
(2025) 10 JH CK 0042

Jharkhand HC

Case No: Criminal Appeal (S.J.) No. 1376 Of 2004

Shiekh Siddik

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Oct. 15, 2025

Acts Referred:

- Code of Criminal Procedure, 1973 — Section 161
- Indian Penal Code, 1860 — Section 34, 147, 148, 149, 307
- Arms Act, 1959 — Section 27

Hon'ble Judges: Rongon Mukhopadhyay, J; Pradeep Kumar Srivastava, J

Bench: Division Bench

Advocate: J.P. Jha, Nehala Sharmin

Final Decision: Allowed

Judgement

Pradeep Kumar Srivastava, J.

1. Heard Mr. J.P. Jha, learned Senior Counsel for the appellants and Ms. Nehala Sharmin, learned Spl.P.P. for the State.

2. Both the criminal appeals preferred by the appellants for setting aside the judgment of conviction dated 26.07.2004 and order of sentence dated 31.07.2004 passed by learned Additional Sessions Judge-III, Rajmahal in Sessions Case No. 76/02 / Sessions Trial No. 262/02, whereby and whereunder, appellants Sheikh Siddik and Sheikh Muzim have been held guilty for the offence under Section 307/34 of the I.P.C. and sentenced to undergo rigorous imprisonment for 10 years with default stipulation. While appellant Sk. Oaster has been held guilty for the offence under Section 307 of the I.P.C. and under Section 27 of the Arms Act and has been sentenced to undergo R.I. for 10 years with default stipulation and R.I. for three years for the offence under Section 27 of the Arms Act.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal as per fardbeyan of one Mahavir Pandey is that on 01.11.2000, at about 8:30 PM, he had gone with Chat Prasad to the house of Firoz Driver (P.W.-16), while he was returning to his home at about 21:20 hours at night and reached near Crusher of Chirania, meanwhile, he was surrounded by Sk. Siddik and Sk. Mujim and one Sk. Oaster, who told him as to why his father has given evidence against him in the case of Jagdish Mandal and saying this Sk. Oaster fired upon the informant from a country made pistol causing injury on his chest, due to which, he fell down. It is alleged that one Om Prakash Pandey (P.W.-5) Vidya Sagar Pandey and others also arrived at the place of occurrence, then informant was brought to Sadar Hospital, Sahibganj for treatment and he disclosed the above incident to the above witnesses. It is further alleged that Sk. Oaster has threatened the informant on earlier occasion also and today attempted to kill him.

4. On the basis of above information, FIR being Taljhari P.S. Case No. 76/2000 dated 02.11.2000 was registered for the offence under Sections 147, 148, 149, 307 of the I.P.C. and Section 27 of the Arms Act.

5. After completion of investigation, charge sheet was submitted for the offence under Sections 307/34 of the I.P.C. and Section 27 of the Arms Act. The case was committed to the court of Sessions, where the present appellants pleaded not guilty and claimed to be tried.

6. In course of trial, altogether 17 witnesses were examined by the prosecution.

P.W.-1: Usha Rani Pandey.

P.W.-2: Bharti Devi.

P.W.-3: Subhash Pandey.

P.W.-4 : Mahavir Pandey (Informant/Injured).

P.W.-5 : Om Prakash Pandey.

P.W.-6 : Siyaram Singh.

P.W.-7 : Raj Kumar Chourasia.

P.W.-8 : Sekh Jumman.

P.W.-9 : Billo Prasad Chourasia.

P.W.-10 : Radha Kishun Pandey.

P.W.-11 : Doman Mahto.

P.W.-12 : Dr. Om Prakash.

P.W.-13 : Dr. Basant Kumar Sah.

P.W.-14 : Chakardhar Dubey.

P.W.-15 : Baleswar Sahu.

P.W.-16 : Feroj Khan.

P.W.-17 : Nisarul Bibi.

Apart from oral testimony of witnesses, following documentary evidences have been adduced:-

Exhibit-1 : Signature of Mahavir Pandey on the fardbeyan.

Exhibit-1/1 : Signature of Subhas Pandey on the fardbeyan.

Exhibit-1/2 : Signature of Om Prakash Pandey on the fardbeyan.

Exhibit-1/3 : Signature of Nageshwar Prasad Singh on the fardbeyan.

Exhibit-1/4 : Endorsement of Officer-in- Charge, Taljhari P.S. on the fardbeyan.

Exhibit-2 : Injury Report of Mahavir Pandey.

Exhibit-3 : Formal FIR.

Discharge Slip has been marked "X" for identification.

7. On the other hand, no oral or documentary evidence has been adduced on behalf of the defence. The case of defence is denial from the occurrence and false implication due to previous enmity.

8. The trial court after evaluating the evidence available on record led by prosecution recorded the finding of guilt of the appellants for the offences charged against them and sentenced as stated above.

9. Learned counsel for the appellants assailing the impugned judgment of conviction and sentence has contended that no specific role except extending help to main accused Sk. Oaster, no concrete evidence showing involvement of appellant nos. 1 & 2 of Cr. Appeal (SJ) No. 1376/2004 namely, Sheikh Siddik and Sheikh Muzim has been brought on record. It is also not consistently proved as to what overt act was done by these two appellants and how they had shared common intention in making attempt to kill the informant along with main assailant Sk. Oaster.

10. It is further submitted that so far as Sk. Oaster is concerned, there was old enmity with him as is disclosed in the FIR itself. No fire arm has been recovered from the possession of appellant Sk. Oaster. There was no recovery of any pellet also. Therefore, use of fire arm by the appellant Sk.

Oaster is misconceived. The Investigating Officer has also not collected any incriminating materials from the place of occurrence showing complicity of the appellant in the alleged offence. It is further submitted that except P.W.-4 none is the eye-witnesses of this case, rather most of the witnesses, who have projected themselves to be eye-witnesses of the occurrence like P.W.-1, P.W.-2, P.W.-5 and P.W.-10 are closely related to the informant and his own members and appears to be tutored witnesses. The testimony of these witnesses suffers from material contradictions and discrepancies as regards manner of occurrence, place of occurrence and the actual role of appellants as well as their capacity to identify the appellants. P.W.-10 happens to be father of the informant, according to him, due to sustaining fire arm injury, his son was bleeding, there was presence of blood at the place of occurrence, but the Investigating Officer P.W.-15 has not found any blood stained soil so that it cannot be collected and seized. The time of occurrence is in between 8:30 PM to 9:00 PM. Admittedly in a dark night there is possibility of anyone else have assaulted the informant and due to previous enmity, he has been implicated the appellants in this false case. Admittedly, there was no source of light at the place of occurrence. The informant (P.W.-4) is the sole eye-witness of the occurrence and in his fardbeyan, he has not specified any role against the appellant nos. 1 & 2 namely, Sheikh Siddik and Sheikh Muzim and admittedly in the latter part of the fardbeyan, he has disclosed the name of Sk. Oaster as a man, who fired upon him. Learned trial court has miserably failed to properly appreciate the oral testimony of witnesses, which are self-contradictory and suffers from material improvement. Therefore, arrived at wrong conclusion about guilt of the appellants with the aid of Section 34 of I.P.C. Hence, the impugned judgment of conviction and sentence of the appellants is fit to be set aside and appellants deserve to be acquitted.

11. On the other hand, learned Spl.P.P. appearing for the State has vehemently opposed the contentions raised on behalf of the appellants and defended the impugned judgment of conviction and order of sentence and has submitted that the learned trial court has very wisely and aptly taken into consideration the over all aspects of the case and undisputed testimony of the injured informant (P.W.-4). The appellants have given two fire arm injury on the vital part of the body to the injured, showing the intention / knowledge that the injury caused by such act is likely to cause death. The learned trial court has committed no error of law calling for any interference in the impugned judgment and order by way of this appeal, which is fit to be dismissed.

12. We have gone through the record of the case along with impugned judgment and order in the light of contentions raised on behalf of both side.

13. It appears that altogether 17 witnesses were examined by prosecution to substantiate the charges levelled against the appellants, out of them P.W.-1 Usha Rani Pandey, is admittedly not an eye-witness of the occurrence, rather she was inside the house, then she came to know that her brother-in-law (Mahavir Pandey) was shot by fire arm by Oaster Sk., Sheikh Siddik and Sheikh Muzim. She has identified only one accused Oaster Sk. and failed to identify Sheikh Siddik. She has categorically stated in her cross-examination that after 10-15 minutes later she arrived at place of occurrence. She also admits that her devar was lying on earth under injured condition near Moti Jharna Dak Bangla at Crusher Machine at a dark place. She also admits that she has never seen Sheikh Siddik or Sheikh Muzim and do not know their fathers' name, but she knows the name

of father of Sk. Oaster is Sk. Siddik.

14. P.W.-2 Bharti Devi was also present in her house. Her son Mahavir Pandey had gone with prasad of kharna of Chat Puja to give some persons. She has further stated that Sheikh Siddik, Sheikh Muzim and Sk. Oaster shot her son by fire arm at two places at chest. Admittedly, this witness is not an eye-witness of the occurrence, rather in her cross-examination, she specifically admits that she had not gone to the place of occurrence, rather in the house itself she heard about the incident and started weeping and became unconscious. Her son was brought to home where she saw him. Her son was sent to Hospital for treatment.

15. P.W.-3 Subhas Pandey has stated a different story that on 01.11.2000 at about 8:30 PM about eight accused persons shot fire on his brother Mahavir Pandey at Chirania near old crusher, which is not working. When he went to place of occurrence, the accused persons were fleeing. According to him, Mahavir Pandey had sustained fire arm injuries on his left neck and right chest.

In his cross-examination also he admits that at the time of occurrence, he was in his house along with his father, mother, brother and wife. This witness in his statement under Section 161 of the Cr.P.C. stated that at about 9:30 PM on the date of occurrence, one person came to his house and told that Mahavir has been shot by fire arm by unknown persons.

16. P.W.-4 Mahavir Pandey is the injured himself. According to his evidence, on 01.11.2000 at about 8:30 PM while he reached near Dak Bangla slope road meanwhile 10 persons surrounded him, out of them Sk. Oaster, Sheikh Siddik and Sheikh Muzim were also there. Sheikh Siddik and Sheikh Muzim caught hold of him and Sk. Oaster started saying that *“your father has given evidence in Jagdish Mandal, even though forbidden by him”* and opened a fire arm, which caused injury on left side of chest to this witness. He again opened fire arm, which caused injury towards right chest, due to which, he fell down. He went to Sahibganj Hospital by truck of Om Prakash Pandey (P.W.-5). He has proved his signature on fardbeyan as Exhibit-1 and signature of his brother Subhash Pandey as Exhibit-1/1.

In his cross-examination, he has admitted that all the accused persons were belonging to Village - Gadai. He does not know the father's name of accused Sheikh Siddik and Sheikh Muzim and has not disclosed the same before the police at the time of recording of his statement. He also admits that all the family members including his mother, brother and sister-in-law had come to place of occurrence, from where he went to Hospital on truck of Om Prakash Pandey. After the occurrence, he was not brought to his home on the date of occurrence.

17. P.W.-5 Om Prakash Pandey has stated that he was returning from Sahibganj to Maharajpur and at about 9:30 PM, the truck became out of order (defective) near Oattan Das Quarry, then he started to go his village - Maharajpur through walking and reached near Chiraniya Quarry then saw Mahavir Pandey (P.W.-4) was surrounded by Oaster, Siddik and Muzim along with other miscreants, who were not identified by him. In the meantime, Oaster Sheikh shot a fire on Mahavir Pandey on chest, thereafter, Siddik ordered to kill him and Oaster again opened fire arm and all started fleeing away. He raised alarm, meanwhile, family members of Mahavir Pandey and one

Siyaram Singh, Village Doctor also arrived. Thereafter, he brought Mahavir Pandey on his truck to Sahibganj for treatment and later to Bhagalpur. He further states that earlier Oaster Sk. has shot fire on Jagdish Mandal and a case was going on, in which Radha Krishna Pandey, father of the informant / injured Mahavir Pandey has given evidence, due to this reason, Mahavir Pandey has been shot.

In his cross-examination, he again reiterates that the incident took place at 9:30 PM not at 8:30 PM as stated by informant himself. He also admits in his statement before police that his truck became out of order near Oattan Das Quarry, therefore, he was coming on foot.

Attention of this witness has been drawn towards his statement under Section 161 of the Cr.P.C., wherein he has not stated that he saw Oaster Sheikh, Sheikh Siddik and Sheikh Muzim were surrounding to Mahavir Pandey and Oaster Sheikh shot one fire on Mahavir Pandey causing injury on his chest. Thereafter, on order of Sheikh Siddik, he again fired on chest to Mahavir Pandey. He further admits that he has stated before police that when he started walking towards his home, then heard screams of a person near Chiraniya Crusher and that injured person was Mahavir Pandey, who has sustained fire arm injury on his chest.

He has denied that he disclosed before the police that Mahavir Pandey has told him Oaster has shot fire upon him. He has also denied his statement before police that he rushed towards the house of Mahavir Pandey and informed about the incident then his family members and other villagers came to place of occurrence.

He has denied the suggestion of defence that he is maternal uncle of Mahavir Pandey, hence, giving evidence in his favour falsely implicating the accused persons.

18. P.W.-6 Siyaram Singh. He does medical works. The occurrence was about 9-10 PM on 01.11.2000. He has stated that Mahavir Pandey was shot by some miscreants near office of Chiraniya Ji. He rushed towards the place of occurrence and saw that two fire arm injuries were found on the body of Mahavir Pandey. He tied the injury by a gamcha (towel) and also requested to Station Master to inform the incident at Taljhari Police Station. At that time, Mahavir Pandey has disclosed that Oaster has fired upon him. Siddik and Muzim caught hold of him. Thereafter, he proceeded to Sahibganj along with injured Mahavir Pandey on a truck and met with S.P., Sahibganj and injured was sent to Government Hospital where statement of Mahavir Pandey was recorded and injured was referred to Bhagalpur for better treatment. In his cross-examination, he specifically admits that he can't tell that the incident took place at 8:30 PM. He also admits that he had not seen any miscreants while firing upon the injured.

19. P.W.-7 Raj Kumar Chaurasiya is a hearsay witness. According to him, on 01.11.2000 at about 9:30 PM he was at his shop meanwhile, Subhash Pandey was shouting that his brother has been shot by some unknown person. He saw the injured Mahavir Pandey, who told that Sk. Oaster, Sheikh Siddik and Sheikh Muzim have fired upon. Thereafter, injured was brought to Sahibganj for treatment.

20. P.W.-8 Sheikh Jumman, P.W.-16 Firoz Khan and P.W.-17 Nisarul Bibi have been declared hostile by the prosecution and expressed their no knowledge about the occurrence.

21. P.W.-9 Billo Prasad Chaurasiya is a hearsay witness, who heard hulla in the night that someone has shot fire on Mahavir Pandey, who is lying near Chiraniya Crusher. He went to the place of occurrence and saw injured Mahavir Pandey, who disclosed that Oaster has fired upon him. Injured also disclosed that 3-4 persons were also present with Oaster. There is nothing else in his evidence.

22. P.W.-10 Radha Kishun Pandey. He has stated that incident is of 2 ½ years back. On the day of incident at about 8:30 PM, he heard hulla that Mahavir Pandey is lying near Chiraniya Office, then he went there and saw Mahavir was injured and disclosed that Siddik and Muzim caught hold of him and Oaster fired upon him. Thereafter, injured was brought to Hospital for treatment.

23. P.W.-11 Doman Mahto is also hearsay witness from the injured, who arrived at the place of occurrence after hearing hulla about 8:30 PM and saw Mahavir Pandey was lying on earth under pool of blood. Mahavir Pandey told him that Oaster has fired upon him. He further told that with Oaster about two to four other persons were also present, who have fled away.

24. P.W.-12 Dr. Om Prakash. He has proved the discharge ticket of the injured Mahavir Pandey issued from Jawahar Lal Nehru Medical College, Bhagalpur. According to his evidence, on 02.11.2000 Mahavir Pandey was admitted on Reference No. P/1261 in Male Ward of the Hospital in Room No. 31. He was discharged on 16.11.2002. He has further testified that Mahavir Pandey was treated for blood clotting in chest which commonly called as Haemothorax. He has failed to prove the name of House Surgeon, who has prepared the said discharge slip, therefore, it was marked Exhibit-X for identification. This witness also admits that blood clot may be caused by receiving injuries through fire arm or knife.

In his cross-examination, this witness admits that Dr. Ashok Kumar Roy, who is still alive, was a Resident Surgeon at that time, but he could not identify his signature on discharge ticket. It is also not apparent from discharge ticket that from which Hospital, the injured was referred.

25. P.W.-13 Dr. Basant Kumar Saha is Medical Officer, Sadar Hospital, Sahibganj. According to his evidence, on 01.11.2000 at about 11:15 PM, he examined Mahavir Pandey, S/o Radhe Kishun Pandey and found the following injury on his person:-

(i) Lacerated wound on left clavicle region 1½" x ½" x muscle deep. Margin blackish.

(ii) Pointed wound on the right side of the chest ¼" diameter.

(iii) Multiple blackish spot in front of the chest.

The injury caused by fire arm within six hours and opined to be grievous in nature. He has proved the injury report as Exhibit-2.

In his cross-examination, he admits that the injured was advised for x-ray and x-ray report was not placed before him. He also admits that on the injury report (Exhibit-2), there is no LTI or signature of the injured, therefore, it is by defence that this witness has prepared false and fabricated report in conspiracy with injured Mahavir Pandey, which he denied.

26. P.W.-14 Chakradhar Dubey is the Investigating Officer, who has submitted supplementary charge sheet against Sheikh Siddik. He has proved signature of Nageshwar Prasad Singh, who has scribed and singed over fardbeyan which is marked as Exhibit-1/3. He has proved formal FIR as Exhibit-3 in the handwriting of the then Officer-in-Charge, Taljhari Police Station Baleshwar Sahu and endorsement on fardbeyan as Exhibit-1/4. He has only recorded the statement of Doman Mahto, who has not disclosed the time of occurrence. He also admits that in the FIR, time of occurrence is disclosed as 21:30 hours.

27. P.W.-15 Baleshwar Sahu is the first Investigating Officer of this case. He has proved the previous Exhibit-1/3 and formal FIR as Exhibit-3. He has visited the place of occurrence, which is situated in Village - Maharajpur near Chiraniya old Crusher, just adjacent to road. The house of injured Mahavir Pandey is situated at a distance of 100 yards from the place of occurrence. He recorded the statement of witnesses Subhash Pandey, Usha Rani, Raj Kumar Chaurasiya, Billo Prasad Chaurasiya, Gopal Pandey, Nilam Pandey, Siya Ram Singh, Radha Krishna Pandey and other witnesses, who have supported the prosecution case. He also conducted raid in the house of Sk. Oaster, Sheikh Siddik and Sheikh Muzim, but found nothing. He seized the shirt of injured Mahavir Pandey after returning from Hospital and prepared seizure list, which was containing two hole of pellet mark. Finding sufficient evidence and on direction of superior police officers, he submitted charge sheet against the accused persons. He further admits that at the place of occurrence, he didn't find any blood stain. He further admits that place of occurrence was shown by mother of the injured namely, Bharti Devi. He has not prepared any sketch map of the place of occurrence. The informant has disclosed the time of occurrence at 9:20 PM not 8:30 PM. The father of injured had told the time of occurrence at 9:30 PM. He has not mentioned in the case diary about seizure of t-shirt of the injured Mahavir Pandey and where it is kept.

He has denied the suggestion of defence that investigation is defective and without sufficient evidence, he has submitted charge sheet in this case against all the accused persons.

28. From the aforesaid discussion of oral testimony of witnesses, we find that except P.W.-4 (informant of the case), there is no eye-witness of the occurrence, although P.W.-5 Om Prakash Pandey, who happens to be maternal uncle of the informant has posed himself to be eye-witness of the occurrence at the time of trial materially improving his version has stated that at about 9:30 PM on the date of occurrence in his way from Sahibganj to Maharajpur, his truck became out of order near Oattan Das Quarry, then he started to walking towards his home at Village-Maharajpur and reached near Chiraniya Quarry, then saw his bhagina Mahavir Pandey was surrounded by Oaster, Siddik and Muzim along with other miscreants. In his presence, Oaster Sk. fired upon Mahavir

Pandey on chest. Thereafter, Siddik ordered to kill him, upon this Oaster again fired upon Mahavir Pandey. Thereafter, all of them fled away. He has described no overt act against Sk. Muzim. The evidence of P.W.-5 does not inspire confidence in view of the fact that the sole injured-cum-informant has stated the time of occurrence at about 8:30 PM and the manner of occurrence, as stated by him is that about 10 persons surrounded him. Out of them, Sheikh Siddik and Sheikh Muzim caught hold of him and Oaster Sk opened fire arm twice on his left and right chest. P.W.-4 has not admitted the presence of P.W.-5 at the time of occurrence, rather he came later on and on his truck P.W.-4 went to Hospital. His attention has been drawn towards statement recorded under Section 161 of the Cr.P.C., wherein he has not stated about manner of occurrence that Sheikh Siddik and Sheikh Muzim have surrounded Mahavir Pandey and Oaster shot fire arm, rather he has stated before police when he started walking towards home due to mechanical defect in truck then he heard screams of a person near Chiraniya Crusher and went there and saw Mahavir Pandey had sustained fire arm injuries. He also admits that Mahavir Pandey has not disclosed about the name of miscreants to him. The other relative witnesses of the informant namely, P.W.-1 Usha Rani Pandey, P.W.-2 Bharti Devi, P.W.-3 Subhash Pandey have admitted that one person came to their house after incident and informed that someone has fired upon the Mahavir Pandey, then they went towards the place of occurrence. Here it is pertinent to observe that it is P.W.-5 Om Prakash Pandey, who has admittedly gone to the house of the informant and informed the family members about the occurrence as was disclosed by him in his statement under Section 161 of Cr.P.C. before the Investigating Officer and also admitted in his evidence during cross-examination. P.W.-4 sole injured himself due to darkness of night has not been able to identify any of the miscreants, except Sheikh Oaster, who was under inimical terms due to giving evidence in the case of Jagdish Mandal, wherein father of Mahavir Pandey has given evidence, whereas he was prohibited by accused Shekh Oaster not to give evidence.

29. It also transpires that injured Mahavir Pandey categorically admits in his evidence that although he was knowing Sheikh Siddik and Sheikh Muzim, but he was not aware about the name of their parents and he has not disclosed the name of parents of above accused persons to the police, but the FIR itself contains the name and parentage of above accused persons, probably at the instance of P.W.-5 Om Prakash Pandey. It further transpires that admittedly due to breakdown of truck of Om Prakash Pandey (P.W.-5), he could not proceed further to his own village, rather he was walking towards his home on foot. There is no explanation as to how in the night itself the said truck was repaired and it was used for transporting the injured to the Hospital at Bhagalpur. Non explanation of this fact also cast doubt on the testimony of P.W.-5. Moreover, the injury report of the informant (P.W.-4) issued by Doctor Basant Kumar Saha, Medical Officer, Sadar Hospital, Sahibganj shows that injured has sustained fire arm injuries, but no pellet were removed and there is no identification mark of the injured on the injury slip or even it does not contain signature of the injured, that also appears to be doubtful. Similarly, the discharge ticket issued from Jawahar Lal Nehru Medical College, Bhagalpur is also not proved by competent witness, who conducted the medical treatment. In the said report also, P.W.-4 examined by prosecution clearly states that injured was admitted for treatment of blood clots and such clots may be due to fire arm injury or injury caused by knife. Therefore, the history of injury is also not mentioned in the admission and discharge ticket of the injured.

30. The aforesaid glaring discrepancies and material contradictions appearing in the prosecution evidence has been overlooked by the learned trial court while appreciating the prosecution evidence, which absolutely cast serious doubt over the prosecution story, as projected by witnesses P.W.-4 and P.W.-5. The previous enmity with appellant Oaster Sheikh is admitted. It also appears that no corroborative evidence like wearing t-shirt of the injured, blood stained earth from the place of occurrence or other incriminating materials have been seized. The Investigating Officer has not found any blood stained soil from the place of occurrence, which also creates doubt against actual place of occurrence.

31. In view of above glaring contradictions, discrepancies and lacuna in the prosecution case, we are unable to convince with the findings recorded by learned trial court about the guilt of the appellants for the offence under Section 307 of the I.P.C. So far as conviction of appellant Sheikh Oaster for the offence under Section 27 of the Arms Act is concerned, we are unable to convince with the findings recorded by learned trial court in view of the doubtful testimony of informant to identify any miscreants due to dark night place. Moreover, there was no recovery of firearm from the possession of Sheikh Oaster. As P.W.-15 I.O. Baleshwar Sahu has stated in para-7 of his deposition that Sheikh Oster's house was searched, but no incriminating articles were found. Apart from above, the medical report of the injured does not correspond with any fire arm injury to informant.

32. In our considered view, the prosecution case is shrouded with doubt and no concrete evidence to prove the guilt of the appellants beyond all reasonable doubt is available on record. Therefore, we are constrained to set aside the impugned judgment of conviction and sentence of the appellants.

33. Accordingly, the impugned judgment of conviction and sentence of the appellants passed by learned trial court is hereby set aside, as such, both these appeals are allowed.

34. The appellants are on bail. They are discharged from the liability of bail bonds and sureties shall also be discharged.

35. Pending I.A., if any, stand disposed of.

36. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.