

**State Vs. Kumar Penthei and ors.**

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**Court :** Orissa

**Decided On :** Oct-15-2008

**Reported in :** 106(2008)CLT816

**Judge :** I.M. Quddusi and; N. Prusty, JJ.

**Appellant :** State

**Respondent :** Kumar Penthei and ors.

**Disposition :** Appeal dismissed

**Judgement :**

**I.M. Quddusi, J.**

1. This Government Appeal has been filed against the Judgment and Order Dated 19th September, 1984 passed by the Learned Sessions Judge, Keonjhar in Sessions Trial Case No. 13 of 1984 acquitting the Respondents of the offence punishable under Section 302 I.P.C. It may be mentioned here that during the pendency of the appeal, the appeal as against Respondent No. 6, Gautam Singh @ Naik was dismissed vide Order Dated 17.12.1990.

2. The case of the prosecution in brief is that one Banshidhar Sahu, son of Haguru Sahu of village Godhuli under Telkoi police station in the district of Keonjhar appeared in Telkoi police station at 8.30 a.m. on 8.10.1983 along with one Rama

Chandra Swain and Dheneswar Sahu of his village and lodged verbal report in the P.S. stating that Panu Sahu, the elder brother of the father of the informant is a rich man and maintains his livelihood by cultivation. He has a rice mill at Bhimkand and his only son Iswar Sahoo looked after the management of the rice mill. In the previous night after returning from the rice mill Iswar after taking his meal retired to bed and slept on a cot on the varendah of his bed room. His wife and children slept inside the bed room and his father and mother slept on two cots on the southern side varendah.

3. In the morning of 8th, the son of Iswar Sahoo along with two of his servants came to the informant's house which is situated at a distance of half kilometer towards north and after waking him up informed that some unknown person has killed his father by slitting his throat and he was lying in a pool of blood. On getting the information, the informant went to the house of Iswar and found him lying dead on a cot with his throat slit. He further stated he had no knowledge if the deceased had any misunderstanding with anybody. The information was reduced to writing by the OIC and the informant signed the same after admitting the contents to be true. Thereafter, case under Section 302 was registered and investigation was taken up by the I.O. and after completion of investigation, charge sheet was submitted against the Respondents to stand trial for offence punishable under Section 302/34 I.P.C.

4. Plea of the Respondents was one of denial.

5. To bring home the Charge against the Respondents, prosecution examined as many as fourteen witnesses and defence examined one witness. P.Ws.1, 2, 3 and 4 are respectively the widow, son, father and mother of the deceased who claimed themselves to be the eye witnesses to the occurrence. P.W.10 is the informant. P.W.12 is the Medical Officer who conducted post-mortem examination over the dead body of the deceased. P.Ws.8 and 11 are the seizure witnesses and P.Ws.13 and 14 are the Investigating Officers.

6. On consideration of the evidence adduced on behalf of the prosecution, the Learned Sessions Judge came to hold that there was paucity of evidence to bring home the charge against the Respondents and therefore he acquitted all of them.

7. There is no doubt that the death of the deceased was homicidal. P.W.12 conducted the post-mortem examination over the dead body of the deceased and found the following external injuries:

i. The tongue of the deceased was protruded having some blisters on the trunk, frosty bloody mucus from nostril and mouth with distended abdomen and swollen penis and scrotum.

ii. There was one incised wound of 6' length x 2' depth x  $\sqrt{2}$ ' breadth on the neck below thyroid cartilage extending from middle of neck towards the right side in a horizontal direction with incised wound of trachea, neck vessels and stretched mastoid muscles of right side.

8. The cause of death, as stated by the doctor, was due to asphyxia and shock as a result of injury to trachea and great vessels of right side neck. The time of death was stated to be 36 to 48 hours before his examination. The doctor further stated that the injury was possible by the Farsa, M.O.I which was sent to him for opinion.

The occurrence took place inside the house in the night when all the inmates were fast asleep. There is no eye witness to the actual murder. The case is based on circumstantial evidence and the developments following the murder. The evidence collected at the trial discloses the circumstances after the murder.

9. It has been consistently held by the Apex Court that where a case rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person.

10. It has further been held that the circumstantial evidence is not direct to the point in issue but consists of evidence of various other facts which are so closely associated with the fact in issue that taken together they form a chain of circumstances from which the existence of the principal fact can be legally inferred or presumed. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from

those circumstances.

11. In the case of Ram Singh v. Sonia and Ors. : 2007 CriLJ1642 ; the Hon'ble Apex Court has held as under:

The principle for basing a conviction on the basis of circumstantial evidence has been indicated in a number of decisions of this Court and the law is well settled that each and every incriminating circumstance must be clearly established by reliable and clinching evidence and the circumstances so proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be sagely drawn and no other hypothesis against the guilt is possible. This Court has clearly sounded a note of caution that in a case depending largely upon circumstantial evidence, there is always a danger that conjecture or suspicion may take the place of legal proof. The Court must satisfy itself that various circumstances in the chain of events have been established clearly and such completed chain of events must be such as to rule out a reasonable likelihood of the innocence of the accused. It has also been indicated that when the important link goes, the chain of circumstances gets snapped and the other circumstances cannot in any manner, establish the guilt of the accused beyond all reasonable doubts. It has been held that the Court has to be watchful and avoid the danger of allowing the suspicion to make the place of legal proof, for sometimes unconsciously it may happen to be a short step between moral certainty and legal proof. It has been indicated by this Court that there is a long mental distance between 'may be true' and 'must be true' and the same divides conjectures from sure conclusions.

12. Learned Counsel for the Appellant has argued that the circumstances such as, (i) the removal of accused No. 1 from service as a servant on the date of occurrence and there being exchange of hot-words between them, (ii) absconding of the accused No. 1 after the occurrence, (iii) inimical relation of accused Gobardhan with that of P.W.4 and his son, the deceased, (iv) the ownership of axe which was used in the offence having belonged to accused Gobardhana, (v) the axe, M.O.I having been recovered from the maze field on discovery laid by accused No. 1 while in police custody and such a statement leading to discovery

being admissible under Section 27 of the Evidence Act, (vi) the extra judicial confession made by accused No. 1 before P.Ws. 8 and 9 that he committed murder of the deceased along with the other accused persons, (vii) the dhotis and the banions belonging to the accused being stained with human blood, and (viii) the two dogs belonging to the deceased having been poisoned by accused No. 1 on the alleged date of occurrence, clearly go to prove that it is the accused persons and none else, who committed the murder of the deceased.

13. Let us first scrutinize the evidence adduced by the prosecution witnesses. P.W.1 is the first wife of the deceased. In her evidence, she stated that in the last month of Aswina on one Friday her husband returned from field at about 4 p.m. There was exchange of words between her husband and her servant accused Kumar Penthei as the servant left one buffalo without taking proper care. As a result of this, Kumar left their house with his, belongings even though she persuaded him to take food. After taking their meals, the inmates retired to bed. Her husband slept on a cot with the youngest son on the varendah of the pucca room and the eldest son Hrushi slept in a separate cot towards the head of her husband. She slept on a mat spread on the floor near the cot of her husband on the varendah of the pucca room while her parents-in-laws slept on cots lying on the varendah of the thatched room which is at a distance of 15 cubits from the varendah of the pucca room where her husband was sleeping. The second wife of the deceased slept in a room with her baby. Four to five servants in that night were sleeping in the thrashing floor at a distance of 100 yards from the house. At about mid-night she got up as somebody trampled her head and raised alarm. Hearing the shout of P.W.1, P.W.4 who was sleeping on the opposite varendah focused a torch light and she could see through the flash of the torch light that six persons were standing near the cot of her husband and other three were standing near her father-in-law. One of them was holding a Farsa and the others were holding small axes. Accused Kumar Penthei was sitting near the two dogs that were tied near the feet of her husband and were not barking and lying quiet. She stated that Banshi, Atula, Getu and Dhaneswar were present whom she identified in the night. She identified the Farsa which was held by accused Gautam who was standing with that Farsa towards the head of the deceased. The Farsa was stained with blood. Accused Nabina was also standing there. The rest four accused persons

were standing near the feet of her husband while Banshi, Getu and Dhaneswar were standing near her parents-in-laws. When her father-in-law focused the torch light, the miscreants left the place. By then her husband was dead her throat being cut with face upwards. Blood was oozing out profusely from his neck. When all the inmates cried aloud, the farm servant Bidyadhar came running from the thrashing floor.

14. At about dawn he went to call Maharana and Mahanta. She further stated that within a radius of a mile from her house no other inhabitants reside except some of the accused persons. Kolha and Haguru are the sons of the step brother of her father-in-law P.W.4. Kolha has three sons one of them being Genthru. Bansi is the son of Haguru. Their houses are situated about two furlongs away from the house of the deceased. The relationship of Kolha and Haguru with her father-in-law was strained due to previous litigation. She stated that no information was sent by them to police as all were grief stricken. However, police came at about 2 p.m. on the next day. In the cross-examination, she denied the suggestions with reference to the FIR and her statement recorded under Section 161 Cr.P.C. P.W.2 who is the son of deceased and a child witness being able to give rational answer was examined. He corroborated P.W.1 as to where the inmates were sleeping in the night of occurrence.

15. He stated that after hearing the groaning sound of his father, he got up and found Bansi, Dhadia and Ketu were standing near his grand father and accused Gokul, Atula, Nabina, Kanduru, Bhakta, Gobara and Goutam were standing near his father. Accused Kumar was sitting near the two dogs. He could recognize the accused persons due to the focus of the torch light flashed by his grandfather. Thereafter, the accused persons fled away. He has denied to have informed the incident to Bansi. He further stated that the agnatic relations of his father did not come to his house till arrival of police. Through cross-examination, the defence has unsuccessfully tried to elicit from this witness corroboration to the FIR. It may be stated here that though P.W.2 in his evidence named all the persons who were standing near the cot of his father, P.W.1 has not named all of them except accused Gautam. P.W.3 is the mother of the deceased. In her evidence while corroborating P.W.1 as to the place of sleeping of the inmates including the

deceased, she stated that after hearing the cry of P.W.1, when her husband (P.W.4) focused the torch light towards the deceased, she saw all the accused persons had surrounded the deceased. At that time accused Gautam was holding a Pharsa and accused Kumar was holding the dogs. Banshi, Dhanu and another were standing near her husband. After her husband focused the torch, all the accused persons as well as Banshi, Dhanu and another fled away. She stated that the accused persons as well as her agnatic relations, namely, Dhanu and Banshi, did not come to her house. The other agnatic relations did not join in the Sudhi ceremony. One of the dogs died three days after the occurrence and the other died after 15 days. The I.O. did not take any action with regard to the treatment of those dogs. In cross-examination she stated that she cannot say who informed the police about the occurrence. She also denied to have seen Arjuna Behera of Bhimkanda on the next day of occurrence. She stated that she became senseless soon after her son died and regained sense in the next day after noon. Police came just on the next day of occurrence and their statements were recorded. P.W.4 is the father of the deceased. He corroborated P.Ws. 1 to 3 as to where the inmates were sleeping in the night of occurrence.

16. He further stated that Haguru and Kolha are his step brothers and since three years prior to the occurrence they were residing in jungle though previously they were having their residence near his house. The distance between his house and the present residence of Kolha and Haguru would be half a kilometer. He stated that he was not pulling on well with his step brothers since last eight years. They had forcibly cut the Bandh of a Panchayat tank for which there was previous litigation between his son and those persons. Accused Gobardhan had started a criminal case against him and his son which was pending till he deposed in Court. Accused Kumar Penthei was his servant and left the service in the evening preceding the occurrence. He stated that he woke up after hearing the groaning sound of his son and the shouts of P.W.1 and focused the torch light at his son and found the accused persons standing surrounding his son. Banshi, Dhaneswar and Gentu were standing near him. Accused Kumar Penthei was sitting near the dogs. The persons standing near him were being armed with small axes. Accused Goutam was standing with a Pharsa near his son and the other accused persons were not being armed but were simply standing near his son. The persons

standing near him threatened him not to raise any alarm lest he would be killed. Thereafter the accused persons decamped through a passage. Hearing his shout his farm servant Bidyadhar Behera reached there. He sent Bidyadhar to call Jagannath Mahanta and Nandalal Moharana who were the nearest neighbours. He stated to have not sent anybody to the police station. According to him the police reached his house at about 4 p.m. on the next day.

17. He further stated that accused Goutam, the sister's son of accused Gobardhan belonged to Mayurbhanj district and he was putting up with his maternal uncle prior to one year of occurrence. There are some contradictions between the evidence of P.W.1 and P.W.4. While P.W.1 stated that the dogs were tied near the feet of her husband, P.W.4 stated that the dogs were there near the door way of the varendah. Similarly, while P.W.1 stated that the persons standing near the cot of her husband were holding small axes, P.W.4 stated that the accused persons standing near the cot of his son except Gautam were not being armed and they were simply standing near his son but the persons who were standing near him were armed with small axes. The Learned Sessions Judge did not accept the evidence of the inmates in Court on the ground that the same differed from what they stated in their statements under Section 161 Cr.P.C. Though the reason given by the Learned Sessions Judge for discarding the evidence of the inmates is not tenable, in view of the contradictions noted above, it is also not safe to rely on the same to bring home the charge to the accused persons. Even if their evidence is accepted, it would only indicate the presence of the accused persons at the place of murder which can at best be termed as an incriminating circumstance. Let us therefore proceed to ascertain whether the prosecution has been able to establish a chain of circumstances so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused.

18. Learned Counsel for the Appellant urged that since accused Kumar Penthei was removed from service by the deceased, he bore grudge against the deceased and killed the deceased in connivance with the other accused persons and because of the same he absconded soon after the occurrence. The evidence of the inmates of the house of the deceased indicates that there was exchange of words between Kumar and the deceased in the evening of occurrence as he had

left one buffalo without taking proper care whereafter he left the house even though P.W.1 persuaded him to take food. But this cannot be said to be the motive for the murder. No doubt Kumar absconded after the occurrence and was arrested by the I.O. on 12.10.2003 at 6 a.m. from a brinjal field in village Koilisuta. There are two versions about the apprehension of the accused Kumar. While the version of the I.O. is that he himself arrested the accused Kumar Penthei from the brinjal field of Koilisuta, the version of P.Ws.8 and 9 is that on assistance being sought by one constable Mohan Babu they along with the constable proceeded to the village of accused and apprehended him while he was sleeping in his Bari underneath the Brinjal plants. Be that as it may, after arrest, I.O. found blood stains on the banion of Kumar and seized the same. The seized banion had been sent for serological examination. Though blood was detected on the said banion, the Serelostat opined that it was insufficient for serological examination. Even if it is accepted that there was existence of blood on the banion seized from accused Kumar, this circumstance is not such from which it can be found that the accused was the perpetrator of the crime. Although the blood group of the blood on the lungi worn by the deceased at the time of death was determined as Group 'A', the group of the blood found on the banion could not be determined. In such circumstances, it cannot be said that the blood found on the banion of the accused was that of the deceased. Therefore, we are of the opinion that the prosecution has failed to prove this link in the chain of circumstances.

19. The next circumstance in the chain on which the prosecution has relied is recovery of the Farsa, which is said to be the weapon of offence. P.W.13, the I.O., in his evidence has stated that while in police custody, accused Kumar led him to a maize heap in village Koilisuta stating that the weapon of offence was concealed in the said maize heap in the Bari of Kantaru Penthei and produced the same before him on 13.10.1983. The I.O. seized the same in presence of the witnesses. P.Ws. 8 and 9 are the witnesses to the seizure of the Farsa. P.W.8 in his evidence stated that the I.O. came to his village along with the accused Kumar in a Jeep and asked P.W.8 to accompany them. Accordingly, he had gone to the back-yard of Gobinda Penthei. Accused Kumar led them to the place of discovery, picked up the Farsa (M.O.I) lying concealed in maize heap, unearthed the same and produced it before the I.O. The I.O. seized the same and he signed in the seizure

list. The evidence of P.W.9 is to the same effect. Though P.W.8's evidence is specific that accused Kumar gave recovery of M.O.I, the evidence of P.W.9 is that the accused gave recovery of a 'Pharsa' (Tangi) like M.O.I. Neither the I.O. nor P.Ws.8 and 9 has stated that the Farsa seized was stained with blood. It appears from the report of Chemical examination that no blood was detected on the Farsa.

20. To prove the ownership of the Farsa the evidence of P.W.7 has been pressed into service. He stated in his evidence that the Farsa belonged to accused Gobardhan. It is in his evidence that he was not present when accused Kumar gave recovery of M.O.I to the police. He also stated that instrument like M.O.I is commonly used by the other villagers. In cross-examination he stated that I.O. showed M.O.I to him saying that the same was produced by accused Kumar Penthei. To a question put by the Court, he replied that accused Gobardhan was usually holding a Tangi when ever he used to perform Puja. Therefore, he assumed that M.O.I was that of accused Gobardhan. Assumption and suspicion cannot take the place of proof. Tangia and Farsa are no doubt different instruments. Therefore, it cannot be said that the prosecution has been able to prove that the M.O.I was the weapon of offence. There is also no cogent or convincing evidence to prove that the M.O.I belonged to accused Gobardhan.

21. We now turn to the extra-judicial confession alleged to have been made by accused Kumar Penthei before P.Ws.8 and 9 and others. The evidence of P.W.8 is that one constable named Mohan Babu had gone to his village and sought their assistance for detecting accused Kumar Penthei from his village. Accordingly he along with P.W.9 and others went to the village of Kumar Penthei at about 9 p.m. and detected Kumar who was sleeping in his Sari underneath brinjal plants. Accused Kumar stated to have not taken food for last four days and accordingly he arranged food for him and brought him to the Village Mandap where he stated in presence of other villagers that he along with other persons killed Iswar. P.W.9's evidence is that he along with 13 to 14 members of the Yubak Sangh of their village had surrounded the house of the elder brother of Kumar Penthei. At that time accused Kumar was concealing in the brinjal garden. They detected him and brought to the village Mandap. When they asked about the occurrence at the village Mandap, he explained that due to some quarrel with the deceased with

regard to missing of a buffalo, he left the house of P.W4 in the night. He further stated that Goutam Singh alias Naik had slain the Sarpanch Iswar Sahu. The other accused Nabin, Atul, Kanduru, Dhaneswar Sahu, Bansidhar Sahu, Kentu Sahu and he himself were present. Gobardhan was also present. P.W.9 stated to have recorded the confessional statement of accused Kumar in a tape recorder. P.W. 8 has also stated about tape-recording of the statement of the accused Kumar. But no such tape recorder was produced before the I.O. It was a vital piece of evidence and non-production of the same has been detrimental to the prosecution. Though the statement of P.W.8 shows that the accused Kumar confessed to have killed the deceased Iswar along with others, P.W.9 stated that the accused named the persons who along with him killed the deceased. It is in the evidence of the I.O. that P.W.9 did not state before him that he recorded the statement of accused Kumar in a tape recorder. If the accused Kumar made the confession in presence of P.Ws.8 and 9, how could it be that both will narrate it differently? The evidence of P.Ws.8 and 9 is at variance in material particulars. It is in the evidence that the tape recording of the confessional statement was made in presence of a police constable. Therefore, even if it is accepted that accused Kumar made any extra judicial confession, the same being made in presence of police is not admissible in evidence.

22. The next piece of circumstance is the seizure of three blood stained Dhotis from the house of accused Gobardhan and one Dhoti marked as from the house of accused Nabin. It appears that those Dhotis were sent for serological examination. From the report of the Director & Chemical Examiner of State Forensic Laboratory, it appears that blood was detected from the dhoti seized from the house of accused Nabin but no blood was detected from the dhotis seized from the house of accused Gobardhan. The report of serologist indicates that though blood found on the dhoti seized from the house of Nabin Singh was of human origin, its grouping could not be done as the same was deteriorated. Therefore, the seizure of dhotis from the houses of accused Gobardhan and accused Nabin cannot be held to be incriminating circumstances to connect them with the crime.

23. No doubt the relationship of the deceased or his father with the accused persons was not good. But that by itself cannot be said to be the motive for the

crime. Moreover, the prosecution has not been able to successfully establish the incriminating circumstances against the accused persons.

24. As regards the dogs, P.W.1 has stated that they were tied near the feet of her husband. P.W.4 has stated that the two dogs were there near the door way of the varendah. It is in his evidence that the two dogs were very furious. He has further stated that during night usually the dogs were let loose. The evidence of P.W.3 is that the dogs were not chained during night time. The occurrence took place during night and there was no light. The normal conduct of the dogs is that they would start barking noticing presence of unknown persons and pounce upon them. It is difficult to tame them. In the aforesaid circumstances, if at all the accused persons entered in side the house of the deceased, the dogs could not be said to have remained quiet. Further the evidence of the inmates of the house with regard to the dogs is also contradictory. As regards poisoning of the dogs, there is no convincing evidence. Even though P.W.4 stated in his evidence that he informed the police that the dogs were poisoned, the I.O. in his evidence has stated that he did not get any information that any of the dogs had died during investigation. He has also not made any attempt to gather the information of their death. To a question put by the Court, the second I.O. (P.W.14) who took over investigation from P.W.13, stated that by the time he investigated the case, one dog was already dead and the other dog was living. He further stated that the investigation disclosed that poison was administered but he did not take steps to get the other dog examined by Veterinary Surgeon. Even assuming that the dogs were poisoned it would not improve the case of the prosecution as there is no evidence to prove that it were the accused persons who administered poison to the dogs.

25. We would like to observe that the investigation in this case has been conducted in a most slip shod and casual manner. In a case of murder, the investigation is required to be made very cautiously so that the offender does not go unpunished. In this case, though the F.I.R. discloses that some unknown person had killed the deceased, the evidence collected at the trial is completely at variance from the FIR story. During investigation though the inmates of the house of the deceased had suspected some persons and named them in their statement under Section 161 Cr.P.C, to have committed the crime, the I.O. did not care to

direct the investigation in that direction to reach at the truth. Even he did not care to record the statement of the informant and Rama Chandra Swain and Dhaneswar Sahoo who accompanied the informant to the police station and also signed in the F.I.R. under Section 161 Cr.P.C. Though there was instruction left by the Supervising authority, namely, the Deputy Superintendent of Police, the I.Os. did not care to complete the investigation with reference to those directions.

26. Another interesting feature in this case is that the charge-sheet has been submitted only against six persons. The I.O. (P.W.13) in his evidence stated that there was no sufficient material against Banshidhar, Gentu and Dhaneswar. Therefore, he did not implicate them in the case. However, P.W.14, the second I.O. stated that even though the investigation disclosed involvement of Bansidhar Sahu, Gentu Sahu and Dharanidhar Sahu, but he did not re-examine the informant. Though the prosecution prayed for impleading the above named persons as accused persons the same was rejected by the Learned Sessions Judge on the ground that their names were not mentioned in the FIR and that in the statements recorded under Section 161 Cr.P.C. the relations of the deceased had not mentioned their names. But Section 319(1) provides that where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed. It has been urged that the application under Section 319(1) Cr.P.C. was rejected by the Learned Sessions Judge denying to call the persons named by the prosecution witnesses before the Court. But we think that as the prosecution could not prove the case beyond reasonable doubt against the accused persons, calling for further persons as accused was improper. To add to this, though the father of deceased in his evidence stated that he suspected the investigation by the police, he did not make any allegation in that regard before the Committing Court. Further the FIR was lodged by one of the persons sought to be arrayed as accused persons. We are, therefore, of the opinion that the investigation has been very defective.

27. In this case, the I.O. did not care to direct the investigation in right earnest. He did not send the weapon of offence for examination immediately after seizure of

the same. Similarly, the blood stained clothes seized from some of the accused persons were sent for examination more than two months after the seizure as a result of which the blood stains got deteriorated. Even though accused Kumar Penthei stated to have admitted the occurrence before the I.O. he did not take any step to record his statement under Section 164 Cr.P.C. We are, therefore, of the opinion that the investigation made in this case was a tainted one and had there been proper investigation, the result would have been otherwise.

28. On appreciation of evidence, the Learned Sessions Judge recorded order of acquittal giving benefit of doubt to the accused persons. Though there was strong suspicion against the accused persons but due to dearth of evidence against them either circumstantial or direct, the Learned Sessions Judge had no option than to acquit the accused persons. Generally the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The principle to be followed by the Appellate Court considering the appeal against the Judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned Judgment is clearly unreasonable, it is a compelling reason for interference. In view of what has been mentioned in the earlier paragraphs, we are of the opinion that the conclusion arrived at by the Learned Sessions Judge cannot be said to be unreasonable.

29. We, therefore, do not find any merit in this appeal which is accordingly dismissed.

**N. Prusty, J.**

30. I agree.