

Manna Singh and ors. Vs. State

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Court : Allahabad

Decided On : Nov-30-1995

Reported in : 1996CriLJ2568

Judge : S.K. Varma and ;B.S. Chauhan, JJ.

Acts : Excise Act - Sections 60; [Indian Penal Code \(IPC\), 1860](#) - Sections 34, 201, 302 and 364; Code of Criminal Procedure (CrPC) - Sections 161

Appeal No. : Criminal Appeal No. 2969 of 1979

Appellant : Manna Singh and ors.

Respondent : State

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : P.K. Trivedi, Adv.

Disposition : Appeal allowed

Judgement :

B.S. Chauhan, J.

1. This criminal appeal has been filed against the judgment and order of IX Additional Sessions Judge, Kanpur dated 30-10-1979 passed in Sessions Trial No. 124-M of 1979 wherein all the appellants had been convicted for the offence

punishable under Section 302/ 34, I.P.C. and sentence to undergo imprisonment for life and further convicted under Section 201 I.P.C. and sentenced to undergo three years rigorous imprisonment. Both the sentences were directed to run concurrently.

2. According to the prosecution, all the three appellants are real brothers and residents of village Baragaon, P.S. Maharajpur, district Kanpur. Kalloo Singh, deceased was the younger brother of Lalloo Singh, P.W. 2 and was resident of village Mach-khuria P.S. Purwa, district Unnao. Smt. Ramapati the younger sister of Lalloo Singh, P.W. 2 was married to appellant Ma'nna Singh, who died about four years ago from the date of occurrence, but the relationship between the informant and the appellants subsisted and both sides used to see each other. The further case of the prosecution is that Kalloo Singh, deceased was a wrestler and used to attend the wrestling competitions at various places and about a week before the occurrence, the appellant-Sukhpa Singh had gone to the house of Kalloo Singh deceased and took him to his house to attend a wrestling competition. As Kalloo Singh, deceased did not return to his house for about a week, Lalloo Singh, P.W. 2 became worried and on 28-9-1977 the said witness came to the village of appellants to find out the deceased. When Lalloo Singh, P.W. 2 reached the door of the appellants he found their house locked and none of them was present there. He enquired about the deceased, Kalloo Singh from Malkhan Singh, P.W. 4 and others. They told him that in the morning of that day all the three appellants were beating deceased, Kalloo Singh as they suspected that deceased, Kalloo Singh had stolen the golden ornaments. The beating was done with lathi Danda and fists and subsequently the appellant Manna Singh had taken Kalloo Singh, deceased to his house. Lalloo Singh, P.W. 2 could not find any trace of his brother and suspecting some foul play he lodged the F.I.R. at P.S. Maharajpur on the same day at 9.10 p.m. Head Constable, Radhey Shyam Tripathi, P.W. 1 prepared the chick report and made endorsement in the general diary. Shri R.C. Dubey, P.W.9 was entrusted with the investigation and he reached the house of the appellant-Manna Singh at 11.30 p.m. He could not find any of the appellants. He recorded the : statements of Bhadai, P.W. 3, Malkhan Singh, P.W. 4, Nanhey, Sabhan and others. On the next day Manna Singh appellant No. 1 was apprehended by the investigating officer and at his pointing out blood stained

spade, gandas and karauli, the weapons with the help of which deceased Kalloo Singh was murdered, the dead body of the deceased and his clothes were recovered. The dead body of the deceased had been beheaded and cut into eight pieces. The investigating officer conducted the inquest on the dead body, sealed it and sent the same for postmortem. The autopsy on the dead body was conducted by Dr. R. Prakash, P.W. 8 on 30-9-1977 at 3 p.m., who found the following anti mortem injuries:-

1. 'Incised wound 3/4 cm. x 1/2 cm. on the dorsum of penis in middle part.
2. Traumatic separation of head with neck at the level of the cervical vertebra is lying separated from body. On reconstruction the head belongs to this particular body. The stump injury of head and neck contain incised wounds showing clotted blood in soft tissues cutting all the structures of neck through and through.'

3. The Doctor found the following post mortem injuries:-

Both the upper arms separated from trunks at the respective shoulder joints. Both the hands, are separated from fore-arm at the level of respective wrist joints. Both thighs are separated at the level of knee joints and both feet are separated from ankle joints. All injuries are post mortem incised wounds and do not show clotted blood in tissues.

4. On internal examination the doctor found the larynx cut through and through under injury No. 2. The death according to the doctor was due to shock and haemorrhage as a result of injury at the neck.

5. Dr. R. Prakash has further stated that injuries on the neck which resulted in separation of head were caused by some sharp edged weapon and that death of the deceased could have occurred at about 8 or 9 a.m. on 28-9-1977.

6. The other two appellants had been arrested in other case under Section 60 of the Excise Act at Fatehpur and after completion of the investigation, I.O. submitted the charge-sheet against the appellants. All the appellants were charged with the offences punishable under Sections 302/34 and 201 I.P.C. The appellant No. 2, Sukhpal Singh was further charged with the offence punishable under Section

364, I.P.C. All the appellants pleaded not guilty and they contended that they had falsely been implicated due to enmity with the other villagers.

7. The prosecution in support of its case examined altogether ten witnesses. Radhey Shyam Tripathi, P.W. 1, Head Constable who prepared the chick F.I.R., Lalloo Singh, P.W. 2, informant, Bhadai, P.W. 3, Malkhan Singh, P.W. 4, witnesses, had informed Lalloo Singh, P.W. 2 that they had seen the appellants beating the deceased. Gulab Singh, P.W. 5 and Siddh Nath, P.W. 6 are the witnesses of the memo of recovery of headless body, head, weapons and clothes. Dr. R. Prakash, P.W. 8, conducted the autopsy on the dead body and proved the post mortem report, R.C. Dubey, P.W. 9, the investigating officer. The affidavits were filed on behalf of the Constable Ram Bahadur, P.W. 7 and Constable Zahid Hussain, P.W. 10, formal witnesses.

8. The defence also examined Constable Kaleshwar Dayal, P.W. 1 to prove that Gulab Singh, P.W. 5, was a history sheeter. After considering the entire case of the prosecution, the learned trial court convicted the appellants under Sections 302/34 and 201, I.P.C. and sentenced them for life imprisonment and three years R.I. respectively. However, Sukhpal Singh, appellant No. 2 was acquitted for the offence, punishable under Section 364, I.P.C.

9. Against the said conviction, the instant appeal was preferred before this Court and all the three appellants were granted bail on 20-12-1979. However, it came on record that Manna Singh, appellant No. 1 died on 1-11-1992 and, thus, the appeal against him stands abated. For the remaining two appellants we heard Shri P.N. Mishra, learned Senior Advocate and learned D.G.A. for the State.

10. Shri Mishra has taken us through the entire record of the case and particularly the statements of Lalloo Singh, P.W. 2, Bhadai, P.W. 3. Lalloo Singh, P.W. 2' has categorically deposed that Kalloo Singh, deceased used to go at Baragaon regularly and used to stay there for 8 to 10 days and he had never come earlier to Baragaon to trace the deceased Kalloo. He further deposed that after the death of his sister Rampati, Kalloo Singh, deceased did not marry again. The other two appellants Sukhpal Singh and Ranjit Singh were also unmarried and there was no woman in the house of the appellants. He further deposed that Manna Singh was

by all means living separately from the other appellants, in a different house as there had been partition among them by metes and bounds. He enquired from Malkhan, Sahwan, Nanha and one more person, about Kalloo. They told him that in the morning accused asked Kalloo to return the ornaments stolen by him, otherwise he would be killed. The following part of his statement is worth quoting.

7. I know Harpal Singh. He is nephew of Malkhan Singh. At the time of occurrence Malkhan Singh and Harpal Singh were living in their house which is near the tube well.... The house of Malkhan Singh is about 1/4th mile from the other house of Malkhan..The people had told me that the deceased had stayed with his brother-in-law and there had been an incident of Maar-Peet with him.... People, who had met me. outside the village told me that Kalloo, deceased was beaten and since then he had not been seen....

8. The house of Bhadai is in the north-east of the house of accused. There is a railway line 10-15 steps away in the south from the house of Bhadai and Manna. I had seen the place where the dead body was found in the north of the railway line. It was found 2-4-6 from the railway line. The dead body was found at 12-1 a.m. I saw the dead body the day I reached Baragaon. The investigating officer and other police officers had traced the dead body. It was found in the ruins behind the house of Manna.... Bhadai is a witness in this case.... The witnesses had told me that the accused had beaten Kalloo, deceased with sticks and fists.

13. The witnesses told me that accused had beaten my brother with lathi, Danda and fists'.

(Emphasis added.)

11. Bhadai, P.W. 3 is the neighbour of the appellants and deposed that on 28-9-1977 he heard the noise at 8-9 a.m. in the house of Sukhpal Singh. He went there and saw that the appellants, Sukhpal Singh, Manna Singh and Ranjit Singh were beating Kalloo, deceased. Malkhan Singh, P.W. 4, Nanhen, Sabhan and a large number of persons had gathered there. While beating Kalloo Singh, deceased the accused were alleging that he had stolen their golden ornaments. In his cross-examination he elicited as under:

Accused took Kalloo inside the house of Sukhpal. After 5-6 minutes, he was brought out. We asked the accused why they were beating and suggested to ask the deceased, whatever they want to know. Accused told us to mind our own business. All the three accused took Kalloo Singh, deceased inside the house of Manna Singh. We went to our home.... I do not know whether deceased Kalloo Singh was a man of bad character. He was in the habit of teasing the girls... A dispute is going on between I and Manna Singh from the time of his father.

(Emphasis added)

12. Malkhan Singh, P.W. 4 has given a parrot like version of the incident and deposed verbatim what has been said by Bhadai, P.W. 3. He deposed that Lalloo Singh, P.W. 2 came to him at 4 p.m. and enquired about Kalloo Singh, deceased. He further deposed that Harpal was his real nephew and he was an accused in the murder of the mother of appellants. He further deposed that his statement under Section 161, Cr.P.C. was recorded at 1 a.m. on 29-9-1977. and he had signed the said statement. He deposed that Lalloo Singh, P.W. 2 came to him at his house built on tube well and further admitted that he was having very strained relationship with the appellants. The relevant part of his statement is as under:-

The noise of Kalloo's weeping was coming. After 2-4- minutes, Kalloo was brought out...and then Kalloo was taken inside their house. Kalloo was not seen alive afterwards...It is true that I have enmity with accused.

(Emphasis added)

Gulab Singh, P.W. 5 has deposed that on 29-9-1977 a spade, Gandasa, Karauli and clothes of Kalloo, deceased were recovered by the investigating officer in his presence. They had blood stains. He further deposed that the headless body and head were also recovered in his presence. The trunk of the body was not sealed in his presence nor its panchayatnama was prepared before him. All the recoveries had been made upto 2 p.m. He admitted that he had been accused in a large number of cases and had also been prosecution witness in some cases.

13. Siddhanath, P.W. 6 also supported the case of prosecution stating that the weapons, with the help of which the crime was committed, headless body, head and clothes etc. were recovered in his presence. He stated that he was contacted by the police at 3 a.m. on 29-9-1977. He went along with the police party to search for Manna Singh, who was arrested on G.T. road crossing. Manna Singh was arrested at 5-5 1/2 a.m. He deposed as under:-

2. At about 3 a.m. a police constable and Gulab Singh came to my house and told me that Sub Inspector was calling me.

5. When head was recovered, it must be 6 p.m.. When I was taken by the police first of all at the house of Manna Singh, I found Gulab Singh... etc. there

(Emphasis added).

14. Ram Chawat Dubey, P.W. 9 deposed that he was posted as Sub Inspector at P.S. Maharajpur. Chik F.I.R. was prepared in his presence at 9.25 p.m. He deposed that recoveries of the headless body, head, weapons and clothes as stated by Gulab Singh, P.W. 5 and Siddhanath, P.W. 6 were made. However, the parts of his statement, relevant for our purpose is quoted as under:

13. Gulab Singh came just, after 15 minutes of his arrival Siddhanath reached there....

15. Panchanama of trunk of the body was done at 7.20 a.m....

16. The head was recovered from a place 2 kms. away from the place of recovery of the trunk. It took about 25 minutes to reach there. It took half an hour to recover the head and prepare its panchanama.

15. Following crucial aspects appearing in this case may be highlighted as may be argued on behalf of appellants.

I. It is a case of circumstantial evidence as there is no evidence of killing Kalloo, the deceased. In such a case the issue of motive is always considered of being paramount importance. There seems to be no motive at all.

II. The story of stealing the golden ornaments, which might be attributed to give rise to a motive is not proved at all. The ornaments were stolen on 2-6-1975 and in respect of the said theft a First Information Report was lodged naming Indal Singh and his wife. (Ext. Kha 9).

III. There is no independent eye witness of the incident of Mar-Peet, which took place in the morning. Bhadai, P.W. 3 has categorically stated that there was a dispute between him and the appellants from a long time. Malkhan, P.W. 4 has admitted in his cross-examination that Harpal was his real nephew, who was an accused in the murder of the mother of the appellants. Thus both the said witnesses were enmical to appellants.

IV. There is no independent and reliable witness even for the recoveries of the weapons, dead body etc..Gulab Singh, P.W. 5 has stated that the trunk of the body was not sealed in his presence. Though the Panchanama, Ext. Ka-7 has been signed by him. Appellants produced sufficient evidence and examined Kaleshwar Dayal, D.W. 1 before the trial court that Gulab Singh, P.W. 5 was an history sheeter and a stock witness. Thus his testimony cannot be relied upon.

V. The testimony of Siddhanath, P.W. 6 does not inspire confidence and his evidence cannot be relied upon for convicting the appellants. He deposed that he was called by the investigating officer through a police constable and Gulab Singh, P.W. 5 Though the evidence of R.C. Dubey P.W. 9 is contrary to it as he deposed that Gulab Singh, P.W. 5 came 15 minutes earlier than Siddhanath, P.W. 6. Moreover, Gulab Singh, P.W. 5 did not depose that he had gone to call Siddhanath, P.W. 6.

VI. There is material contradiction inconsistency in the deposition of the witnesses regarding the recovery of the dead body. Ram Bahadur, P.W. 7, stated that he had been given the dead body under the sealed cover at 10 a.m. to take it for autopsy. Gulab Singh, P.W. 5 deposed that recovery was made at 2 p.m. According to Siddhanath, P.W. 6 the head of the body was recovered at about 6 p.m. R.C. Dubey. P.W. 9 deposed that recoveries had been made much early in the morning. The trunk of the body was recovered at 7.20 a.m. and the head within a short time thereafter. Contrary to it Lalloo, P.W. 2 deposed that the dead body was

recovered on 28-9-1977 itself.

VII. The report of the Serologist, Ext. Ka-20 shows that blood on the spade and Gandasa had disintegrated. No blood was found on Karauli or gunny bag. Thus there is no proof at all that the said weapons had been used in committing the murder of Kalloo.

VIII. No blood stains were found on the clothes, alleged to belong to Kalloo, the deceased.

IX. There is material inconsistency in the version of the incident occurred in the morning, (a) Lalloo, P.W. 2 deposed that people had told him. that while beating, appellants were asking Kalloo to return the goods or he would be killed. Bhadai, P.W. 3 and Malkhan, P.W. 4 did not say so, (b) Malkhan, P.W. 4 deposed that Kalloo, the deceased was weeping but Bhadai, P.W. 3 did not say so.

X. Prosecution withheld the material witnesses, i.e. Nanha, Sabhan and others as it came in the evidence that in the morning a large number of persons including the said persons had gathered.

XI. Lalloo, P.W. 2 went to the house of Malkhan, P.W. 4 to enquire about Kalloo, deceased, though the conduct of Lalloo itself appears to be doubtful as Malkhan, P.W. 4 was enimical to the appellants and his house was on his tube-well, i.e. far away from the house of the appellants.

XII. The recoveries were made only on the pointing out of Manna Singh, who is dead and the said evidence cannot be used against the remaining two appellants.

XIII. Lalloo, P.W. 2 mentioned in the F.I.R. that Manna Singh killed his brother Kalloo and concealed his dead body. What was the information in his possession which forced him to draw such inference, particularly in view of the fact that Kalloo, deceased used to stay with the appellants and their relations had been very cordial.

XIV. Lalloo, P.W. 2 deposed that Kalloo, deceased used to stay for very long period with the appellants and Lalloo had never come to trace him on any earlier

occasion what made him so suspicious this time that Lalloo, P.W. 2 came to trace Kalloo, deceased.

XV. Lalloo, P.W. 2 did not mention in his deposition that he had also met Bhadaai, P.W. 3 and asked him about the morning incident.

XVI. There is no definite proof regarding the recovery of the clothes which had been worn by Kalloo, deceased as Gulab Singh, P.W. 5 has stated that he was not in a position to say that the clothes recovered belonged to Kalloo, deceased. Siddhanath, P.W. 6 deposed that Lalloo, P.W. 2 has told him that clothes belonged to Kalloo, deceased.

16. The learned Sessions Judge based its verdict and convicted the appellants only on four points:

(a) Sukhpal appellant has brought Kalloo, deceased from his house 6-7 days prior to the date of occurrence,

(b) Kalloo, deceased was beaten by the appellants in the morning and thereafter he was not seen alive,

(c) After the incident, appellants were found absconding, and

,(d) Blood stained weapons and dead body etc. were recovered at the pointing of Manna Singh.

17. The aforesaid enumerated circumstances have to be weighed in context of the settled principle of law. In the case of Sharad Birdhichand Sarda v. State of Maharashtra, AIR 1984 SC 1622: (1984 Cri LJ 1738), the Apex Court after examining the catena of judgments has held as under (Para 152):

The following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned must or should and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must or should be proved' as was held by this court in Shivaji Sahebrao Bobade v. State of Maharashtra, (1973)2 SCC 793: AIR 1973 SC 2622: (1973 Cri LJ 1783) where the following observations have been made:

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say they should not be explainable on any other hypothesis except that the accused is guilty.

(3) The circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

18. Supreme Court restated the said principle in the case of Dhananjay Chatterjee alias Dhana v. State of West Bengal, (1994) 2 SCC 220 and further observed that legally established circumstances and not merely indignation of the court can govern the basis of conviction and the more serious is crime, the greater should be the care taken to scrutinise the evidence lest suspicion takes the place of proof.

19. Similarly in the case of Lakhjeet Singh v. State of Punjab, 1994 Suppl (2) SCC 173: (1993 AIR SCW 2938) the Apex Court restated the said principles but insisted that in a case of circumstantial 'evidence, each circumstance must be proved beyond reasonable doubt by independent evidence. Similar view was taken by the Supreme Court in the case of Suresh Chand Bahri v. State of Bihar, 1995 Suppl (I) SCC 80 : (1994 Cri LJ 3271).

20. In the case of Tarseem Kumar v. Delhi Administration, AIR 1994 SC 2585 : (1985 Cri LJ 470), the Supreme Court has stressed that the circumstances discovered by the Investigating Officer during the course of investigation and proved by the prosecution during the trial must be cautiously examined for the purpose of recording a verdict of guilt or giving benefit of doubt to the accused.

21. In the case of Budha Satya Venkata S. Rao v. State of Andhra Pradesh, 1994 Suppl (3) SCC 639, the Supreme Court observed that in a case based on circumstantial evidence motive aspect amounts considerable importance. Similar view was taken in the cases of Surinder Pal Jain v. Delhi Admn. AIR 1993 SC1723: (1993 Cri LJ 1871) and Sarbir Singh v. State of Punjab, 1993 Suppl (3) SCC 41: (1993 Cri LJ 1395).

22. In the case of Prem Kumar v. State of Bihar (1995) 3 SCC 228 : (1995 Cri LJ 2634), the Supreme Court has observed as under:

We hold that if the motive is proved or established, it affords a key or pointer, to scan the evidence in the case, in that perspective and as a satisfactory circumstance of corroboration. It is a very relevant and important aspect-

(a) to highlight the intention of the accused and

(b) the approach to be made in appreciating the totality of the circumstances including the evidence disclosed in the case.

23. In the case of Arjun Malik v. State of Bihar 1994 Suppl (2) SCC 372, the Apex Court observed that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused. Similar view was taken in the case of Didar Singh v. State of Haryana, 1993 Suppl (2) SCC 557.

24. In the case of Sarojini v. State of Madhya Pradesh, 1993 Suppl (4) SCC 632: (1993 Cri LJ 1648), the Supreme Court observed that if there is any break in the links, the accused becomes entitled to benefit of doubt. In the case of Kundula Bala Subrahmanyam v. State of Andhra Pradesh (1993) 2 SCC 634: (1993 Cri LJ 1635), the Supreme Court observed as under (Para 10 of Cri LJ):

Indeed, absconding by itself may not be a positive circumstance consistent only with the hypothesis of guilt of the accused because it is not unknown that even innocent persons may run away for fear of being falsely involved in a criminal case and arrested by the police....

25. If the points raised above are examined in the light of the propositions of law mentioned above, the unescapable conclusion comes that the issue of motive is not proved at all. Though in the peculiar facts and circumstances of this case it was necessary to prove motive. The question of stealing the golden ornaments appears to be a concocted and an afterthought version. Prosecution miserably failed to prove the incident of Mar-Peet in the morning beyond reasonable doubt as prosecution did not examine any independent witness to prove the same despite availability of such witnesses. Bhadai, P.W. 3 and Malkhan, P.W. 4 are admittedly inimical to appellants, their testimonies, therefore, do not inspire any confidence and not worth placing any reliance at all. The evidence regarding the recoveries of the weapons used, dead body and clothes etc. hinges on the depositions of Gulab Singh, P.W. 5, Siddhanath, P.W. 6 and R.C. Dubey, P.W. 9. There are material inconsistencies in the statements of all the said three witnesses. Gulab Singh, P.W. 5 deposed that Siddhanath, P.W. 6 reached the investigating Officer after 15 minutes of his arrival, while Siddhanath P.W. 6 stated that Gulab Singh, P.W. 5 had come to his house to call him. The time of recoveries of the dead body has no consistency at all. Ram Bahadur, P.W. 1 deposed that dead body had been handed over to him after completing all the formalities at 10 p.m. while according to Gulab Singh, P.W. 5 the formalities were completed by 2 p.m. In contradiction Siddhanath, P.W. 6 stated that the formalities were over by 6 p.m. According to Lalloo, P.W. 2 dead body had been recovered on 28-9-1977.

26. No doubt it is settled law that inconsistencies of trifling or trivial nature cannot be a ground to discredit the evidence of a witness, if otherwise it is trustworthy and credible. But in the instant case the inconsistencies are major and go to the root of the case. Further the report of Serologist, Ext. Ka-20 does not support the case of prosecution at all. Moreover, even if it is assumed, that the recoveries had been made on pointing out of Manna Singh, it is of no use, so far as the other two appellants, Sukhpal and Ranjit are concerned. At the most said recoveries could

be used only against Manna Singh, against whom appeal stands abated. Even the story of the deceased last seen with appellants is unable to bring home any charge against the appellants under Sections 302/ 34 and 201, I.P.C. as all the important links of the chain, which are necessary, in a case like this, are missing. It is settled law that the prosecution must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence pleaded by the accused.

27. Since some of the circumstances alleged against the appellants are not proved at all and some others not proved to the hilt, the same cannot be regarded as complete chain of circumstances so as to base, their conviction on the same. The injuries, particularly injury No. 1 received by Kalloo, deceased rather suggest that he might have made some indecent advances towards a woman to satisfy his lust and her family members might have killed him and that possibility has to be completely ruled out so far as the appellants are concerned. Admittedly there was no woman in the house of the appellants as stated above by the wife of appellant No. 1 Manna Singh, the sister of Kalloo, deceased was dead and other two appellants are married and there is no other female member in their house. The circumstances, forming the chain in the present case were so loosely built that they fell apart unscrupulously on scrutiny.

28. Thus we are of the considered opinion that there is no certain and explicit evidence in the instant case to prove the charges against the appellants Sukhpal Singh and Ranjit Singh. In our view this was a fit case in which the learned Sessions Court should have given at least benefit of doubt to these appellants. Accordingly, we allow the appeal and set aside the conviction and sentence awarded to the appellants.

29. The appellants are on bail. Their bail bonds and sureties are discharged.

The appeal is thus allowed accordingly.