Mohammad Usman Mohammad Hussain ... vs State Of Maharashtra on 3 March, 1981

Equivalent citations: 1981 AIR 1062, 1981 SCR (3) 68, AIR 1981 SUPREME COURT 1062, 1981 (2) SCC 443, 1981 CRIAPPR(SC) 196, 1981 SCC(CRI) 477, (1981) MAHLR 163, (1981) 2 SCJ 103, (1981) MAD LJ(CRI) 438

Author: Baharul Islam

Bench: Baharul Islam, O. Chinnappa Reddy

PETITIONER:
MOHAMMAD USMAN MOHAMMAD HUSSAIN MANIYAR & ANR.

Vs.

RESPONDENT:
STATE OF MAHARASHTRA

DATE OF JUDGMENT03/03/1981

BENCH:
ISLAM, BAHARUL (J)
BENCH:
ISLAM, BAHARUL (J)
REDDY, O. CHINNAPPA (J)

CITATION:
1981 AIR 1062 1981 SCR (3) 68
1981 SCC (2) 443 1981 SCALE (1)445

ACT:
Explosive Substances Act, sections 2 and 5-Whether potassium cyanide, mixture of potassium cyanide and sulphur, detonators etc. etc., are 'explosive substances' within the definition of the expression-Whether such recovery in large quantities amounts to "conscious possession" within the meaning of section 5-Presumption of knowledge that a particular substance is an explosive substance, when can be made.

HEADNOTE:
Government of India, Ministry of Works & Housing and Urban Development Notification No. 3/12/65-PII(IX) dated 1st April, 1966, requiring a licence to make or possess the explosive substances-Possession without such a licence, of

the explosive substances is unauthorised.

Penal Code, section 120B-Criminal conspiracy-Nature of proof.

Fakhruddin, the owner of the shop, known as M. F. Maniyar & Sons, Sholapur, along with his three sons, was tried for offences under section 120B of the Penal Code, section 5 of the Explosive Substances Act, section 3 read with section 25 of the Arms Act and section 6(1)(a) of the Poisons Act. All the four were convicted and sentenced by the Sessions Judge, Sholapur, to sentences of different durations under these Acts and also to fine. The substantive sentences were directed to run concurrently. The appeals before the High Court having failed the appellants have come in appeal by special leave to this Court.

Dismissing the appeals, the Court while remitting the sentences of fine and reducing the sentences of imprisonment to the periods already undergone by the three living appellants.

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HELD:1 :1. In order to bring home the offence under section 5 of the Explosive Substances Act, the prosecution has to prove: (i) that the substance in question is explosive substance; (ii) that the accused makes or knowingly has in his possession or under his control any explosive substance; and (iii) that he does so under such circumstances as to give rise to a reasonable suspicion that he is not doing so for a lawful object. [75D-G]

1: 2. The burden of proof of the ingredients of section 5 of the Explosive Substances Act, is on the prosecution. The moment prosecution has discharged that burden, it shifts to the accused to show that he was making or possessing the explosive substance for a lawful object, if he takes that plea. [75F-G]

2. On a consideration of the evidence of the Explosive Inspector, and other evidence, the substances in question which were recovered from the appe-

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llants were "explosive substances" within the definition of that expression in section 2 of the Explosive Substances Act. [76F G]

3: 1. The factum of the recovery of the said articles from the possession of appellant No. 1 and also the evidence that his three sons, appellants 2 to 4, who were managing and running the shop of M. F. Maniyar and Sons from which the incriminating substances were seized clearly show that all of them were guilty. [76 G-H, 77A]

3: 2. The several substances seized, not being minute or small in quantity, make it clear that the appellants were in "conscious possession" of the substances seized within the meaning of section 5 of the Explosive Substances Act. [77A-B]

3: 3. The possession of the explosive substances by the appellants were without any authority since the appellants

had no licence or authority to make or possess the explosive substances as required by the Government of India. Ministry of Works & Housing and Urban, notification dated 1st April, 1966. The licence possessed by them is dated 31-3-1956 which was not in pursuance and in conformity of the said Government notification. [77G-H]

3: 4. The knowledge that the particular substance is an explosive substance depends on different circumstances and varies from person to person. Unlike an ignorant man or a child coming across an explosive substance who picks it up out of curiosity not knowing that it is an explosive substance, a person of experience may immediately know that it is an explosive substance. In the instant case, as the appellant had been dealing with the substance in question for long time, they certainly knew or at least they shall be presumed to have known what those substances were and for what purpose they were used. The said presumption is further fortified from the fact that a half K.G. of blasting powder/ potassium cyanide was sold to the decoy witness by the appellants. [78E-F, G]

4. For an offence under section 120B of the Penal Code the prosecution need not necessarily prove that the perpetraters expressly agreed to do or cause to be done the illegal act: the agreement may be proved by necessary implication. In this case, the fact that the appellants were possessing and selling explosive substances without a valid licence for a pretty long time leads to the inference that they agreed to do and/or cause to be done the said illegal act, for, without such an agreement the act could not have been done for such a long time.[79G-H, 80A]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 150/76 and 285 of 1976.

Appeals by special leave from the Judgment and Order dated 29.1.1976 of the Bombay High Court in Cr. A. 526/73.

S. B. Bhasme, V. N. Ganpule and Mrs. V. D. Khanna for the Appellant in Cr. A. 150/76.

U. R. Lalit and K. R. Chowdhary for the Appellant in R. N. Sachthey and M. N. Shroff for the Respondents in both the Appeals.

The Judgment of the Court was delivered by BAHARUL ISLAM J. These two appeals arise out of a common judgment and order passed by the High Court of Bombay, Criminal Appeal No. 150 of 1976 has been preferred by two appellants, Mohammad Usman Mohammad Hussain Maniyar (hereinafter "Usman") and Mohammad Taufik Mohammad Hussain Maniyar (hereinafter 'Taufik') and Criminal Appeal No. 285 of 1976 has been preferred by Mohammad Hussain Fakhruddin

Maniyar (hereinafter 'Fakhruddin) and Mohammad Rizwan Mohammad Hussain Maniyar (hereinafter 'Rizwan'). All of them were convicted and sentenced by the Sessions Judge as follows:

> (i) Under Section 120B of the Penal Code and sentenced to suffer rigorous imprisonment for three years, each;
>
> (ii) Under Section 5 of the Explosive Substances Act and sentenced to rigorous imprisonment for three years each, and to pay a fine of Rs. 1000 each, in default, to suffer rigorous imprisonment for two months, each;
>
> (iii) Under Section 5 (3) (b) of the Explosives Act and sentenced to suffer rigorous imprisonment for six months, each, and to pay a fine of Rs. 500/- in default, to suffer rigorous imprisonment for one month, each;
>
> (iv) Under Section 3 read with Section 25(1) (a) of the Arms Act and sentenced to suffer rigorous imprisonment for two months each;
>
> (v) Under Section 30 of the Arms Act and sentenced to pay a fine of Rs. 100/- each, in default, to suffer rigorous imprisonment for two weeks, each;
>
> (vi) Under Section 6 (1) (a) of the Poisons Act read with Rule 2 of the Rules framed under the said Act and sentenced to suffer rigorous imprisonment for one month, each, and to pay a fine of Rs. 50/-

each, in default, to suffer rigorous imprisonment for 15 days, each.

The substantive sentences were directed to run concurrently. The first two preferred one appeal and the second two a separate appeal before the High Court. The High Court by a common judgment dismissed both the appeals. Hence this appeal before us by special leave. This common judgment of ours will dispose of both the appeals.

2. During the pendency of the appeal before this Court, appellant, Fakhruddin, died on 10.10.1978. His legal representatives have been brought on record as there are sentences of fine against the deceased appellant.

3. The facts necessary for the purpose of disposal of these appeals may be stated thus:

> In the year 1967 a number of murders were perpetrated by a gang of murderers. During the course of investigation into these offences, potassium cyanide was found to have been used for poisoning the victims. On 11.9.1964, P.W.17, Bendre, P.S.I, who was attached to the local crime branch at Sholapur received an information that the firm known as M.F. Maniyar & Sons was selling potassium chlorate which is a highly explosive substance. He then initiated the work of finding out the persons responsible for the supply of the explosive to the miscreants. He received information that

> appellant, Fakhruddin, was the owner of the shop known as M.F. Maniyar & Sons, situated at house No. 383, East Mangalwar Peth, Sholapur, and possessed licence for sale and storage of potassium chlorate in House No. 615 in East Mangalwar Peth; Fakhruddin with the assistance of his three sons (appellants 2 to 4) and his servants stored at the place mentioned in their shop situated at house No. 383, East Mangalwar Peth, to persons who did not possess licence to purchase potassium chlorate. P.W. 17 and Sub-inspector Tasgaokar of the local Intelligence Branch proceeded to Mangalwar Peth Police Chowky and called a bogus customer 'Basanna Pujari' by name. He also called the local panchas. He, then, gave a ten rupee currency note to P.W.4. He initialled the currency note. He also gave a bag to P.W.4. and told him to buy half kg. of potassium chlorate from M/s. M.F. Maniyar & Sons. P.W.4 went to the shop. He found in the shop accused Chandra Kant (since acquitted), who was a servant of Fakhruddin. P.W.5 gave him the ten rupee currency note and asked for half kg. of potassium chlorate. which he said he needed for blasting purpose. Chandra Kant gave him half k.g of potassium chlorate and returned an amount of Rs. 2.50p. P.W.4 took the powder in the bag and was returning.

Police challenged him and seized the bag. Police interrogated him. He told police in presence of the Panchas that he had purchased the powder which was inside of the bag from M.F. Maniyar and got back Rs. 2.50P. P.W.17 searched the cash box in the firm of Fakhruddin and found the ten rupee currency note initialled by him. The shop was searched and 220 grams of Black gun powder was found in the show case. He then alongwith the panchas went up to the first floor. They found black gun powder there also. They found it to be a mixture of potassium chlorate and sulphate used for fire arms. Samples were sealed and one of them was given to appellant, Fakhruddin. A panchnama, Ex.20, was prepared. P.W.17, thought it necessary to send for an expert to identify the powder. He, therefore, posted some constables at the shop, sealed appellants' godowns in Mangalwar Peth and Shukrawar Peth and made panchnamas, Exhibits 22 and 23. Next morning, he sealed both the shops and prepared panchnamas Exhibits 24 and 25. On 13th September, he sent the samples to the Explosives Inspector. On the 14th he lodged a complaint at the Jail Road Police Station at Sholapur. Police registered a case and the P.S.I started investigation. The P.S.I sent for the Drugs Inspector and the Central Excise Inspector. All of them, then visited the appellants' godowns at Shukarwar Peth at Sholapur. They found the shops in the sealed condition. A search was conducted in the presence of the appellants. The Police officer and others, having observed due formalities, searched the premises. In course of the search they found and seized some powder as per Panchnama, Ex. 27. Samples of the powder seized were also given to the appellants. After that they went and searched the appellants' premises in Mangalwar Peth. Nothing incriminating was found there. They, then, returned to the firm M/s. M.F. Maniyar and searched it. They found and seized some powders as per Panchnama, Ex.

28. Samples of these powders also were given to the appellants. On the same night they found 49 percussion caps on the roof of the adjacent shop and seized them as per Ext.

30. On the same night P.S. I., Patil, received a panchnama made by P.S.I., Joshi, (P.W.18) under which detonators had been seized. Acting on an information from P.W. 17. P.W. 18 arrested

appellant, Taufik on September 15, 1967. Appellant, Taufik told the police that he had buried some detonators in the compound of his bungalow and he would produce them. Accordingly, he led P.W. 18 to his bungalow which was admittedly in occupation of all the appellants, removed some earth under a mango tree in the premises and took out three tins containing 20 packets of detonators. It was seized under panchnama, Ex. 33. As the detonators were explosive they were not opened. Taufik was arrested and produced before P.W.17.

The Explosives Inspector was of the opinion that some of the explosives seized were highly explosive. P.W.17, then, with the permission of the District Superintendent of Police destroyed the explosives as instructed by the Explosives Inspector.

4. During the course of investigation from 11.9.1967 to 15.9.1967 the following arms and explosives were seized:-

> (1) 200 grams of highly explosive gun powder. (2) 40 kg. and 150 grams of blasting powder. (3) 3 kg. and 350 g. of mixture of potassium chlorate and sulphur.
>
> (4) 54 detonators.
>
> (5) 251 caps like contrivances containing prohibited mixture of red arsenic sulphide and chlorate used to act as improvised percussions caps. (6) 104 kg. and 500 g. of potassium chlorate. (7) 37.5 kg. of special gelatines.
>
> (8) 300 kg. of sulphur.
>
> (9) 2496c campion crackers of prohibited size and containing prohibited mixtures.
>
> (10) 510 grams of potassium cyanide.
>
> (11) About 450 kg. of sulphur.
>
> (12) 217 caps like contrivances of the same description as is the case with item No. 5 above.
>
> (13) 2500 detonaters.
>
> (14) 27 live cartridges, 12 bores, and (15) Mixture of sulphur and potassium chlorate 1/2 kg.

Out of these articles, the articles at serial Nos. 1 to 5 were found in the shop of M/s. M.F. Maniyar & Sons. Articles at serial numbers 6 to 11 were found in the clandestine godown situated at 986, Shukarwar Peth at Sholapur on 15.9.1967. Article at serial no. 12 was found on the roof at East Mangalwar Peth, Shukarwar which is adjacent to the shop of M/s.M.F. Maniyar & Sons. Article at serial number 13 were produced by appellant, Taufik, as stated earlier from the compound of their

bungalow at 156A, Railway Lines, Sholapur. Articles at serial number 14 consist of 12 bore cartridges found in the house of accused Abdulla Mandolkar (since acquitted). They were alleged to have been delivered by appellant, Fakhruddin, to accused, Fateh Ahmed Phuleri (since acquitted). The article at serial number 15 was the one sold to P.W. 4, Basanna by accused, Chandrakant (since acquitted).

5. Appellant number 1 is the father of appellants 2 to

4. Accused Chandrakant and Fateh Ahmed (both since acquitted) were the servants of Fakhruddin working in the shop. Accused Abdula Mandolkar (since acquitted) was a relation of Fateh Ahmed. Police after investigation submitted charge-sheet. Eventually the appellants and the three other above named co-accused were committed to the court of Sessions for trial.

6. The allegations against the appellants in substance were that they agreed to do the following illegal acts; (i) to acquire and prepare explosives unauthorisedly and to possess and supply explosives for illegal purposes; (ii) to acquire and possess sulphur unauthorisedly and to sell the same; (iii) to acquire and possess and sell gun-powder and cartridges in breach of the conditions of the licence granted under the Arms Act and Explosives Act; (iv) to acquire and stock in clandestine godown and illegally sell potassium chlorate in breach of the conditions of the licence granted under the provisions of the Arms Act; (v) to acquire without licence percussion caps and to sell them illegally; and (vi) to acquire and posssess without licence poison and to sell the same illegally. The changes were also to the above effect.

7. The appellants pleaded not guilty. In his statement under Section 342 of the Code of Criminal Procedure, appellant, Fakhruddin, additionally stated that he alone managed the shop M/s. M.F. Maniyar & Sons from which the incriminating substances were found. He admitted his presence at the place and at the time of the first raid on the 11th September He has also admitted the search and seizure of articles as per Exhibit 28. He has also admitted that potassium cyanide was purchased and possessed by him but he has pleaded that he was told that no licence was necessary for possessing potassium cyanide.

8. Mr. Lalit learned Advocate, appeared for appellants no. 1 & 2 and Mr. Bhasme, learned Advocate, appeared for appellants 3 & 4. Learned counsel have not challenged the convictions and sentences of the appellants under Section 5(3)(b), Section 3 read with Section 25(1)(a), and Section 30 of the Arms Act, and under Section 6(1)(a) of the Poison Act read with rule 2 of the rules framed under that Act. They have only challenged the conviction and sentences under Section 5 of the Explosive Substances Act, and Section 120B of the Penal Code. We are, therefore, called upon to examine the correctness or otherwise of the convictions under Section 5 of the Explosive Substances Act and Section 120B of the Penal Code.

9. Let us first consider the conviction under Section 5 of the Explosives Substances Act. The Section reads as follows:

> 5. "Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable

> suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a terms which may extend to five years, to which fine may be added"

10. In order to bring home the offence under Section 5 of the Explosive Substances Act, the prosecution has to prove; (i) that the substance in question is explosive substance; (ii) that the accused makes or knowingly has in his possession or under his control any explosive substance; and (iii) that he does so under such circumstances as to give rise to a reasonable suspicion that he is not doing so for a lawful object.

The burden of proof of these ingredients is on the prosecution. The moment the prosecution has discharged that burden, it shifts to the accused to show that he was making or possessing the explosive substance for a lawful object, if he takes that plea.

11. Explosive substance has been defined in section 2 of the Explosive Substances Act. The definition is as follows:

> "2. In this Act the expression "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement."
>
> "Explosive substance" has a broader and more comprehensive meaning than the term 'Explosive', 'Explosive substance' includes 'Explosive'. The term 'Explosive' has not been defined in the Act. The dictionary meaning of the word 'Explosive' is 'tending to expand suddenly with loud noise; 'tending to cause explosion' (The Concise Oxford Dictionary). In the Explosives Act, the terms 'explosive' has been defined as follows:
>
> "4. In this Act, unless there is something repugnant in the Definitions, subject or context,- (1) "explosive"

(a) means gunpowder, nitro-glycerine, dynamite, guncotton, blasting powders, fulminate of mercury or of other metals, coloured fires and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(b) includes fog-signals, fireworks, fuses, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined;"

It may be mentioned that the definition of 'explosive' under Section 4 was amended later, but we are not concerned with the amendment as the occurrence in the instant case took place before the amendment.

On a consideration of the evidence of the Explosives Inspector, and other evidence. the Sessions Judge and the High Court have found, in our opinion correctly, that the substances in question were explosive substances within the definition of the expression.

12. In the instant case, appellant I has admitted, as stated earlier, that these articles were seized from his possession. The evidence also shows that his three sons, appellants 2 to 4, used to manage and run the shop M. F. Maniyar & Sons from which the incriminating substance were seized.

13. It was argued by learned counsel that possession within the meaning of Section 5 of the Explosive Substances Act means 'conscious possession'. There can be no doubt about it. The substances seized were not minute or small in quantity. They were in large quantities. In fact half k.g. of the incriminating substance was sold to P. W. 4 by an employee of the firm. The detonators were produced by appellant No. 3 from the premises of the Bungalow occupied by all the occupants. It cannot but, therefore, be held that the appellants were in 'conscious possession' of the substance seized.

14. The notification dated 1st of April, 1966 published by the Government of India, Ministry of Works and Housing and Urban Development (Ex. 65) reads as follows:

"NOTIFICATION"

No. 3/12/65-PII (IX)-In exercise of the powers conferred by Section 6 of the Indian Explosives Act, 1884 (4 of 1884), and in supersession of the notification of the Government of India in the later Department of Labour No. M-1217, dated the 9th February 1939, the Central Government is pleased to prohibit the manufacture, possession and importation of any explosive consisting of or containing sulphur or sulphurate in admixture with chlorate or potassium or any other chlorate;

Provided that this prohibition shall not extend to the manufacture or possession of such explosive:-

(a) in small quantities for scientific purpose;

(b) for the purpose of manufacturing heads of matches; or

(c) for use in toy amorces (paper caps for toy pistols).

Sd/- P. Rajaratnam Under Secretary to the Government of India"

The appellants had no licence or authority to make or possess the explosive substances as required by the above Government notification. The licence possessed

> by them is dated 31.3.1956 (Exhibit 90) which was not in pursuance and in conformity of the aforesaid Government Notification. The possession of the 'explosive substances' by the appellants, therefore, were without any authority.

15. Learned counsel for the appellants cited before us 1939 (2) All E. R. 641 in support of his contention. The head note of the report reads:

> "Upon an indictment against an accused for knowingly having in his possession explosive substances, the prosecution has to prove that the accused was in possession of an explosive substance within the Explosive Substances Act, 1883, s. 9, in circumstances giving rise to a reasonable presumption that possession was not for a lawful object. Proof of knowledge by the accused of the explosive nature of the substance is not essential, nor need any chemical knowledge on the part of the accused be proved."

The appellants have also cited another English decision reported in 1957 (1) All E.R. 665 in which it has been observed:

> "We think that the clear meaning of the section is that the person must not only knowingly have in his possession the substance but must know that it is an explosive substance. The section says he must knowingly have in his possession an explosive substance; therefore it does seem that it is an ingredient in the offence that he knew it was an explosive substance."

With respect, the above decisions lay the correct legal proposition. But the question is whether in his case appellants knew that the substances in question were explosive substances. The knowledge whether a particular substance is an explosive substance depends on different circumstances and varies from person to person. An ignorant man or a child coming across an explosive substance may pick it up out of curiosity and not knowing that it is an explosive substance. A person of experience may immediately know that it is an explosive substance. In the instant case, the appellants had been dealing with the substances in question for a long time. They certainly knew or atleast they shall be presumed to have known what these substances they were and for what purpose they were used. In fact, when P. W. 4 Basanna asked for half k. g. of blasting powder, appellants' servant, accused Chandrakant, immediately supplied the requisite powder to P. W. 4 from the shop. This evidence clearly establishes that the appellants did know the nature and character of the substance. In other words, they knew that the substances in question were explosive substances. The courts below therefore, were right in holding that an offence under Section 5 of the Explosive Substances Act was committed.

16. Learned Counsel submitted that the evidence on record shows that appellant, Fakhruddin, alone acquired and possessed the substance in question. That was the plea of Fakhruddin. It also might be true that Fakhruddin also had acquired the substances but the evidence on record clearly shows that all the appellants were in possession and control of the substances in question. The submission of the appellants has no substance and all the four persons are liable for the offence.

17. Now to turn to the conviction under Section 120B of the Penal Code. Section 120B provides:

> "120B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable..... "

`Criminal conspiracy' has been defined under Section 120A of the Penal Code as follows:

> "120 A. When two or more persons agree to do, or cause to be done.-
>
> (1) an illegal act, or (2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:-
>
> Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some tact besides the agreement is done by one or more parties to such agreement in pursuance thereof.
>
> Explanation.-It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object,"
>
> The contention of learned counsel is that there is no evidence of agreement of the appellants to do an illegal act.
>
> It is true that there is no evidence of any express agreement between the appellants to do or cause to be done the illegal act. For an offence under section 120B, the prosecution need not necessarily prove that the perpetrators expressly agreed to do or cause to be done the illegal act; the agreement may be proved by necessary implication. In this case, the fact that the appellants were possessing and selling explosive substances without a valid licence for a pretty long time leads to the inference that they agreed to do and/or cause to be done the said illegal act, for, without such an agreement the act could not have been done for such a long time.
>
> 17. Mr. Lalit additionally submitted that appellant No. 2 Rizwan did not do any overt act. He was a mere partner of M/s. M.F. Maniyar & Sons and as such his conviction has been bad in law. The submission is not correct. For, appellant Rizwan himself in his statement under Section 342, Cr. P. C., has stated "Myself (and) accused Nos. 1 and 4 looked after the business of the Firm. M.F. Maniyar & Sons". The learned courts below on a consideration of the evidence on record have come to the conclusion that he also occasionally used to work in the firm. We do not have valid reason to differ from them.

18. Now comes the question of sentence. The real man in the entire clandestine trade was appellant no. 1, who is now dead. The three other appellants being his sons were merely assisting him. We are told that appellant no. 2, Rizwan, has already served 81/2 months of imprisonment and appellants 3 and 4, Usman and Taufik, six months of imprisonment each. In our view ends of justice will be met

if the sentences of imprisonment are reduced to the periods already undergone by the three living appellants.

In addition to the sentence of imprisonment there was a fine of Rs. 1000/- each for the offence under Section 5 of the Explosive Substances Act and also sentence of fine against the appellants under Section 5(3) (b) of the Explosives Act and under Section 30 of the Arms Act. In our opinion, ends of justice will be met if the fine under Section 5 of the Explosives Substances Act is remitted in case of all the appellants, including appellant No. 1, Fakhruddin. With the above modification in the sentence the appeals are dismissed.

S. R. Appeals dismissed.