ROTASH

v.

STATE OF RAJASTHAN

DECEMBER 6, 2006

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

Penal Code, 1860; s.302 r/w s. 34:

Murder—Joint liability—Accused-appellant and other accused committed murder—Trial Court found accused appellant and another accused, brother of deceased guilty of committing offences u/s. 302 r/w s. 34 IPC, convicted and sentenced them accordingly—Affirmed by High Court—On appeal, Held: PW1, another brother of deceased and PW6, mother of deceased named all the accused persons in their statement recorded by Police—Though some discrepancies noticed as regards actual overt act played by them but same is not of much significance—Even assuming that PW6 did not name accused appellant in FIR, no reason found to disbelieve the statement of PW6—Injuries suffered by deceased could be caused only by hard blunt substance/iron pipes which were carried by accused persons—Intention to commit murder of the deceased inferred from totality of the circumstances of the case—Crime committed by more than one person—Accused came together for committing the crime and fled away together—Prior concert proved by subsequent conduct—Hence sharing of common intention by accused in committing the crime established—Courts below rightly convicted and sentenced the accused.

Appellant, his brother-in-law, (brother of the deceased) and four others attacked the deceased with weapons, the victim succumbed to the injuries. Deceased allegedly harassed wife of his brother; one of the accused. PW-1, another brother of the deceased lodged an FIR. Trial Court found appellant and another guilty of committing offences under ss. 302/34 IPC. Other accused were acquitted as not identified. On appeal, conviction and sentence of the accused affirmed by the High Court. Hence the present appeal by one of the convicts.

Appellant contended that he was known to the informant and having regard to the fact that he could identify the assailants of his brother, there

was no reason as to why he was not named in the FIR; that the mother of the A
deceased, although named Appellant in her statement under Section 161 of
the Code of Criminal Procedure Code, 1973 before the Investigating Officer,
she did not attribute any overt act on his part; that presence of P.Ws. 8 and
P.W.9 at the scene of occurrence was highly doubtful as their statements were
recorded by the police after a few days; that P.W.8 at one place of his deposition
alleged that his statement was taken by the police 5-7 days after the incidence B
and at another place stated that the same was recorded 10 to 11 days after the
incidence; that the statement of P.W.9, who claims himself to be an eye-witness,
was also not recorded for three days despite the fact that he was a witness to
the Panchayatnama of inquest of the deceased; and that all the witnesses being
related to the deceased, were interested witnesses and the courts below C
committed a serious error in relying upon their statements.

Respondent-State submitted that P.W.1 in his deposition had asserted
that somebody else has recorded his statement at the police station, who might
have committed an error in not recording the fact that Appellant also took
part in the commission of murder of the deceased and further more, having D
regard to the fact that in the statements of both P.Ws. 1 and 6, which were
recorded by the Investigating Officer, it cannot be said to be a case where
omission to name Appellant would be fatal to the prosecution case; and that at
the instance of Appellant the Investigating Officer has recovered an iron pipe,
with which he had assaulted the deceased as also P.W.6. E

Dismissing the appeal, the Court

HELD: 1.1. In the First Information Report, no statement had even been
made that P.W.6, mother of the deceased, had suffered serious injuries. She
was brought to the hospital. She had been receiving treatment by P.W.12. It F
is noticed that the Investigating Officer had gone to the place of occurrence
immediately thereafter, carried out the preliminary investigation and recorded
the statements of witnesses. He must have come back to the town and recorded
the statement of PW-6. It has not been disputed that P.W.1 and P.W.6 in their
statements before the police categorically named Appellant as one of the
persons accompanying other accused. There may be some discrepancies in G
their statements as regards the actual overt act played by him, but the same
is not of much significance. [270-H; 271-A, B]

1.2. The First Information Report, as is well known, is not an
encyclopedia of the entire case. It need not contain all the details. Although,
importance of naming of an accused in the First Information Report cannot H

be ignored, but it is seen that he had been named in the earliest possible opportunity. Even assuming that P.W.1 did not name him in the First Information Report, no reason is found to disbelieve the statement of P.W.6. The question is as to whether a person was implicated by way of an afterthought or not must be judged having regard to the entire factual scenario obtaining in the case. [271-E, F]

1.3. Accused No.1 as also Appellant were stated to be carrying iron pipes. The deceased also suffered a large number of injuries. Some of the injuries indisputably could be caused only by hard and blunt substance like an iron pipe. A number of injuries suffered by the deceased clearly point out that it could not have been inflicted by one person. Common intention on the part of the accused No.1 together with others to commit the murder of the deceased can, therefore, be inferred. [271-H; 272-A, D, E]

2.1. There is no uniform inflexible rule for applying the principle of common intention. The inference therefor must be drawn from the totality of the facts and circumstances of each case. [272-F]

2.2. It is evident that PW6 attributed the acts of assault not only on the part of her son, accused no.1, but upon appellant also. Her statement that she found her son being assaulted, fell on the top of him but still they did not stop beating, is significant. She was an injured witness. When she gave her statements before the police, she must have been in great pains. One of the accused was her own son. Appellant is his brother-in-law. Ordinarily, a mother would not involve her son and that too, on a charge of murder. [273-D, E]

2.3. If the conviction and sentence awarded to accused no.1 is not assailable, the question which arises for consideration is as to whether Appellant can be found guilty for sharing common intention to commit the said crime along with him. Intention on the part of the accused to attract the principle of joint liability in the doing of a criminal act must be inferred keeping in view the fact situation involving in this case. All the accused came at the same time. Each one of them was variously armed. They evidently came with an intention to commit some crime. Their target was known. They did not even think of not committing the crime of murder of a son in front of his mother. He was assaulted indiscriminately. The mother tried to save her son. She fell on his body. She in the process also suffered grievous injuries. On a *conjoint reading* of the statement made by PWs. 1 and 6, it is evident that more than one person took part in the acts of actual assault. [273-F, G, H]

2.4. The accused persons not only killed the deceased and assaulted his A **mother, but also chased PW-1. He had to hide himself in the agricultural field. According to him, the accused persons were searching him with the aid of the torch. He could not be found. The intention of a person having a common intention to commit the crime must be judged from the totality of the circumstances. [274-A]**

B

2.5. It is not a case where there could not be a prior arrangement. Had there been no prior arrangement, they could not have reached the place of occurrence together in a vehicle. They would not be carrying any weapon. They would not have acted conjointly in perpetrating the crime. They would not have made searches together for PW-1 and fled away together. The prior- C **concert on the part of the accused may be determined having regard to the subsequent conduct of the accused. Thus, prior-concert in the instant case has also been proved,** ***inter alia,*** **by subsequent conduct. [274-B, C]**

2.6. Subject to just exceptions, it may be difficult to have direct proof of prior-concert but absence of proof of direct evidence necessarily lead to D **inference that may be sufficient to prove sharing of common intention by the accused. [274-D]**

Suresh & Anr. **v.** *State of U.P.,* **[2001] 3 SCC 673;** *Lallan Rai & Ors.* **v.** *State of Bihar,* **[2003] 1 SCC 268 and** *Barendra Kumar Ghosh* **v.** *King Emperor,* **AIR (1925) PC 1 : 26 Cri. LJ 431, relied on.** E

3. Applying the legal principles, common intention on the part of the appellant in committing the crime with accused no.1 stands established. The investigation was not fool proof but then defective investigation would not lead to total rejection of the prosecution case. [275-H; 276-A]

F

Visveswaran **v.** *State Rep. by S.D.M.,* **[2003] 6 SCC 73 and** *State of M.P.* **v.** *Mansingh & Ors.* **[2003] 10 SCC 414, relied on.**

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 335 of 2006.

G

From the Final Judgment and Order dated 5-5-2005 of the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur in D.B. Criminal Appeal No. 765/1999.

Uday Umesh Lalit, and Gaurav Agrawal for the Appellant.

H

A Naveen Kumar Singh, Mukul Sood and Aruneshwar Gupta for the Respondent.

The Judgment of the court was delivered by

S.B. SINHA, J. Appellant is before us aggrieved by and dissatisfied B with a judgment of conviction and sentence passed by a Division Bench of Rajasthan High Court, Bench at Jaipur in D.B. Criminal Appeal No.765 of 1999. He was proceeded against for commission of murder along with one Pitram, his brother-in-law. Pitram, accused No. 1 (A.1), Mali Ram, the first informant (P.W.1) and Moosaram are brothers. Mooli Devi is their mother. A First C Information Report was lodged at about 9.30 p.m. on 13.10.1996 in relation to an incident which took place at the 'Dhani' of Mali Ram's father, which is situated on Bhudoli Road, whereat, allegedly, the said Pitram committed murder of the said Moosaram at about 8 p.m. on the same day.

P.W.1, in his First Information Report, alleged that he and the deceased D carried some household articles from town Neem Ka Thana and went to their father's 'Dhani'. They stopped there, talked to their mother and left for their 'Dhani at Lambawali. When they reached the field of 'Darogas', they heard shouting of their mother, whereupon they started running, sensing that they would be attacked. Moosaram was then attacked by 4-5 persons. It was alleged that Pitram, A.1, his brother, who at the relevant time had been E working at Jaisalmer in Border Security Force, having 'bakda' in his hand attacked the deceased, as a result whereof he fell down, whereafter his associates started assaulting him with respective weapons in their hands. Moosaram shouted at his brother to save him. He ran and hid himself in the crops. The accused and his associates searched for him with torches in their F hands, but because of shoutings of Moosaram they fled away.

He reached the police station immediately after the occurrence. The investigation was started by P.W.17-Surendra Kumar Bhati. It is not in dispute that P.W.6-Mooli Devi, mother of the deceased as well had sustained injuries. The Investigating Officer came to the place of occurrence and G prepared a rough site plan on the basis whereof later a scaled site plan was prepared. He collected blood stained soil and ordinary soil from the place of occurrence, prepared memo, obtained signatures of the witnesses thereupon. He also prepared Panchayatnama of the deceased Moosaram. He also seized the blood stained clothes of Moosaram. He recorded the statements of witnesses Mahavir, Mali Ram, Mooli Devi and Khyali Ram on the same day. H It appears that apart from P.Ws. 1 and 2, two other witnesses, namely, P.W.8-

Khyaliram and P.W.9-Sarjeet Singh were eye-witnesses. However, their statements were recorded later.

The motive for commission of the said offence by Pitram was said to be that Moosaram allegedly used to harass his wife.

While Appellant along with the said Pitram was convicted for commission of an offence under Section 302/34 Indian Penal Code, other accused, who were four in number, were acquitted, *inter alia*, on the premise that they had not been properly identified and no individual overt acts was attributed to them.

Accused No.1 is not before us. He, thus, has accepted the verdict.

Mr. Uday Umesh Lalit, learned Senior counsel appearing on behalf of Appellant would submit:-

(i) Appellant was known to the informant and having regard to the fact that he could identify the assailants of his brother, there was no reason as to why he was not named;

(ii) The mother of the deceased, although named Appellant in her statement under Section 161 of the Code of Criminal Procedure Code, 1973 before the Investigating Officer, she did not attribute any overt act on his part.

(iii) Presence of P.Ws. 8-Khyaliram and P.W.9-Sarjeet Singh at the scene of occurrence was highly doubtful as their statements were recorded by the police after a few days.

It was pointed out that P.W.8 at one place of his deposition alleged that his statement was taken by the police 5-7 days after the incidence and at another place stated that the same was 10 to 11 days thereafter. The statement of Sarjeet Singh, P.W.9, who claims himself to be an eye-witness, was also not recorded for three days despite the fact that he was a witness to the Panchayatnama of inquest of the deceased.

(iv)All the witnesses being related to the deceased, were highly interested and the courts below committed a serious error in relying upon their statements.

Mr. Naveen Kumar Singh, learned counsel appearing on behalf of the State, on the other hand, would submit that P.W.1 in his deposition had asserted that somebody else has recorded his statement at the police station, who might have committed an error in not recording the fact that Appellant herein also took part in the commission of murder of the deceased and further more, having regard to the fact that in the statements of both P.Ws. 1 and 6, which were recorded by the Investigating Officer on 13th October, 1996 itself, he was named, it cannot be said to be a case where omission to name Appellant would be fatal to the prosecution case. It was pointed out that at the instance of Appellant the Investigating Officer has recovered an iron pipe, with which he is to have assaulted the deceased as also Mooli Devi-P.W.6.

Homicidal death of Moosaram is not in dispute. The contents of autopsy report are also not in dispute. As indicated hereinbefore, now the conviction of Pitram, the brother-in-law of Appellant as the main assailant of the deceased, is also not in dispute. There cannot be furthermore any doubt whatsoever that ordinarily it was expected that P.W.1 would disclose the name of the assailants in the First Information Report, but the Court, in a case of this nature, must take into consideration the entire circumstances surrounding the incidence and may not start with a presumption that he is not a truthful witness. Appellant and the deceased came to their father's 'Dhani' with some household articles. They were proceeding to their 'Dhani' therewith. Pitram, the brother of the deceased and P.W.1, was working in the Border security Force. According to him, the deceased had been harassing his wife. Appellant herein, being the brother-in-law of the accused No.1 must have knowledge thereabout. It is, therefore, wholly unlikely that he would be falsely implicated.

P.W.1 ran for his life as he was also about to be assaulted. He hid himself in the agricultural field. The accused persons searched for him but could not trace him. According to him, his brother was attacked by the assailants at about 8 p.m. The police station is said to be situated at a distance of five kilometers from the place of occurrence. The entire incident must have taken some time to take place. He must have, thus, keeping in view the fact situation obtaining herein, discovered that his brother had expired due to the injuries received by him round about 8.30 p.m. He went to the police station and if his statement is to be believed, 'Fard Bayan' was recorded by a person who was sitting outside the police station. He handed it over to the Officer In-charge of the Neem Ka Thana police station after his statement was reduced to writing by the said person.

We have perused the First Information Report. Therein even no statement had even been made that P.W.6 (Mooli Devi) had suffered serious injuries.

She, indisputably, was brought to the hospital. She had been receiving A treatment by P.W.12-Dr. Pramod Kumar Sharma. We have noticed hereinbefore at some length that the Investigating Officer had gone to the place of occurrence immediately thereafter, carried out the preliminary investigation and recorded the statements of witnesses. He must have come back to the town and recorded the statement of Mooli Devi. It has not been disputed B before us that P.W.1 and P.W.6 in their statements before the police categorically named Appellant as one of the persons accompanying Pitram and other accused persons. There may be some discrepancies in their statements as regards the actual overt act played by him, but the same, in our opinion, is not of much significance. Whereas P.W.6 in his statement before the police did not allege any overt act on his part, she did so in her statement in the C Court. Similarly, P.W.1, as noticed hereinbefore, although had not named Appellant in his First Information Report, but both in his statement before the police as also in his statement before the Court, not only named him but attributed specific overt acts on his part.

We, for the purpose of this case, may ignore the evidence of P.W.8 and D P.W.9, who may or may not be present at the scene of occurrence, but their presence in the village probably cannot be disputed as admittedly P.W.9 was a witness to the inquest report of the deceased which must have taken place within 2 to $2^{1/2}$ hours from the time of incident.

E

Appellant could be arrested only on 26th October, 1996.

The First Information Report, as is well known, is not an encyclopedia of the entire case. It need not contain all the details. We, however, although did not intend to ignore the importance of naming of an accused in the First Information Report, but herein we have seen that he had been named in the F earliest possible opportunity. Even assuming that P.W.1 did not name him in the First Information Report, we do not find any reason to disbelieve the statement of Mooli Devi-P.W.6. The question is as to whether a person was implicated by way of an after-thought or not must be judged having regard to the entire factual scenario obtaining in the case. P.W.6 received as many as four injuries. A lacerated wound with diffuse swelling was found on her G right hand, which was caused by a hard and blunt substance. She had diffuse swelling on her left leg as also on knee, which were again caused by a hard and blunt substance. There was another lacerated wound on her person. She had also complained of pain and tenderness on her chest.

The accused No.1 as also Appellant were stated to be carrying iron H pipes. The deceased also suffered a large number of injuries, which are as under :

"1. Lacerated wound 6 x 2 cm. x bone deep-chin-blunt-obliquely placed.

2. Lacerated wound 3 x 1.5 x 1 cm. upper lip-blunt.

3. Bruise 10 x 3 cm. Lt. Face obliquely placed.

4. Lacerated wound 10 x 2 cm. x bone deep. Lt. Temporoparito-occipital region semi curved in shape blunt.

5. Lacerated wound 12 x 3 x 0.5 cm. Lt. Leg blunt obliquely placed.

6. Lacerated wound 2 x 1 cm. Rt. Leg-blunt.

7. Abraison 2 x 1 cm. Lt. Thigh.

8. Bruise-three in number (A) 10 x 2 cm. (B) 8 x 2 (C) 4 x 2 cm. Horizontally placed on Lt. Thigh parallel to each other at 2 cms. Aparat. All bruises red in colour."

Some of the injuries indisputably could be caused only by hard and blunt substance like an iron pipe.

A number of injuries suffered by the deceased clearly point out that it could not have been inflicted by one person. Common intention on the part of the accused No.1 together with others to commit the murder of Moosaram can, therefore, be inferred.

There is no uniform inflexible rule for applying the principle of common intention. The inference therefor must be drawn from the totality of the facts and circumstances of each case. It is difficult to find out two similar cases.

Whether the accused formed common intention or not is essentially a question of fact.

P.W.6 in her evidence stated :

"...They stayed for about 20 minutes with me, when they had left Pitram came. He had come in a vehicle like car which he parked near his house. Pitram had come along with his brother in law Rohtash and 2-4 another persons. He asked me where Maaliram and Musaram were. I told him that they have gone home. When they had come

> they were carrying iron rods. Pitram asked me to tell the truth otherwise A
> he would beat me. I told him they have gone to dhadi (sic). He said let us go to their dhadi we will beat them there. I shouted loudly run away people are coming to kill you. When I shouted at that time Musaram and Maaliram were going to Bansidhar's field. Pitram etc. ran after them and I ran after them Maaliram ran away don't know B
> where but Musaram was surrounded by them and they caught him. Pitram hit Musaram first on the head with a pipe and then Rohtash hit Musaram with a pipe and then the rest of the accused started beating him. I can only recognize Pitram and Rohtash in court. The witness recognized Pitram and Rohtash correctly in court. On seeing them beating Musaram I fell on top of him then too they did not stop C
> beating. Then these people ran away and Musaram died on the spot. I had also been medically examined and my X-ray was taken. Musaram was taken to hospital by Maaliram, Sarjeet and Khyali."

It is, therefore, evident that she attributed the acts of assault not only on the part of Pitram but upon Rohtash also. Her statement that she found D
her son being assaulted, fell on the top of him but still they did not stop beating, is significant. She was an injured witness. When she gave her statements before the police, she must have been in great pains.

One of the accused was her own son. Appellant is his brother-in-law. E

Ordinarily, a mother would not involve her son and that too, on a charge of murder.

If the conviction and sentence awarded to Pitram is not assailable, the question which arises for consideration is as to whether Appellant can be F
found guilty for sharing common intention to commit the said crime along with Pitram. Intention on the part of the accused to attract the principle of joint liability in the doing of a criminal act must be inferred keeping in view the fact situation involving in this case. All the accused came at the same time. Each one of them was variously armed. They evidently came with an intention to commit some crime. Their target was known. They did not even G
think of not committing the crime of murder of a son in front of his mother. He was assaulted indiscriminately. The mother tried to save her son. She fell on his body. She in the process also suffered grievous injuries. On a conjoint reading of the statement made by PWs. 1 and 6, it is evident that more than one person took part in the acts of actual assault. H

Not only they killed Pitram and assaulted his mother, they also chased PW-1. He had to hide himself in the agricultural field. According to him, the accused persons were searching him with the aid of the torch. He could not be found. The intention of a person having a common intention to commit the crime must be judged from the totality of the circumstances.

It is not a case where there could not be a prior arrangement. Had there been no prior arrangement, they could not have reached the place of occurrence together in a vehicle. They would not be carrying any weapon. They would not have acted conjointly in perpetrating the crime. They would not have made searches together for PW-1 and fled away together. The prior-concert on the part of the accused may be determined having regard to the subsequent conduct of the accused. Thus, prior-concert in the instant case has also been proved, *inter alia,* by subsequent conduct.

Subject to just exceptions, it may be difficult to have direct proof of prior-concert but absence of proof of direct evidence necessarily lead to inference that may be sufficient to prove sharing of common intention by the accused.

In *Suresh & Anr.* v. *State of U.P.*, [2001] 3 SCC 673, this Court held :

> "Thus to attract Section 34 IPC two postulates are indispensable : (1) The criminal act (consisting of a series of acts) should have been done, not by one person, but more than one person. (2) Doing of every such individual act cumulatively resulting in the commission of criminal offence should have been in furtherance of the common intention of all such persons.
>
> Section 34 of the Indian Penal Code recognises the principle of vicarious liability in the criminal jurisprudence. It makes a person liable for action of an offence not committed by him but by another person with whom he shared the common intention. It is a rule of evidence and does not create a substantive offence. The section gives statutory recognition to the commonsense principle that if more than two persons intentionally do a thing jointly, it is just the same as if each of them had done it individually. There is no gainsaying that a common intention presupposes prior concert, which requires a prearranged plan of the accused participating in an offence. Such a preconcert or preplanning may develop on the spot or during the course of commission of the offence but the crucial test is that such

plan must precede the act constituting an offence. Common intention can be formed previously or in the course of occurrence and on a spur of the moment. The existence of a common intention is a question of fact in each case to be proved mainly as a matter of inference from the circumstances of the case." A

In *Lallan Rai & Ors.* v. *State of Bihar,* [2003] 1 SCC 268, it has been held : B

"A plain look at the statute reveals that the essence of Section 34 is simultaneous consensus of the mind of persons participating in the criminal action to bring about a particular result. It is trite to record that such consensus can be developed at the spot. The observations above obtain support from the decision of this Court in *Ramaswami Ayyangar* v. *State of T.N.* C

In a similar vein the Privy Council in *Barendra Kumar Ghosh* v. *King Emperor,* AIR (1925) PC 1 : 26 Cri. LJ 431 stated the true purport of Section 34 as below: (AIR p.6) D

'[T]he words of Section 34 are not to be eviscerated by reading them in this exceedingly limited sense. By Section 33 a criminal act in Section 34 includes a series of acts and, further, 'act' includes omission to act, for example, an omission to interfere in order to prevent a murder being done before one's very eyes. By Section 37, when any offence is committed by means of several acts whoever intentionally cooperates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence. Even if the appellant did nothing as he stood outside the door, it is to be remembered that in crimes as in other things 'they also serve who only stand and wait'." E F

The above discussion in fine thus culminates to the effect that the requirement of statute is sharing the common intention upon being present at the place of occurrence. Mere distancing himself from the scene cannot absolve the accused—though the same however depends upon the fact situation of the matter under consideration and no rule steadfast can be laid down therefor." G

Applying the legal principles as noticed, we unhesitatingly are of the opinion that common intention on the part of the appellant in committing the crime with Pitram stands established. H

The investigation was not fool proof but then defective investigation would not lead to total rejection of the prosecution case.

In *Visveswaran* v. *State Rep. by S.D.M.,* [2003] 6 SCC 73, this Court held:

> "Before we notice the circumstances proving the case against the appellant and establishing his identity beyond reasonable doubt, it has to be borne in mind that the approach required to be adopted by courts in such cases has to be different. The cases are required to be dealt with utmost sensitivity, courts have to show greater responsibility when trying an accused on charge of rape. In such cases, the broader probabilities are required to be examined and the courts are not to get swayed by minor contradictions or insignificant discrepancies which are not of substantial character. The evidence is required to be appreciated having regard to the background of the entire case and not in isolation. The ground realities are to be kept in view. It is also required to be kept in view that every defective investigation need not necessarily result in the acquittal. In defective investigation, the only requirement is of extra caution by courts while evaluating evidence. It would not be just to acquit the accused solely as a result of defective investigation. Any deficiency or irregularity in investigation need not necessarily lead to rejection of the case of prosecution when it is otherwise proved."

In *State of M.P.* v. *Mansingh & Ors.,* [2003] 10 SCC 414, this Court held:

> "Even if it is accepted that there was deficiencies in investigation as pointed out by the High Court, that cannot be a ground to discard the prosecution version which is authentic, credible and cogent. Non-examination of Hira Lal is also not a factor to cast doubt on the prosecution version. He was not an eyewitness, and according to the version of PW 8 he arrived after PW 8. When PW 8 has been examined, the non-examination of Hira Lal is of no consequence."

For the reasons aforementioned, we are of the opinion that the learned Trial Judge and the High Court have not committed any error in passing the impugned judgment of conviction and sentence. The appeal is dismissed accordingly.

S.K.S. Appeal dismissed.