Krishnegowda & Ors vs State Of Karnataka By Arkalgud Police on 28 March, 2017

Equivalent citations: AIR 2017 SUPREME COURT 1657, 2017 (13) SCC 98, AIR 2017 SC (CRIMINAL) 658, 2017 (2) AJR 603, 2017 (2) AKR 796, (2017) 2 RECCRIR 432, (2017) 2 CRIMES 34, (2017) 4 SCALE 42, (2017) 2 CURCRIR 91, (2017) 2 ALLCRIR 1633, (2017) 4 KCCR 2884, (2017) 2 ALLCRILR 574, (2017) 2 CRILR(RAJ) 563, 2017 CRILR(SC MAH GUJ) 563, (2017) 2 DLT(CRL) 143, (2017) 3 JLJR 14, (2017) 2 ALD(CRL) 42, (2017) 2 BOMCR(CRI) 407, (2017) 1 UC 681, (2017) 99 ALLCRIC 691, (2017) 3 PAT LJR 145, (2017) 67 OCR 194, 2017 CRILR(SC&MP) 563, (2017) 173 ALLINDCAS 178 (SC)

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Bench: Prafulla C. Pant, N. V. Ramana

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 635 OF 2006

KRISHNEGOWDA & ORS. ... APPELLANTS

VERSUS

STATE OF KARNATAKA BY ARKALGUD POLICE ... RESPONDENT

WITH

CRIMINAL APPEAL NO. 1067 OF 2006

NANJE GOWDA & ANR. ... APPELLANTS

VERSUS

STATE OF KARNATAKA BY ARKALGUD POLICE ...RESPONDENT

JUDGMENT

N.V. RAMANA, J.

These two appeals arise out of a common judgment and order passed by the Division Bench of the High Court of Karnataka in Criminal Appeal No. 763/1999 wherein the High Court has set aside the order of acquittal passed by the Trial Court and convicted the accused under various sections of Indian Penal Code (for short 'IPC').

2. The Criminal Appeal 635/2006 is preferred by accused [A1, A4 and A10] who were convicted by the High Court for the offence punishable under Section 324 read with Section 149, IPC and sentenced them to undergo imprisonment for a period of one year and to pay a fine of Rs. 500/-, in default to undergo 2 months further imprisonment. A10 was further convicted for the offence under Section 323, IPC and imposed fine of Rs 500/- and in default to undergo imprisonment for a further period of 2 months.

3. The Criminal Appeal 1067/2006 is preferred by accused Nos. 2 & 5 who were convicted by the High Court for the offences punishable under Section 302 read with 34, IPC and Section 324 read with 149, IPC. Under Section 302 they were sentenced to undergo life imprisonment and to pay fine of Rs 10,000/-, in default to undergo further imprisonment for one year. Under Section 324 the punishment imposed was imprisonment for a period of one year and fine of Rs 500/- and in default to undergo imprisonment for a further period of 2 months.

4. Brief facts as unfolded by the prosecution are that Chennegowda (deceased), the resident of Mudugere Village, had 12 acres of land near Masarangala Village out of which eight acres were consisting of coffee plantation and four acres were wet land. Due to construction of bridge over Hemavathi river which caused submersion of some surrounding lands in the backwaters, Channegowda and his sons used to pass through the cart track in Survey No. 42 and other lands in Survey No. 43 belonging to the accused persons since they were located between coffee estate of Chennegowda and the road to Kendenne village, to have access to his coffee estate, the deceased could get a road sanctioned from the authorities. Accused No. 7, Rajappa got temporary injunction against that sanction which led to the deceased to move the Court and got the temporary injunction vacated. When a Court commissioner inspected the disputed lands, a quarrel had erupted between the accused and victim parties. The Panchayat settled the issue by directing the deceased to pay Rs.1000/- to the brother of Accused No. 13. Accordingly the payment was made but the enmity between the two groups continued.

5. In the backdrop of this factual scenario, on 27th February, 1991 at about 8 am, when Sannegowda (PW1), Channegowda (PW5) and Swamygowda (PW6) - all belonging to victim party, were carrying milk to the collection centre of Daarikongalale village, accused Nos. 1 to 7 and 9 to 13 formed into an unlawful assembly and restrained Sannegowda (PW1) near Higher Primary School and assaulted him with clubs and stones. At that point of time Channegowda (father of PW1), Mogannagowda (PW2) and Papegowda (PW3) came and interfered questioning the accused reasons for the assault. Then Puttegowda (A5) and Nanjegowda (A2) attacked Channegowda (father of PW1) seriously injuring him with chopper and club respectively. Sannegowda (PW1), Moganangowda (PW2) and Papaegowda (PW3) were injured at the hands of A2 and A3. The injured were shifted to hospital and the same was informed to police.

6. The Investigating Officer, Lakshmi Prasad, PSI (PW19) recorded the statement (Ex.P1) of Sannegowda (PW1) and registered the case against Krishnegowda (A1) and five others for the offences punishable under Sections 143, 147, 148 and 324 read with Section 149, IPC. Meanwhile, the seriously injured Channegowda (father of PW1) was treated in S.C. Hospital at Hassan for two days, thereafter he was shifted to NIMHANS, Bangalore, from there to Victoria Hospital, Bangalore and finally again to S.C. Hospital at Hassan where on 6th March, 1991 he succumbed to the injuries. Consequently, charge under Section 302, IPC was added against the accused, inquest report prepared, postmortem conducted, statements of witnesses have been recorded and Investigating Officer got prepared sketch of scene of occurrence and seized choppers and clubs from the place of occurrence and sent it to Forensic Science Laboratory at Bangalore.

7. The Principal Sessions Judge at Hassan took cognizance of the offence and framed charges. Before framing charges, accused No. 8 died. Hence charges were framed against remaining 12 accused for the offences punishable under Sections 148, 302/149, 324/149 and 323/249 of IPC. In order to bring home the guilt of the accused, prosecution examined 22 witnesses, PWs 1 to 6 and 11 being eyewitnesses, marked Ext. P-1 to P-41 and MOs 1 to 6 were produced at trial. However, in defence no witness was examined on behalf of the accused.

8. The Trial Court after a full fledged trial has acquitted the accused as the Court came to the conclusion that the prosecution could not prove the guilt of the accused beyond reasonable doubt. The whole emphasis and basis for the Trial Court to come to such a conclusion is on the following:

> The evidence of the eyewitnesses is inconsistent and not trustworthy. The first information report did not contain the names of accused and this would lead to the inference that the evidence given by PW1 before the Court is an obvious improvement.
>
> The evidence of PW2 is that A11 & 12 hit the deceased with stones on his chest which is not spoken by PW1 and also not supported by medical evidence. When there is inconsistency between medical evidence and ocular evidence, the benefit of doubt should be given to the accused. The omission on the part of the prosecution to explain the injuries on the person of the accused assumes greater importance. In view of the inherent improbabilities, the serious omissions and infirmities, the prosecution miserably failed to prove the case.
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> The police suppressed the factum of the direction given to police to seize the gun held by the deceased and to include an offence punishable under relevant Sections of the Arms Act.
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> Accused Nos. 7-13 were implicated in the case after 06-03-1991 as their names do not find place in the first or second FIR.
>
> The prosecution has not stated PW4 as witness and PW 1 & 2 had not mentioned about his presence at the time of occurrence. The evidence of PW5 is not consistent

with other witnesses. The evidence of the Investigation Officer and PW 1 & 2 with regard to the arrest is inconsistent with others and appears to be tainted. The blood found on MO4 is of 'O' group and both the blood groups of the deceased and A5 are of same group.

The statement given by PW1 is inconsistent with previous statement recorded by police u/sec 171, CrPC.

PW2 who was injured on 27-02-1991 went to hospital on 08-03-1991 for examination and treatment which creates an amount of doubt.

Basing on the above inconsistent evidence of prosecution witnesses with that of medical evidence and other probable circumstances, Trial Court came to the conclusion that the prosecution could not prove the guilt of the accused beyond reasonable doubt and therefore acquitted the accused from the offences charged against them.

Aggrieved by the judgment passed by the Trial Court, the State of Karnataka carried the matter to the High Court. The Division Bench of the High Court being conscious of the powers of the appellate Court in an appeal against acquittal observed that, appellate Court should not interfere with the order of the acquittal, if the view taken by the Trial Court is also a reasonable view of the evidence on record and the findings recorded by the Trial Court are not manifestly erroneous, contrary to the evidence on record or perverse proceedings. The High Court went ahead to scrutinize the legality or otherwise of the order of acquittal.

The High Court has compartmentalized the reasons given by the Trial Court and thereafter dislodged the same one by one on the following grounds:

PW1 to PW3 who are sons of deceased consistently deposed about the injuries inflicted by A2 & A5 and their evidence is consistent and unshaken. The evidence of PW1 establishes factum of happening of the incident. Even though there were contradictions in the evidence of eye witnesses it does not affect the pith and substance of eye witnesses. Hence need not be considered.

Though these witnesses are interested witnesses they are natural witness and nothing contra is elicited as such their evidence has to be taken into consideration.

Though the evidence with regard to injuries on the chest of the deceased allegedly inflicted by A11 & 12 is contrary to medical evidence, still the reliable testimony of the eyewitnesses cannot be disregarded and these contradictions will not go to the root of the matter. The medical evidence of PW10 fully corroborates with the evidence of eyewitnesses with regard to the injuries sustained by the deceased at the hands of A 2 & 5.

The motive for the commission of offence is successfully established. The investigation by the police is fair and genesis of the incident is not suppressed as everything is in black and white.

The presence of PSI (PW 19) at the place of occurrence before recording the complaint (Ex-P1) is not a serious infirmity in the prosecution case when the evidence of eyewitnesses is straightforward and there is nothing to show that Ex-P1 was concocted.

The other aspects such as initially arresting Sannegowda and Mogannagowda, sons of deceased and later on transposing them as PWs 1 & 2, medical examination of PW 2 taking place on 08-03-1991 when he was injured on 27-02- 1991, the MOs 1, 2 and 4 stained with blood and the blood group of deceased and A5 being same 'O' group, inconsistency in the evidence of PW1 relating to non mentioning of the names of A2 and A5 are not at all 'fatal' to the case of the prosecution.

The seizure of weapons from the place of occurrence and later at police station, are not serious defects.

The High Court found only A2 & A5 had common intention in taking away the life of the deceased and others did not have common intention. A1 to A5, A9 and A10 have common object of assaulting PW1. The High Court felt that Trial Court's view was perverse, erroneous and contrary to the evidence available on record, hence it is a fit case where the appellate Court has to interfere with the order of acquittal passed by the Trial Court.

The High Court found A2 and A5 guilty of committing the offence under Section 302/34, IPC and sentenced them to life imprisonment and to pay a fine of Rs.10,000/- each, in default, to suffer further imprisonment of one year. A1 to A5, A9 and A10 were convicted under Section 324/149, IPC and sentenced to suffer imprisonment for a period of one year and to pay fine of Rs.500/-, in default, to suffer further imprisonment of two months. Whereas A6, A7, A9, A10 and A13 were convicted under Section 323, IPC and they were directed to pay a fine of Rs.500/-, in default, to suffer two months imprisonment. The substantive sentences were directed to run concurrently.

That is how A 1, 3, 4 and 9 are before this Court by way of special leave petition. On 11th May, 2006 this Court granted leave to accused Nos. 1, 3 and 4 making them appellants in Criminal Appeal No. 635 of 2006. The Court however dismissed the S.L.P. of accused No. 9, Ramesha, as he has not surrendered. Accused Nos. 2 and 5 have preferred Criminal Appeal No. 1067 of 2006 challenging the order of the High Court.

We have heard the learned counsels appearing on either side and perused the material available on record.

Learned counsel appearing for the appellant has submitted that the Court below has failed to appreciate the case and counter case. There are several contradictions in the evidence of prosecution witnesses on several material aspects and the same goes to the root of the matter. It is urged that the medical evidence is not in consonance with the ocular evidence. The prosecution witness has concealed the genesis of the incident and did not place the true facts before the Court. Because the prosecution party was politically influential, the complaint lodged by the father of A5 was not investigated properly by the police. Even the injuries on A5 were not properly explained and these are latches on the part of investigation and fatal to the case of prosecution. In support of the same senior counsel relied on the judgment of Takhaji Hiraji V. Thakore Kubersing Chamansing & ors, (2001) 6 SCC 45 and also placed reliance on State of MP V. Mishrilal (dead) & Ors., (2003) 9 SCC 426. Non-mentioning of the names of A2 & A5 at the earliest point of time is lapse on the part of investigation and the High Court committed a serious error of law in not taking these factors into consideration. The learned senior counsel finally submitted that the High Court based its conclusion by ignoring several material factors and hence the impugned judgment needs to be set aside.

Learned counsel appearing for the State supported the impugned judgment.

Now the issue that falls for consideration before us is whether the High Court was justified in reversing the order of acquittal passed by the Trial Court.

In view of the voluminous evidence placed on record and the divergent views taken by the Courts below, it has become imperative for us to evaluate the material on record in detail to come to a just conclusion. First and foremost we would like to analyze the oral evidence adduced by the prosecution in support of its case.

Oral Evidence: (i) PWs 1 to 3 are sons of the deceased. As rightly observed by the High Court their evidence is consistent about one aspect that is with regard to the injuries sustained by the deceased at the hands of accused, but the evidence on record makes it clear that there are several contradictions in the evidence of the witnesses which creates doubt in the mind of the Court as rightly observed by the Trial Court.

(ii) According to PW1 on 27-02-1991 he took milk to the milk collection centre at Parikongalale Village along with PW5 & PW6 at 07:30 a.m. At that time A1, A3, A5, A6 held him and assaulted him with clubs and stones and fisted him. Then he has narrated how A1, A2, A3 and A4 assaulted him. Then the deceased, PW2 & PW3 came to the place of occurrence and asked him why they are assaulting PW1. A5 & A2 with chopper and club again assaulted their father and he fell down and became unconscious. Then PW6 carried his father to the veranda of the school and laid him down. After that again A2, A3, A10 assaulted his brother. At that time police came to the scene of offence at

10 a.m. and shifted the deceased and PW1 to the hospital and then he wrote a complaint and gave it to the police. Police recorded the statement and it is attested by him.

(iii) Again at the time of inquest his statement was recorded by the police. Then in the cross examination PW1 has deposed altogether a different version with regard to the injuries inflicted by the accused on him and PWs 2 & 3 and added A5 & A10 for the first time. It is stated by him that his statement was recorded by police at 12 pm and he has not given any complaint in writing. He further states that he has not given the names of accused to the police. He denied the fact that father of A5 gave a complaint to the police against their family at 10 a.m on 27-02-1991 and police seized the gun. Then for the first time he stated the names of the accused who assaulted at the time of inquest.

(iv) A close look at the evidence of PW2 reveals that according to him they reached the scene of offence along with deceased at 9 a.m. A1-7 and A 9-13 were present there by the time they reached the place. His evidence was consistent with regard to injuries inflicted by A2 and A5 but stated that A11 and A12 inflicted injuries on the deceased with stones which is contrary to the medical evidence. He stated that the weapons were recovered from the drain. According to PW1 he left the place at 07:30. As per PW2's version, PW1 left the place at 06:30 and PW3 gave a different version with regard to reaching the place. According to him they reached the place at 07:30 or 08:00 a.m and very interestingly he deposed that his father fell into the drain and later he was lifted from there and laid him in the school veranda.

(v) Later police reached the place of occurrence at 09:00 a.m. and Police have arrested PWs 2 & 3 and released them at 05:00 p.m. He has specifically stated that police have not seized and sealed the chopper marked as MO 4. According to PW3, when they reached the place of occurrence, only 4-5 persons were there. According to PW2 all accused persons were present and even with regard to injuries also he took a contra stand. As per his version the whole incident has taken place for 15 minutes i.e. between 08:30-08:45 a.m. PW4 was not cited as a witness but was examined as a witness. Whereas PW5 gave altogether a different version. According to him, incident took place at 07:00 a.m. and A6 & A2 were standing near the culvert. He released PW1 from clutches of the accused. According to him, police came at 09:00 a.m. This aspect was also not deposed by PW1. PW6 states that A6 holding PW1's collar which was also not deposed by PW1. According to him, he has attended the seizure mahazar but the MOs were not shown to him nor, any seal was affixed on them at the time of seizure.

(vi) The next important evidence is that of Doctor i.e. PW10. According to PW10 the weapons were not sent to him for opinion. PW10 in his cross examination has categorically deposed that the injuries 1 & 4 are possible if a person were to fall on the curve stone of a drain.

(vii) PWs 13 and 15 are the Head Constables and PW 19 is the Inspector of Police (I.O.). According to PW13, SI has registered the complaint at 11:30 a.m. and 2nd FIR was registered altering the Sections on 06-03-1991. PW15 deposed that 'galata' was informed to them at 09:15 am and they reached the scene of offence at 10 a.m. PW1 had not sustained any visible injuries. PW1 took the SI near to the drain. In the cross examination he said that at 08:00 a.m. 'galata' took place and he does not know how they came to know about the information. When they reached the scene of offence

50-60 persons were present there. SI (PW19) reached the place of occurrence at 10:15 am and enquired PW1 and others. The evidence of PW19 in the chief is that at 08:00 a.m. he came to know about the incident, went to the scene of occurrence along with PWs 15 & 18. Chopper, stones, club were lying near the place. By the time they reached the place at 08:15 a.m., 10 to 15 persons were present. He has not made any enquiry and, he has recorded Ex. PI in police station at 10:30 a.m. on the same day. He returned to the police station at 09:45 a.m. It is specifically stated that he has not arrested PWs 1, 2 & 3 and has not produced sample seal.

Having gone through the evidence of the prosecution witnesses and the findings recorded by the High Court we feel that the High Court has failed to understand the fact that the guilt of the accused has to be proved beyond reasonable doubt and this is a classic case where at each and every stage of the trial, there were lapses on the part of investigating agency and the evidence of the witnesses is not trustworthy which can never be a basis for conviction. The basic principle of criminal jurisprudence is that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt.

Generally in the criminal cases, discrepancies in the evidence of witness is bound to happen because there would be considerable gap between the date of incident and the time of deposing evidence before the Court, but if these contradictions create such serious doubt in the mind of the Court about the truthfulness of the witnesses and it appears to the Court that there is clear improvement, then it is not safe to rely on such evidence.

In the case on hand, the evidence of eyewitnesses is only consistent on the aspect of injuries inflicted on the deceased but on all other factors there are lot of contradictions which go to the root of the matter.

Even with regard to seizure of weapons it was observed by the Trial Court that at one breath it was stated that the MOs were seized from the scene of offence and another version was they were seized in the police station and consistently it was stated that the MOs were not sealed and the Doctor observed that those were not sent to her for opinion. Then the immediate question which comes to the mind of a prudent person is whether the MOs which are before the Court were the ones seized from the scene of offence. Hence an adverse inference has to be drawn on the prosecution case. The witnesses gave different versions on how the weapons were seized. Some of them indicated that they were in the drain and some other witnesses said that they were lying on the ground at the place of occurrence. The High Court was correct so far as not attributing importance to the injuries inflicted by A 11 and 12 as it did not go to the root of the matter.

In the evidence of the prosecution witnesses in respect of exact time when the incident had happened, who were the people present at the scene of offence, the time of police reaching the scene of offence, place of registering the complaint, there were lot of variations. According to PW1 the complaint was recorded at hospital at 12 p.m. whereas the Investigating Officer deposed that he registered the complaint at 10:30 a.m. at the police station. PWs 1-3 say that they were arrested by Investigating Officer but the I.O. gave a contradictory statement that he has not arrested them. PW1 initially gave a statement before the police saying A1, A5, A3, A4 had not assaulted him. Later he

gave a contradictory statement which is marked as Exhibit D1.

The eyewitnesses have not mentioned the names of accused 7 to 13 in any of the FIR and subsequent addition of their names after 06-03-91 clearly demonstrates that it was an afterthought, only to implicate them.

25. It is to be noted that all the eyewitnesses were relatives and the prosecution failed to adduce reliable evidence of independent witnesses for the incident which took place on a public road in the broad day light. Although there is no absolute rule that the evidence of related witnesses has to be corroborated by the evidence of independent witnesses, it would be trite in law to have independent witnesses when the evidence of related eyewitnesses is found to be incredible and not trustworthy. The minor variations and contradictions in the evidence of eyewitnesses will not tilt the benefit of doubt in favor of the accused but when the contradictions in the evidence of prosecution witnesses proves to be fatal to the prosecution case then those contradictions go to the root of the matter and in such cases accused gets the benefit of doubt.

It is the duty of the Court to consider the trustworthiness of evidence on record. As said by Benthem, "witnesses are the eyes and ears of justice". In the facts on hand, we feel that the evidence of these witnesses is filled with discrepancies, contradictions and improbable versions which draws us to the irresistible conclusion that the evidence of these witnesses cannot be a basis to convict the accused.

Latches in Investigation: (i) One of the major lacuna in the case is non- mentioning of the names of A2 & A5 by PW1 to the police at the earliest point of time. The High Court went wrong in observing that this will not amount to latches and it will not go to the root of the matter. These are the glaring defects which will virtually collapse the case of the prosecution. It is no doubt true that the FIR need not be an encyclopedia and also it need not contain all the details but when the names of A2 & A5 were not figured in the FIR it casts a doubt on the whole episode. According to the eyewitnesses, accused had inflicted major injuries and that was the reason for the death of the deceased. It is expected from a prudent man to disclose the names of accused. If the accused cannot be identified or not known to the PWs then it is not a serious thing to dwell upon but these people are very much known to PW1's family. It therefore creates a serious doubt in the mind of the Court.

(ii) The other glaring defect in the investigation is when A1 has sustained injuries and admittedly a complaint was given by his father, a duty is cast upon the prosecution to explain the injuries. The doctor has also categorically deposed about the injuries sustained by A1. These lapses on the part of Investigating Officer assume greater importance and prove to be fatal to the case of the prosecution. When the Investigating Officer deposed before the Court that the complaint given by A5's father was investigated and he filed 'B form' and the case was closed, not marking the document is fatal to the case of prosecution. Investigating Officer further suppressed the fact that there was a direct evidence to seize the gun used by the deceased and register a complaint against the deceased under the relevant provisions of the Arms Act which is evident from the endorsement made on Exhibit P22.

(iv) The Investigating Officer himself deposed that he had not seen the MOs and as per the punch witnesses also they were not seized. The Doctor (PW10) deposed that those articles were not placed

before her and no opinion was sought.

(v) PW2 was also an injured witness. According to the prosecution he was injured on 27-02-1991. But he went to the hospital on 08- 03-91 and the reasons for delay were left unexplained.

It is settled law that mere latches on the part of Investigating Officer itself cannot be a ground for acquitting the accused. If that is the basis, then every criminal case will depend upon the will and design of the Investigating Officer. The Courts have to independently deal with the case and should arrive at a just conclusion beyond reasonable doubt basing on the evidence on record.

Medical Evidence: When we look at the medical evidence, the Doctor (PW10) has categorically stated that the weapons were not sent to her. In the chief examination, it was stated that the injuries 1 & 4 on the body of the deceased are possible with chopper and club. But in the cross examination it was deposed that even if a person falls on a sharp object these injuries could happen. According to PW3, the deceased fell into the drain.

As per the evidence of prosecution witnesses, accused by using the sharp edge of the weapon assaulted on the right side of the forehead but the Doctor's evidence in this regard is that the deceased has not sustained incised wound on the forehead. PW10 further stated that if a person is assaulted with an object like MO4 it would result in fracture of frontal bone.

(ii) The other ground is, when the father of A5 gave a complaint against the deceased's family as the police filed 'B form' the same was closed and not filed before the Court. Apart from that, the direction of the Court to seize the gun of the deceased and file a case under the relevant provisions of the Arms Act was not brought to the notice of the Court. Non explanation of injuries on A5 is another major defect.

Once there is a clear contradiction between the medical and the ocular evidence coupled with severe contradictions in the oral evidence, clear latches in investigation, then the benefit of doubt has to go to the accused.

Going by the material on record, we disagree with the finding of the High Court that the ocular evidence and the medical evidence are in conformity with the case of prosecution to convict the accused. The High Court has brushed aside the vital defects involved in the prosecution case and in a very unconventional way convicted the accused.

The Court should always make an endeavor to find the truth. A criminal offence is not only an offence against an individual but also against the society. There would be failure of justice if innocent man is punished. The Court should be able to perceive both sides i.e. the prosecution as well as the defence and in our considered opinion the judgment of the High Court suffers from several defects as discussed in the preceding paragraphs.

Hence we deem it appropriate to set aside the judgment of the High Court and re-affirm the order of acquittal passed by the Trial Court. The accused shall be set at liberty provided they are not required

in any other case. Accordingly the appeals are allowed.

.....J (N. V. Ramana) .....J (Prafulla C. Pant) New Delhi Dated: March 28, 2017