
(2011) 12 RAJ CK 0031
In the Rajasthan High Court
Case No : Criminal Appeal No. 188 of 2011

Yasir Chisti and Another

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 313
Penal Code, 1860 (IPC) — Section 302, 307, 323, 324, 34

Citation : (2011) 12 RAJ CK 0031

Hon'ble Judges : S.S. Kothari, J;Raghuvendra Singh Rathore, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Raghuvendra S. Rathore, J.—All these appeals arise out of the judgment passed by the learned trial Court in Sessions Case No. 157/2001 and as such they are being decided by this common judgment.

2. Being aggrieved of the judgment dated 31.1.2011 in Sessions Case No. 157/2001, passed by learned Additional Sessions Judge (Fast Track) No.1, Ajmer, the accused appellants have preferred the aforesaid appeals u/s 374 Cr.P.C. The learned trial Court convicted the accused appellant Farukh Chisti for the offence u/s 302 IPC and sentenced him for life imprisonment and a fine of Rs. 20,000/- in default of which to further undergo six months R.I.; for the offences u/s 324 read with Section 34 IPC and sentenced for two years S.I., with a fine of Rs. 2,000/- in default of which to further undergo one month S.I. Doctor Mohd. Khalil Chisti has been convicted for the offence u/s 302 read with 34 IPC and sentenced for life imprisonment and fine of Rs. 20,000/- in default of which to further undergo six months R.I. and for the offence u/s 324 IPC, sentenced for two years S.I., and fine of Rs. 2,000/- in default of which to further undergo one month S.I. The appellants Akil Chisti and Yaseer Chisti had been convicted for the offences u/s 302/34 IPC and sentenced for life imprisonment and fine of Rs. 20,000/- in default of which to further undergo six months R.I., and for the

offence u/s 324 read with Section 34 IPC, sentenced for two year SI and fine of Rs. 2,000/- in default of which to further undergo one month S.I. All the sentences awarded to the appellants were ordered to run concurrently.

3. Briefly stated, the facts giving rise to the present appeals are that a Parchabayan of Saiyed Mohd. Aslam Niyaji was recorded at J.L.N. Hospital, Ajmer wherein it was stated that on 14.4.1992, a quarrel took place between Khalil and Khurshid Pahalwan, during a function at the house of Sabir. Thereafter, in the evening Khurshid had called Idris for having the matter settled and a compromise be entered between the parties. Saiyed Mohd. Aslam Niyaji along with Idrish and Shamim had then gone to the house of Khurshid. After some time, Tarik Mohd. informed that Khalil was calling him at his house. Therefore, all of them came to the house of Khalil where they found Khalil, Farukh, Yashir and Akhil present. On entering the house by Mohd. Aslam and others, the door was closed from behind and Khalil declared that they should be killed and no one should escape. Further, it is mentioned in the Parchabayan that Khalil was armed with a sword and Farukh had a gun. Thereafter, the complainant party tried to run so as to save themselves. All the accused persons had chased them. When the complainant party reached the roof, the accused Farukh fired with a gun at Idris resulting in injury on his right eye. The accused Khalil gave a sword blow which struck on his forehead. The accused Yashir and Akil were having revolvers and they had also fired. Later on, considering the injured to have been shot dead, the accused persons fled away. Subsequently, Idris succumbed to his injuries and died.

4. After lodging of the First Information Report (90/92) on the aforesaid Parchabayan of Mohd. Aslam, the police investigated the matter and on completion of the same, a challan came to be filed on 20.7.1992 against the accused persons in the Court of Judicial Magistrate, First Class No.5, Ajmer for the offences u/s 323, 324, 307 and 302 IPC. The learned Magistrate had then committed the case to the Court of Sessions which later on came to be transferred before Additional Sessions Judge (Fast Track) No.1, Ajmer. The trial commenced with framing of charges against the accused persons. The learned trial Court framed charges against accused Farukh for the offence under Sections 302, 324/34, 307/34 and 342 IPC. The charges against Khalil Chisti were framed for the offence u/s 324, 302/34, 307/34 and 342 IPC. So far as the accused Akhil Chisti and Yashir Chisti are concerned, the charges were framed against them for the offence u/s 302/34, 307, 324/34 and 342 IPC.

5. All the accused persons denied the charges and claimed for trial. The prosecution had, in support of its case, produced 25 witnesses and filed 35 documents which were collected during the course of investigation and were duly exhibited by the trial Court. Subsequently, on conclusion of the prosecution evidence, the statements of accused persons were recorded u/s 313 Cr.P.C. The accused persons then produced Akhil Chisti (DW/1) as a witness in defence and had submitted 44 documents in support of their cases which were duly exhibited

by the trial Court as Ex.D/1 to D/44. On conclusion of trial and after hearing the parties, the learned trial Court passed the impugned judgment dated 31.1.2011 wherein it convicted and sentenced the accused appellants as aforementioned. Hence these appeals have come up for hearing before the Court.

6. The learned counsel for the defence has submitted that the impugned judgment passed by the trial Court is contrary to law and facts of the present case and that there are material contradictions in the statements of injured as well as eye-witnesses. Further, it has been submitted by the learned counsel for the accused that the statements of the prosecution witnesses have been misread by the learned court below. A perusal of the evidence on record goes to show that when the accused persons were present at their premises, the members of the complainant party had formed an unlawful assembly and attacked them. The members of the complainant party were duly armed with various weapons like sword, hockey sticks etc. and had ascended the stair-case to give beating to the accused persons and to kill Dr. Mohd. Khalil. Therefore, it has been submitted that the members of the complainant party were the aggressors and had climbed up to the roof of the building with various weapons to give beating to the accused in furtherance of their common object.

In such view of the matter, it has been submitted by the learned counsels for the appellants that the accused persons had not committed any offence and whatever they had done was in exercise of their right of private defence. It has also been submitted by the counsel for the defence that there is no iota of evidence on record to show that the accused persons were having any common object to commit murder of deceased Idrish. The prosecution has failed to prove, by way of producing any evidence on record, that the accused appellants had at any point of time shared a common intention to commit any offence particularly, murder of Idrish or to cause any injury to the members of the complainant party. It has also been submitted that the learned trial Court had grossly erred in not taking into consideration the fact that the complainant party, including Idrish, Aslam, Asif, Samim, Mustaq, Javed and Juhur Chisti were duly armed and had come to the place of the accused persons where their presence was natural. Therefore, it has been submitted that there was no evidence on record for the learned trial Court to hold that the appellants were liable for conviction with the aid of Section 34 IPC. As a matter of fact, the members of the complainant party are guilty of house trespass and in that event, the accused appellants deserve to get the benefit of right of private defence of their person.

The learned counsel for the accused appellants have also submitted that the prosecution witnesses had given correct version of the incident so much so that the crime had been committed at Betul Salim Manzil and the deceased Idrish had sustained injuries by gun shot from amongst the persons of the complainant party. This further indicates that there was no meeting of mind amongst the accused appellants nor they had ever shared any common intention to cause injury on the person of Idrish or Aslam. Therefore, it has been submitted on

behalf of the accused appellants that the impugned judgment passed by the learned trial Court deserves to be quashed and set aside as the prosecution has failed to prove its case beyond reasonable doubt.

7. The prosecution has, on the other hand, submitted that the judgment passed by the learned trial Court is based on evidence produced before it as well as in accordance to settled principles of law. The learned Public Prosecutor has submitted that the accused persons had, after full preparations, sent a message to Khurshid, Salim, Idrish and other members of the complainant party at their house. The accused persons were well prepared and as soon as the members of the complainant party started climbing the stairs of their house, the main gate was closed from behind. Thereafter, when the complainant party had moved up towards the roof-top so as to save themselves, the accused appellants followed them and inflicted injuries by use of various weapons. Consequently, Idrish and Mohd. Aslam were seriously injured and were taken to the hospital. Idrish had later succumbed to his injuries and died.

Therefore, it has been submitted by the learned Public Prosecutor that the learned trial Court has rightly convicted the accused appellants for the offence committed and it is not a case of the exercise of right of private defence by them because they had themselves called the members of the complainant party to their house, with full preparations and armed with various weapons. They were waiting for the arrival of Idrish and others and as soon as the members of the complainant party entered the main gate it was locked from behind to ensure that they do not run away. Therefore, in order to save themselves, Aslam, Idrish and others climbed the stair case and reached the roof where they were attacked by the accused persons resulting in grievous injuries and ultimately death of Idrish. The learned Public Prosecutor, has therefore, submitted that in the facts and circumstances of the present case, the prosecution has proved its case, beyond reasonable doubt, in respect of the offences committed by the accused and the impugned judgment is fully in accordance with law which does not suffer from any infirmity or illegality. The same deserves to be affirmed by this Court.

8. On perusal of the evidence on record of the learned trial Court including the statement of Aslam Chisti (PW/3), the parchabayan as well as the statement made before the trial Court, Sagir Ahmed (PW/6), Sayed Javed (PW/13) and Samim Chisti (PW/18), it is revealed that though the occurrence took place in the evening of 14th April, 1992 but the events which had taken place since the morning on that day, do have the proximity with the same. In the morning of the day of incident i.e., 14.4.1992 "Peela" from the house of Sabir was to be taken to the place of Kamaruddin and for that purpose, Idrish (deceased), the accused Khalil, Mohd. Khurshid had gone at about 10.30 AM. It was at the place of Sabir that the accused Khalil had told the deceased Idrish as to why he was quarreling with his brother Jamil in respect of the land. He further told Idrish that he must keep quiet or would be done to death, even if 20 lacs of Rupees are spent for the

same. Thereafter, Idrish returned to his house and told Samim Chisti as to what had been said by accused Khalil. On that day, some altercation also took place at the place of Sabir between Khurshid and the accused Khalil. However, some people intervened and the matter was calmed down.

Subsequently, in the evening at about 3.30-4.00 PM, when Idrish and Aslam were sitting at the residence of Samim Chisti, the son of Khurshid came and informed that his father was calling Idrish. On an enquiry made by Idrish as to why Khurshid was calling, he was told that Khalil accused had sent Juhur Chisti and Tarik Mohd. for settlement. Samim Chisti, Aslam and Idrish had then gone to the house of Khurshid, where they were informed that Tariq Mohd. and Juhur Chisti had come and said that Khalil accused was calling them for settlement at Betul-Salim-Manjil. Khurshid had then told them that the quarrel was with Mohd. Idrish, and therefore, he would call him. At that time, Tariq Mohd. had also come and stated the same thing which had been told by Khurshid. Thereafter, Samim Chisti, Sagir, Khurshid, Idrish and Aslam started from the house of Khurshid to go to the house of Tariq Mohd. On the way, at Dollywalo Ka Chowk, Khurshid sustained severe pain in his chest resulting in sweating and Sagir started to take him to his house but Tariq Mohd. said that he would do that and all of them should go along with Jahoor Chisti. He would join them after leaving Khurshid at his residence. When all the persons proceeded further and reached near Solasidi, they met Asif, Javed and Mustakim who were informed that all were going to Betul-Salim-Manjil as they were called for settlement at the house of Jamil. All the three persons namely; Asif, Javed and Mustakim also joined for going to Betul-Salim-Manjil and on reaching its gate, Juhur Chisti who had brought the members of the complainant party, told them to proceed upstairs and he would be coming after bringing Tariq Mohd.

As soon as Idrish, Samim Chisti, Aslam, Mustakim, Javed, Asif and Sagir went inside Betul-Salim-Manjil and started climbing the staircase, the channel gate of the house was closed. They found Khalil, Farooq, Akhil, Yashir standing before them. Farooq Chisti was having a gun, Khalil was having a sword, Yashir and Akhil were having revolvers with them. Khalil accused had then said that "murder all these persons and none of them should be able to escape". The members of the complainant party had then climbed the staircase to save themselves and reached the roof of Betul-Salim-Manjil. From there, they went to the roof of Kaptan-house and then down a staircase but found that the same was locked from inside. Therefore, they came back to the roof where the accused Farooq Chisti had aimed his gun at Idrish and fired, which resulted in an injury on his eye. The accused Khalil had given blows by sword on the head of Aslam and thereafter Yasir and Akhil also opened fire. Consequently, Idrish became unconscious and fell down. After sustaining injuries by sword, Aslam also fell on the roof. The other members of the complainant party had hidden themselves behind the water tank at the roof-top. All the four persons then fled away, after jumping on the roof of the house of Jamil. Two police constables had then come and after breaking the lock, they came to the roof and carried Idrish and Aslam to the

hospital. Idrish was declared dead by the doctors and the injured Aslam was admitted in the hospital.

9. The quarrel which had taken place between the accused Khalil and the deceased Idrish as well as Kurshid since the morning of 14th April, 1992, was on account of enmity between the parties. Idrish was having a poultry farm as well as land near Hatundi, Ajmer. Adjacent to it was the land of Jamil, who is father of the accused Akhil and Yashir and the brother of the accused Khalil. About 5-6 months prior to the incident and during the monsoon season, Jamil had closed the water flow of the Nala, as a result of which water had accumulated in the poultry farm of Mohd. Idrish and this led to confrontation between Idrish and Jamil. Subsequently, Mohd. Idrish had lodged a report at Police Station Adarsh Nagar, Ajmer. Some time later to the lodging of the said report, Farooq, Jamil and Akhil had come to Doliwaloka Chowk to give beating to Idrish but as he was not there, no occurrence took place. The said dispute between the parties had continued, resulting in the threatening given by Khalil in the morning of 14.4.1992 at the place of Sabir and culminating into the incident of Marpeet at about 4.00 PM on that day.

10. The aforesaid factual position with regard to enmity as well as the events which had taken place prior to the incident in the evening of 14.4.1992, has been established by the prosecution evidence produced before the learned trial court, such as injured witness, Aslam Chisti; eye witnesses; Salim Chisti, Sagir Ahmed, Sayed Javed etc. It is noteworthy that it was the accused persons who had sent Tariq Mohd. and Jahoor Chisti to call the members of the complainant party at their residence on the pretext of settlement. The said message was given at the residence of Khurshid who had then sent his son to Idrish because the accused party had dispute with him. Thereafter, Mohd. Idrish and other persons had come to the residence of Khursheed and then Samim Chisti, Sagir, Khurshid, Idrish and Aslam started for the house of Tariq Mohd. to settle the dispute. They had met Asif, Javed and Mustakim on the way, who had also joined them. The said two persons namely; Jahoor Chisti and Tariq Mohd., though had come to call the deceased and others but they did not enter Betul-Salim-Manjil, as Tariq Mohd. went away on the pretext of taking Khurshid to his house because he had sustained pain in the chest and Juhoor Chisti left Idrish and others at the door of Betul-Salim-Manjil saying that he would get Tariq Mohd. with him. Soon after entering the Betul-Salim-Manjil by Idrish and others, the channel gate was closed and they found themselves faced with four persons namely; Farooq Chisti, Khalil, Akhil and Yashir who were armed with deadly weapons.

Such being the situation, coupled with the fact that alarm was raised by accused Khalil that all the members of the complainant party should be done to death and none of them should escape, made the intention of the accused persons crystal clear from the very inception of the incident. Moreover, when the accused rushed to climb the stairs and reached the roof, the accused persons had chased them, so much so, that they even came on the roof of Kaptan-House where the

deceased Idrish, injured Aslam Chisti and their companions had jumped from the roof of Betul-Salim-Manjil and tried to save themselves by making their escape through its staircase. But the same was also found locked from inside and they had to return to the roof of Kaptan-House where the accused persons had taken the position. The accused Farooq Chisti fired with his gun by aiming at the deceased Idrish. Similarly, the accused Khalil gave sword blows to Aslam Chisti and the remaining two namely; Akhil and Yashir Chisti had also used fire-arms which they were carrying.

11. In the aforesaid backdrop and the dispute/enmity between the parties as well as the proximity of events which had taken place on the day of incident i.e., 14.4.1992 and the manner in which the incident had taken place where the accused had committed the offence, we are of the view that the contentions raised by the counsels for the accused persons have no force and the appeals filed by them are devoid of merits. The submission made by the counsels for the accused that it was the complainant party who had formed an unlawful assembly; they had come to the place of accused; that they were the aggressors and whatever had been done from the side of the accused was in exercise of their right of private defence, do not at all impress us because the evidence on record produced by the prosecution does not at all support the same. A careful perusal of the statement of prosecution witnesses goes to show that on account of land dispute, enmity had developed between Idrish and Jamil, who is father of accused Akhil, Yashir and brother of accused Khalil, some months ago to the day of occurrence. Even on 14.4.1992 quarrel was initiated from the side of accused, so much so, that the accused Khalil had threatened Idrish and others not to raise any dispute of the land or dire consequences would follow, and he was ready to spend a big amount. Furthermore, the accused Khalil had also raised quarrel with Khurshid on the occasion of "Peela" function whereas he was not concerned with the land dispute between the deceased Idrish and the accused persons. Above all, it was the accused persons who had sent Juhoor Chisti and Tariq Mohd. to call Idrish and others, at their residence. It is important to note that on being assured that deceased Idrish and others would go to the residence on their call for coming to Betul-Salim-Manjil, one of the messengers namely; Jahoor Chisti parted with on the way and Tariq Mohd., did not enter the house where the accused were waiting with full preparations and had left the place for calling Jahoor Chisti after the closing of channel door inside the main gate.

12. In these circumstances, neither it can be said nor it has been proved from the material on record that the complainant party had at any point of time formed an unlawful assembly to attack the accused persons. As a matter of fact, they had come from their house to the residence of Khurshid, on his call and thereafter to Betul-Salim-Manjil when Juhoor Chisti and Tariq Mohd. had come to the house of Khurshid with the message that they were being called by the accused Khalil for settlement. So far as Asif, Javed and Mustakim are concerned, they were neither with Idrish, Samim Chisti and Aslam at the house of Samim Chisti when the son of Khurshid had come to call them nor they were present at

the house of Khurshid when Samim Chisti, Sagir, Idrish and Aslam had started for the house of Tariq Mohd. It was only on the way that Asif, Javed and Mustakim happened to meet the aforesaid persons along with Idrish and they had joined them to go to Betul-Salim-Manjil. The very fact that as soon as Idrish and others entered Betul-Salim-Manjil, the channel gate was closed and they were faced with four persons who were standing there from before, duly armed with deadly weapons, itself proves beyond doubt that the accused persons had pre-planned the matter and thereafter sent Jahoor Chisti and Tariq Mohd. to call the complainant party.

The intention of the accused is further clear from the fact that sooner Idrish and others entered the main gate of Betul-Salim-Manjil, the channel gate was got closed by someone from the accused side. The accused Khalil had said that all the members of the complainant party be done to death and none of them should escape. In the earlier part of the day, on 14.4.1992, the accused Khalil had threatened the deceased Idrish not to raise any dispute with regard to land or he would be met with death, for which even if 20 lacs of Rupees are spent. Therefore, we are afraid that we cannot accept the submissions made by the counsels for the accused that the members of the complainant party had formed an unlawful assembly or that they were the aggressors. Likewise, the aforesaid circumstances with regard to the land dispute; threatening in early hours of the day and sending two persons, on the pretext of settlement, for calling the complainant party at the residence of accused persons goes to show that the whole thing was preplanned and well prepared with the object to give beating to the members of the complainant party at the residence of accused so as to show that the accused persons had caused injuries to Idrish and others when they had come to attack them.

13. The evidence on record as well as the circumstances which are revealed from it, further leads us to the conclusion that the submission made by the counsels for the accused that there was no common intention of the accused persons to have committed the murder of Idrish, also has no force. The accused persons, who were four in number, were armed with gun; two revolvers and a sword. They had earlier sent the message to call the complainant party at their residence. When Idrish and others entered their house, the accused were well prepared and they were ready to attack them. Thereafter, the accused persons chased the deceased Idrish and others to the roof top and continued to do so even upto the building of Kaptan House. When the deceased and others had to return after having found the staircase of Kaptan-House locked from inside, the accused persons intercepted and there is consistent evidence of the prosecution witnesses that Farooq Chisti fired at the accused Idrish, with a gun, after having aimed at him. Similarly, the accused Khalil had given several blows with a sword on the head of Aslam. The remaining two accused persons, Akhil and Yasheer had also used their revolvers. Therefore, the sequence of events and the conduct of the accused leaves no room of doubt that they did have the intention to commit murder of Idrish and give beating to the members of complainant party

on their entering the Betul-Salim-Manjil. This was further apparent from the alarm raised by the accused Khalil that all of them should be done to death and none should be able to escape.

14. In furtherance of the submissions made by the counsel for the accused appellants that it was the members of the complainant party who were the aggressors, a reference has been made to the statements of Bhanwar Singh (PW/4) and Bhanwar Lal Sharma (PW/5). The said police personnels who were posted at Police Chowki, Tripolia Gate, PS Ganj, Ajmer, are said to have received an information in the evening of 14.4.92 by wireless, through the control room, that some quarrel had taken place at Jhalre which falls within the jurisdiction of the said Police Chowki. Thereafter, both the constables had gone there and found that no quarrel had taken place. Therefore, they wanted to convey the said information to the control room on Telephone for which they went inside the house of one Ahmed Chisti. On their return, they had seen some persons climbing the staircase of the said house. They were said to be the aggressors and the police personnels wanted to intercept them but failed to do so. Bhanwar Singh (PW/4) has deposed that the accused persons had gone to the roof of the building and he as well as Bhanwar Lal Sharma followed them. The accused persons had then come on the roof top duly armed with gun and swords and Farooq Chisti fired at Idrish with his gun, resulting in his instant death. He has also stated that Bhanwar Lal Sharma (PW/5) tried to intervene and he sustained injury by a sword.

However, a close look at the statements of Bhanwar Singh (PW/4) and Bhanwar Lal Sharma (PW/5) made before the trial Court, along with the one given during the course of investigation, reveals that they do not inspire confidence and are not worthy of reliance. As for instance, Bhanwar Singh (PW/4) had not made any mention with regard to the injury sustained by Bhanwar Lal with a sword, in his statement before the police (Ex.P/4), during the course of investigation. This shows that an improvement had been made by the said witness during the trial, which is also clear from the statement of Bhanwar Lal Sharma (PW/5) who had deposed that he does not remember as to how he sustained injury on the elbow of his right hand. Similarly, the deposition made by Bhanwar Singh during the trial that the members of the complainant party were the aggressors because they were armed with weapons, had not been said by him in the statement u/s 161 Cr.P.C., given during the investigation and that is why in respect of the said facts, he had to be contradicted by learned APP with the permission of the trial Court. But it is important to note here that the prosecution witness Bhanwar Singh has categorically deposed that the accused Farooq Chisti, after reaching the roof, fired by his gun which resulted in injury on the right eye of Idrish and he died at the place of incident. Further, he has deposed that the other persons who had gone along with Farooq Chisti were carrying swords with them.

Besides, the prosecution witness Bhanwar Lal Sharma (PW/5) was contradicted by APP, with the permission of the trial Court, in respect of his statement u/s 161

Cr.P.C where he had not stated about weapons being carried by the members of the complainant party; that they were calling to bring out the accused Farooq Chisti; the gun was found at the place of incident and in respect of the injury sustained by him on the elbow of his right hand, while he was trying to prevent members of the complainant party from proceeding further. As a matter of fact, a perusal of the statement of Bhanwar Lal Sharma goes to show that he was not even present at the time of incident because he had gone to make a phone-call for getting additional police force at the place of incident. Therefore, the accused persons do not get any support from the statements of prosecution witnesses Bhanwar Singh and Bhanwar Lal Sharma. It rather shows that even prior to the occurrence some persons had informed the police in advance that a quarrel had taken place at Jhalre, a place near to the house of accused and falling within the jurisdiction of police Chowki Tripolia Gate Police Station Ajmer. This further corroborates the circumstances that the crime committed by the accused was pre-meditated and with full planning from before.

15. Therefore, the accused persons are liable for the offences charged and the learned trial Court has rightly convicted them for the offences u/s 302 read with Section 34 IPC. The evidence produced by the prosecution as well as the aforesaid circumstances also leads us to hold that Aslam and others cannot be liable for house-trespass. The submission made and the explanation sought to be given by the counsel for the accused with regard to the fatal injury sustained by Idrish that he got injured on account of the act from amongst his own persons, has no legs to stand for the simple reason that neither Idrish nor any member of the complainant party was carrying any fire-arm. It was never the case of the accused, during the course of trial nor there is any evidence on record to show that the deceased Idrish sustained fire-arm injury at the hands of any of the members of the complainant party or it was on account of any scuffle which had taken place at the time of incident that he sustained the fatal injury.

16. No other contention has been raised before us by the counsels for the accused.

17. From a careful perusal of the evidence on record produced by the prosecution, we are of the considered opinion that the prosecution has succeeded in proving its case beyond reasonable doubt. The statement of prosecution witnesses as well as the other evidence on record including the medical evidence; evidence of recovery; etc. connecting the accused appellants with the commission of the crime, clearly shows that the alleged offence has been committed by them and the prosecution has fully established the guilt of the accused.

18. Consequently, the learned trial Court has rightly come to the conclusion that the accused Farukh Chisti has committed the offence u/s 302 and other persons u/s 302 read with 34 and Section 324 read with 34 IPC and have sentenced them accordingly. The same is based on the findings arrived at, by the learned trial Court, in accordance to the legal evidence produced by the prosecution and

also on the material before it. Therefore, the impugned judgment does not suffer from any illegality or infirmity. The contentions raised by the counsels for the accused appellants are not backed by the evidence on record nor it casts a shadow of doubt on the prosecution case. The manner in which the incident had taken place in the present case clearly goes to show that it was not only pre-meditated as well as with full preparations but was also planned, which is reflected from the fact that the accused persons had chosen their own residence for committing the crime.

19. For the reasons given herein above as well as after anxious and thoughtful consideration of the matter and careful perusal of the evidence produced by the prosecution, we have no hesitation in holding that the impugned judgment passed by the learned trial court is based on legal evidence and in accordance with the settled principle of criminal law, which deserves to be affirmed by this Court.

Consequently, all the appeals deserve to be rejected and they are accordingly dismissed.