Ram Lakhan Singh And Ors vs The State Of Uttar Pradesh on 6 May, 1977

Equivalent citations: 1977 AIR 1936, 1978 SCR (1) 125, AIR 1977 SUPREME COURT 1936, (1977) 3 SCC 268, 1977 CRI APP R (SC) 221, 1977 SCC(CRI) 474, 1977 SC CRI R 357, 1978 (1) SCR 125

Author: P.K. Goswami

Bench: P.K. Goswami, A.C. Gupta, P.N. Shingal

PETITIONER:
RAM LAKHAN SINGH AND ORS.

Vs.

RESPONDENT:
THE STATE OF UTTAR PRADESH

DATE OF JUDGMENT06/05/1977

BENCH:
GOSWAMI, P.K.
BENCH:
GOSWAMI, P.K.
GUPTA, A.C.
SHINGAL, P.N.

CITATION:
1977 AIR 1936 1978 SCR (1) 125
1977 SCC (3) 268

ACT:
Indian Penal Code, ss. 396 and 302/149, conviction and death sentence under-Admitted enmity between accused and family of deceased-Independent neighbouring witnesses not examined by prosecution-When crime established but criminals' participation questionable, conviction not maintainable. Under Art. 136 when appreciation of the entire evidence is undertaken.

HEADNOTE:
A dacoity was committed in village Jafrapur at about 9 P.M. The inmates of the house raised alarm. A large crowd gathered at the gate and lit a fire to add to the moonlight to enable recognition of the dacoits who opened fire and

murdered three members of the family. The accused were of neighbourhood and admittedly inimical to the family of the deceased but apart from three inmates of the house, an inimical neighbour and another person, no independent witness from the crowd was examined by the prosecution. The accused were tried and convicted by the Sessions Court u/s. 396 and in the alternative under s. 302/149 I.P.C., and sentenced to death. They were also convicted under sq. 148, 395 and 324/149 I.P.C. and variously sentenced. The High Court affirmed the conviction and sentence.

On appeal by special leave, this Court agreed that the crimes were established, but doubted the appellants' participation in the same. Acquitting them of all the charges, the Court,

HELD : It is not enough in this case that the inmates were natural witnesses, and that they could correctly describe what had taken place inside the house. The real question is whether the accused have taken part in the crime and their implication in the case is free from reasonable suspicion. The appreciation of the evidence against the accused is replete with infirmities affecting the very quality of appreciation and are unable to hold that the prosecution has established the charges against the accused beyond reasonable doubt. [133 B, 135 A]

That ordinarily this Court does not reappreciate the evidence in an appeal u/Art. 136 will not stand in the way of going into the whole matter once again in such an unusual case. This Court will not deny protection under Art. 136 when there is a pervading sense of judicial unsafety in relying upon the evidence for the purpose of conviction.

The Court observed :

The police cannot conscientiously rest on their: oars after submitting a hasty charge-sheet leaving for good the track of the real,offenders of the crime.

Dagdu and Ors. etc. v. State of Maharashtra [1977] 3 S.C.R. 636, referred to.

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 423 of 1974.

(Appeal by Special Leave from the Judgment and Order dated 1-1-1974 of the Allahabad High Court in Crl. Appeal No. 1086 of 1973 and Referred no. 60 of 1973.) R. K. Garg, S. C. Agarwal, V. J. Francis, A. P. Gupta and U. P. Misra, for the,appellants.

D. P. Uniyal and O. P. Rana, for the respondent.

The Judgment of the Court was delivered by GOSWAMI, J.-There are cases where crimes are established but criminals' participation is shrouded in suspicion. This is one such case.

Three murders were committed in the course of a dacoity during the early part of the night on April 20, 1972, at about 9.00 P.M. All the inmates of the house under attack had not then finished their meals. Lights were burning. The village was awake. Accused are known and of the neighbourhood combining with four unknown persons. They came armed with fire-arms. The fire was opened and two men and one woman fell to the fatal bullets.

Shrieks and shouts came from the house as well as from the house-top where insiders took position, torchlight with one of them, shouting frantically for help. A large number of men gathered at the gate, some of them even while dacoity was going on inside. A fire was lit at the gate to add to the moonlight to enable recognition of the dacoits. What does it all lead to? Only three inmates, PWs 1 to 3, an inimical neighbour (PW 4) and a witness (PW 5), out of the hundred who gathered and who had not even been examined by the police during the investigation, are before us to testify to the guilt of the four assailants awaiting their death sentence under section 396 IPC or 302/149 IPC. A perusal of the High Court judgment shows that it was more confined to the proof of the crime than to a close scrutiny about the complicity of the accused.

The High Court in agreement with the Sessions Judge found that the witnesses were truthful since their evidence was corroborated by, medical evidence, the tattooing and scorching signs which are inevitable in any gunshot injury. Who doubts the dacoity and the accompanying murders ? But did the neighbouring enemies take part in the dacoity ? That is the principal question which has to lie established beyond reasonable doubt on the evidence of the five- witnesses.

Accused Ram Lakhan Singh, Lalloo Singh, Shitla Baksh Singh and Rameshwar Singh were convicted by the Sessions Judge under section 396 IPC and in the alternative under section 302/149 IPC and sentenced to death. They were also convicted under sections 148, 395 and 324/149 IPC and variously sentenced. The High Court affirmed the conviction and sentence. Hence this appeal by special leave. The occurrence took place at village Jafrapur about twelve miles from Jagatpur Police Station in the district of Rae Bareilly.

At village Jafrapur, there was a very well-to-do joint family of three generations living together in a large two- storied house. The family owns substantial cultivation, besides flour, saw and oil mills.

The patriarch of the family is deceased Shiv Bahadur Singh (55) who was also Pradhan of the village. The other members of the family, all living together, are his son, Udairaj Singh and his wife deceased Shmt. Lakhpat (36) and their sons, Ram Naresh Singh (22) (PW 1), deceased Ram Jas Singh (20) and Ram Kumar Singh (5) and daughters, Ram Kumari (14) (PW 3) and Kumari Nirmala (8). Shmt. Rajwati (17) (PW 2), wife of Ram Naresh Singh and Shmt. Saroj, wife of deceased Ram Jas Singh, were also living there.

The house of the accused Jai Singh, Lalloo Singh and Rameshwar Singh is close to the residence of Shiv Bahadur Singh. In the same village, Jafrapur, there was another family of accused Ram Lakhan Singh and his daughter was married to accused Shitla Baksh Singh of Manehru at a distance of about one mile from Jafrapur. It appears the case of accused Jai Singh was separated and he is not before us.

The two families of the accused were at daggers drawn with the family of the deceased. For years there have been civil and criminal litigation between them and some were pending even on the date of occurrence. Proceedings were instituted by the police against both the parties under section 107 Cr. P. C. These wire also pending on the date of occurrence. In connection with the case under section 107 Cr. P. C. guns of Udairaj Singh and Ram Naresh Singh (PW 1) were deposited with the authorities about a year before the occurrence. In December 1971 Udairaj Singh had complained to the District Magistrate, Rae Bareilly, against the accused and other members of their family stating that there was danger to their life and property. On the other hand about five or six months before the occurrence accused Shitla Baksh Singh also lodged a report against deceased Shiv Bahadur Singh, Udairaj Singh and PW Ram Naresh Singh implicating them in a dacoity and on the date of the occurrence they were on bail in that case. Shiv Bahadur Singh bad a flour mill in village Manehru. Jaddu Singh, uncle of accused Shitla Baksh Singh installed a flour mill in front of the said flour mill. Business rivalry ensued. One Mohan Mistry working in Shiv Bahadur Singh's flour mill was said to be assaulted by accused Ram Lakhan Singh and others as Mohan refused to leave Shiv Bahadur Singh's service in compliance with their wish. This led to a case under section 308 IPC against accused Ram Lakhan Singh and three others and it was fixed for trial in the Court of Sessions at Rae Bareilly on April 21, 1972, the day following the night of occurrence. In fact Ram Lakhan Singh was arrested on that day at Rae Bareilly where he went for the case.

In the backdrop of the aforesaid fierce hostility and business rivalry between the parties a dacoity with murder was committed in the house of Shiv Bahadur Singh on the night of April 20, 1972, at about 9.00 P.M. The first information report was lodged by Ram Naresh Singh (PW 1) at midnight at 12.10 A.M. at Jagatpur Police Station. The FIR contains the names of five persons, namely, accused Rameshwar Singh (65), Lalloo Singh (35), Jai Singh, Ram Lakhan Singh (45) and Shitla Baksh Singh (25). Rameshwar Singh, Lalloo Singh and Jai Singh ate brothers. Accused Ram Lakhan, Singh is the father-in-law of accused Shitla'Baksh Singh. The FIR also mentioned that there were four unknown persons with them. The FIR gave a list of 18 items of property including cash Rs. 13,500/- which were taken away by the dacoits after breaking open almirahs and boxes. The FIR gave a detailed description of the entire incident from entrance of the intruders upto their bolting away after having shot three persons dead , namely, Shiv Bahadur Singh, Ram Jas Singh and Shmt. Lakhpat. The case was registered under section 396 IPC and the police arrived at the place of occurrence at about 4.00 A.M. According to the prosecution, along with the four accused who had pistols with them, there were Jai Singh armed with a double barrel gun and four other unknown men dressed in khaki uniforms with bandoliers. At the time of occurrence, Shiv Bahadur Singh, Ram Jas Singh and Shmt. Lakhpat were taking their meals in the court-yard. These nine persons all of a sudden entered their house. Jai Singh and Lalloo Singh fired shots at Shiv Bahadur Singh and he fell down dead. Ram Jas Singh tried to escape. Accused Shitla Baksh Singh and an unknown person caught him and brought him to the court-yard. Then Shitla Baksh Singh and the unknown person fired shots at him. He also immediately died. Shmt. Lakhpat, Shmt. Rajwati, Shmt. Saroj and Shmt. Ram Kumari ran into a room and chained the door from inside. The assailants broke open the door and accused Jai Singh and Ram Lakhan Singh entered the room and brought out Shmt. Lakhpat. The other women also came out of the room. Then Jai Singh and Ram Lakhan Singh shot Shmt. Lakhpat dead. At that time Shmt. Ram Kumari also received injury from a pellet but was not directly attacked. The unknown persons then broke open two almirahs in the north verandha and

took out a sum of Rs. 13,500/-. They also entered a room and broke open boxes and took out ornaments. The dacoity continued for 20/25 minutes after which all the assailants ran away firing shots in the air.

The prosecution relied upon the evidence of Ram Naresh Singh (PW 1), Rajwati (PW 2) Ram Kumari (PW 3), Rahim Bux (PW 4) and Ram Kishun (PW 5). Both the Sessions Judge and the High Court accepted their testimony.

It is submitted by Mr. Uniyal on behalf of the State that there is no reason why we should reappraise the evidence and interfere with the conclusion of guilt affirmed by the High Court. Mr. Garg, on the other hand, submits that notwithstanding the evidence of these five witnesses there is such an inherent improbability of the accused committing, the offence that the Sessions Judge and the High Court have arrived at a completely erroneous conclusion which we should not accept in the interest of Justice. Counsel further submits that it is not merely a question of appreciation of evidence as such but appreciation of the realities of the situation whether under the entire circumstances which have been brought out in the evidence the accused could have taken part in the crime in the way alleged without even taking precaution to conceal their identity. Mr. Garg submits that the first information report could not have been lodged at the hour described in the detailed manner in which it has been written. He submits that it was more likely that Ram Naresh Singh did not know any names of the accused and it was only after the police had arrived that the accused were roped in with the four unknown men to wreak vengeance.

Mr. Uniyal submits that there is party-faction in the village, one party supported by the deceased's. family and the other by that of the accused. There was enmity between the parties and the authorities had been informed by the deceased about threat to life and property. He further submits that the object of the attack was to murder and wipe out the family and not dacoity which was incidental for the purpose-of enlisting the aid of four unknown men in the crime. According to him if the object was dacoity there would have been some evidence as to snatching of ornaments from the person of the ladies as also an attempt at getting hold of the keys for the purpose of opening the boxes and almirahs to facilitate the robbery. Further there was immediate opening of fire to kill the inmates. Mr. Uniyal submits that the witnesses are natural witnesses and their testimony should not be rejected when two courts have accepted the same.

We have given anxious consideration to the submissions of Mr. Uniyal but for the reasons which will presently follow it is not possible to hold that the charges are established against the accused beyond reasonable doubt. The Sessions Judge has more or less prefaced his judgment by observing that Shitla Baksh Singh's "family is of law breakers". He further observed as follows :-

> "I may also mention that Shiv Bahadur Singh and members of his family always took recourse to law and the accused persons acted as law breakers. It is true that cases against Rameshwar Singh were of civil nature and that there was no criminal case against him. But in these days offenders bear grudge against and become hostile to the person who either takes civil action or criminal action against them. I may further mention that Shitla Baksh Singh ventured to implicate respectable, law abiding and

> very well to do persons Shiv Bahadur Singh, his son and grandson in a dacoity case. This clearly speaks of his malice towards them.
>
> The position that I conclude is that Shiv Bahadur Singh and members of his family were law abiding persons and always took recourse to law, whereas the accused persons are law breakers and they were positively in mical/hostile to Shiv Bahadur Singh and his family".

x x x x Baksh Singh's) father-in-law, Ram Lakhan Singh accused was convicted under section 308 IPC case brought by Mohan servant of the complainant. . . . .

From the above we are of opinion bat the Sessions Judge adopted a highly incorrect approach in trying a criminal case While dealing with the evidence, of Rahim Bux (PW 4) the Sessions Judge referred to the fact of his evidence being accepted in another case under section 308 IPC against accused Ram Lakhan Singh and he took note that Ram Lakhan Singh was convicted in that case. From this he observed :

> "It means that the testimony of Rahim was believed. The defence has not shown that evidence of Rahim was found false in that case. In case Rahim gave correct evidence ill the case of Mohan then in my opinion he can also be believed in the present case because he is a natural witness of the occurrence".

This is again a wrong approach.

Although the judgment of the Sessions Judge is otherwise an exhaustive judgment it cannot be said from the instances which we have set out above that his appreciation is free from legal infirmity of some kind of prejudice against the accused who are described as "law breakers". In our system of law an accused starts with a presumption of innocence. His bad character is not relevant unless he gives evidence of good character in which case by rebuttal, evidence of bad character may be adduced (Section 54 of the Evidence Act). With regard to accused Rameshwar Singh the Sessions Judge observed that "the presence of Rameshwar Singh was quite necessary with the assailants because he knew very well the circuitous route of going inside the house of the victims". This is again a very faulty appreciation of the case against accused Rameshwar Singh who is 65 years old and who need not himself have taken the trouble of accompanying the assailants when his younger brothers were there. The High Court also did not closely examine the case which contain several extra-ordinary features and above infirmities in the judgment of the trial court. To say the least, that the accused were none but known persons of the neighbourhood highly inimically disposed towards the deceased and the crime was committed when the whole village was awake, should call for an onerous test regarding credi- bility. In disposing of the argument on the score of improbability the High Court observed as follows :-

> "There can be more than one reason for the appellants themselves having gone to commit the offences charged against them. It is quite likely that the unknown persons picked up by the appellants were not prepared to go for the perpetration of the crime

unless the appellants also accompanied them. It is also likely that the appellants were swayed by the feelings of old time chivalry and wanted not only their adversaries to be killed but also wanted to demonstrate to them that they met their doom for having the audacity to incur their displeasure'.

Dealing with the arguments regarding absence of independent evidence the High Court observed :

"In the particular circumstances of this case, therefore, the mere fact that no independent person has come forward to support the prosecution version of the occurrence can be no ground for discarding the evidence of the witnesses already examined, particularly that of Ram Naresh Singh, Smt. Rajwati and Ram Kumari P.Ws'.

With regard to the evidence of Ram Kishun (PW 5 who a not even been examined by the investigating officer, both courts relied on his evidence and the High Court observed that "the evidence of Ram Kishun can also therefore be pressed into use in order to lend assurance to the evidence of the other witnesses". The above observation of the High Court would go to show that it was trying to look for further assurance from some independent source to corroborate the testimony of the eye witnesses who are all inimically disposed towards the accused. We also do not find in either of the judgments any reference to the prosecution not examining all the eye witnesses mentioned in the FIR.

Thus when we find that the appreciation of the evidence against the accused is replete with infirmities pointed out above affecting the very quality of appreciation, this Court will have to undertake for itself, in the interest of justice, a thorough examination of the evidence and the entire circumstances to satisfy itself about the guilt of the accused who have been awarded the extreme penalty under the law. That ordinarily this Court does not reappreciate the evidence in an appeal by special leave under Article 136 of the Constitution will not stand in the way of our going into the whole matter once again in such an unusual case. This Court will not deny protection under Article 136 of the Constitution when there is a pervading sense of judicial un-safety in relying upon the evidence for the purpose of conviction.

The Sessions Judge wrongly accepted the prosecution case that "the assailants had come to destroy the entire family"

and that "in the present case the main intention of the known assailants was to murder Shiv Bahadur Singh and other members of his family'. It is difficult to appreciate how this alone can be the object when we find that Udairaj Singh and Ram Naresh Singh who were all along shouting from the roof and were focussing a torch upon the intruders, who even fired towards them, were spared. If the Sessions Judge is right about the object of the attack, it will only be consistent with the absence of Udairaj Singh and Ram Naresh Singh in which case the evidence of Ram Naresh Singh

will be open to grave suspicion. Even Udairaj Singh has not been examined by the prosecution as a witness although the Sessions Judge has referred in his judgment "that Udairaj Singh told them (people who gathered) that Rameshwar Singh and others had killed his father and son. . . . . ". In the absence of Udairaj Singh this statement is of, course inadmissible, but this is pointed out only to show that the culprits named, at that stage, were "Rameshwar Singh and others" and not all the accused and that withholding of his evidence was deliberate. If the killing of the persons is the main intention, it is difficult to appreciate why it was necessary for the accused Shitla Baksh Singh and another unknown person to have caught Ram Jas Singh while he was running away and brought him back to the courtyard for the purpose of firing at him in order to kill him. He could have been killed while he was running away. The reason why the witnesses have stated that Ram Jas Singh was brought to the court-yard was perhaps to enable Ram Naresh Singh and others to see the killing. The courts have not taken note of this at all. The most unusual feature in the case is that in spite of the fact that people from the neighbourhood gathered at the gate of the house and were said to be watching when the dacoity was being committed inside and nine persons from among them were named as witnesses in the FIR only Rahim Bux (PW 4) who was admittedly inimical towards the accused was examined to impeicate the accused.

Another unusual feature is that Ram Naresh Singh, who went to, the police station about half an hour after commission of the dacoity leaving three dead bodies in the house would have himself the equanimity and patience to detail an essay of information at the police station. It would have been more natural for him just to tell the police that murders and dacoity were committed by the persons whom he could name and the names of the witnesses who could recognise the dacoits. It is also surprising that he could give a long list of articles with weight and value when lodging the first information report. The constable who wrote the first information report containing five pages appended a note at the foot of the FIR certifying that "the statement of the complainant has been taken down in the check report word for word". Even in this unusually long first information report accused Rameshwar Singh was not ascribed any part although during evidence it was stated that he was the first to have "challenged" and threatened the inmates after which other accused opened fire. There is also no mention in this long report about Ram Kumari having received any injury. One should have thought it rather unusual for the police to delay for a long time in the Thana after they have been informed of such a dastardly crime committed twelve miles away and not immediately to go to the place of occurrence and take immediate steps for apprehending the near by culprits. The police could have spared the trouble of cataloguing in the FIR the instances of enmity and description of the pending courts cases while it might have been enough to mention that the family of Shiv Bahadur Singh had enmity with the accused persons.

It is because of these unusual features that the defence strongly suggested that there was some manipulation in lodging the first information report in this case and that therefore mention of the names of the accused therein should not be treated with the same importance as is done in normal cases.

This is not a case in which a dacoity was committed at dead of night when inmates were asleep and they could recognise the dacoits while committing the dacoity and there was no other independent person nearby who could have seen them. There being admittedly enmity between the accused and

the 'deceased's family it was the bounden of the prosecution to examine the neighbouring witnesses who were there and named in the- first information report to corroborate the testimony of the inmates. That out of the neighbouring witnesses named in the first information report only Rahim Bux (PW 4) who was inimically disposed towards the accused was selected throws a great deal of doubt in the prosecution case against the accused. It is not enough in this case that the inmates were natural witnesses, as the courts emphasised, and that they could correctly describe what had taken place inside the house. The real question is whether the accused have taken part in the crime and their implication in the case is free from reasonable suspicion.

Our attention is drawn by Mr. Uniyal to an application by the Public Prosecutor filed before the court that the statements of the other witnesses were not necessary. There is nothing to show that they were either unwilling to depose in favour of the prosecution or were won over by the accused. When the witnesses named in the first information report were not considered necessary by the Public Prosecutor, it is curious to find that Ram Kshun who was not examined by the police nor was he cited in the chargesheet was found necessary and was examined as PW 5. According to the evidence the two servants of Udairaj Singh namely, Pancham and Ghurai, were at the gate when the robbers entered the house and they went to the village to call people. They also returned later with the people. Even then these two witnesses were not examined as witnesses. As already pointed out even Udairaj Singh who flashed his torch and must have seen the intruders was withheld. It is rather intriguing that Rahim Bux (PW 4) stated in his evidence that "Udairaj told us that Rameshwar and others had fired at his father and son". This is repeated by Ram Kishun (PW 5) when he stated "Udairaj Singh told us that Rameshwar Singh and others had entered his house". One is left to guess whether it is because of this reason that Udairaj Singh has not been examined as a witness and the statements attributed to him have also become inadmissible in evidence It is clear that the prosecution does not require that part of the evidence and left it to be finally inadmissible. There is no reason why Udairaj Singh would not have been able to name, all the accused persons to PWs 4 and 5. His non-examination is suspect.

Again if the object of the accused was to murder and wipe out the entire family, as has been found, by the Sessions Judge, there is no reason why in spite of their noticing Udairaj Singh and Ram Naresh Singh on the roof they would have left them without a scratch in spite of the fact that Ram Naresh Singh stated that the accused had tired towards them.

Some importance is given by the prosecution to the evidence that the accused tried to search for the youngest boy in the family, namely, Ram Kumar Singh (5), who was sleeping in the courtyard. This fact is even mentioned in the first information report. We are, however, unable to give any unusual importance to this which may as well perhaps be a clever verisimilitude-

When the police found that along with four unknown persons certain enemies of the deceased were named as culprits it was their duty to keep that fact in mind while investigating into the crime. On the other hand we find that there was no investigation worth the name in this case even though the Superintendent of Police arrived at the place of occurrence the following morning. Even a police constable from Rae Bareilly, the District Headquarters, arrived at the place of occurrence at 6.00 A.M., about two hours after the arrival of the Jagatpur police. It is not known how and what

information was received Rae Bareilly kotwali. It is, however, admitted that Sub-Inspectors from Rae Bareilly also came with the S.P. at 8.00 A.M., the following morning to the place of occurrence. Rae Bareilly is about ten miles from the village whereas Jagatpur is twelve miles. It is equally intriguing that in such a case the police submitted the charge-sheet on May 11, 1972, after about three weeks of the occurrence. The police, therefore, did not at all consider it necessary to investigate the case, carefully to rule out the possibility of the enemies of the deceased being implicated due only to grave suspicion. It is indeed surprising that the police officer did not think it his duty to immediately arrest the accused living next door if he had no doubt about their complicity disclosed in the first information report. The Police Officer (PW 7) stated in his evidence that he had asked one of the Sub-Inspectors to arrest the accused but did not tell if that officer tried to find them out in their house. Even that officer has not been examined as a witness in this case. This is an unusual and unnatural attitude on the part of the police officer in such a serious case if the names of the accused immediately available bad been truly disclosed. Again, when the police officer was asked as to bow the police from Rae Bareilly came there he was unable to give any reason and stated that he could not say "how the information in respect of this occurrence had reached the kotwali". We should have expected the police officer at least to have asked the Sub- Inspectors of kotwali as to how they came to know of the occurrence in which case there would have been the possibility of some information at Rae Bareilly which might even be earlier than the actual first information report received at the Jagatpur Police Station. This fact also reduces the weight that may be attached to the first information report in this case at Jagatpur. After all this discussion when we come to the judgment of the High ,Court we find that it was of the opinion that "the evidence of Ram Kishun can also therefore be pressed into use in order to lend assurance to the evidence of the other witnesses".

It is true that no enmity or grudge is suggested against this witness, but we find that this witness was not even examined by the police nor was he cited in the chargesheet. In a grave charge like the present, it will not be proper to place reliance on a witness who never figured during the investigation and was not. named in the chargesheet. The accused who are entitled to know his earlier version to the police are naturally deprived of an opportunity of effective cross-examination and it will be difficult to give any credence to a statement which was given for the first time in court after about a year of the occurrence. We cannot, therefore, agree that the High Court was right in accenting the evidence of this witness as lending assurance to the testimony of other witnesses on the basis of which alone perhaps, the High Court felt unsafe to convict the accused. After having examined the entire evidence and circumstances in a case of this description, we are unable to affirm the conviction on the oral testimony of the aforesaid five witnesses and to hold that the prosecution has established the charges against the accused beyond reasonable doubt. We, therefore, give the four accused the benefit of reason- able doubt and acquit them of all the charges. The judgment and order of the High Court sentencing the accused to death and other sentences are set aside and the accused shall be released from detention forthwith.

We may observe that this is a case where the police cannot conscientiously rest on their oars after submitting a hasty chargesheet leaving for good the track of the real offenders of the crime. This is equally the problem for the general police administration throughout the country to which we direct attention in a recent judgment in Dagdu and Others, etc. v. State of Maharashtra(1).

M.R. Appeal allowed.

(1) [1977] 3 S.C.R. 636