

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr. Appeal (S.J.) No. 1524 of 2007**

Etwa Munda son of late Jatru Munda residents of village Karku Pujara Toli , police station-Chainpur District-Gumla  
... Appellant

-Versus-  
The State of Jharkhand ... Respondent

**CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD**

For the Appellant : Mr.A. K. Chaturvedi, Advocate  
For the State : Mrs. Nehala Sharmin, Spl.P.P.

**JUDGEMENT**

**Order No. 06/ Dated 16.02.2024**

This Criminal appeal has been filed on behalf of the appellant challenging the judgment of conviction and sentence dated 26.11.2007 and dated 28.11.2007 respectively passed by Sri Ramesh Kumar Srivastava, the learned Additional Sessions Judge cum Fast Track Court No. 1, Gumla in S.T. No. 220 of 2005 for the offence under section 304 (part II) of the I.P.C. and sentenced to undergo R.I. for 7 years.

2. The prosecution case, in brief, is that on 19.07.2005 there was Kadulta festival and on this occasion Anil Munda, the deceased, after taking Haria liquor in a state of Intoxication, went to the house of Etwa Munda. At that time it was around 6:00 P.M in evening. The said Anil Munda in absence of owner of the house Etwa Munda made complaint to his wife, about Modus Operandi adopted as being village priest by her husband. Then an altercation took place between Anil Munda and Guddi Devi who happened to be the wife of Etwa Munda . During

course of altercation Etwa Munda the husband of Guddi Devi came there and asked to Anil Munda as why he assaulted his wife Guddi and Etwa Munda knocked down Anil Munda on the ground and by means wooden piece of Juwat lying there on right side it over the head of Anil Munda. Anil Munda sustained head injuries and died on account of injury sustained over the head.

Further case of prosecution is that Jyoti Munda i.e. the Informant and who happened to be the widow of deceased Anil Munda, after death of the deceased, had reported the matter to the villagers immediately and villagers of the locality came there but they after seeing the body they returned back. As such none had arrived for help and support. Then she reported the matter to her father Jeram Munda of village Tendar within Ghaghra P.S of the same district. Her father, after getting information, came to the place of occurrence and then only she accompanied with her father to the police station.

3. Heard learned counsel for the appellant and learned counsel for the State.

4. Learned counsel for the appellant has submitted that the impugned judgment of conviction and sentence passed by the learned Court below is illegal, arbitrary and not sustainable in eye of law. It is submitted that learned Court below has committed legality by convicting the appellant for the offence under section 304 of the I.P.C. It is submitted that the learned Trial Court has not at all considered the defence of the appellant. It is submitted that the learned Trail Court had not properly scrutinized the

statements of the witnesses and has given finding which is contrary to the materials of records. It is submitted that the learned Trial Court had not considered properly the material contradictions and also the statements of the witnesses. It is submitted that the examination of the accused person under section 313 of the Cr.P.C. has not been done properly and the relevant questions were not put to him. It is submitted that P.W. 4 and P.W. 5 namely Julius Ekka and Sanjay Minz respectively have been declared hostile and they are hearsay witnesses. It is submitted that, the P.W. 2, P.W. 3 and P.W. 6 namely Prakash Asur, Lal Nand Kishor Nath Shadeo and Adward Toppo respectively are seizure list witnesses and they are also hearsay witnesses and their evidence is not reliable. It is submitted that the P.W. 8 Manual Minz has also been declared hostile whereas, whereas P.W. 9 Rameshwar Oraon is I.O. of this case. It is submitted that neither the Informant Jyoti Munda nor Jerom Munda father of the informant have been examined in this case. It is submitted that there is no eye witness of the occurrence. It is submitted that the FSL report of the articles seized i.e. clothes etc. had not been produced and proved by the informant and hence the impugned judgment and sentence passed by the learned Court below may be set-aside and this Criminal Appeal may be allowed.

5. On the other hand, learned A.P.P. has submitted that the impugned judgment of conviction and sentence passed by the learned Court below requires no interference. It is submitted that the appellant had committed brutal murder of the deceased Anil Munda by assaulting him by wooden

piece of Juwat due to which the deceased sustained head injuries and died. It is submitted that P.W. 1 is Dr. Kameshwar Nath Tiwari who had proved the post-mortem report of the deceased which is marked as Exhibit -1. It is submitted that P.W. 2 Prakash Asur and P.W. 3 Lal Nand Kishore Nath Shahdeo are seizure list witnesses who have proved the seizure of article i.e. wooden piece of "Juwat" etc. Thus the weapon used in murder has been proved. It is submitted that P.W. 6 and P.W. 7 namely Adward Toppo and Stanislas Tirkey respectively are also seizure list witnesses who have proved the woolen jacket worn by the appellant. Thus , P.W. 6 and P.W. 7 have also proved the articles seized by the police from the possession of the appellant. Although, P.W. 2, P.W. 4 and P.W. 5 have been declared hostile but they have not denied the occurrence. It is submitted that P.W. 9 is I.O. of this case who has proved the Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7 and Exhibit 8 respectively. It is submitted that non-examination of the informant Jyoti Munda and Jerom Munda, the father of the informant is not fatal to the prosecution case. It is submitted that the P.W. 6 and P.W. 7 have supported the prosecution case and have proved the recovery of the weapon used in murder of the appellant. It is submitted that the P.W. 9 is Investigating Office of this case and who also stated during his evidence that the blood was not found on Juwat as such the evidence of I.O. cannot be wiped one . It is submitted that the P.W. 9 i.e. I.O. has supported and corroborated the prosecution case and submitted charge-sheet against the appellant for the offence under section 302 of the I.P.C. , however , the learned

Court below had also taken lenient view by convicting the appellant for the offence under section 304 of I.P.C. part II instead of 302 of the I.P.C. and hence this Criminal Appeal may be dismissed.

6. Perused the Lower Court Records of this case and considered the submission of both the sides.

7. It transpires that the occurrence had taken place on 19.07.2005 in the evening at around 6:00 pm but FIR was lodged on 22.07.2005 at 02.15 P.M. by the Informant against the appellant for committing the murder of her husband Anil Munda giving rise to Chainpur P.S. Case No. 45 /05 for the offence under section 302 I.P.C. against the appellant. It has been stated that none of the villagers had helped her even after the seeing the dead body of her husband and due to which, she informed her father Jerom Munda and after arrival of her father, the F.I.R. was lodged.

8. It transpires that the police, after making investigation, had submitted the charge-sheet under section 302 of the I.P.C. against the appellant on 16.08.2005 before the Chief Judicial Magistrate, Gumla and learned Chief Judicial Magistrate, Gumla had taken cognizance under section 302 I.P.C against the appellant on 31.08.2005.

9. After supplying the police papers to the accused-i.e. the appellant, charges were framed against the appellant under section 302 of IPC on 24.11.2005 by Sri R.K. Srivastava, the learned Additional Sessions Judge-cum-F.T.C. -I, Gumla and which the appellant pleaded not guilty and claimed to be tried .

10. It transpires that prosecution had got examine nine (09) witnesses in support of its case who are as follows:-

- (i) P.W. 1 is Dr. Kameshwar Nath Tiwary,
- (ii) P.W. 2 is Prakash Asur,
- (iii) P.W.3 is Lal Nand Kishore Nath Shedeo,
- (iv) P.W.4 is Julius Ekka,
- (v) P.W. 5 is Sanjay Minz,
- (vi) P.W. 6 is Adward Toppo ,
- (vii) P.W. 7 Stanislas Tirkey,
- (viii) P.W. 8 Manual Minz,
- (ix) P.W. 9 Rameshwar Oraon i.e. I.O. of this case.

11. The prosecution got proved the following documents as the Exhibit which are as follows:

- (i) Exhibit 1 is post-mortem report,
- (ii) Exhibit 2 is signature of Prakash Asur on inquest report (with objection),
- (iii) Exhibit 2/1 is signature of Lal Nand Kishore Nath Shahdeo on Inquest report,
- (iv) Exhibit 3 and 3/1 are signature of Adward Toppo and Stanislas Tirkey on seizure list dated 22.07.2005
- (v) Exhibit 4 is Fardbayan,
- (vi) Exhibit 5 is Inquest Report,
- (vii) Exhibit 6 is Confessional statement (with objection) of the appellant ,
- (viii) Exhibit 7 is seizure list dated 22.07.2005 ,
- (ix) Exhibit 8 is F.I.R.

12. Thereafter, the appellant was examined under section 313 of the Cr.P.C. on 09.10.2007 by the learned Court below and who denied the circumstances put forth before him.

13. Neither the any defence witness were examined on behalf of the appellant nor any document was marked as the Exhibit.

14. Thereafter, the learned Court below has convicted the appellant for the offence under section 304 Part II of the IPC and sentenced him to undergo R.I. for the period of seven (07) years and hence the appreciation evidence of prosecution witness is required.

15. Before appreciating the evidence of witnesses, it will be relevant to appreciate the F.I.R.

16. It has been alleged in the F.I.R that on 19.07.2005 in the F.I.R on the date of eve of Koduleta Festival in the village her husband Anil Munda aged about 30 years had taken Hariya (wine) and was in alcoholic condition and he went to the house of his neighbour Etwa Munda at around 6:00 pm in the alcoholic condition and taunted his wife Guddi Devi for eating Khukhari Puttu as to how when her husband is a priest of the village and had done worship and there is complaint in the village and upon which the wife of Etwa Munda started abusing her husband . In the meantime the appellant Etwa Munda came from the field and asked her husband, as to why he was assaulting his wife and he thrashed her husband on the ground and assaulted her husband broken wooden piece of Juwat on his head in the right side, due to which her husband sustained

head injuries and died. Although the informant informed the incident on the same day in the night and on the next day to the villagers but none of them helped her and left her house after seeing the body and then the informant informed her father Jeram Munda of village Tendar P.S. Ghaghra and he came to her residence yesterday in the evening and on the next day while he was going to inform to police station then the police arrived at her house and recorded her fardbeyan .

17. Therefore, it is evident from the F.I.R. that the deceased Anil Munda in alcoholic condition , after taking wine, had gone to the house of the appellant and was taunting and beating his wife and then the appellant came and thrashed the husband of the informant on the ground and assaulted him by the wooden piece of Juwat.

18. It also transpires that on 22.07.2005 the police had also recorded the confessional statement of the appellant Etwa Munda at 11-15 hours .

19. The confessional statement of the appellant is marked as Exhibit -6 (with objection) and which was recorded by Rameshwer Orawn i.e. I.O. of this case.

20. Exhibit-2 is inquest report of the deceased prepared by the I.O. at the place of occurrence on 22.07.2005 and signed by Prakash Asur i.e. P.W. 2, Lal Nand Kishore Nath Shadeo i.e. P.W. 3.

21. So far as evidence of the prosecution witness is concerned P.W. 1 is Dr. Kameshwar Nath Tiwari ( Medical Office) who stated during his evidence that he had conducted post-mortem report of the dead body of the

decease Anil Munda on 22.07.2005 on 4:10 P.M. and found the following injuries as follows:-

- (i) Lacerated wound 4" X 2" crenel cavity present over the right side of temporal area of skull.

On dissections: Doctor found depressed fracture over right temporal bone of the skill. Crenel cavity contains bold clots both chamber of heart were empty. Both lungs intact, stomach also was empty.

The injuries were ante mortem in nature and caused by heavy blunt substance.

Cause of the death was due to head injury. The time elapsed since death more then four days before conducting P.M. exanimation. The Doctor found an rigour mortis absent in the upper and lower that limbs and at time the body was in the advance stage of decomposition. As such Doctor proved entire Post-mortem report which has been marked as Extibit -1.

During cross-examination he stated that there is only one injury on the body of the deceased.

Thus, from the scrutinizing the evidence of P.W.1 i.e. the Doctor, it is evident that he had proved the post-mortem of the decease Anil Munda which is marked as Exhibit 1.

22. P.W. 2 is Prakash Asur and who stated during his evidence that the deceased was *Sadhu* in his relation and the deceased was murdered but he had seen the dead body of the decease Anil Munda on the fourth (04) day .

Police had prepared punchnama of dead body of Anil Munda and took his signature on inquest report which is marked as Exhibit 2 (with objection).

He also stated that the police had recorded statement, but no person had informed him as to who has committed murder of the deceased. The prosecution had declared P.W. 2 as hostile witness and he denied to have stated before the police that the appellant had committed murder of the deceased Anil Munda by wooden piece of Juwat.

During cross-examination he stated that he was not aware of the contents of punchnama but he had not put the signature on the said panchnama at the residence of Jyoti Munda i.e. the informant, rather he had put signature in the place where the dead body was lying and the dead body was kept in front of house of Etwa Munda . He had admitted to identify Etwa Munda as the person of the neighbour village.

23. Thus , from scrutinizing the evidence of the P.W. 2, it is evident that he was declared hostile by the prosecution but he identified his signature in the inquest report marked as Exhibit -2 as he not supported the prosecution case on the point of assault committed by the appellant . Even P.W. 2 has not supported the prosecution case although he was Sarhu of the deceased Anil Munda.

24. P.W. 3 Lal Nand Kishore Nath Shahdeo (who is a retired Govt. employee) had stated during his evidence that the deceased Anil Munda was murdered by Etwa Munda, who happens to his nephew, around one year ago on the eve of kadleta puja. He learnt about the occurrence from the

police and his house is situated at the distance of one (01) K.M. from the place of occurrence. He identified his signature on the inquest report marked as Exhibit -2/1.

During cross-examination he stated that villagers had fled away and hence police came to his house and punchnama of dead body was prepared and he came to place of occurrence on the request of the police and learnt from the police that Etwa Munda had committed murder.

25. Thus, from scrutinizing the evidence of P.W. 3, it is evident that he is a hearsay witness and lived at a distance of around one (01) km from the place of the occurrence and the police arrived after four (04) days of the occurrence and then he put the signature on the inquest report which marked as Exhibit -2/1.

Thus P.W. 3 has merely supported the prosecution version but he is a hearsay witness.

26. P.W. 4 is Julius Ekka who had stated during his evidence that Anil Munda was murdered but he does not know who committed the murder of deceased Anil Munda and the wife of Anil Munda has not disclosed anything.

Thus P.W. 4 has been declared hostile by the prosecution.

During cross-examination he stated that he learnt about the information of murder from the police.

Thus P.W. 4 is a hostile witness and he has not supported the prosecution witness. Hence evidence of P.W. 4 is also not reliable .

27. P.W. 5 is Sanjay Minz and who had stated during his evidence that he learnt from the villagers that the appellant Etwa Munda had committed the murder of the deceased Anil Munda but he had not gone to see the dead body of Anil Munda. His mother Marium Minz informed him that the appellant Etwa Munda had committed murder, however he not gone to the place of occurrence and police had not recorded his statement.

Thus, P.W. 5 has also been declared hostile by the prosecution as he has not support the prosecution case, hence the evidence of P.W. 5 is not reliable.

28. P.W. 6 Adward Toppo is a villager and who had stated during his evidence that the one (01) year ago the deceased Anil Munda was murdered and he learnt the occurrence about the police and gone before the dead body alongwith police and had seen that the deceased Anil was killed from wooden piece of Juwat. The police had seized the portion of wooden piece of Juwat from the place of occurrence and took his signature on seizure list prepared marked as Exhibit 1 but he does not know as to who had committed the murder of the deceased.

During cross -examination he stated that his house is situated at the distance of around one and half km.

29. Thus, from the scrutinizing the evidence of the P.W. 6, it is evident that he is also a hearsay witness and seized article wooden piece of Juwat marked as Exhibit -3. However he does not know about the inner contents of seizure list .

Thus P.W. 6 has also not supported the prosecution case and he is not aware about the contents of the seizure list.

30. P.W. 7 is Stanislas Tirkey who stated during his evidence that the appellant Etwa Munda had committed the murder of the deceased Anil Munda and he learnt about the occurrence from the police on the next day and he had gone to see the dead body and he also seen the wooden piece of Juwat near the dead body. He had proved the signature of seizure list marked as Exhibit 3/1 which was prepared by the police.

During cross examination he stated that his house is situated at the distance of one km from the house of the deceased Anil Munda and he had put signature on the seizure list on the instruction by the police.

Thus , P.W. 7 is also a seizure list witness and is also hearsay witness and he learnt about the occurrence from the police on the next day. Although he proved the signature on the instruction of police. Thus, evidence of P.W. 7 is also not reliable .

31. P.W. 8 is Manual Minz, who has also been declared hostile by the prosecution as he stated that he was not aware who murdered the deceased and he was not present in the village .

During cross- examination he further stated that he is not aware about the murder of deceased Anil Munda and his house is situated at the distance of one km from the house of the deceased Anil Munda.

Thus, evidence of P.W. 8 is not reliable as he was declared hostile by the prosecution.

32. P.W. 9 is Rameshwar Oraon i.e. the I.O. of this case and he stated during his evidence that on 22.07.2005 at around 8:30 P.M. he arrived at village Karaku Kujratoli on rumour that on 19.07.2005 one person was murdered and body is still unattended. Then he made entry in station diary and he alongwith Officer In-charge and armed forces proceeded to the place of occurrence and recorded the fardbeyan of the informant Jyoti Munda on the same day i.e. 22.07.2005 at 9:30 am. He proved the F.I.R. marked as Exhibit 4. Then he prepared the inquest report of the deceased marked as Exhibit -5 (with objection).

33. Thereafter he recorded the statement of the informant and inspected the P.O. and he stated that the dead body was found in the Courtyard of the house of the appellant Etwa Munda and described the boundary.

Thereafter he recorded the statement of the witnesses Guddi Devi (not produced by prosecution) , Prakash Asur (i.e. P.W. 2), Lal Nand Kishore Nath Shadeo (i.e. P.W. 3), Julius Ekka ( i.e. P.W. 4), Sanjay Minz (i.e. P.W. 5), Manual Minz ( i.e. P.W. 8) and had arrested the accused- the appellant Etwa Munda who admitted his guilt. Then he recorded his confessional statement marked as Exhibit 6 (with objection) and had recovered the wooden piece of Juwat from the Courtyard which was used for committing the murder and had prepared the seizure list of wooden piece of Juwat which is marked as Exhibit 7. Thereafter he recorded the statement of witness of Stanislas

Tirkey i.e. P.W. 7 and thus he returned to the police station and instituted the case No. 45 of 2005 and prepared the F.I.R. in writing with signature which marked as Exhibit -8.

Thereafter he submitted the charge-sheet for offence under section 302 I.P.C. against the appellant.

34. During cross-examination he stated that although a Chowkidar of police station lives in the village of the occurrence but he was not informed by the Chowkidar about the occurrence because he was not coming to the police station for a long period. Even the family member of the deceased had not arrived at the police station for giving information of the death of the deceased. He stated that at a distance of half km from the village and he learnt about the place of occurrence from the villagers however he had instituted the case No. ( i.e. case 45 of 2005) on the inquest report at the place of occurrence. He further stated that no sign of altercation was found of the place of occurrence and further stated that it was raining. However he admitted that blood stain soil was not seized and the case number was instituted in the seizure list at the place of occurrence.

He admitted that the appellant was trying to surrender, then he was arrested however the witness Guddi Devi had stated that the deceased was in alcoholic condition at the time of occurrence.

35. Thus, from scrutinizing the evidence of P.W. 9 i.e. I.O. of this case, it would appear although he has tried to support the prosecution case by stating that the dead body was recovered from the house of the appellant Etwa Munda and he seized wooden piece of Juwat from the house of the

appellant Etwa Munda in seizure list marked as Exhibit -7 (with objection) . He stated that he had not got conducted however he admitted that there is no any sign of blood in recovered jumat (yoke) and he had not conducted the forensic investigation of seized martial Exhibit.

Thus the evidence of P.W. 9 show preparation of inquest report and seizure list marked as Exhibit -5 and Exhibit 7.

36. It transpires that Jyoti Munda the informant of this case has not been examined by the prosecution and even Jerom Munda i.e the father of the informant has not been examined by the prosecution.

Thus, the informant who was eye witness of this case, has also not been examined by the prosecution.

37. It transpires that there is delay of three (03) in lodging the F.I.R. by the informant but non-examination of the informant Jyoti Munda and delay could not be explained by the Investigating Officer .

38. Investigating Officer. has also admitted the he had not send the juwat i.e. yoke for FSL investigation.

39. It further appears that even the said murder weapon juwait i.e yoke was not produced before the learned Trial Court below at the time of evidence of the Investigating officer and also during examintion of seizure list witnesses P.W. 6 and P.W. 7 namely Adward Toppo and Stanislas Tirkey .

40. It is evident from the F.I.R. that the deceased was in drunken condition and he had gone to the house of the appellant and was taunting her and tried allegedly to assault

the pregnant wife of the appellant and thus the appellant was allegedly caught in the heat of passion without premeditation . Therefore in the above background the learned Court below has convicted the appellant for the offence under section 304 part 2 of the I.P. C.

41. Thus, the learned Court below has committed error by passing the judgment of conviction and sentence even in absence of the informant.

42. It is evident that the F.I.R. was not proved and there is no eye witness of the occurrence. However the Investigating Officer. P.W. 9 had submitted charge-sheet against the appellant.

43. It transpires that the informant has not been examined in this case by the prosecution.

44. It transpires that the learned Court below had taken several steps for securing the presence of the Informant and had issued summon, bailable warrants and also issued non-bailable warrant against the Informant for her appearance on 18.05.2006, however, the Informant had not appeared till 19.07.2007 .

45. It also appears that even letters were written to the Superintendent of Police, Gumla and letter was sent to Officer In-charge Chainpur for sending the inquest report of non -bailable of warrant against the Informant but the Informant was not produced by the prosecution.

46. Thus, non-examination of the informant is fatal to the prosecution case and as the evidence of Investigating Officer cannot be relied upon to convict the appellant .

47. It has been held in the case of Miran Bux and Laloo @ Shagir Ahmad and others reported in 1993 Supp (3) Supreme Court Cases No. 379 at para 4 as follows:-

*“ Para 4 :- Apart from these infirmities, there is one other major drawback in this case . Manzoor Ahmed who gave the FIR putting forward this story has not been examined on the ground that his presence could not be secured as he was abroad. It must be noted that the version given by him in his report is being repeated by all the eyewitnesses. In a case of this nature unless the version given in the FIR , is found to be reliable, the same version repeated by these eyewitnesses cannot be accepted outrightly. At any rate in this case , it is difficult to accept the evidence of the other witnesses who are all relatives and whose version suffers from many infirmities, unless the Court is satisfied that the version given in the F.I.R. is true . The High Court has considered in great detail under what circumstances the report was given by Manzoor Ahmed.”*

48. In view the judgment reported in the case of Tofan Singh Vs. State of Tamil Nadu reported in (2021) 4 SCC 1 that confessional statement of the accused before the police is not admissible in law.

49. It transpires that P.W. 2, P.W. 4, P.W. 5 and P.W. 8 namely Praksh Asur ,Julius Ekka , Sanjay Minz and Manual Minz respectively had been declared hostile by the prosecution and they had not supported the prosecution case and as such their evidence is not reliable.

50. It transpires that P.W. 3 namely Lal Nand Kishore Nath Shahdeo is the witness on Inquest Report, P.W. 6

namely Adward Toppo is witness of the seizure list of Juwat and they are formal witnesses and they have not stated any over act against the appellant and they had not seen the appellant committing the murder of the deceased and they are hearsay witnesses of the far away place from the place of occurrence.

51. P.W. 7 Stanislas Tirkey is also witness of seized Juwat and merely proved his signature respectively signature as Exhibit 3/1 and he had also not stated the name of the appellant for committing death of deceased.

Hence, the evidence of P.W. 7 is not reliable for convicting the appellant .

52. It transpires that P.W. 1 Dr. Kameshwar Nath Tiwari merely prove the post mortem report of the deceased and report appears that death was more than four days. Thus, P.W. 1 is formal witness.

53. P.W. 9 Rameshwar Oraon i.e the Investigating officer of this Case and he had submitted that charge-sheet against the appellant on the basis of the evidence of the Informant Jyoti Munda and the witnesses Gudi Devi , P.W. 2 Prakash Asur, P.W.3 Lal Nand Kishor Nath Sahdeo, P.W. 4 Julius Ekka , P.W. 5 Sanjay Minz and P.W.6 Manual Minz and they have either seizure list witness and inquest report witness and they have hostile by the prosecution and they have stated nothing against the appellant.

54. In view of this case the judgment of conviction dated 26.11.2007 and sentence dated 28.11.2007 passed by Sri Ramesh Kumar Srivastava, then learned Additional Sessions Judge -cum-Fast Track Court No. 1, Gumla in S.T. No. 220 of 2005 is set- aside and the appellant namely Etwa Munda is acquitted for the offences under section

304 (part II) of the I.P.C and the appellant is also discharged from the liability of his bail bonds.

55. Accordingly, this Criminal Appeal (S.J.) No. 1524 of 2007 is allowed.

56. Let a copy of this order be sent to the learned Court below for the needful.

**(Sanjay Prasad, J.)**

Bibha/