish the implication of the said accused merely on the basis of old animosity with the scribe of the report EXPWA namely, Mohd Bashir Khatak. It is to be borne in mind that the alleged occurrence had taken place on 5.8.1988. The author of the letter in question namely, Mohd Bashir Khatak PW27 was examined as a prosecution witness on 10.8.1990 when no question was asked to him regarding the execution of this letter or about its contents. The letter was written on 30.6.91 and that too in reply to the letter received from jail on behalf of accused Mir Mohd. This letter was produced in the Court by the accused Mir Mohd during his examination u/s 342 Cr.P.C. He did not place the copy of his own letter on record and also did not disclose its contents. The accused has not disclosed the hidden meaning of the language used in the letter in question. In the presence of all these doubtful circumstances it cannot be said without any speck of doubt that the contents of the letter be taken as admission on the part of the scribe Mohd Bashir Khatak PW27 that he had falsely implicated the accused Mir Mohd (now dead) with the commission of the crimes or that he had played a pivotal role in fabricating report EXPWA or FIR EXPWA/1. On the basis of this discussion, the submissions made by the learned defence counsel do not hold good.

30. The other limb of the argument of the defence counsel is that the alleged occurrence took place in the land which was in the possession of the appellant accused Wazir Mohd and accused Mir Mohd (dead) and not in that land which was possessed by the complainant Khan Mohd Khan and his brothers. That the complainant and his brothers (Bashir Mohd PW18 and deceased Suleman and Mohd Yousaf) were trespassers. The accused had not made any prior concert for making an unlawful assembly but they exercised their right of private defence to the property and everything happened at the spur of the moment. Under these circumstances, the killing of two aggressors namely, Suleman Khan and Mohd Yousuf do not amount to murder punishable under Sec. 302 RPC but the offence will fall under Part II of Section 304 RPC.

31. On this argument when a reference is made to the record, it is found that no plea of self defence was even taken by the defence during the trial of the case. Even this point was not argued before the trial court. It is for the

first time that in the memo of appeal, it is pleaded that complainant

Khan Mohd Khan possess 10 kanals and 14 marlas of land from Khasra No. 984 min which is situated at a distance of 10 zaribs from the place

of occurrence. This plea has its basis in the statement of Ghulam Sarwar Patwari, PW who in his cross examination, has stated that the land

measuring 10 kanals 14 marlas from Khasra No. 984min is in possession of the complainant Khan Mohd Khan which is at a distance of about 10

zaribs from the place of occurrence. It is also found in his statement that Kh No. 984 measures 1113 kanals and some marlas and in state land

recorded as forest area. Accused Wazir Mohd is shown in possession thereof to the extent of two kanals 15 marlas whereas, accused Mir Mohd

(deceased) was in possession upto 3 kanals and 10 marlas. He has admitted that ""Shajra Tatimas"" have not been prepared in the revenue record

showing distinct portion of lands in their possession. The revenue record thus reveals unauthorised possession of the parties. It is relevant to

mention here how the accused have narrated the incident. Appellant accused Khursheed Ahmad has pleaded in his statement under Section 342

Cr.P.C. that complainant and his party wanted to construct a seasonal house (Dhara) in their land and when his brother Akbar asked them not to

do so, at that time about 200 people came out from their hiding located in the land of Fazal and openly attacked them. Appellantaccused Wazir

Mohd has also stated alike and further stated that when he had asked the complainant and his companions to desist from constructing the seasonal

hut, he was attacked by them and injuries were caused to him. No other accused has said anything about the right of private defence of the

property. 32. Bagga Khan PW4 who is a chowkidar of the village and an independent witness has corroborated the depositions of complainant

Khan Mohd Khan and his brother Mohd Bashir : PW18 that accused had let loose their cattle in the land which was possessed by the complainant

and his brother. The other prosecution witnesses including the investigating officer have also stated that occurrence took place in that land which

was possessed by the complainant Khan Mohd Khan and his brothers. No evidence in defence has been led by any of the accused to assert their

right of private defence. In this view of the matter, it cannot be held that the occurrence took place in the land of appellant accused Wazir Mohd

and accused Mir Mohd and the complainant and his brothers were the aggressors. This plea for the first time has been raised in the appeal and in the circumstances stated above it cannot also be said that the incident took place at the spur of the moment. Rather, the attack was so severe and cruel that out of four brothers, two were slain and the remaining two who survived had also received injuries with sharp edged weapons. They too had a narrow escape from the Jaws of death.

33. In the written arguments submitted by the defence counsel (Mr. Sethi) it has been pleaded that the names of eye witnesses were not mentioned in the FIR and, therefore, conviction is wrong. This argument is devoid of any legal force because the law does not required that name of every eye witness has to be mentioned in the FIR. It is also alleged that names of the accused except Mir Mohd, Wazir Mohd, Khursheed Mohd and Suleman Mohd were not mentioned in the FIR. This argument is palpably wrong as in the FIR names of all the accused (eleven in number) have been mentioned. Some discrepancies in the statements of the prosecution witness have also pointed out in the memo of the written arguments which on persual are found not of much significance. Discrepancies are bound in the statements of the witnesses because there are always variations in the sense perceptions of different individuals for perceiving, memorising and narrating the incidents. The discrepancies stated are not of material nature to discard the testimony of the concerned witnesses.

34. Mr. Sethi has also contended that there were injuries on the person of the accused and the prosecution had failed to explain their existence. In support of his contention he has cited 1992(1) Crimes 583, 1993 (2) Crimes 722 and 1992(2) Crimes 657(SC).

35. 1992(2) Crimes 657 is the case of Kanwarjeet Singh Vs. State of Punjab decided by the Apex Court. In that case, an altercation had started between the appellantaccused and the deceased in which appellantaccused had inflicted blow with his knife on the left side of the chest of the deceased and himself had also received incised injury on his head and there was no proper explanation for that injury from prosecution side. It was held that appellant might have acted in the exercise of his right of self defence. Having regard to the seriousness of the injury and the weapon used, the appellantaccused had exceeded his right of self defence and his conviction

was converted to section 300 PartII, IPC.

36. The ratio of this case is not applicable to the facts of the present case as nowhere it has been pleaded by any of the accused that the injuries

were caused in self defence. Nodoubt, it has been found that appellantaccused Wazir Mohd and Khursheed Ahmad had received injuries, but

nowhere they have pleaded that they received them in self defence. The learned trial judge has dealt with this aspect of the case and the mere

presence of these injuries is not sufficient to hold that the appellantaccused had not intentionally caused death of the deceased.

37. In the case of Harvansh & Ors. appellants Vs. State of UP Respondent 993(2) Crimes 722), the Allahabad High Court had set aside the

conviction of the father of two accused who was 70 years of age on the basis that the evidence against him was of contradictory nature and the

incident had taken place on the spur of the moment without there being previous enmity. Facts of the present case are quite different and the law

cited at the bar is of no help.

38. 1992(1) Crimes 583: This is a case of Baghel Singh Vs. Swaran Singh & Ors. where the Hon'ble Supreme Court on the evidence had held

that the two parties having bitter feelings came across each other and had a free fight. Both sides suffered injuries and two persons died. In such a

situation the participants were held liable for their individual acts. Facts of the case in hand are different as it is not a case of free fight, but on the

basis of cogent evidence, it has been proved that it was a case of unlawful assembly and in the rioting two precious human lives were lost. This

case is also of no help for the appellantsaccused.

39. Learned Counsel for the appellantsaccused has also given a list of following authorities:

1.AIR 1995 SC 254

2. AIR 1993 SC 707

3. AIR 1977 SC 1936

4. AIR 1983 SC 360

5. AIR 1979 SC 1265

6. AIR 1971 SC 325

7. AIR 1969 Allahabad 130

8. AIR 1980 SC 1454
9. AIR 1978 SC 59
10. AIR 1976 SC 2263
11. AIR 1973 SC 501
12. AIR 1974 SC 1976
13. AIR 1975 SC 1400
14. AIR 1974 SC 2145
15. AIR 1976 SC 1156.

40. It is not shown how for they are relevant to the facts of the present case. For this reason they require no discussion.

41. Viewing the case from all its perspectives, we have found that there is no force in this appeal which is dismissed. Reference No. 45/92 made

by the learned Sessions Judge, Poonch is accepted and the convictions and sentences awarded in the judgement and order are confirmed. The

office is directed to send back the record of the trial court.