(2005) 11 GAU CK 0019

Gauhati High Court

Case No: Criminal Revision No. 681 of 2003

Mazibur Rahman		APPELLANT
	Vs	
Abul Hussain and Others		RESPONDENT

Date of Decision: Nov. 14, 2005

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 245, 304, 313, 401, 401(3)
- Penal Code, 1860 (IPC) - Section 147, 148, 149, 302, 323

Citation: (2006) 2 GLR 92

Hon'ble Judges: I.A. Ansari, J; A. Hazarika, J

Bench: Division Bench

Advocate: A. Matlib, A.R. Sikdar, D. Saha and R. Islam, for the Appellant; D. Das and R.K. Agarwal, for the Respondent

Final Decision: Dismissed

Judgement

I.A. Ansari, J.

The judgment and order, dated 21.8.2003, passed by the learned Additional Sessions Judge (Adhoc), Barpeta, in Sessions Case No. 138 of 2000, whereby 4 (four) accused persons, namely, Abul Hussain, Jabber Ali, Aynal Haque, Hanif Ali and Surat Jamal have been acquitted of the charges framed against them u/s 148 and Sections 341, 324 and read with Section 149 of the Indian Penal Code, stands challenged in the present revision by the informant of the case, namely, Mazibor Rahman.

2. Prosecution''s case, as unfolded by the FIR (Ext-1), lodged at Sarbhog Police Station, may, in brief, be described as follows : On 22.4.1997, at about 9 am, when Hibibor Rahman, younger brother of the informant, Mazibor Rahman, was proceeding towards Kharisala market from his house pulling hand-cart, all the accused persons, in a group, wrongfully restrained him on the way and accused Jabbar assaulted him with a dagger on his right cheek. On being so assaulted, when Habibor Rahman cried out, his father. Rahimuddin, went running to the place of

occurrence with a dagger in his hand and stabbed both Moinul and Jahiruddin to death; but when Rahimuddin started returning home, accused Abul Hussain gave a blow with his spear on Rahimuddin''s abdomen and accused Surat Jamal and accused Jabbar struck Rahimuddin with daos killing him on the spot. On witnessing the occurrence and assault on her husband, Rahimuddin, when Joygun Nessa came running to the place of occurrence, she too was assaulted by accused Surat Jamal and Aynal. On hearing the cries of his brother, Habibor Rahman, when the informant, Mazibor Rahman, came out of their house, he saw Moinul and Jahiruddin lying dead at the place of occurrence with injuries on their bodies and his father, Rahimuddin, coming towards their house with a dagger and when Rahimuddin was so returning home, he was given a blow with a spear on his abdomen by accused Jabbar killing the former on the spot. Following the incident, the informant lodged the FIR (Ext-1), the police registered a case and, upon completion of investigation, laid chargesheet against the accused aforementioned under Sections 147, 148, 149, 341, 342, 323, 325 and 302 IPC. The case was, then, committed to the Court of Sessions and Sessions Case No. 138/2000 came to be accordingly registered.

3. A case, on the other hand, had been lodged against the said informant, Mizobor Rahman, the members of his family including Rahimuddin (since deceased) for allegedly causing death of the said Moinul and Jahiruddin and injuries on others. On completion of investigation of this case too, the police submitted a chargesheet against the accused persons (i.e., the informant, Mozibur Rahman, aforementioned and members of his family) under Sections 147/148/149/341/ 342/323/325/302 IPC. This case, on being committed to the Court of Sessions, was registered as Sessions Case No. 177/2000.

4. Both the cases aforementioned were tried by the same Court. In the case, which has given rise to the present revision, charges u/s 148 and Sections 341, 324 and 302 read with Section 149 IPC were framed. To the charges so framed, the accused persons pleaded not guilty.

5. In support of their case, namely, Sessions Case No. 138/2000 aforementioned, prosecution examined as many as 12 witnesses. The accused were, then, examined u/s 313 Cr.PC and in their examination aforementioned, the accused denied that they had committed the offences alleged to have been committed by them, the case of the defence being that of denial. The defence also adduced evidence by examining as many as seven witnesses. These witnesses were, however, examined, basically, to prove the pleas of alibi, which some of the accused persons had taken at the trial. The trial, eventually, ended in the acquittal of the accused persons as indicated hereinabove. Aggrieved by the acquittal of the accused, opposite party herein, i.e., the informant, Mozibur Rahman aforementioned has impugned the same in the present revision as already indicated hereinabove. The other case, namely, Sessions Case No. 177/2000 aforementioned, (which we, hereinafter, refer to as the counter case,) however, ended in conviction of the accused, who had been

tried in the said Sessions Case No. 177/2000. Against their conviction, the said accused persons have impugned the same in Criminal Appeal No. 317/2003. Both the appeal as well as the present revision were listed together for hearing.

6. At the time of hearing, it was pointed out by Mr. J.M. Choudhury, learned Senior counsel, appearing on behalf of the appellants, in Criminal Appeal No. 317/2003 aforementioned, that the present revision be heard and disposed of first, for, according to Mr. Choudhury, if this Court allows the present revision and sends the case, on remand, to the learned trial Court, the appeal, which has been presented in the said counter case, may have to be kept pending until the trial Court, on such re-trial, (if ordered,) gives its judgment in the matter so. that any appeal or revision arising from acquittal or conviction of the accused (as the case may be) can also be heard and disposed of along with the Criminal Appeal No. 317/2003 ''aforementioned. This submission was not objected by Mr. A.R. Sikdar, learned Counsel for the petitioner, Mr. D. Das, learned Addl. PP, Assam, and Mr. R.K. Agarwal, learned Counsel, appearing as Amicus Curiae in the present revision.

7. Considering the matter in its entirety and in the interest of justice, we decided to hear the revision and, depending upon the outcome of the revision, we decided to pass appropriate order(s) in the Criminal Appeal No. 317/2003. This revision has been accordingly heard.

8. Before we enter into the discussion of merit of the present revision, imperative it is to point out that though the Code of Criminal Procedure does not lay down any specific procedure regarding trial of counter cases, it is the practice adopted, in the interest of justice, by the Courts that if a case is committed to the Court of Sessions, the Counter Case, arising out of the same incident, should also be, ordinarily, committed to the same Court of Sessions even if the latter is not exclusively triable by a Court of Sessions. We have cautiously used the word ordinarily, for, in an appropriate case, the Magistrate, instead of committing the case to a Court of Sessions, may have to discharge an accused in terms of Section 245 of the Code of Criminal Procedure, particularly, when the case is not exclusively triable by the Court of Sessions. Undoubtedly, however, the case and the counter case should be tried by the same Presiding Officer in quick succession. The first case should be tried to the conclusion, but the judgment should be reserved till the second case is concluded and, thereafter, the judgment of the two cases should be pronounced separately, see Girijananda Bhattacharyya and Another Vs. The State of Assam and Others,

9. In Kewal Krishan Vs. Suraj Bhan and Another, the Apex Court has held that simultaneous trials of both the cases, which are exclusively triable by Courts of Sessions, before two different courts over one and the same occurrence, are undesirable and both the cases should be tried by one Presiding Officer one after the other, for, there is a risk of two different Courts coming to conflicting findings.

10. What is, however, imperative to bear in mind is that while pronouncing the judgment on the guilt or otherwise of the accused facing the two trials, the judgment of each case shall be kept confined to the discussion of the evidence adduced in that particular case and a court shall not make use of the evidence of one case for the purpose of enabling it to pronounce the judgment in the other case or allow its findings in one case to be influenced in any manner whatsoever to the prejudice of the accused by the views, which it may have formed in the other case.

11. In other words, while considering the guilt or otherwise of an accused in a case, the evidence from the counter or cross case, as it is commonly called, cannot, be imported into the case and based on the evidence adduced in a cross case, the guilt or otherwise of the accused cannot be determined. This, however, does not mean that a person, who is an accused in the cross case, cannot give evidence in the case launched against him even if the evidence, which he seeks to give, has some bearing or may have some bearing in the cross case. See Sadat Ali and Ors. v. State of Tripura, reported in 2005 (1) GLT 132.

12. In short, thus, while adjudging the guilt or otherwise in a case of present nature, incumbent it is, on the part of the Court, to keep its mind disabused from whatever opinion it might have formed or whatever impressions it might have gathered with regard to the quality of the evidence adduced by the prosecution or defence as well as the guilt or otherwise of the accused facing the trial in the counter case. To put it differently, the guilt of a person shall be determined on the basis of the evidence adduced in the case lodged against him and not on the basis of the impression gathered, inferences drawn or opinion formed for or against him in the counter case.

13. Before proceeding any further, we would also like to point out that though there is no legal impediment on the powers of the High Court to interfere in revision with order of acquittal, the scope of this power is circumscribed. In the case of K. Chinnaswamy Reddy Vs. State of Andhra Pradesh, the Supreme Court, while laying down the scope of the revisional jurisdiction of the High Court in respect of the orders of acquittal, held as follows:

(7) It is true that it is open to a High Court in revision to set aside an order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal but this jurisdiction should in our opinion be exercised by the High Court only in exceptional cases, when there is some glaring defect in. the procedure or there is a manifest error on a point of law and consequently there has been a flagrant miscarriage of justice. Sub-section (4) of Section 439 forbids a High Court from converting a finding of acquittal into one of conviction and that makes it all the more incumbent on the High Court to see that it does not convert the finding of acquittal into one of conviction by the direct method, of ordering retrial, when it cannot itself directly convert a finding of acquittal into a finding of conviction. This places limitations on the power of the High Court to set aside a finding of acquittal,

in revision and it is only in exceptional cases that this power should be exercised. It is not possible to lay down the criteria for determining such exceptional cases which would cover all contingencies. We may however indicate some cases of this kind, which would in our opinion justify the High Court in interfering with a finding of acquittal in revision. These cases may be: where the trial court has no jurisdiction to try the case but has still acquitted the accused, or where the trial court has wrongly shut out evidence which the prosecution wished to produce, or where the appeal court has wrongly held evidence which was admitted by the trial court to be inadmissible, or where material evidence has been overlooked either by the trial court or by the appeal court, or where the acquittal is based on a compounding of the offence, which is invalid under the law. These and other cases of similar nature ca properly be held to be cases of exceptional nature where the High Court can Justifiably interfere with an order of acquittal; and in such a case it is obvious that it cannot be said that the ''High Court was doing indirectly what it could not do directly in view of the provisions of Section 439(4).

14. What the decision in K. Chinnaswamy Reddy (supra) lays down is that it is open to a High Court, in exercise of its revisional jurisdiction, to set aside an order of acquittal even at the instance of private parties, though the State may not have thought fit to appeal but such jurisdiction should be exercised only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on a point of law and, consequently, there has been a flagrant miscarriage of justice. The High Court shall not, however, convert itself into a Court of appeal, while exercising revisional jurisdiction. The High Court would, of course, be justified in interfering with the finding of acquittal in revision in the cases, wherein the trial court has no jurisdiction to try the case but has still acquitted the accused, or where the trial court has wrongly shut out evidence, which the prosecution wished to produce, or where the appellate court has wrongly held evidence, which was admitted by the trial court, to be inadmissible, or where material evidence has been overlooked either by the trial court or by the appellate court, or where the acquittal is based on a compounding of the offence, which is invalid under the law.

15. In Ayodhya Dube and Ors. v. Ram Sumer Singh AIR 1981 SC 154, the Supreme Court has clarified that the instances mentioned by the Court in Chinnaswamy Reddy (supra), where the High Court would be justified in interfering with orders of acquittal, are illustrative and riot-exhaustive. The Supreme Court, in Ayodhya Dube (supra), also approved the High Court''s view that when the trial Court misquotes evidence, when the judgment consist of faulty reasoning or lack of judicial approach throwing to the wind the accepted canons of appreciation of evidence, when the conclusions are reached against the weight of the overwhelming evidence on the record, interference in revision with orders of such acquittal is permissible and justified.

16. We may further point out that in Vimal Singh Vs. Khuman Singh and Another, the Supreme Court has held thus, "9. Coming to the ambit of power of the High Court u/s 401 of the Code, the High Court in its revisional power does not ordinarily interfere with judgments of acquittal passed by the trial court unless there has been manifest error of law or procedure. The interference with the order of acquittal passed by the trial court is limited only to exceptional cases when it is found that the order under revision suffers from glaring illegality or has caused miscarriage of justice or when it is found that the trial court has no jurisdiction to try the case or where the trial court has illegally shut out the evidence which otherwise ought to have been considered or where the material evidence which clinches the issue has been overlooked. These are the instances where the High Court would be justified in interfering with the order of acquittal. Sub-section (3) of Section 401 mandates that the High Court shall not convert, a finding of acquittal into one of conviction. Thus, the High Court would, not be justified in substituting an order of acquittal into one of conviction even if it is convinced that the accused deserves conviction. No doubt the High. Court in exercise of its revisional powers can set aside an order of acquittal if it comes within the ambit of exceptional cases enumerated : above, but it cannot, convert an order of acquittal, into an order of conviction. The only course left to the High Court in such exceptional cases is to order retrial. In fact, Sub-section (3) of Section 401 of the Code forbids the High Court in converting the order of acquittal into one of conviction. In view of the limitation on the revisional power of the High Court, the High Court, in the present case committed manifest illegality in convicting the appellant u/s 304 Part I and sentencing him to seven years'' rigorous imprisonment after setting aside the order of acquittal.

17. From the decision rendered in Vimal Singh (supra), it is clear that in exercise of its revisional powers, the High Court shall not, ordinarily, interfere with judgments of acquittal passed by the trial court unless there has been manifest error of law or procedure. The interference with the order of acquittal passed by the trial court is limited only to exceptional cases, when it is found that the order under revision suffers from glaring illegality or has caused miscarriage of justice or when it is found that the trial court has no jurisdiction to try the case or where the trial court has illegally shut out the evidence, which, otherwise, ought to have been considered or where the material evidence, which clinches the issue, has been overlooked. Though the High Court, in exercise of its revisional powers, can set aside an order of acquittal in exceptional cases, it cannot convert an order of acquittal into an order of conviction. The only course left to the High Court, in such exceptional cases, is to order retrial.

18. Merely, however, on the ground that High Court has reached a different conclusion from the one that the trial court had reached, the High Court will not be justified in interfering with the acquittal. In other words, merely because the High Court forms the view that the prosecution witnesses were reliable, while the trial court took the opposite view, interference with acquittal will not be justified, for, in

revision, the High Court exercises only limited jurisdiction and should not constitute itself into an appellate court, which has a much wider jurisdiction to go into the question of facts as well as law and to convert an order of acquittal into one of conviction. See Bindeshwari Prasad Singh @ B.P. Singh and Others Vs. State of Bihar (Now Jharkhand) and Another,

19. In Ram Briksh Singh and Others Vs. Ambika Yadav and Another, the Apex Court laid down the parameters of the revisional jurisdiction of the High Courts, while dealing with the orders of acquittal. In this case, the Apex Court has observed and laid down as follows:

5. More than half a century ago, in D. Stephens Vs. Nosibolla, this Court held that revisional jurisdiction when it is invoked against an order of acquittal by a private complainant is not to be lightly exercised, it could be exercised only in exceptional cases to correct a manifest illegality or to prevent a gross miscarriage of justice and not to be ordinarily used merely for the reason that the trial Court has misappreciated the evidence on record.

7. In K. Chinnaswamy Reddy Vs. State of Andhra Pradesh, a note of caution was appended so that the High Court does not convert a finding of acquittal into one of conviction by the indirect method of ordering re-trial when it cannot directly convert a finding of acquittal into a finding of conviction in view of specific statutory prohibition. While noticing that it is not possible to lay down the criteria for determining exceptional cases which would cover all contingencies for exercise of revisional power, some cases by way of illustration were mentioned wherein the High Court would be justified in interfering with the finding of acquittal in revision. The High Court would be justified to interfere where material evidence is overlooked by the trial Court.

The revisional Court can set aside an order of acquittal and remit the case for re-trial where the trial Court overlooking material evidence has passed the order.

20. Law is, thus, well settled that in a revision against an order of acquittal by a private party, the High Court shall not, ordinarily, in the absence of any legal infirmity, either in the procedure or in the conduct of trial, scrutinize the evidence or re-appreciate the evidence. This apart, in exercise of revisional jurisdiction against an order of acquittal at the instance of a private party, the revisional Court exercises only limited jurisdiction and cannot constitute itself into an appellate court, which has the jurisdiction to enter into the question of fact as well as law and can convert an order of acquittal into one of the conviction. This, however, does not mean, as reflected from the decision in Ayodhya Dube (supra), that where the trial court has failed to take into an account relevant pieces of evidence on record or when a conclusion has been reached by the trial court without any supporting evidence or on misreading of the evidence or wholly against the weight of the evidence on record or when the trial court''s judgment suffers from misquoting of the evidence

or the trial court''s finding is perverse in the sense that the finding has been reached by ignoring the evidence on record or by wrong reading of the pieces of evidence on record, the High Court will not be powerless. Far from this, the High Court will be well within its jurisdiction, if it, in such circumstances, interferes with the order of acquittal in exercise of its revisional jurisdiction. Such interference would . also be possible if the trial Court had no jurisdiction to try the case or had illegally shut out the evidence, which, otherwise, ought to have been considered or where the material evidence, which clinches the issues, has been overlooked.

21. Bearing in mind, as indicated hereinabove, the contours of the revisional jurisdiction of the High Court, while dealing with orders of acquittal, and also in the backdrop of the cautions, which the trial court shall, as pointed out hereinabove, apply, while appreciating the evidence in a counter case, when we turn to the evidence on record, in the present case, what attracts our eyes, most prominently, is that in the case at hand, the medical evidence on record (as given by PW8, who had conducted postmortem examination on Rahimuddin''s dead body) is that he had found a perforating wound in the upper part of the abdomen and it was the shock and haemorrhage resulting from the said perforated wound, which had caused Rahimuddin''s death. The fact that Rahimuddin died as a result of shock and hermohage flowing from the perforated wound caused in the upper part of his abdomen was not in dispute. The fact that Rahimuddin met with homicidal death was, in fact, not disputed at all at the trial. The evidence of the doctor (PW 8) that he had found multiple aberasions on the dead body of Rahimuddin has also not been in dispute.

22. In the face of the above admitted position of the medical evidence on record, let us, now, consider if the finding of acquittal recorded by the learned trial Court needs any interference by way of revision.

23. As PW2 (Habibor Rahman) is the one who, according to the prosecution''s case, was at the centre stage of the whole occurrence from the very commencement thereof, it is desirable that his evidence is, first, taken into consideration. This witness''s evidence is that on 22.4.1997 at about 9 am, when he was about to carry a ''thela'' (i.e., hand-cart) to Khairabari Bazar, he was accosted by the accused persons and, then, accused Jabbar assaulted him by a dagger on his right check and, on alarm being raised by him, his father, Rahimuddin, came to the place of occurrence with a dagger in his hand and stabbed, immediately, both Moinul and Jahiruddin to death, for, Moinul and Jahiruddin were amongst the persons, who had restrained him (PW2).

24. Close on the heels of the above evidence of PW 2, his mother (PW 6) has deposed that on hearing hue and cry, when she proceeded towards the place of occurrence, she saw her husband, Rahimuddin, causing hurt on the person of Moinul and Jahuruddin by dao and on instigation of accused Suratjamal, accused Jabbar Ali struck her husband with a dao causing severe injury on his person and

accused Abul Hussain assaulted her husband with a fala (spear) at his abdomen and when she tried to rescue her husband, accused Surujmahal and Moinul gave blows on her head with lathis, she sustained injuries and underwent medical treatment. Clarifying the evidence, so given by her, she has further deposed, in her cross-examination, that her husband had not used a dagger, but a dao.

25. The learned trial Court noted, in the impugned judgment and order, that while PW 2 had deposed that his father, Rahimuddin, had assaulted Moinul and Jahuruddin with a dagger and caused their death, the evidence of his mother (PW 6) is that her husband had assaulted Moinul and Jahuruddin with a dao. Thus, the weapon allegedly used by Rahimuddin, according to the learned trial Court, has not been convincingly proved and this gives an indication, as the learned trial Court correctly noticed, that these two witnesses have not been entirely truthful, while describing the alleged occurrence.

26. We may also pause here to point out that according to the evidence of the informant, namely, PW 1 (Mozibur Rahman), on hearing the hallah, when he came out of his house and rushed towards the place of occurrence, he saw both Moinul and Jahuruddin lying dead at the place of occurrence with cut injuries on their persons and his father, Rahimuddin, coming back towards his house with a dagger in his hand, and when his father was so coming back towards his house, accused Abul Hussain had inflicted injury with a spear on Rahimuddin''s abdomen. It. is in the evidence of PW1 that he also saw accused Jabbar Ali stabbing Rahimuddin with a dagger and accused Abul Hussain giving a blow with a spear on Rahimuddin''s head.

27. It is, thus, the admitted case of the prosecution, as is revealed from the evidence of PW2, that it was PW2''s father, Rahimuddin, who had stabbed to death Moinul and Jahiruddin by a dagger. The fact that it. was Rahimuddin, who had caused death of the said two persons is, in fact, supported by PW6, widow of deceased Rahimuddin. As far as PW1 is concerned, he also gave evidence admitting that when he saw his father, Rahimuddin, with a dagger in his hand coming home, Moinul and Jahiruddin were lying dead with injuries on their persons at the place of occurrence. Thus, the evidence of PW2 and PW6 coupled with the evidence of PW1 clearly show that it was Rahimuddin, who had put to death Moinul and Jahiruddin.

28. The question, however, is as to whether the description of the occurrence given by PW1 that his father was assaulted, when he was returning home is true and can be believed.'' A careful reading of the evidence of PW2, (who is, as already pointed out hereinabove, at the centre stage of the prosecution''s case and who was, according to the prosecution, present at the place of occurrence from the very commencement thereof), shows that after his father, Rahimuddin, had stabbed and killed Moynul and Jahiruddin, accused Hanif Ali and Abul Hussain assaulted his father, Rahimuddin, with a spear at his abdomen and accused Jabbar struck his father in the left arm with a dagger. A microscopic scrutiny of the evidence of PW1 and PW2 clearly show that while, according to PW1, his father was assaulted, when

he was returning home after stabbing to death Moinul and Jahiruddin, the claim of the PW2 is that their father was assaulted, immediately, after he had put to death Moinul and Jahiruddin. Even the evidence of PW6, who is the widow of the deceased Rahimuddin, does not give any indication that her husband was assaulted, when he was returning after putting to death Moinul and Jahiruddin; rather, her evidence too is clear that her husband was assaulted following the stabbing to death of the said two persons by her husband. In the face of such clear evidence on record, the learned trial Court was wholly justified in not accepting the evidence of PW1 and in holding that Rahimuddin was the aggressor. When Rahimuddin was armed with a dagger, he had already put to death two persons, not unreasonable it was for the accused persons to apprehend that unless counter-attacked, Rahimuddin would kill many more amongst the accused persons. In such circumstances, the accused persons cannot be said to have exceeded their right of private defence.

29. Coupled with the above, it is also worth noticing that according to the evidence of PW1, while accused Abul Hussain had struck his father, Rahimuddin, with a spear on his head, and had also caused injury to his father, Rahimuddin, with a spear on his abdomen, accused Jabbar had stabbed Rahimuddin with a dagger. In short, Rahimuddin was given blows with a spear on his abdomen as well as on his head by accused Abul Hussain and accused Jabbar had injured Rahimuddin with a dagger on his head. The post-mortem examination report, as already discussed above, however, reveals only one perforator wound in the upper part of the abdomen leading to the death of Rahimuddin. No other incised, punctured or cut wounds were found on the dead body of Rahimuddin. Thus, the evidence of PW1 is belied by the medical evidence on record too. Similarly, the evidence of PW2 is that his father, Rahimuddin, was assaulted by accused Hanif All and Abul Hussain with spear on his abdomen and accused Jabbar struck his father on his left arm with a dagger. The post-mortem examination, however, as already indicated above, shows only one perforator wound on the said deceased. Thus, the medical report belies the description of assault on Rahimuddin as given by PW2 too. This apart, the clear evidence of PW1 is that accused Hanif Ali instigated others to assault Rahimuddin; whereas PW2 claims that Hanif Ali himself assaulted Rahimuddin with a spear on his abdomen. Moreover, according to PW1, accused Abul Hussain, apart from inflicting a wound with a spear on Rahimuddin''s abdomen, gave a blow with a spear on the head of.
Rahimuddin; but PW2 does not support the accusation made by PW1 that Abdul Hussain gave any blow on Rahimuddin''s head with spear. In fact, the post-mortem does not support the evidence of PW1 that his father was given a blow with a spear on his head.

30. Coupled with the above, as noticed by the learned trial Court and as already pointed out by us, the evidence of PW6, who is also claimed to be an eye witness, is that her husband had killed Moinul and Juhiruddin by a dao but the evidence of PW2

and PW1 is that Rahimuddin had killed Moynul and Jahiruddin by means of a dagger.

31. What, thus, crystallizes from the above discussion is that the evidence adduced by the prosecution was full of contradictions and suppression of truth. The evidence, so adduced, revealed contradictory allegations and accusations. In such circumstances, when the learned trial Court has discarded the evidence of these witnesses as unreliable and untrustworthy, we see no reason to take a view different from what the learned trial Court, has taken. Moreover, since the finding of acquittal reached by the learned trial Court is consistent with the evidence on record, we see no reason to interfere with the finding.

32. In the result and for the reasons discussed above, this revision fails and the same shall stand dismissed.