Ganesapandi and ors. Vs. State

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Court : Chennai

Decided On : Jul-29-2008

Reported in : 2009CriLJ232

Judge : P.D. Dinakaran and ;K.N. Basha, JJ.

Acts : Indian Penal Code (IPC), 1860 - Sections 109, 120B, 147, 148, 149 and 302; Code of Criminal Procedure (CrPC) - Sections 313

Appeal No. : Cri. Appeal No. 9 of 2007

Appellant : Ganesapandi and ors.

Respondent : State

Advocate for Def. : N.R. Elango, Addl. Public Prosecutor

Advocate for Pet/Ap. : V. Gopinath, S.C. for ;L. Mahendran, Adv.

Disposition : Appeal dismissed

Judgement :

P.D. Dinakaran, J.

1. This is a typical case where the cherished principles or golden thread of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt.

2. The present appeal is by the convicted accused, viz., A-1 to A-5 in Sessions Case No. 461 of 2005 on the file of learned Additional Sessions Judge, Chennai. In the said case before the learned Sessions Judge, totally nine accused were tried on various charges including the charge of murder and the learned Sessions Judge, by the impugned judgment dated 30-11-2006, while acquitting A-6 to A-9 for the offences levelled against them, convicted the appellants/ A-1 to A-5 for the offence under Section 302 read with 109, I.P.C. and sentenced each one of them to imprisonment for life. A-1 to A-4 were also convicted for the offence under Section 148, I.P.C. and sentenced to undergo one year rigorous imprisonment and A-5 was convicted under Section 147, I.P.C, for which he was sentenced to six month rigorous imprisonment. All the accused were exonerated from the charge framed under Section 120-B, I.P.C.

3. The prosecution case was built up on the basis of the complaint lodged by P. W. 1, Ananthi, daughter of the deceased, on 1-7-2005 at 8.00 p.m., in which it is alleged that at about 7.30 p.m. on that day, P.W. 1 was walking along with his father Dhanapal, the deceased in the case, in the walkers' road at Marina Beach, and at that time, A-1 to A-7 came over there and surrounded Dhanapal, while A-5 caught hold of him, A-6 and A-7 instigated the other accused and A-1 to A-4 with deadly weapons, inflicted indiscriminate cut injuries on Dhanapal, due to which, Dhanapal died at the spot. The complaint was registered by the Inspector of Police at D-5 police station in Crime No. 481 of 2005 for the offence under Section 302, I.P.C. and after investigation is over, the prosecution laid the charge sheet against the appellants and others for offences under Sections 147, 148, 149, 302 read with 109, I.P.C. before the Court of Magistrate, who sent the same and other relevant documents to the Court of Session, as the case has to be tried only by the Sessions Court. When initially questioned, all the accused denied the charges levelled against them and hence, the case was taken up for trial. The prosecution, to substantiate the charges, examined P.Ws. 1 to 30 and produced Exs.P. 1 to P.66, besides marking M.Os.1 to 15.

4. Shorn of unnecessary details, the prosecution case as unfolded by the witnesses, is stated thus:

(a) P.W. 1 is the daughter of the deceased Dhanapal. She is a M.C.A. Graduate and working in HCL. According to her, the deceased Dhanapal was the native of Chithavanaickkanpatti village and the father of the deceased by name Chinnasami Nadar founded a sangam, for which, the deceased became the President after the demise of his father. The said Sangam was later moulded as a trust and the deceased Dhanapal, A-8 Chinnamani Nadar and one Muthusamy Nadar were the trustees. There were differences of opinion between the deceased and A-8 in the administration of the trust. Apart from this, there were strained feelings between the accused with regard to the publication of a book by the deceased making serious allegations against A-8. Further, there was an immediate dispute regarding celebration of festival in the temple, whilst the accused party conducted the festival during the Tamil month of 'Chithirai' (during April-May), the deceased made arrangements to conduct the festival again in the Tamil month of 'Aani' (during June-July) and fixed the date on 5-7-2005. The objection was that the same festival should not be conducted twice in a year.

(b) Under such a factual scenario, on the ill-starred day, i.e. on 1.7.2005 at about 6.00 p.m., while P.W.I was walking along with her father, Dhanapal, in the walkers' track along the beach road, in furtherance of the conspiracy hatched between A-1 to A-7 at the house of A-8 on that day around 2.00 p.m. to 3.00 p.m., all the accused surrounded the deceased and while A-5 caught hold of the deceased, A-6 and A-7 instigated the other accused to kill the deceased, A-1 to A-4, who were armed with deadly weapons, attacked the deceased indiscriminately on all parts of his body. All the accused, thereafter, fled from the scene. The deceased died at the spot. On hearing the hue and cry of P.W.I, P.W.26, head constable attached to D-5 Marina police station and another constable, who were on beat duty, reached the spot and enquired with P.W. 1. On their advice, P.W. 1 lodged the complaint before D-5 Marina Police Station. The said complaint is Ex. P. 1.

(c) On receipt of Ex.P., P.W.30, the Inspector of Police, registered the case in Crime No. 481 of 2005 for the offence under Section 302, I.P.C. Ex.P.43 is the printed F.I.R. He sent the copies thereof to Court as well as to higher officials. He reached the scene of occurrence and prepared observation mahazar, Ex.P.3 and rough sketch, Ex.P.4 and seized M.O.2, a pair of chappal under Ex.P.4 mahazar

and M.O.1, bullet bike under Ex. P. 5 mahazar. The body was sent to mortuary and at the Royapettah Government Hospital, the officer held the inquest in the presence of panchayatdars and witnesses and prepared the inquest report, Ex.P.45. During inquest, he examined witnesses and recorded their statements. After the inquest, the body was sent for postmortem through the police constable, P.W.26 along with a requisition, Ex.P.32.

(d) P.W.25, the Reader and Professor, Department of Forensic Medicine, Government Royapettah Hospital and Kilpauk Medical College, Chennai, conducted postmortem and found 13 external injuries. He issued Ex.P.33, post-mortem certificate, opining as to the cause of death that the deceased would appear to have died of shock and haemorrhage due to the injuries sustained about 16 to 23 hours prior to autopsy.

(e) In continuation of the investigation, P.W.30, the investigating officer formed a special team to arrest the accused. He examined P.Ws. 6 and 7 and recorded their statements and also obtained the relevant documents, Exs.P.46 and P.47. He caused the photographs of the scene to be taken by the photographer. He arrested A-1 to A-7 on various dates and recorded their voluntary confession statements. Pursuant to the admissible portions of the statements given by the accused, M.0s.3 to 7 were recovered under mahazars, Ex.P.52 to 55 and 58 respectively. He issued a requisition to P.W.24, the learned Magistrate for conducting a test identification parade in respect of the accused and received the report Ex.P.31 of the learned Magistrate in that regard. He sent the case properties to the Court for the purpose of sending the same for chemical examination. He obtained Ex.P.28, biological report, Exs.P.29 and 30, serological reports and Exs.P.34 and 35, toxicology report and blood-group report respectively, which would show that the blood group of the deceased is 'A' and the same tallies with the blood-stained articles sent for examination. P.W.30, further examined other witnesses in the case and recorded their statements. He recorded the statement of the doctor, who conducted autopsy and obtained the postmortem certificate. After examining other official witnesses, he concluded the investigation and laid the charge sheet against A-1 to A-7 for offences under Sections 120-B, 147, 148, 149, 302 and 109, I.P.C. on 10.8.2005.

(f) On completion of the evidence of the prosecution, the accused were questioned under Section 313, Cr.P.C. on the incriminating materials found against them, which they denied as false and contrary to facts. They have examined D.Ws.1 to 3 and marked Exs.D.1 to D.10 to establish that P.W. 1 could not have been present at all at the time of occurrence and in view of certain infirmities, it is unsafe to rely upon her evidence for basing the conviction.

(g) The learned trial Judge, on appraisal of evidence, both oral and documentary and upon hearing the arguments on either side, convicted the appellants/A-1 to A-5, as aforementioned, while acquitting A-6 to A-9. Hence, the present appeal by the convicted accused.

5.1 The main argument advanced by the learned senior counsel appearing for the appellants is that inasmuch as many of the witnesses having turned hostile, the prosecution had to wholly rely upon the solitary evidence of P.W. 1, who is none else than the daughter of the deceased, and whose evidence with regard to the occurrence has several infirmities and hence, the prosecution has not proved its case by adducing clear and cogent evidence.

5.2 While pointing out the infirmities in the evidence of P.W.I, the learned senior counsel made the following submissions:

(i) as per the evidence of D.W.I, who is working in HCL Company as Administrative Executive along with P.W. 1 and from Ex.D.6 and Ex.D.7, on the date of occurrence P.W. 1 swiped the card and entered the office at 9.30 a.m., and there is also another entry that P.W. 1 entered the I block in the second floor on that day at about 4.33 p.m., but there is no detail about her exit from the office, which throws a doubt that at what time P.W. 1 came out of the office;

(ii) Relying on the evidence of D.Ws.2 and 3, the officers working in BSNL - Chennai Telephones and Airtel and Exs.D.9 and D.10, it is contended that there could not have been any telephonic conversation between the landline number of P.W. 1's house and her mobile phone, inasmuch as P.W. 1 has stated in her evidence that she left her mobile phone in the house and as such, a doubt arises as to the veracity of the prosecution version through P.W. 1;

(iii) The evidence of P.W. 1 is self-contradictory, since in the earlier portion of her chief examination, she has stated that one person caught hold of the deceased and two others instigated others to stab, while A-1 to A-4 attacked the deceased, however, subsequently, she has improved her version by giving a specific overt act to A-5 that it was he who caught hold of the deceased and to A-6 and A-7 as the instigated persons;

(iv) As per Ex.P. 1, immediately after the occurrence, two policemen came and without any delay, they sent the body to the hospital, which means only after sending the body to the hospital, P.W. 1 went to the police station and lodged the complaint and if it is so, the complaint must have been prepared at a much later point of time after the arrival of the Inspector of Police to the scene and hence, in view of the corrections made in the said complaint, Ex.P. 1, it can be easily said that it is a fabulous document prepared after much deliberation.

5.3 With regard to A-5, the learned senior counsel argued that A-5's name is not found mentioned in the F.I.R., the earliest document and even if the case of the prosecution brought out through P.W.I is accepted, A-5 has only caught hold of the deceased and inasmuch as the similarly placed accused, viz., A-6 and A-7 have been acquitted by the trial Court on the basis of the available evidence, the same benefit ought to have been extended to A-5 also and thus, the learned Counsel prayed for acquittal of A-5.

6. Per contra, learned Additional Public Prosecutor, submitted that even though most of the witnesses examined by the prosecution have turned hostile, the evidence of P.W. 1 is very much useful to the prosecution and her evidence with regard to the occurrence is cogent, unambiguous and convincing and there is no embellishments in her evidence. He reiterated the reasons that weighed the learned Sessions Judge for basing the conviction and submitted that the impugned judgment needs no interference.

7. The point that arises for consideration is whether the prosecution has succeeded in establishing its case against the appellants/accused beyond all reasonable doubts.

8. Dhanapal died of violence is indubitable as the said fact stands established through the evidence of the doctor, P.W.25, who conducted autopsy and Ex.P. 33, postmortem certificate, which would depict that the deceased died out of shock and haemorrhage caused due to the injuries sustained. Therefore, we have no difficulty at all in concluding that Dhanapal died out of homicidal violence.

9. True, it is, that out of so many witnesses examined by the prosecution as eye witnesses and to speak about the enmity between the deceased and the accused, most of them have turned hostile and the dramatis personae who remained to support the case of the prosecution are P.W. 1, daughter of the deceased Dhanapal, an eye-witness to the occurrence; P.W.6, a witness who speaks about the alleged conspiracy between the accused; mahazar witnesses, viz., P.Ws. 12 and 13, who attested the observation mahazar, Ex.P.3 and seizure mahazar for M.Os. 1 and 2 under Exs.P.4 and P.5 as well as M.O.7 under Ex.P.58; judicial witness-P.W.24, the learned Magistrate who conducted test identification parade; the medical witnesses, viz., P.W.25, the doctor who conducted autopsy and P.Ws.22 and 23, the scientific experts who tested the case properties sent for chemical examination; P.W.27, an independent witness, who is a tenant of the shop owned by the deceased Dhanpal; and apart from other official witnesses, viz., the police officials and officials working in the telephone department, P.W. 30, the investigating officer.

10. From the above, it is clear that the case of the prosecution wholly rests on the solitary evidence of P.W. 1. It is, of course, true that P.W. 1 is none else than the daughter of the deceased Dhanapal, which does not mean that she would only be interested in the deceased. It is well settled that merely because the witness is related to the deceased, his/her evidence cannot be discarded, if it is otherwise found to be trustworthy and reliable and that P.W. 1 being the daughter of the deceased would only be interested in bringing the real culprits to book and would not implicate some third parties in such a grave offence. On going through the evidence of P.W.I, even at the outset, we record that her evidence is cogent, convincing, unambiguous and trustworthy.

11. Now to the facts. The prosecution has projected the case on four dimensions, i.e.,

(i) motive behind the crime;

(ii) conspiracy hatched;

(iii) mortal attack; and

(iv) discovery of material objects at the instance of the accused supported by medical evidence.

12. The first limb of the prosecution is the motive, for which, apart from the evidence of P.W.I, we have the evidence of P.Ws.7 and 8, hostile witnesses. According to P.W. 1, in the native village of the deceased, viz. Chithavanaickkanpatti, the father of the deceased organised a Sangam and after his demise, the deceased became the President of the Sangam. It was, later, converted into a Trust and the deceased, A-8 and one Muthusamy Nadar became the trustees and they were administering the income and expenditure of the said trust. Upon such administration of trust, A-8 conflicted with the views of the deceased and thus, there was no love lost between the two. Apart from this, it is the further case of the prosecution that the deceased published a book alleging serious charges against A-8 over the administration of trust during his tenure. Further, just prior to the occurrence, the deceased made arrangements to celebrate a festival in the village temple during the Tamil month of 'Aani' (i.e. in the months of June-July), which is the usual practice of the village and it was objected to by the accused on the score that since already the festival had been conducted for that year during the Tamil month of 'Chithirai' (i.e. between the months of April-May), it should not be conducted for the second time in the same year. But, the deceased, however, decided to conduct the festival and fixed the proposed date as 5th July. The above noted factors that there was no love lost between the deceased and A-8 in the administration of trust and the conducting of two festivals in a year have also been corroborated by the evidence of P.Ws.7 and 8 to the effect that A-8 objected to the accounting process of the trust and that the deceased made arrangements for conducting festival by printing and distributing

notices to the villagers. It is trite that the evidence of hostile witnesses can be relied upon for the purpose of corroboration with the other evidence. Further, the prosecution has also adduced some documents, viz., Exs.P.59 to P.66 with regard to the complaints and cases in between the deceased Dhanapal and the accused. From the above, it is evident that the accused were harboring a grudge against the deceased Dhanapal and thus, we have no hesitation to hold that the prosecution has established the motive part of the occurrence.

13. To establish the charge of conspiracy hatched between A-8 and other accused, the prosecution examined P.W. 6, according to whom, when he went to the house of A-8 to give invitation of his uncle's son Devendran, he heard A-8 telling the other accused to finish off Dhanapal and that he will look after the court expenses. However, the above evidence of P.W.6 has been disbelieved by the learned trial Judge on the ground of his suspicious present at the house of A-8 to give invitation, when his uncle himself was very much present in the village and his uncle, who already knew A-8, being the eldest person in the village, would have given the invitation personally and he need not request P.W.6 to give invitation. The learned trial Judge, thus rejected the version of P.W.6 on the charge of conspiracy and exonerated the accused from this charge. We find no reason to take a different view from the one taken by the learned trial Judge and we uphold the said acquittal.

14. As regards the occurrence proper, the only evidence available is the evidence of P.W. 1, the other eye-witnesses examined by the prosecution having turned hostile. At the outset, we may have to say that by giving a clear and cogent evidence, P.W.I has emboldened the case of the prosecution without any serious infirmities and embellishments. The venue of the offence is the walkers' road along Marina Beach and according to P.W.I, at about 7.30 p.m. on 1.7.2005, when she went along with her father, the deceased Dhanapal, for a walking, the accused surrounded the deceased and while A-5 caught hold of the deceased, A-6 and A-7 instigated others to stab and A-1 to A-4 mounted the lethal attack on the deceased. P.W. 1, being the solitary witness to support the prosecution case, her evidence has to be scrutinised in a very careful and cautious manner and it has to be seen that in spite of certain discrepancies in details, contradictions in narrations

and embellishments in inessential parts, it does not militate in any way against the veracity of the testimony; on the other hand, it conforms to probability in the substantial fabric of testimony delivered. The learned trial Judge has dealt with the testimony of P.W. 1 in depth and spun out contradictions and tested with precision, of course, with the other available evidence on record. It is to be stated here that the learned trial Judge had the advantage of observing the demeanour and delivery and of reading the straightforwardness and doubtful candour of P.W. 1 and arrived at the conclusion that P.W. 1 is a truth speaking witness and her evidence is natural and believable without any artificiality. We cannot make a fetish of the trial Judge's psychic insight.

15. Coming to the case, let us now sift the evidence of P.W. 1 from the proper perspective outlined above, on the defence theory put forward by the learned senior counsel for the appellants/accused.

16. Firstly, a fragile attempt was made by the learned senior counsel about the genuineness and truthfulness of Ex.P.1. It is contended that the mentioning of fathers' name of A-1 to A-4 and the non-mentioning of the names of A-5 to A-7 in the complaint create a suspicion that the present complaint could have been prepared after much deliberation. It is to be remembered at this stage that after the arrival of the two policemen to the scene of crime, P.W. 1 immediately left the scene without any delay to the police station and lodged the complaint in half-an-hour and there is also no delay in the F.I.R. reaching the hands of the Magistrate. In the complaint, P.W.I has specifically mentioned the names of A-1 to A-4 with their fathers' name, though she has not stated the names of A-5 to A-7, however she has stated that A-1 to A-4 and some others. We could see that P.W. 1 wanted to give a clear picture so as to help the prosecution to proceed with the investigation in the proper perspective and in the absence of any delay in setting the law in motion, we find no substance in the contention of the learned Counsel that the present complaint is a fabricated one. In fact, the prosecution has conducted a Test Identification Parade through the learned Magistrate, P.W.24, in which P.W. 1 has identified the other accused and even while giving evidence in the witness box, she has also clearly attributed overt acts against A-5 to A-7. It is, of course, no doubt that much reliance cannot be placed on the first information

statement, as it is not a substantive piece of evidence. But, however, if there are corroborative materials, the said complaint can be looked into.

17. Furthermore, it is contended that in the said complaint, it is stated as though only after the body was sent to the hospital, P.W. 1 came and lodged the complaint at the police station, which is contradicted by her own evidence and the evidence of P.W.30, investigating officer that after the arrival of P.W.30, the body was sent to mortuary. The above discrepancy, though looks trivial in nature, while P.W. 1 was cross-examined on this aspect, she has clearly stated that since the two policemen, who reached the scene immediately after the occurrence, gave assurance that they will take care of the body of the deceased and send the same to the hospital, she went and lodged the complaint at the police station and as such, she has stated so in the complaint. This answer of P.W.I washed out the defence suggestion completely to the ground.

18. The next is the contention of the learned senior counsel that P.W. 1 could not have been present at the time and place of occurrence, as alleged by the prosecution in light of the oral evidence of D. W. 1, an ex ecutive in the administrative cadre and the documentary evidence, viz., Exs.D.6 and D.7, marked through him. As per the above oral and documentary evidence, what could be culled out is that P.W. 1 attended the office on 30.6.2005 at about 8.30 a.m. and left the office at about 10.21 p.m.; that on 1.7.2005 she entered the office at about 9.26 a.m. by swiping the ID card given to her by the company; that she went to the I block at the second floor at about 4.33 p.m.; and that there is no detail about the exit of P.W. 1 from the company on that day. Further, it is pointed out by the learned senior counsel that P.W. 1 has admitted in her cross that she left her ID card in the office on the date of occurrence. From the above, the defence wanted to make out a theory that P.W. 1 would have left the office only after 8.00 p.m., probably after some one informed her about the brutal attack on her father. Further, D.W. 1 has stated that in order to maintain the secrecy of the company's affairs, they have given the swipe cards to their employees and without swiping the same, they cannot ingress or egress the company. However, in the cross-examination of P.W. 1, she has admitted that some times they do not swipe their cards while they ingress or egress the company, which ought not to have been

done by them. If really P.W. 1 was present in the office at the time of occurrence and only on hearing the occurrence, she left the office, the defence ought to have elicited the same from D.W. 1 by putting a specific question about the presence of P.W. 1 in the office or should have examined any other witness, who is a co-employee to P.W. 1 to the effect that P.W.I was very much present in the office along with him/her and only on hearing the news about the attack on her father, she left the office. Absent such reassuring factors, P.W. 1's evidence passes the test of credibility for us to hold that at the time of occurrence, she was very much present with her father and witnessed the incident.

19. Through the evidence of D.Ws.2 and 3, the officials working in the telephone departments, viz., BSNL Chennai Telephones and Airtel respectively, and through Exs.D.9 and D. 10, the defence contended that there cannot be a telephonic conversation at 9.30 p.m. on 1.7.2005 from the mobile phone of P.W. 1 to the landline number available in the house of P.W. 1, since even according to P.W. 1 on the date of occurrence, she left her mobile phone in her house. This defence theory does not hold water because in between 7.30 p.m., the time at which the occurrence took place and 9.30 p.m., the time at which the telephonic conversation is said to have been made, the possibility of P.W. 1 getting her mobile phone back from her house cannot be ruled out and after receiving her mobile phone, she would have made call to her family members at the residence. Therefore, this contention also fails.

20. Now, coming to the next contention that in view of the self-contradicted version of P.W. 1 with regard to the alleged overt act of A-5, we may have to say that P.W.I has specifically stated in her earlier portion of her evidence that one person caught hold of the deceased and two others instigated the other accused to attack the deceased and in order to give a clear version, she has again stated that it was A-5 who caught hold of the deceased and it was A-6 and A-7 who instigated the other accused. It cannot be construed as an improvement or embellishment, as both the versions are available in the chief-examination itself.

21. Coming to the last contention that since A-6 and A-7 have been acquitted of all the charges based on the evidence of P.W. 1, the same benefit has to be

extended to A-5 also, as A-5 stands' on the samp footing as that of A-6 and A-7. Apart from the evidence of P.W.1 as to the overt act of A-5 that he caught hold of the deceased, we have yet another circumstance against A-5 and that is the recovery of his blood-stained shirt, M.O.7, at his instance after his arrest by the investigating agency under Ex.P.58 mahazar. When the material object was sent for chemical examination, the scientific experts, P.Ws.22 and 23 issued Exs.P.28 to 30, biological report and serological reports to the effect that the blood-stained found in the said material object was of 'A' blood group, tallying with the blood-group of the deceased. When this incriminating circumstance was put against A-5 while he was questioned under Section 313, Cr.P.C., he has simply denied the same and no proper explanation was offered. It is unfortunate that the learned trial Judge acquitted A-6 and A-7 from all the charges and the prosecution had not chosen to file any appeal against their acquittal for the best reasons known to them. In any event, inasmuch as the evidence of P.W. 1 is very specific as to the overt act attributed to A-5 and in view of the recovery of blood-stained shirt from A-5 after his arrest, which stands unexplained, we are not inclined to acquit A-5 on the benefit of acquittal that was extended to A-6 and A-7.

22. The recovery of knives, viz., M.Os.3 to 6 at the instance of A-1 to A-4 has also been remained unrebutted by the defence, which has strengthened the case of the prosecution. The medical evidence through the post-mortem doctor, P.W.25, discloses that the deceased sustained 13 stab injuries and according to the doctor, the deceased died due to shock and haemorrhage on account of the injuries sustained, which stands corroborated with the evidence of P.W. 1 that the accused attacked the deceased brutally on various parts of his body.

23. For the foregoing discussions, we must observe that even if the case of the prosecution stands on the sole testimony of one witness, it is good enough to sustain the conviction if there is clear and unimpeachable evidence making out the guilt of the accused. The evidence of P.W. 1 inspires much confidence in the mind of this Court and even if she is persuaded to be an interested witness and thus, corroboration requires, we have such corroboration in this case by way of motive, recovery of material objects and medical evidence.,

24. Before parting with this, we may have to observe in the words of Viscount Simon that 'a miscarriage of justice may arise from the acquittal of the guilty no less than from the conviction of the innocent...'. As already observed in the earlier part of the judgment and at the risk of repetition, the cherished principles of proof beyond reasonable doubts should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. A balance has to be struck between chasing chance possibilities as good enough to set the delinquent free and chopping the logic of preponderant probability to punish marginal innocents. In short, the jurisprudential enthusiasm must have a pragmatic approach to the presumed innocence to make criminal justice potent and realistic.

25. For all these reasons, we hold that the learned trial Judge was justified in finding the appellants guilty of the charges and accordingly, convicting and sentencing them. We find no reason to interfere with the well-founded judgment of the trial Court. The appeal is, accordingly, dismissed.