

Narottam Das and Another Vs. State of Orissa

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Court : Orissa

Decided On : Jun-20-2012

Appellant : Narottam Das and Another

Respondent : State of Orissa

Judgement :

HIGH COURT OF ORISSA: CUTTACK CRIMINAL APPEAL No.275 of 1989 From the judgment and order dated 16.9.1989 passed by Sri M.R.Behera, Addl. Sessions Judge, Jajpur in S.T. No.289-46 of 1988. -----Narottam Das & another Appellants -versusState of Orissa Respondent For Appellants : M/s. D.Nayak, Mr.R.K.Pradhan, Mr.U.R.Jena, Mr.A.Jena, Sk.Zafarulla, Mr.P.S.Nayak. For Respondent : Addl. Govt. Advocate P R E S E N T: THE HONBLE MR. JUSTICE B.K.MISRA -----

Date of Judgment:

20. 06.2012

----- B.K.

Misra, J.This appeal is directed against the judgment and order of conviction and sentence dated 16.9.1989 passed by the learned Addl. Sessions Judge, Jajpur in S.T. No.289-46 of 1988 convicting the appellants under Section 307 read with Section 34 of the Indian Penal Code (in short, I.P.C.

.). Both the appellants were sentenced to undergo rigorous imprisonment for four years each and to pay fine of Rs.2,000/-, in default of which to undergo further

rigorous 2 imprisonment for three months for the offence under Section 307 read with Section 34 of the I.P.C. The learned Addl. Sessions Judge, Jajpur however though found appellant Narottam Das guilty under Section 27 of the Arms Act but did not impose any separate sentence in view of the sentences awarded to him for the offence under Section 307 of the I.P.C.

2. The case of the prosecution is that the injured informant Suvendu Kumar Panda (P.W.1) was returning from Mangalpur Hata in a bicycle on 29.11.1987 afternoon along with one Banchhanidhi Das (P.W.2) who was a pillion rider. The F.I.R. further discloses that around 4.30 P.M., when P.Ws. 1 and 2 were near the house of Nrusingha Das both the appellants obstructed their way and forcibly detained them. It is further alleged that the appellant No.1 namely, Narottam Das threatened to do away with the life of P.W.1 and thereafter brought out a small gun and opened fire as a result of which P.W.1 sustained bullet injury on his left arm and sustained profuse bleeding injury and thereafter appellant No.2, Narayan Das when chased P.W.1 with a big knife P.W.1 ran towards the house of Bijoya Kishore Samal (P.W.8) crying. On hearing the hue and cry raised by P.W.1 when villagers in number arrived, the two appellants fled away. Information about the occurrence was lodged in writing before the O.I.C., Mangalpur Police Station (Ext.1). Police on receipt of the said information, registered a case and took up investigation. 3 On completion of the investigation getting prima facie materials charge sheet was placed against the two appellants under Sections 341, 307, 326 read with Section 34 of the I.P.C. as well as under Sections 25 and 27 of the Arms Act.

3. The plea of the two appellants was that of complete denial of the entire occurrence. On the other hand it is their further plea that they have been falsely implicated in this case as the appellant Narottam Das in a case of kidnapping of one Sandhyarani Samal by the elder brother of P.W.1 had stated in a village meeting in favour of the victim girl.

4. The prosecution in order to bring home the charges against the two appellants had examined 12 witnesses in all. The appellants also had examined one witness in their defence.

5. I may mention here that the two appellants faced their trial before the learned Addl. Sessions Judge, Jajpur under Sections 341 and 307 read with Section 34 of the I.P.C. as well as under Section 27 of the Arms Act but both the appellants were found No.guilty for the alleged offence under Section 341 of the I.P.C. and were acquitted. But they were convicted for the offence under Section 307 of the I.P.C. so also the appellant Narottam Das was further convicted under Section 27 of the Arms Act. The order of conviction and sentences imposed on the two appellants is under challenge in this appeal

6. The learned counsel appearing for the appellants while taking me through the evidence on record contended that the entire case of the prosecution should be discarded as the very genesis of the prosecution case that is the F.I.R. appears to be doubtful as because when P.W.1 the injured says that he immediately after the occurrence lost his sense and on the next day when he regained his consciousness, the F.I.R. was lodged how come the prosecution built its case on a spurious and suspicious document namely Ext.1 saying that it was lodged by P.W.1 at 6.00 P.M. on 27.11.1987. Besides that it was also contended that when Government hospitals were available at Mangalpur and in its vicinity though there is a Government hospital in Jajpur Town but the injured was never taken there and was taken to the Private Nursing Home of Dr.Batakrushna Mohanty for his treatment and it is unbelievable that a Government hospital would be found closed on a Sunday i.e. 29.11.1987. Similarly it was also argued with vehemence by Mr.Dharanidhar Nayak, learned counsel appearing for the appellants that the conviction of appellant Narayan Das under Section 307 of the I.P.C. canNo.be sustained as he did No.commit any overt act and his mere presence if at all at the spot canNo.amount that he and appellant Narottam Das had a predetermination or preconson to take away the life of the injured informant Suvendu Kumar Panda. Accordingly, the learned counsel appearing for the appellants contended that the order of conviction 5 and sentences should be set aside and the two appellants be acquitted.

7. On the other hand the learned Addl. Government Advocate Mr.D.K.Mishra in his argument contended that the order of conviction as recorded by the learned Addl. Sessions Judge, Jajpur calls for no interference as it is based on sound

appreciation of legal evidence on record.

8. Upon hearing the learned counsel for the respective parties, I perused the entire evidence on record both by oral and documentary. According to the case of the prosecution the injured informant namely P.W.1 along with P.W.2 were returning from Mangalpur Hata on 29.11.1987 afternoon to their village in a cycle and near the house of Nrusingha Das of village Iswarpur the two appellants obstructed their way and the appellant Narottam Das @ Tima gave out to do away the life of P.W.1 and so saying opened fire from a small gun and the bullet hit the left hand of P.W.1 and thereafter the other appellant namely, Narayan Das chased to assault P.W.1 with a big knife for which P.W.1 ran towards the house of Bijaya Samal of his village by crying aloud and when the villagers assembled the two appellants escaped. So according to the F.I.R. Ext.1, P.Ws. 1 and 2 are the two vital witnesses for the prosecution and according to the F.I.R. story the other villagers had arrived after the occurrence

9. The learned Addl. Sessions Judge, Jaipur as I find led much emphasis on the evidence of P.Ws. 1 and 2 and similarly on the evidence of P.W.4 the doctor who allegedly treated P.W.1 in his Nursing Home at Jaipur and also on the evidence of the other doctors of S.C.B. Medical College, Cuttack P.Ws.9, 10 and 12 who deposed about the injury namely the gunshot injury which they detected on the left arm of P.W.1. The learned Addl. Sessions Judge dispelled the contentions raised before him by the learned counsel for the defence with regard to the suspicious circumstances and with regard to the genuineness of the F.I.R. Ext.1 which is said to be a doubtful document and the several authorities were also placed before the Addl. Sessions Judge, Jaipur for discarding the case of the prosecution. I will be discussing those aspects later on including the plea of false accusations levelled against the two appellants because of the political rivalry between the informant group and the appellants.

10. P.Ws.1 and 2 consistently deposed that while they were returning to their village in a cycle from Mangalpur the two accused persons detained them by catching hold the handle of the cycle and thereafter accused Tima Das opened fire from a gun saying to kill P.W.1 for which P.W.1 sustained injury and accused

Narayan Das chased P.W.1 with a knife. It is the specific evidence of P.W.1 in his cross-examination that he has No.seen anybody while he was going away from the spot immediately after the occurrence towards the house of Bijoy Samal and it is also the evidence of P.W.1 that he had No.seen the witness Banchanidhi Das who was sitting in the carrier of his cycle after the firing. P.W.2 in his evidence also has admitted that after the firing he left the spot and he also deposed that except stating about the occurrence before the court, he had No.disclosed the same before any other person. It is seen from the evidence of P.W.2 that the wife of Nrusingha Das who was sitting in front of her house had seen the occurrence. I may mention here that the wife of Nrusingha Das who according to P.W.2 had seen the occurrence and thus an eye witness has No.been examined by the prosecution and no explanation is also forthcoming about that. P.W.3 he simply deposed that on hearing the firing of a gun in front of the Danda. of Nrusingha Das when he proceeded, near the house of Bijoya Samal found P.W.1 lying with bleeding injury on his left arm and by then 50 to 60 persons had already gathered near the house of Bijoya Samal. It is also the evidence of P.W.3 that he had seen accused Narottam coming with a gun and the other accused with a knife. Thus, this evidence of P.W.3 shows that he is a post occurrence witness. P.W.5 deposed that on the date of occurrence he was returning from Mangalpur Hata. in a cycle and ahead of him P.Ws. 1 and 2 were also returning from Mangalpur Hata. and in front of the house of Nrusingha Das, the accused persons stopped P.Ws. 1 and 2. It is also the evidence of P.W.5 that accused Tima Das fired from a gun which hit the left arm of P.W.1 causing bleeding injury and accused Narottam Das rushed towards P.W.1 to assault him with a knife for which P.W.1 ran towards the house of Bijoya Samal and fell down there, whereafter the accused persons left the spot. P.W.5 also deposed that they bandaged the injury of P.W.1 with a napkin and removed him to Mangalpur P.H.C. and there from they came to Mangalpur Police Station and as the condition of the patient was serious, they removed him to Jajpur. P.W.5 also deposed in his crossexamination that he was examined by the I.O., 10 to 15 days after the occurrence. The presence of P.W.5 at the spot appears very much doubtful and unbelievable also as P.W.1 the injured himself has stated that at the time of occurrence he had No.seen anybody at the spot and this P.W.1 the injured informant has No.at all breathed a word in his evidence

about the presence of P.W.5 and rescuing him from the spot to Mangalpur Hospital as well as bringing him to Mangalpur Police Station. On the other hand P.W.1 speaks about the presence of P.W.5 only on the next day of the incident in the clinic of Dr.Batakrishna Mohanty (P.W.4). P.W.1 the injured informant has specifically deposed that he had orally reported the matter at the Police Station which was reduced into writing in his presence and after it was read over and explained to him, he signed on that

11. P.W.11 the I.O. also deposed that it was P.W.1 who presented the written report namely, Ext.1 the F.I.R. at 6 P.M. on 29.11.1987 and on that day he examined the informant and the witnesses. P.W.11 the I.O. has never breathed a word if any oral information was lodged at the Police Station either by P.W.1 or by P.W.5 or if any report was submitted by P.W.5 about the occurrence on his request. Rather it is P.W.11 who deposed that he canNo.say as to who scribed the F.I.R. Thus, the evidence of P.W.5 about his presence at the spot and witnessing the occurrence is hard to be believed. P.W.6 who is another co-villager of the injured P.W.1 deposed that while he was spinning on hearing a sound Dho. when he proceeded to the house of Krushna Das found accused Tima returning with a gun and accused Narayan Das was chasing P.W.1 with a knife and P.W.1 was running towards the house of Bijoya Samal with bleeding injury. P.W.6 has introduced a different story about the occurrence by deposing in examination-in-chief that he found accused Narayan Das coming from the house of Bijoya Samal which is No.the case of the prosecution. If we analyse the evidence of P.W.6 it is seen that he has made different statements about the occurrence at different stages. P.W.6 has deposed specifically that except himself, Banchha Das and the accused persons he had No.seen any other person at the place occurrence. Thus, P.W. 6 also has No.breathed a word about the presence of P.W.5 at the spot at the 10 time of occurrence. So the evidence of P.W.6 makes the evidence of P.W.5 that he was present at the spot at the time of occurrence and he had seen the entire occurrence unbelievable. Again this P.W.6 deposed that he had No.seen the accused Tima firing at P.W.1 from a gun and he did No.disclose the incident before any person other than the I.O. and before the court.

12. P.W.7 is a witness to the seizure of blood stained full shirt and sweater belonging to P.W.1 vide seizure list Ext.3 and those articles have been marked M.Os.I to III. Thus the evidence of P.W.7 is of no assistance to the case of the prosecution. Similarly, P.W.8 simply deposed that at the time of occurrence he was asleep in his house and on hearing knocking of his door when he came, found bleeding injury on the person of the Suvendu and Suvendu fell down on the Danda.. P.W.8 deposed that he does No.kNo.what happened thereafter. Thus, P.W.8 being a very vital witness for the prosecution has No.at all breathed a word if he had seen the present two appellants chasing P.W.1 with a gun and knife. Though P.W.8 deposed that number of persons had gathered at the spot, but he has No.whispered a word about the presence of P.W.5 and very surprisingly P.W.8 deposed that he did No.enquire about the incident from any person. This conduct of P.W.8 a co-villager of P.W.1 raises great doubt in my mind as to truth in the entire case of the prosecution

13. It is seen that in this case though according to P.W.1 there is a primary health centre at Mangalpur which situates 4 K.Ms. away from his house and besides that there is another P.H.C. in between his house and Mangalpur P.H.C. and even though there is a Government Hospital in Jajpur town and though he crossed three hospitals from his house to Jajpur, but he was admitted into a private Nursing Home run by Dr.Batakrishna Mohanty (P.W.4). The explanation given by the I.O. that owing to non-availability of doctor at Mangalpur, P.W.1 was treated at Jajpur and he had No.sent P.W.1 to a Government doctor at Mangalpur raises a great doubt in my mind about the truth in the case of the prosecution. It is hard to believe that a Government Hospital would remain closed on Sunday and especially a Government Hospital functioning at Sub-Divisional Headquarter, namely at Jajpur which is an important place.

14. As per Orissa Police Manual Rule-213-B it is the prime most duty of the Police Officer in cases of serious injury to send the wounded person without delay to the nearest Government Hospital and arrangement should also be made for the treatment of an injured in cases of serious injury in the Sub-Divisional or Headquarter Hospital. In the instant case, though according to the prosecution case P.W.1 had sustained one gun shot injury and though F.I.R. was lodged within

one and half hours of the occurrence i.e. at 6.00 P.M. on 29.11.1987 by P.W.1 himself but strangely enough P.W.11 the I.O. 12 though registered the case did No.send the injured either to Mangalpur P.H.C. or to Sub-Divisional Hospital, Jajpur and no injury requisition was issued even if the I.O. says that he had examined the injured and other witnesses and the explanation given by the I.O. P.W.11 that since P.W.1 preferred to be treated in a private clinic therefore he did No.prefer to send him to the Government Hospital at Mangalpur or Sub-Divisional Hospital at Jajpur canNo.be accepted especially in view of the evidence of P.W.1 the injured that immediately after the occurrence he became unconscious and regained his sense on the next day in the clinic of P.W.4. The evidence of P.W.11 that P.W.1 preferred to be treated in a private clinic and No.in a Government Hospital including Sub-Divisional Hospital at Jajpur canNo.be accepted as the injury requisition which has been marked as Ext.2 shows that it was issued on 30.11.1987.

15. P.W.4 the doctor who initially treated the injured P.W.1 deposed that he has a private clinic at Jajpur town which is known as Shree Maa Clinic.. P.W.4 further deposed that on 29.11.1987 one Suvendu Kumar Panda of village Iswarpur was admitted into his clinic for his treatment of a gun shot injury and he found lacerated and punctured wound on left upper arm medial aspect 4. above the elbow joint. The size of the injury was 2 . depth and 2. x 3. width. Besides that there was another laceration of upper wound 2. x1. and according to P.W.4 the injury was grievous in nature. P.W.4 also 13 deposed that the patient was treated in his clinic till 8.12.1987 and thereafter he referred the patient to S.C.B. Medical College and Hospital, Cuttack for better treatment. In his cross-examination P.W.4 deposed that when the injured was received in his clinic there was no police requisition so also he did No.intimate the police after admitting the injured into his clinic and he did No.intimate the police from 29.11.1987 to 8.12.1987. Very surprisingly, though P.W.4 deposed that he maintained the patient register but such register was No.produced before the Court during trial No.the prosecution took any step for proving such an important register during trial. P.W.4 very surprisingly in the injury requisition did No.mention anything about the identification of the person, namely the injured Suvendu Kumar Panda, who was allegedly treated in his Nursing Home from 29.11.1987 till 8.12.1987 and though there is an endorsement by the

doctor but the column has been left blank about the questions put to the injured and the answer given by the injured. Very surprisingly in the said injury report Ext.2 neither the signature of the injured is there No.any distinguishable identification mark of the injured has been mentioned. P.W.4 deposed that the patient was referred to S.C.B.Medical College and Hospital for further treatment but Ext.4 the discharge certificate of the Department of Cardio Thorasic Surgery does No.disclose if the patient was received in S.C.B. Medical College and Hospital, Cuttack on 9.12.1987 being referred to 14 by Shree Maa Clinic, Jajpur. Very surprisingly, P.W.4 in his evidence on oath before the Trial Court has stated that any person can come to his clinic for treatment by disclosing his name to be some other name. There is no evidence that P.W.4 while deposing before the Court had identified P.W.1 to have been treated by him in his clinic from 29.11.1987 to 8.12.1987. It is the evidence of P.W.9 another doctor of Cardio Thorasic Department that on investigation they found no bony injury and there was no police requisition when the patient was treated by him. P.W.9 had also deposed that he had no previous acquaintance with the patient No.anybody identified the patient to him. Very surprisingly the bed head ticket of P.W.1 was No.produced before the trial Court No.marked during trial and P.W.9 deposed that the bed head ticket was No.there when he deposed before the Court. P.W.10 who is another doctor simply deposed that he assisted P.W.9 when operation was being performed. P.W.12 is another doctor who first treated the injured as Casualty Medical Officer of S.C.B. Medical College and Hospital, Cuttack on 9.12.1988 and his evidence reveals that one Suwendu Panda son of Narayan Panda of village Iswarpur under Mangalpur Police Station was admitted into the male accident ward vide indoor registration no.2546 dated 9.12.1988. The X-ray examination of the patient revealed no bony injury and this P.W.12 a very vital witness for the prosecution has specifically deposed that when he examined the 15 patient in casualty he did No.receive any medical requisition from police No.anybody identified the patient at the time of his examination. P.W.12 also deposed that on 30.3.1988 he received a medical requisition from the Superintendent, S.C.B. Medical College and Hospital, Cuttack. P.W.12 also deposed that on perusal of Ext.4 and Ext.5/2 he canNo.say if the injury on the person of the patient was a gun shot wound. P.W. 12 has No.breathed a word if he had received the injured

Suvendu Panda being referred to by P.W.4 the doctor of Shree Maa Clinic, Jajpur. P.W.12 also in his evidence opined that the injury which he detected on the person of injured Suvendu Panda is possible by self infliction with a sharp cutting weapon.

16. In the instant case, it is seen that a doubt shrouds the entire case of the prosecution i.e., the genesis of the case of the prosecution, namely the F.I.R. Ext.1. The F.I.R. shows that it was lodged by P.W.1 the injured informant at 6.00 P.M. on 29.11.1987. P.W.11 the I.O. in his evidence deposed that on 29.11.1987 at 6.00 P.M. one Suvendu Kumar Panda son of Narayan Chandra Panda of Iswarpur under Mangalpur Police Station presented a written report (Ext.1) which he treated as F.I.R. and registered P.S. Case No.77 of 1987 and took up investigation. P.W.11 also deposed that he examined the informant on that day as well as the witnesses. Admittedly, Ext.1 is No.in the hands of the injured informant. 16 P.W.11 the I.O. in his evidence admits that he canNo.say as to who scribed the F.I.R. P.W.1, the injured informant in his evidence has categorically stated that he fell down on the Danda. of Bijoy Kumar Samal and became unconscious and he regained his sense in the clinic of Dr.Batakrishna Mohanty. P.W.1 further deposed that he lodged oral information at the police station but he canNo.say who reduced the oral information into writing. Admittedly, the clinic of Dr.Batakrishna Mohanty situates in Jajpur town. It is No.known from the evidence of P.W.1 as to in which Police Station he lodged the oral information after he regained his sense in the clinic of P.W.4 on the next day of the incident. In his cross-examination it is also the evidence of P.W.1 that he canNo.say who brought him to the clinic of Dr.Batakrishna Mohanty as he was unconscious and he regained his sense one day after his stay in the clinic of Dr. Batakrishna Mohanty. It is also the evidence of P.W.1 that his elder brother, namely Nirod Panda read over the contents of the F.I.R. to him on the next day morning of the occurrence in the clinic of Dr. Batakrishna Mohanty and that too in presence of his mother, Surendra Samal and Siba Prusty. It is the further evidence of P.W.1 that he was examined by the I.O. on the next day of occurrence. Very surprisingly, Nirod Panda the elder brother of P.W.1 who read over and explained the F.I.R. to P.W.1 in the clinic of P.W.4 on the next day of the occurrence has No.been examined. Similarly, the mother of P.W.1 has No.been 17 examined. P.W.5 Surendra Samal introduced a new story in his evidence that on the request of O.I.C., Mangalpur Police Station they

submitted a report at Mangalpur Police Station, but neither the injured P.W.1 No.the I.O. P.W.11 corroborates such a fact of lodging of the F.I.R. by P.W.5, Surendra Samal.

17. There is absolutely no evidence on record to show if P.W.1 had directed P.W.5 or any other person to lodge the F.I.R. Ext.1 and such F.I.R. Ext.1 was reduced into writing either by P.W.5 or by somebody else. Admittedly, Ext.1, namely the contents of the F.I.R. are in the hand of a different person other than P.W.1, the injured. Ext.1 simply bears the signature of Suvendu Kumar Panda. It is P.W.1 the injured informant who asserts that immediately after the occurrence because of the gun shot injury on his left arm he became unconscious and regained his sense on the next day in the clinic of P.W.4 where the contents of the F.I.R. was read over and explained to him by his elder brother Nirod Panda in presence of his mother as well as Surendra Samal and one Siba Prusty. At the cost of repetition, I may mention here that neither Nirod Panda No.Siba Prusty have been examined by the prosecution. If we believe this evidence of P.W.1 then the evidence of P.W.11 the I.O. that the informant presented the written report on 27.11.1987 at 6.00 P.M. about the occurrence canNo.be believed. Thus the origin of the case of the prosecution when has become doubtful it would be extremely 18 difficult to place reliance on the evidence of P.Ws.1 & 2, especially when the evidence of P.W.3 clearly shows that the P.W.1 and the witness Banchhanidhi Das (P.W.2) are the supporters of C.P.M. whereas the accused persons belong to SUCI (Socialist Unit Centre of India). Though P.W.1 denies of this but P.W.3 a co-villager of P.W.1 has specifically deposed that the accused persons as well as the informant belong to two different political parties. P.W.3 also deposed that the elder brother of P.W.1 had taken away the daughter of Sudhakar Samal, namely Sandhyarani and murdered her for which there was a trouble in their village. Accused Narottam Das in his plea under Section 313 of the Criminal Procedure Code has stated that there was a meeting in the village over the kidnapping of Sandhyarani by the elder brother of P.W.1 where he had stated in favour of the girl and therefore, he has been falsely entangled in this case. This plea of the appellant Narottam Das appears believable in view of the evidence of P.W.3 that the informant as well as the accused persons belong to two different political parties and besides that there was a trouble (Gandogola) in their village since the

elder brother of P.W.1 had kidnapped Sandhyarani, the daughter of Sudhakar Samal and had murdered her. Keeping in mind all those facts and the doubt that arises about the very genesis i.e. lodging of the F.I.R. and when there is no evidence on record to show as to what happened to that F.I.R. which was lodged by P.W.1 on the next day of 19 the incident in the clinic of P.W.4 after he regained his sense and when doubt arises about the lodging of the F.I.R. by P.W.1, when he was unconscious the prosecution case as has been led on the basis of Ext.1 is suspicious in nature and therefore the two appellants are entitled to get the benefit of doubt. In that connection, we can place reliance on two decisions of this Court reported in 1991 (1) OLR 289.State of Orissa -v- Rajkishore Rout and others, (1994) 7 OCR 114.Pradeep Giri and others -v- State.

18. As I find from the impugned judgment the learned Additional Sessions Judge has failed to appreciate the evidence in its proper perspective and also failed to take into account the manifest defects that appeared with regard to the lodging of the F.I.R. and the suspicious circumstances which shrouds the case of the prosecution. It is to be remembered that the prosecution has to prove the guilt of the accused persons beyond all reasonable doubt and the court of law canNo.act on surmises and suspicion however strong canNo.take place of actual proof. There is a long mental distance between may be true and must be true and the same divides conjectures from sure conclusions. The Court has to be watchful in avoiding the danger of allowing the suspicion to take the place of legal proof. (AIR 199.S.C. 1388, Jaharlal Das -v- State of Orissa).

19. Thus from the aforesaid discussion of the evidence as well as the suspicious circumstances regarding lodging of the F.I.R. 20 and other defects, I am inclined to set aside the order of conviction and sentences imposed on the two appellants by the Additional Sessions Judge, Jajpur in S.T. Case No.289-46 of 1988. In the result, the Criminal Appeal stands allowed. The order of conviction and the sentences imposed on the appellants under Section 307 of the I.P.C. read with Section 34 of the I.P.C. as well as under Section 27 of the Arms Act are set aside. The two appellants are set at liberty forthwith and they are discharged from their bail bonds. . B.K.Misra,J.Orissa High Court, Cuttack The 20th June, 2012/K.Sahoo