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Jharkhand High Court

Case No: Cr. Appeal (DB) No. 1829 of 2003

Moti Ganjhu		APPELLANT
	Vs	
State of Jharkhand		RESPONDENT

Date of Decision: Jan. 16, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 101, 145, 161, 162, 170
- Penal Code, 1860 (IPC) - Section 158, 302, 323, 34, 376

Citation: (2014) 3 AJR 349

Hon'ble Judges: P.P. Bhatt, J; Dhirubhai Naranbhai Patel, J

Bench: Division Bench

Advocate: Navin Kr. Jaiswal, Advocate for the Appellant; Vibhuti Shankar Sahay, A.P.P, Advocate for the Respondent

Judgement

Dhirubhai Naranbhai Patel, J.

This appeal has been preferred against the judgment and order of conviction and sentence, passed by the Additional Sessions Judge, F.T.C.V., Hazaribagh in S.T. No. 188/95, whereby these two appellants have been convicted vide order dated 28th October, 2003 for the offence punishable u/s 302 of the Indian Penal Code and they are punished vide order dated 29th October, 2003 for life imprisonment and are liable to make payment of fine of Rs. 1,000/- each. Against this judgment and order of conviction, present appeal has been preferred by both the appellants.

2. The case of the prosecution is that on 18.09.1994 at 12.00 hrs the informant Ganesli Ganjhu (P.W.-6) gave fardbeyan to police that on previous night i.e. on 17.09.1994 at 8:00 p.m. his son Mahavir Manjhi (deceased) was distributing Prasad in the village and in the meantime informant saw that his co-villager Moti Ganjhu and Chhoti Ganjhu were dragging his son toward their house and thereupon the informant, his brother Ganjana Ganjhu and his sister Madia Devi came running to the house of Moti Ganjhu and saw that Moti Ganjhu and Chhoti Ganjhu were

assaulting informant son Mahavir Ganjhu with Lathi and when informant tried to save his son and raised nulla then they assaulted Shanti Kumari with lathi and run away from there. Thereafter informant saw his son lying in the house of Moti Ganjhu and blood was coming out from his body. The informant further alleged that reason for occurrence is previous enmity between the deceased Mahavir Ganjhu and accused persons.

Eight witnesses were examined by the prosecution.

One witness was examined by the the Defence

3. We have heard learned Counsel for the appellants, who has mainly submitted that there are major omissions, contradictions and improvements and these major omissions, contradictions and improvements have been treated as a minor one by the learned Trial Court. The so-called eye-witnesses are not the eye-witnesses of the incident at all. Moreover, it is submitted by the counsel for the appellants that PW-2 has given different versions before the police and his statement was recorded u/s 161 of the Code of Criminal Procedure, whereas, before the Court, the narration is quite different i.e. proved with the deposition of Investigating Officer, who is PW-8. 50-60 persons were present on the date of incident and on the place of occurrence but nobody has tried to save the life of the deceased/Neither the witnesses of the FIR nor the witnesses of the inquest panchnama have been mentioned in the charge-sheet as witnesses nor they have been examined by the prosecution in the court of law. PW-3 is also not the eye-witness of the incident because he has narrated place of occurrence differently. As per this witness, murder has taken place in the courtyard of the house, whereas, as per other witnesses murder has taken place in the house of Moti Ganju. PW-3 falsifies the presence of other so-called eye-witnesses. Thus, neither PW-2 nor PW-3 is reliable and trustworthy witness. So far PW-4 is concerned, it is submitted that her statement was recorded on next date of occurrence at 10:00 a.m., whereas Fardbeyan was given at 12:00 noon on the next date of occurrence. PW-4 has stated that she reached first at the place of occurrence, whereas other eyewitnesses are not giving the presence of this witness PW-4 and she has also not stated before the police that deceased was dragged by these accused persons. This PW-4 is also not reliable and trustworthy. So far PW-5 is concerned, it is submitted by counsel for the appellants that her statement was never recorded by the police, as stated by the Investigating Officer in his cross-examination and therefore, for the first time, PW-5 is giving his deposition in the Court. So far PW-6 is concerned, it is submitted by the counsel for the appellants that he has given different versions that assault was made by appellant Nos. 1 and 2 before the police and before the Court. Moreover, PW-6 is also not an eye-witness because he has stated in his deposition that PW-4 was an injured eye-witness, whereas, no injury has been mentioned by PW-4 nor any Doctor has been examined and this PW-6 has also not tried to save the life of the deceased. Similarly, place of giving FIR is also different. Therefore, PW-6 is also untrustworthy and unreliable.

PW-7 was never mentioned as witness in the charge-sheet and he has proved the injury certificate of Shanti Devi/Shanti Kumari but this lady was never mentioned as witness in the charge-sheet nor this injured eye-witness has been mentioned by the prosecution as witness. Therefore, there is no useful purpose at all for examination of PW-7. It reflects mechanical mind of the Investigating Agency and also non-application of mind on the part of the Court. So far PW-8 is concerned, it is submitted by counsel for the appellants that in para-1, it is stated by this witness that fardbeyan of PW-6 was taken at 3:00 p.m., whereas, in fact, Fardbeyan was taken at 12:00 noon. Thus, from the very beginning, this informant is knowing nothing about the incident. He has proved major omissions, contradictions and improvements but the learned Trial Court has not appreciated these major omissions, contradictions and improvements proved by this Investigating Officer nor while recording the statements of the accused u/s 313 of the Code of Criminal Procedure, Trial Court has asked the question about the dead body in the house of Moti Ganjhu. These aspects of the matter have not been properly appreciated by the Trial Court and hence, the judgment of conviction and order of sentence passed by the Trial Court deserves to be quashed and set aside. Appellants have remained in jail since approximately eleven years.

4. We have heard counsel for the State-APP, who has mainly submitted that no error has been committed by the Trial Court in appreciating the evidences of Prosecution Witnesses. The case of the prosecution is based upon more than one eye-witness and they are PW-2, PW-3, PW-4, PW-5 and PW-6. The incident has taken place on 17th September, 1994. Fardbeyan was recorded by PW-6, who is the father of the deceased and the FIR has also been lodged immediately. These two appellants have been named in the FIR. Enough details have been given in the FIR by PW-6, including names of other witnesses. It is also submitted by APP, looking to the depositions of PW-2, PW-3, PW-4, PW-5 and PW-6, that they have clearly narrated the role played by these two appellants in causing murder of the deceased. On the date of occurrence, these two appellants dragged the deceased at the house of Moti Ganju and there he was severely beaten by these two appellants one by lathi and another by pressing the chest of the deceased Mahavir Ganju, as a result of which he expired on the spot - that was a Puja day. Immediately, persons, who are eye-witnesses and seen the incident, have caught Moti Ganjhu red-handed. Chhoti Ganjhu ran away and he was arrested later on. It is submitted by APP that there are minor omissions, contradictions and improvements in the deposition of these witnesses because date of occurrence is 17th September, 1994, whereas they are giving their depositions after approximately about thirty-six months. Looking to the depositions of these witnesses, it has been consistently stated by these witnesses that appellant No. 2 Chhoti Ganju has caused injury by lathi and appellant No. 1 Moti Ganjhu pressed the chest of the deceased. But looking to the deposition given by PW-1 Dr. A. Ganguli, who has carried out post-mortem on the body of the deceased, has observed several injuries and opined that they were caused by lathi and by pressing the chest.

This deposition is getting enough corroboration by the medical evidence given by PW-1. It is further submitted by APP that the investigating officer has been examined as PW-8. He has proved Fardbeyan, FIR including Panchnama, place of occurrence, and manner of occurrence as narrated by the prosecution witnesses when he recorded the statement u/s 161 of the Code of Criminal Procedure, which is corroborated to the depositions given by the eye-witnesses and no error has been committed by the Trial Court in appreciating these evidences. The prosecution has proved the offence of murder of Mahavir Ganjhu committed by these two appellants beyond reasonable doubt and therefore, this appeal may not be entertained by this Court.

5. Having heard counsel for the parties and looking to the evidences on record, we see no reason to entertain this appeal mainly for the following facts, reasons and depositions of the witnesses:

(i) It is the case of the prosecution that the incident has taken place on 17th September, 1994 at about 8:00 p.m. and P.W-6 gave his Fardbeyan to police on 18th September, 1994 at about 12:00 noon that on the previous day his son Mahavir Ganjhu was distributing Prasad in the village as the previous day was a puja day and he saw that these two appellants, who are co-villagers, were dragging his son towards their house and thereupon, this informant/PW-6, who is the father of the deceased had rushed with PW-2 and PW-4, who are the brother and sister of the informant respectively. These witnesses saw that both the appellants were causing injuries to Mahavir - one by lathi and another by pressing the chest and the son of PW-6 was beaten severely and that he expired on the spot. Looking to the deposition of PW-6, including cross-examination, he has proved the date of occurrence, place of occurrence and weapon alleged to have been used by the accused. The manner in which whole occurrence has taken place and looking to his cross examination, nothing is coming out in favour of these two appellants. There are some minor contradictions in his deposition about the place at which Fardbeyan was given but it is not so relevant and so material to give the benefit to these two appellants. It ought to be kept in mind that the deposition of the witnesses depends upon his power of observation, memory and capacity of reproduction of fact in the Court from the date of incident and till the date of giving deposition in the Court, approximately period of more than thirty-six months have elapsed. We cannot expect photographic memory of the witnesses. Whenever witnesses are true, genuine, trustworthy and reliable, there may be some mistakes in their deposition and there may be some deviation from their earlier statements recorded by the police u/s 161 of the Code of Criminal Procedure. Every omission or contradiction cannot be treated as major omission or contradiction. Looking to the deposition of this PW-6, in our opinion, he is a trustworthy and reliable witness and it is submitted by the counsel for the appellants that he has not tried to save the life of the deceased. The benefit of such behavior of PW-6 cannot be given to these appellants. How the witness will behave, all depends upon the witness himself. There is no set

formula for the behavior of the witness. Every eye-witness must try to save the life of the deceased. All depends upon the witness himself. Sometimes, it depends upon the aggressions of the accused also. We are not much analyzing the behavior of PW-6 that why he has not tried to save the life of the deceased. It shall also be worthwhile to notice here that one Shanti Devi/Shanti Kumari is an injured eye-witness. These accused have also caused injuries to one of the eye-witnesses but the Investigating Officer has not shown her name in the charge-sheet. Her injury certificate has been proved by PW-7 and this injured eyewitness has been examined as Defence Witness and this is the highest tribute which can be given to the Investigating Officer. This reflects very high application of mind on the part of the Investigating Officer. High-ranking officers of the police should have taken enough care, to whom the case diary is to be sent periodically and normally they are the IPS Officers but they have failed to give proper guidance to the Investigating Officer. In these set of circumstances, particular type of behavior of PW-6 cannot be expected by this Court and merely because he has not tried to save the life of the deceased it does not make him untrustworthy and unreliable. On the contrary, looking to the overall deposition of PW-6, who is the informant eye-witness of the incident, it appears that he is a trustworthy and reliable witness. No error has been committed by the Trial Court in appreciating the deposition of this witness.

(ii) Looking to the deposition of PW-3 and PW-4, it appears that they have clearly narrated the whole incident and the role played by these two appellants in causing murder of the deceased. They have stated that on the date of occurrence, these two appellants dragged the deceased at their house and caused injuries - one by lathi and another by pressing the chest and several injuries were caused on the vital part of the body of Mahavir Ganjhu at the house of appellant No. 1. Looking to their cross-examination, nothing is coming out in favour of these two appellants and there is no major contradiction or omission in their depositions. It is submitted by counsel for the appellants that instead of house, PW-3 has used the courtyard where the whole incident has taken place. PW-3 and PW-4 have not given detailed accounts about the presence of other eyewitnesses. These two slight deviations in their depositions are not a major contradictions and omissions. Courtyard or house of Moti Ganju makes no much difference because small was the house of Moti Ganju and smaller was the courtyard and the house of Moti Ganju was not a big farm house. One eye-witness sometime may not give detailed accounts about the presence of other eye-witnesses that all depends upon his capacity of observation and that is not a contradiction at all and to prove the contradictory statements of very witness is to be evaluated vis-a-vis the statement u/s 161 of the Code of Criminal Procedure recorded by the police of the same witness. If one witness is giving slightly different deposition than another it cannot be termed as contradiction. It is a wrong notion in the mind of these appellants that this is a contradiction. For contradiction, one has to see the statement before the police and statement in the Court of the same witness and not of the different witnesses, as

per proviso to Section 162 of the Code of Criminal Procedure. Looking to overall deposition of PW-3 and PW-4, they have proved the date of occurrence, time of occurrence and place of occurrence and they have also proved the manner in which the whole occurrence has taken place and the role played by these two appellants in causing murder of the deceased. They are trustworthy and reliable witnesses and no error has been committed by the Trial Court in evaluating the depositions of PW-3 and PW-4. PW-4 in her cross-examination has slightly taken deviation about the recording of her statement by police at 10:00 a.m., whereas Fardbeyan was recorded at 12:00 noon. PW-4 is a lady residing in a village. Normally, the villagers are giving time looking to the Sun and mostly they are not wearing wrist watches therefore, whether it is 10:00 a.m. or 12:00 noon, they say 12:00 noon and more particularly, when she has given her deposition after approximately 36 months, it is too much to expect from the rustic village lady PW-4 to give exact time.

(iii) Looking to the deposition of P.W. 1, Dr. A. Ganguly, who has carried out post-mortem on the body of the deceased on 19th September, 1994 at about 12:20 p.m., the post-mortem was completed at about 1:00 p.m., has observed the following injuries on the body of the deceased:

(1) Injuries:-

(i) Multiple small abrasion over scalp.

(ii) Bruise 8" x 1" over chest.

(iii) Lacerated injury 2"x 1/2" over occipital.

(iv) Bruise 6" x 4" over right arm of shoulder.

(v) Multiple cohlyusis of different size over the back.

(2) On dissection:- Sternum was found fractured, right lung ruptured, chest cavity contained 4 oz blood, left limb intact, occipital scalp found fractured and haematoma over brain seen, Liver, Spleen, Kidney - intact and pale, Heart - both chambers empty, bladder was empty.

(3) Rigor mortis was present.

(4) In my opinion cause of death was shock and hemorrhage due to injury over chest and scalp by hard & blunt substance, may be Lathi. Fracture of sternum may be possible by the pressure by the legs on the chest.

Thus, in view of the aforesaid deposition of Dr. A. Ganguly, it appears that there is enough corroboration by medical evidence to the depositions of other eye-witnesses, who are PW-6, PW-3 and PW-4.

(iv) Looking to the deposition of PW-2 and PW-5, it appears that they are also an eye-witnesses of the incident. They have also proved the place of occurrence, the date of occurrence and the fact that Mahavir was dragged at the house of the Moti

Ganjhu. There, he was severely beaten by these two appellants. But looking to the deposition of PW-8, it appears that PW-2 has slightly committed an error in narration of injuries caused by these two appellants one by lathi and another by pressing chest. It is a consistent version of the other prosecution witnesses that Lathi was used by Chhoti Ganjhu, who is the appellant No. 2 and the chest was pressed by the appellant No. 1, Moti Ganjhu. PW-2 has also narrated similar facts before the court but the Investigating Officer has stated in his deposition that PW-2 has stated in his statement u/s 161 of the Code of Criminal Procedure that lathi was used by the appellant No. 1 and the chest was pressed by the appellant No. 2. Except this, rest of the facts have been clearly proved by PW-2. Similarly, PW-5 is also an eye-witness, but it has been stated by the Investigating Officer (PW-8) that her statement was not there in the case diary. Thus, even if the deposition of PW-5 is excluded totally, there is enough evidence on record; PW-4, PW-5 and PW-6 who are the eyewitnesses of the incident and also to some extent, PW-2 also who proves the date of occurrence, the place of occurrence and other facts about the whole incident. The prosecution has proved the murder of the deceased committed by these two appellants beyond reasonable doubt.

(v) The prosecution has also proved the relevant documentary evidences on record, namely, Fard-beyan at Exhibit 3, inquest report at Exhibit-4, FIR at Exhibit-6 and Injury report at Exhibit-2 of injured eyewitness and also injury requisition application at Exhibit-5. Post-mortem report is also proved as Exhibit-1. Looking to these evidences, both oral as well as documentary, the prosecution has proved the offence of murder of Mahavir committed by these two appellants and no error has been committed by the trial court in appreciating these evidences on record and in convicting and sentencing these two appellants by the impugned judgment and order. Hence, there is no substance in this criminal appeal.

(vi) Right from the FIR onwards, motive has been proved by prosecution and witnesses have also stated the motive of this occurrence and in the training programmes such issues may be discussed at length.

6. We have observed several other facts in this case, especially from the view point of the Investigating Officer and they are as under:-

(a) Investigating Officer has not mentioned two witnesses of Fard-beyan as the prosecution witnesses in the chargesheet.

(b) Witnesses of inquest panchnama have also not been mentioned as prosecution witnesses in the chargesheet.

(c) One injured eye-witness of this murder, namely, Shanti Kumari/Shanti Devi, whose statement has also been recorded u/s 161 of the Code of Criminal Procedure by the Investigating Officer and as stated by the Investigating Officer in his deposition, in paragraph Nos. 21 and 22, this injured eye-witnesses has not been shown as prosecution witnesses in the chargesheet. Nobody knows the reasons as

to why the injured eye-witnesses have not been pointed out in the chargesheet.

(d) Investigating Officer has stated in his deposition in paragraph No. 29 that there is no statement of Pyaso Devi in the case diary, then how she is mentioned as a prosecution witness in the chargesheet, who conveyed the Investigating Officer that Pyaso Devi is also an eye-witness and how the prosecution has examined this Pyaso Devi as P.W. 5. This is also a lapse on the part of the Investigating Officer.

(e) P.W. 7, Dr. Vidyapati is examined by the prosecution as a witness though his name was not mentioned in the chargesheet.

(f) Investigating Officer had observed the injuries of one Shanti Kumari/Shanti Devi and his forwarding letter at Exhibit 5. She was sent to Dr. Vidyapati. Dr. Vidyapati has examined this Shanti Kumari/Shanti Devi and certain injuries were found upon her body. As per prosecution, Shanti Kumari/Shanti Devi sustained injuries during the course of the whole incident and perhaps, therefore, the charge u/s 323 read with Section 34 of the Indian Penal Code was also framed, but this Dr. Vidyapati was not referred in the chargesheet as prosecution witness. Nobody knows, what is the reason for this lapse.

(g) Investigating Officer has not mentioned Shanti Kumari/Shanti Devi, who is injured eye-witness of the murder, as prosecution witness in the chargesheet filed by him.

(h) It is also a lapse on the part of the concerned trial court not to examine the injured eye-witness of the murder as a witness, if not as a prosecution witness then at least as a court witness. What is the purpose of examination of P.W. 7, if the injured eye-witness was not examined then what is the need to prove the injury certificate. The trial court should have kept in mind that when injury certificate of any injury is proved, such injured eve-witness ought to have been examined as a witness in the court. It appears that there are errors and overlapping errors by all the three, namely;

(i) By the Investigating Officer,

(ii) By the Additional Public Prosecutor or Assistant Public Prosecutor, who has conducted the trial in the trial court and

(iii) By the Additional Sessions Judge, Fast Track Court No. V, Hazaribagh.

None of these have understood the purpose of examination of P.W. 7 without there being examination of injured eve-witnesses.

(i) In the present case, statements u/s 101 of the Code of Criminal Procedure have not been recorded separately. Case diary is one thing and the statements u/s 161 of the Code of Criminal Procedure is another. As per clause 164 of the Jharkhand Police Manual, it is the duty of every Investigating Officer to keep the record of proceedings of his investigation and statement u/s 161 should be separately

recorded. For ready reference, part of clause-164 of the Jharkhand Police Manual reads as under:

164. Case diaries.- (a) Every investigating officer shall keep a record of the proceedings of his investigations in a diary in P.M. Form No. 30 or 30A, mentioning the particulars required by section 172, Cr.P.C. The main heads of information received from persons enquired shall be recorded very briefly in narrative form. The Police Officer shall record the statements given by such persons as far as possible separately in their own words. Mention shall be made of all steps taken by the investigating officer and every incident of the investigation which may have a bearing on the result. The diary should be made as short and concise as possible. In cases under trial the investigating officer can record evidence in first person in accordance, with section 161, Cr.P.C. but the signatures of witnesses shall not be taken on such statements. Separate books shall be made available at each P.S. for recording such statements and its pages shall be numbered. As many copies of such statements shall be prepared as are made of case diaries so that one copy of statement can be attached with each copy. The approved form for writing case diary shall be used for recording statements

(Emphasis Supplied)

For ready reference, Sections 161, 172 and 173 of the Code of Criminal Procedure are being quoted herein below, which read as under:

161. Examination of witnesses by police.- (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person-whose statement he records.

Provided that statement made under this sub-section may also be recorded by audio-video electronic means.

XX XX XX

172. Diary of proceedings in investigation.- (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him,

the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(1A) The statements of witnesses recorded during the course of investigation u/s 161 shall be inserted in the case diary.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872) shall apply.

173. Report of police officer on completion of investigation.- (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(1A) The investigation in relation to rape or a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.

(2)(i) As soon as it is completed, the officer-in-charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating-

(a) the names of the parties;

(b) the nature of the information;

(c) the names of the persons who appear to be acquainted with the circumstances of the case;

(d) whether any offence appears to have been committed and, if so, by whom;

(e) whether the accused has been arrested;

(f) whether he has been released on his bond and, if so, whether with or without sureties;

(g) whether he has been forwarded in custody u/s 170;

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence u/s 376, 376A, 376B, 376C or 376D of the Indian Penal Code (45 of 1860).

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the

information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed u/s 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer-in-charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on this bond, the Magistrate shall made such order for the discharge of such bond or otherwise as thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report-

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded u/s 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under subsection (2) has been forwarded to the Magistrate and where upon such investigation the officer-in-charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of subsections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

(j) Height of this case is that injured eye-witness of the murder is examined as a Defence Witness.

(k) We, therefore, direct the State of Jharkhand to initiate inquiry against the Investigating Officer for their major lapses. We also direct the Registrar General of this Court to send the copy of this Judgment as well as paper book of S.T. No. 188/95 to the Principal of Police Training Centre at Hazaribagh to point out to their Police Officers/Investigating Officers not to repeat these types of errors in future and for

avoiding multifariousness of the errors at the behest of others. We, therefore, also direct the State that henceforth statement u/s 161 of the Code of Criminal Procedure shall be recorded separately and summary thereof will be mentioned in the case diary and for this purpose, even necessary circular may be issued by Secretary of the Home Department or by Director General of Police. The Principal of Police Training Centre at Hazaribagh will also discuss this aspect in their curriculum. Filing of a charge-sheet is an art. Injured eye-witness and Doctors, who are proving the injuries, ought to have been mentioned as prosecution witness. As seen hereinabove, injured eye-witnesses and the Doctor, who has proved the injury, has not been mentioned in the charge-sheet as witnesses and one Pyaso Devi, whose statement was never referred in the case diary, has been mentioned as prosecution witness in the charge-sheet. Every possible type of error has been committed by the prosecution in this case. Injured eye-witness of this murder case has been examined as defence witness in this case. Nonetheless, looking to the depositions of PW-3, PW-4 and PW-6, who are eye-witnesses of the incident, they have proved the offence of murder beyond reasonable doubt committed by these appellants and their depositions are getting enough corroboration by the medical evidence (PW-1) as well as evidence given by PW-8 and no error has been committed by the Trial Court in appreciating this evidence in convicting and punishing these two appellants and we, therefore, see no reason to alter the decision of the Trial Court in S.T. No. 188/95. There is no substance in this criminal appeal and therefore, the same is hereby dismissed.

7. We hereby direct the Registrar General of this Court to immediately send a copy of this judgment to:

(i) Secretary, Department of Home, Government of Jharkhand, Ranchi;

(ii) Director General of Police, Jharkhand, Ranchi;

(iii) Principal of Police Training Center, Hazaribagh;

(iv) The District Superintendent of Police of all the districts of this State;

(v) Director, Judicial Academy, State of Jharkhand, Ranchi; and

(vi) Law Commission of the State of Jharkhand.