

**Bijo Panda, Vs. the State of Bihar**

**Bijo Panda, Vs. the State of Bihar**

**SooperKanoon Citation :** [sooperkanoon.com/119714](http://sooperkanoon.com/119714)

**Court :** Patna

**Decided On :** Nov-20-2007

**Judge :** Ghanshyam Prasad and Shyam Kishore Sharma, JJ.

**Acts :** Indian Panel Code - Sections 34, 149, 302, 380 and 447; Code of Criminal Procedure (CrPC) - Sections 157 and 161

**Appeal No. :** Criminal Appeal No. 115 of 1988

**Appellant :** Bijo Panda, Shankar Panda, Dasrath Panda and Basudeo Panda

**Respondent :** The State of Bihar

**Advocate for Def. :** Lala Kailash Bihari, A.P.P.

**Advocate for Pet/Ap. :** Rajesh Kumar, as Amicus Curie and Anjana Prakash, Sr. Adv.

**Disposition :** Appeal allowed

**Prior history :** Ghanshyam Prasad, J. 1. This appeal has been preferred against the judgment of conviction and sentence dated 20.2.1988 passed by Additional Sessions Judge-XI, Munger in Sessions Trial No. 551 of 1985. All the four appellants have been found guilty under Sections 302/34 I.P.C. and have been sentenced to undergo imprisonment for life. 2. Prosecution story in short compass as un-folded in fardbeyan (Ext.2) lodged by Mahendra Prasad Rai (not examined), son of the deceased Parmeshwar Prasad Rai is

## **Judgement :**

### **Ghanshyam Prasad, J.**

1. This appeal has been preferred against the judgment of conviction and sentence dated 20.2.1988 passed by Additional Sessions Judge-XI, Munger in Sessions Trial No. 551 of 1985. All the four appellants have been found guilty under Sections 302/34 I.P.C. and have been sentenced to undergo imprisonment for life.

2. Prosecution story in short compass as unfolded in fardbeyan (Ext.2) lodged by Mahendra Prasad Rai (not examined), son of the deceased Parmeshwar Prasad Rai is that on 15.4.1985, he was taking meal inside the house. His father (deceased) and mother Shanti Devi (P.W.5) were sitting in front of the house. In the meantime, all of a sudden, all the four appellants variously armed along with some known miscreants came and asked key of boxes from the deceased. On refusal, they all assaulted him with their respective weapons i.e. lathi, bhala, saif and hammer and took him away near Sheo Ganga pond situated towards west of the house of the informant and committed his murder.

3. Further case of the prosecution is that apart from the appellants, there was also 4-5 other unknown miscreants, who forcibly entered into the house and committed theft of ornaments, cash etc. and decamped with the stolen articles.

4. It has further been alleged that on hulla, brother of the informant Naresh Mandal Rai (P.W.7), mother Shanti Devi (P.W.5) and neighbour Bijay Mandal, Karo Mandal (not examined) and others came, saw the occurrence and identified the miscreants. It has further been alleged that before death, the victim Parmeshwar Rai told that these four appellants/accused assaulted him.

5. It appears that after the occurrence, the victim first of all was brought to a local private doctor, Pratap Narayan Singh. (P.W.4). After giving first aid he referred the victim to Jamui Hospital for treatment. However, in the way to hospital, he died. In Jamui Hospital, S.I. of Jamui Police Station, Shri G.P. Srivastava (P.W.10) came and recorded the fardbeyan (Ext.2) of informant Mahendra Prasad Rai. He

forwarded the same to concerned Sikandra Police Station where case was registered against the appellants and others under Sections 149, 447, 380 and 302 I.P.C. S.I., Baghela Dubey (P.W.11) took up investigation. In course of it, the postmortem was conducted by the then C.A.S., Dr. Satya Narayan Singh (P.W.2). Ultimately, the police submitted chargesheet only under Sections 302/34 I.P.C. against the appellants. The learned C.J.M. also took cognizance only under the above Section 302/34 I.P.C. against the appellants.

6. In order to establish, the charge framed against the appellants the prosecution examined altogether 11 witnesses out of whom P.W.2 is the doctor, who conducted postmortem, P.W.11 Baghela Dubey is the Investigating Officer, P.W.10 is the S.I., who recorded fardbeyan and P.W.4 Dr. P.N. Singh is the local doctor, who gave first aid to the victim and referred him to Jamui Hospital.

7. Out of the rest witnesses; P.W.5 Shanti Devi is the widow of the deceased and P.W.6, Ramesh Kumar Rai, P.W.7, Naresh Kumar Rai and P.W.8, Ranjit Kumar Rai are her sons. P.W.7 has been tendered. P.W.3, Surya Nath Singh and P.W.9 Gopal Mandal are the formal witnesses. P.W.1 Raja Ram Bhagat is hearsay witness.

8. Defence of the appellants is total denial of the occurrence and false implication. According to them, a year before the alleged occurrence, the appellant Bijo Panda had filed a criminal case against close relatives of the informant as a result of which they have been falsely implicated by the prosecution party. In support of their defence, they have examined one witness (D.W.1), Birendra Prasad Singh and have got some documents exhibited, which are Exts. A to D.

9. In course of argument, the learned lawyer for the appellants urged manifold submissions in order to assail the judgment of conviction recorded by the lower court. It has been submitted that the court below has not properly appreciated the evidence of prosecution. The witnesses, who have claimed to be eye witnesses of the occurrence, actually did not witness the incidents. Their evidence is after thought and full of embellishment. The court below has seriously erred to place reliance upon evidence of such witnesses. It has further been submitted that the story of oral dying declaration is full of doubt as the deceased was not in a position

to make any statement. The learned Counsel for the appellants has also challenged the fardbeyan as a genuine and reliable document. It has been submitted that four day delay in reaching the F.I.R. in the court of C.J.M. gives rise to serious doubt upon genuineness of the fardbeyan and, therefore, it must be deemed to be ante-dated, ante-timed and fabricated after due deliberation. Lastly, it has been submitted that non-examination of the informant; the most important witness of prosecution; is a serious infirmity which cuts the very root of the prosecution case.

10. The learned Counsel for the State strenuously tried to meet all the points raised by the learned Counsel for the appellants and has submitted that there are enough reliable evidence on the record to sustain the conviction of the appellants both in law as well as on facts. The learned lower court has rightly convicted the appellants as the prosecution has successfully brought home the charge of murder framed against the appellants.

11. Homicidal death of the victim Parmeshwar Rai is not under challenge. P.W.2 Shri Satya Narayan Singh is the person who had conducted the postmortem upon dead body of the victim. Ext.1 is the postmortem report. According to evidence of the doctor, he conducted postmortem on 16.4.1985 in Sub Divisional Hospital, Jamui and found several injuries on his face and other part of the body caused by hard and blunt weapon as well as sharp weapon. According to him, the death was caused as a result of injury to vital organ. The defence also in cross-examination has not challenged the homicidal death of the victim Parmeshwar Rai.

12. On the point of sequence of events as well as manner of occurrence as also on the point of oral dying declaration the prosecution has laid evidence of four witnesses. They are P.Ws.5, 6, 7 and 1. P.W.1 Raja Ram Bhagat is the villager of the deceased.

13. P.W.5 is the widow of the deceased; She in her evidence; has stated that on the alleged date of the occurrence at about 8.00 P.M. she alongwith her husband was sitting in front of her house The husband was on cot. Her three children, who are P.Ws.6, 7 and 8, were reading at Varanda in the light of lantern. In the meantime, 7-8 persons came; out of whom she claimed to identify four persons,

who are appellants in the light of lantern. She has further stated that these appellants were armed with lathi, saif, hammer etc., who took her husband away towards western pond. Out of the rest miscreants one restrained her and others entered in the house and committed theft of ornaments, cash etc. and thereafter fled away. She has further stated that thereafter, she heard sound of cry of her husband coming from the side of pond. They all rushed towards the pond and saw all the appellants fleeing away. She has further stated that she found her husband laying on the ground in the injured condition, who told the names of the appellants as his assailants. She has also stated about the treatment of her husband by local doctor as well as in Jamui Hospital. It is important to notice here that she has not stated that the appellants asked key from her husband and on refusal they assaulted him and took him away towards the pond. The story of means of identification i.e. lantern has been introduced in her evidence for the first time. In fardbeyan, the means of identification has not been mentioned.

14. This witness has been cross-examined at length. In paragraph-7 of the evidence, she has admitted that her statement was recorded by the police on the same day. Her attention has been drawn towards some discrepant statements made before the police. She has been asked as to whether before police, she had also stated that at the time of occurrence, she was in house and identified these appellants in the light of lantern who were armed with various weapons and they caught her husband and took away towards ponds and rest miscreants committed theft in her house and that her husband told that these appellants had assaulted her. She has given answer in the affirmative.

15. However, the evidence of the I.O. (P.W.11), who recorded the statement of P.W.5 just after the incident goes to show otherwise.; In cross-examination, paragraph-12, the P.W.11, Baghela Dubey has been asked about the previous statement of P.W.5 made before him. It appears from his evidence that the evidence of the P.W.5 made before the court is full of embellishment and improvement. She has stated altogether a new story of the events. There was no such parallel statement before the police. According to the I.O., this witness did not state before him that at the time of alleged incident, she was at Darwaza and identified these appellants in the light of lantern, who took away her husband

towards the pond and other miscreants committed theft in her house. This witness has also denied that P.W.5 told before him that her husband before death disclosed to her that these appellants had assaulted him. However, the learned lawyer for the defence has not asked in cross-examination about the actual statement made by the P.W.5 before the police.

16. From the above discussions, it is quite clear that P.W.5 has not come in the dock with clean hand and deposed about the real story of the incident. She has mixed false hood with the real incident to such an extent that it is difficult to separate truth from false hood. It transpires from the evidence of the I.O. that she had no occasion to identify the appellants at her Darwaza nor any incident took place at her Darwaza or house nor any oral dying declaration was made by the deceased in her presence. All these facts have been introduced by this witness for the first time in her evidence before the court. The I.O. (P.W.11) vide paragraph-3 of the evidence has also stated that no evidence of theft or dacoity was found at the spot, which is the first part of the events.

17. The evidence of other alleged eye witnesses i.e. P.Ws.6 and 7, who are sons of the deceased is almost similar to that of P.W.5. P.W.6, Ramesh Kumar Rai has stated in his evidence that on 15.4.1985 at 8.30 P.M., he alongwith his brother Naresh Kumar Rai was reading at Varandah and his father and mother were sitting outside the house. A lantern was burning there. In the meantime, these appellants alongwith some unknown persons came. These appellants asked key from his father and on refusal, they all took away his father. He and other members were restrained on point of revolver by unknown criminals, who also entered into the house and committed theft of ornaments, cash etc. He has further stated that when the criminals decamped with the stolen articles they went in search of his father and found him near the pond in injured condition. He has further stated that his father told that these appellants had assaulted him. He has also stated about the treatment of his father by a private doctor and also about shifting him to Jamui Hospital. He has also stated that the fardbeyan (Ext.2) was lodged by his another brother Mahendra Prasad Rai over which he put his signature (Ext.4).

18. From the above evidence, it is clear that he has contradicted the evidence of his mother that they all rushed towards pond on hearing sound of cry of his father and saw these appellants fleeing out of the scene. Apart from it, it appears from the evidence of P.W.11 that there was no such parallel statement of this witness before him on material points. In paragraph-9 of the evidence (wrongly mentioned Naresh Kumar Rai instead of Ramesh Kumar Rai) the P.W.11 has stated that this witness did not tell before him that any part of the occurrence took place at his Darwaza nor these appellants took away his father nor he identified these appellants at the Darwaza.

19. P.W.7, Naresh Kumar Rai is also said to be an eye witness. He, in his evidence, has stated the same facts and sequence of incidents as stated by P.W.6 except some minor variations. He has stated that they rushed towards pond on hearing sound of cry of his father. He has also stated that his father named these appellants as his assailants. However, he has not stated that these appellants were seen fleeing out of the scene. On the other hand, paragraph-10 of the evidence of P.W.11 would go to show that no such parallel statement was given by him before the I.O. He even did not tell before the police that his father named these appellants as his assailants.

20. So far evidence of P.W.1, Raja Ram Bhagat is concerned, he is not even named in fardbeyan. He is hearsay witness. He has stated that on hulla, he went to the pond and found the victim laying on the ground in injured condition. He has further stated that sons of the victim told him that these appellants had assaulted their father. He has not stated that the victim told anything before him.

21. From above discussions of evidence of the witnesses said to be eye witness it is quite apparent that they have not come with true version of the events. They have made inconsistent statement on material points. They have exaggerated and improved their statements at the stage of the trial. Their evidence on first part of the event, which is said to occur at Darwaza, was found false even by the I.O.

22. Now the question arises as to whether evidence of such witnesses can be relied upon to record conviction of the appellants. In my opinion, the answer must be in negative. However, the learned Counsel for the State has submitted that

while appreciating the evidence of witnesses in criminal trials, the maxim 'falsus Uno, falsus in omnibus' should not be applied and the court has to make all efforts to sift the grains from the chaff. For above submissions, reliance has been placed on a decision of the apex court reported in 2002 SCC(Cri.) 859 (Dharmendra Singh v. State of Gujarat).

23. The other submission is that the witnesses have consistently stated about oral dying declaration made by the deceased in which the appellants had been named as his assailants. It is further submitted that oral dying declaration, if found true can be acted upon for conviction without any further corroboration.

24. On the other hand, the learned Counsel for the appellants has submitted that it is not a simple case where grain of truth can be sifted from the chaff (false hood) the entire narration of events which is said to have taken place at darwaza before actual murder is found to be untrue. The witnesses have given a different account of the events at different stages and, therefore, it would be highly un-safe to convict the appellants on the basis of evidence of un-truthful witnesses. The embellishment and improvements made by the witness in their evidence have completely en-gulfed the real story of the incident as a result it would not be possible to sift the truth out of the falsehood. In support of it, he has relied upon a decision of the apex court reported in : (2006)11SCC323 (Vimapa Chandappa v. State of Karnataka). It is further submitted that the story of oral dying declaration is false and it cannot be relied upon in view of the injuries mentioned in the postmortem report. The witnesses who have deposed on this point are also not truthful. Their evidence is full of contradictions and embellishments.

25. Considered the submission of the learned lawyer for the State and also the decision cited by both the parties. In my opinion, no straight jacket formula can be evolved for appreciation of oral evidence. It depends upon facts, circumstances and nature of offence of each case. In this regard, I am tempted to cite a decision of the apex court reported in 1987 SC 1328 (Dalbir Singh and Ors. v. State of Punjab). In paragraph-15 of the judgment, it has been held as follows:

15. Learned Counsel on question of appreciation of evidence referred to number of decisions but it could not be disputed that no hard and fast rule could be laid

down about appreciation of evidence. It is after all a question of fact and each case has to be decided on the facts as they stand in that particular case. In our opinion, therefore not much assistance could be sought from the decisions referred on the question of appreciation of evidence.

26. It is also equally true that the maxim 'falsus Uno falsus in omnibus' cannot be applied in criminal cases. The chances of embellishment and exaggeration here and there cannot be ruled out as the witnesses are generally examined long after the incidents. It is the duty of the court to scrutinize the evidence with care and caution and try to find out the truth. But in course of it, the court should not lost sight that ultimately, the onus of proof lies upon the prosecution to prove its case beyond all reasonable doubt. In the present case, major portion of the account of the events given by the aforesaid witnesses are not found true. They in their statement under Section 161 Cr.P.C. did not utter even a single word with regard to happening of any event at their Darwaza. Therefore, their evidence with regard to identification of these appellants at their Darwaza before the court is apparently after thought and it cannot be relied upon. Under the circumstances, the entire evidence of the witnesses has become suspicious and doubtful.

27. Now remains the oral dying declaration. All the aforesaid three witnesses i.e. P.Ws.5, 6 and 7 have stated in their evidence before the court that when they came to the victim he disclosed the names of these appellants as his assailants. However, as discussed above, the I.O. in his evidence has clearly stated that P.Ws.5 and 7 did not make any such parallel statement before him in their statement under Section 161 Cr.P.C. Only P.W.6 in his statement before the police stated about oral dying declaration. However, his statement on dying declaration has not been corroborated by his mother or brother, who also came simultaneously with him to the deceased. P.Ws.5 and 7 have developed the story of dying declaration for the first time in evidence before the court. Here, it is also to be mentioned that P.W.5 has stated that she saw these appellants fleeing out of the scene. However, other two witnesses, who came alongwith her have not supported that part of the version. They have not stated that they identified the appellants or found them fleeing out of the scene. Thus, un-corroborated evidence of P.W.5 on the point of identification at the spot also cannot be relied upon. Apart

from it, the time of occurrence was in night at about 8.30 P.M. However, there is no case or evidence that there was any means of identification.

28. It is well settled law that the dying declaration written or verbal may form sole basis for conviction of an accused. However, the evidence of witness on dying declaration must stand the test of reliability like any other witness and it has to be judged in the light of surrendering circumstances and facts of each case. The apex court in a decision reported in 1962 Supreme Court 439 (Harbans Singh and Anr. v. State of Punjab) vide paragraph-18 has held as follows:

18. In view of this latest pronouncement of this Court-which it should be stated in fairness to the Trial Judge was made long after he gave his judgment-it must be held that it is neither a rule of law nor of prudence that a dying declaration requires to be corroborated by other evidence before a conviction can be based thereon. The evidence furnished by the dying declaration must be considered by the Judge, just as the evidence of any witness, though undoubtedly some special considerations arise in the assessment of dying declaration which do not arise in the case of assessing the value of a statement made in court by a person claiming to be a witness of the occurrence. In the first place, the Court has to make sure as to what the statement of the dead man actually was. This itself is often a difficult task, specially where the statement had not been put into writing. In the second place, the court has to be certain about the identity of the persons named in the dying declarations-a difficulty which does not arise where a person gives his depositions in court and identifies the person who is present in court as the person whom he has named. Other special considerations which arise in assessing the value of dying declarations have been mentioned by this Court in 1958 SCR 552 : (AIR 1958 SC 22) and need not be repeated here.

29. The learned Counsel for the appellants has submitted that the sole witness on dying declaration i.e. P.W.6 is not a truthful witness and his evidence is not free from any blemish or suspicion and, therefore, it would not be proper to convict the appellants on the basis of sole testimony of such witness. The other submission is that the postmortem report as well as evidence of P.W.1 and P.W.4 would go to show that the victim was not in a position to make any statement. Therefore, the

claim of P.W.6 on dying declaration cannot be accepted. It has further been submitted that the victim had suffered a number of injuries on vital part of the body including mouth and his mouth had been smashed and hence, it must be presumed that the victim was not in a position to make any statement. For that, reliance has also been placed upon a decision of the apex court reported in : AIR 1998 SC2912 (Mohar Singh v. State of Rajasthan and Ors.).

30. Ext.1 is the postmortem report and P.W.2 is the doctor, who conducted postmortem. According to postmortem report as well as evidence of P.W.2, the victim had injuries on scalp, mandible and other parts of the face and forehead. The cause of death was due to injury on vital part of the body(brain). However, neither the prosecution nor the defence put any question to the doctor on the point of ability of the deceased to make any statement just before his death. But the evidence of P.W.1 throws serious doubt on the ability of the victim to make any statement just before his death. P.W.1 reached at the spot just after the occurrence on hearing hulla. No statement was made by the victim in his presence. On the other hand, in the last line of paragraph-3 of the evidence, he has stated that he found the mouth of the victim smashed.

31. Other important fact is that immediately after the occurrence the victim was shifted to private doctor (P.W.4). He has not stated that the victim was in conscious position and was able to make statement. The prosecution did not dare to put such question to him.

32. The other important fact which is emerging from the postmortem report as well as evidence of P.W.2 is that actually the victim had died much before the stated time of the occurrence. It creates serious doubt on the case of oral dying declaration. The postmortem was held on 16.4.1985 at 12.30 P.M. According to opinion of the doctor(P.W.2), time since death was about 24 hours. Thus, according to the doctor, the death had occurred on 15.4.1985 in the noon. But according to prosecution story, the occurrence took place at 8.30 P.M. in the night.

33. It is true that medical science is not yet so perfect as to determine exact time of death to the last second. However, it suggests the approximate time of death. Thus, even by giving reasonable margin of time, the time of death does not tally

with the time of the occurrence. The victim must have died much before the alleged time of the occurrence. Under the circumstances, I find substance in the submission of the learned Counsel for the appellants that the evidence of doctor throws serious doubt on the testimony of P.W.6 on the point of dying declaration. (See 1985 S.C.1715).

34. The learned Counsel for the State has submitted that the evidence of P.W.6 on point of dying declaration cannot be thrown in the air on the basis of evidence of the doctor and the postmortem report. No question was put to the doctor on to the capacity of the victim to make any statement just before the death. Therefore, now the defence cannot argue that the victim was not in a position to make any dying declaration before his death.

35. It is true that no question has been put to the doctor on the ability of the victim to speak or not. However, this fact alone is not sufficient to reject the submission of the learned Counsel for the appellants. The injuries inflicted to the victim coupled with the admission of P.W.1 is sufficient to draw inference that the victim was not in a position to make any statement. On this point, a decision of the Supreme Court reported in 1998 (9) SCC (Supra) is relevant. In that very case also, the case of the dying declaration was rejected by the apex court merely on the basis of the injuries found by the doctor on the person of the victim. In that very case also, no question had been put to the doctor on the ability of the victim to make any statement. The apex court in paragraph-4 of the judgment has held as follows:

4. As regards the dying declaration stated to have been made by the deceased to his wife, it appears that the deceased could not have made such a dying declaration in view of the number of injuries received by him. The evidence of Gomti, P.W.7 is that when she reached the place of incident, her husband Duni Ram was in a position to speak and when she enquired, he gave the names of the assailants. However, she admitted that immediately after saying so, her husband had become unconscious. No other witness has spoken about this dying declaration. The High Court was therefore right in not placing reliance upon the dying declaration.

36. Thus, from the above discussions of facts, circumstances evidence as well as law, I have no doubt in my mind that the evidence on the point of dying declaration is not reliable and it would be dangerous to act upon such oral dying declaration for conviction of the appellants in a serious case like under Section 302 I.P.C.

37. There are other infirmities also in the prosecution case which cut the root of case. It is needless to state that in criminal cases, examination of informant, the author of the case, is highly essential to unfold the real story of the incident and its non-examination without any legal and just explanation is a serious matter which goes to the root of prosecution case.

38. The informant Mahendra Rai is the son of the victim. According to the prosecution story he was also an eye witness of the occurrence and was present at the time of dying declaration. P.W.6 in his examination-in-chief has tried to explain his non-examination by stating that he was not being examined because of the fact that he had lost his mental balance after the death of the father. However, no document/Medical Report has been filed to show that the informant has actually lost his mental balance or suffers from any mental disease. Apart from it, it was the duty of the prosecution to produce the informant before the court to ascertain the capacity of the informant to make any statement or not. Under the circumstances, the non-examination of the informant is a serious lacuna which cuts the root of the prosecution story.

39. The other infirmity is delay in reaching the fardbeyan in the court of Magistrate. Section 157 Cr.P.C. mandates that the F.I.R. must be promptly received in the court in order to avoid any embellishment or concoction. Ext.2 is the fardbeyan and Ext.3 is the F.I.R. Ext.3 would go to show that the fardbeyan was lodged on 15.4.1985 at 8.30 P.M. The case was registered on 16.4.1985. but the fardbeyan reached in the court of Magistrate on 19.4.1985. The delay of four days has not been explained by the prosecution.

40. It is well settled law that mere delay in reaching the F.I.R. in the court is not fatal. The prosecution has rightly relied on a decision of the Supreme Court reported in 2004(2) SCC(Cri.)1872. However, in this case, the fact is otherwise. Admittedly, the fardbeyan was lodged on 15.4.1985 at 8.30 P.M. Thereafter, the

witnesses were examined by the I.O. The eye witnesses examined by the I.O. gave a different accounts of the events/occurrence. Only after examination of the most of the witnesses under Section 161 Cr.P.C., the F.I.R. reached before the court on 19.4.1985. Under the circumstances, in this particular case, delay in reaching the fardbeyan certainly throws doubt on the genuiness and credibility of the fardbeyan.

41. For the reasons and discussions made above, I am of the view that the prosecution has not been able to prove the charges framed against the appellants beyond all reasonable doubt. The learned lower court has not properly appreciated the evidence of the prosecution as well as the infirmities and has wrongly convicted the appellants which is not sustainable.

42. In the result, this appeal is allowed and the impugned judgment of conviction and sentence is hereby set aside. All appellants are on bail. They are discharged from the liabilities of their respective bail bonds.

43. Before parting with the judgment, I would like to express my appreciation for valuable assistance rendered by Mr. Lala Kailash Bihar, the learned Counsel for the State as well as amicus curie Mr. Rajesh Kumar.

**Shyam Kishore Sharma, J.**

44. I agree.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**