(2012) 03 KL CK 0229

High Court Of Kerala

Case No: Criminal A. No. 1976 of 2007 (B)

Vyasan		APPELLANT
	Vs	
State of Kerala		RESPONDENT

Date of Decision: March 27, 2012

Acts Referred:

- Evidence Act, 1872 - Section 134, 154, 161, 27
- Penal Code, 1860 (IPC) - Section 302, 324

Citation: (2012) 2 ILR (Ker) 726 : (2012) 2 KLJ 332

Hon'ble Judges: R. Basant, J; K. Vinod Chandran, J

Bench: Division Bench

Advocate: M.H. Hanil Kumar Sri. A.P. Vasavan Sri. C.J. Denny. By, for the Appellant; Gikku Jacob George . By Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

K. Vinod Chandran, J.

A train of witnesses paraded before Court, turning hostile with careless abandon and the prosecution left helpless before a Court looking askance at the whole drama; is the bane of criminal judicial system in this country. Mounting the box, they deny the obvious, pretend ignorance of facts and give free play to their imagination making pursuit of truth a wild goose chase. When there is always clamour for fair trial by persons arraigned before Court, the same persons when arrayed as witnesses shed the cloak of righteous indignation and conveniently forget their duties as citizens to the society in general and administration of justice in particular. This insidious trend needs to be addressed with seriousness and concern by the law makers. Such woes apart - we are in this case concerned with the brutal murder of a young man allegedly by the appellant, another youth, along with two juveniles that too for the alleged motive of refusing to share an alcoholic drink. Life has become so cheap while administration of justice costly as is evident from the fact that 13 out of 14 witnesses turned hostile, of which 8 were eye witnesses. The instant appeal

arises from the conviction and sentence awarded by the Trial Court on the basis of the finding of guilt entered for offences punishable u/s 324 and 302 of the Indian Penal Code in Sessions Case No. 154/2004 before the Court of the First Additional Sessions Judge, Thrissur. Initially three accused were committed to and arraigned before the Sessions Court. However, accused numbers 2 and 3 being juveniles were directed to face trial before the Juvenile Court. The Sessions Court conducted trial of the first accused/appellant and convicted and sentenced him.

2. Before the trial court 23 witnesses were examined for the prosecution and one for the defence. The prosecution marked Exhibits P 1 to P23, of which Exts. P2, P4 to P14 and P20 series were contradictions in the case diary. The defence marked final report as Ext. D1 and examined CW22 as a defence witness. The court below has elaborately discussed the evidence in the case in its judgment and reiteration of the same in the appellate judgment is superfluous. The learned counsel for the appellant as also the learned Public Prosecutor have taken us meticulously through the evidence recorded, which we intend to discuss at the appropriate place when considering whether the conviction and sentence entered by the trial court is in fact and law deducible from the evidence recorded.

3. The prosecution went to trial with a battery of eye witnesses, smug and sure of the outcome. The FIR was registered on the strength of Ext. P1 F.I. Statement before PW20, Assistant Sub Inspector of Police, Ollur Police Station. According to Ext. P1, on 12.8.2002 at 6.30 p.m. near a toddy shop at Kuttanelloor, on the public road, Ravi, aged 36 years was stabbed by the appellant aided by two others. The injured succumbed to his injuries at the Thrissur Medical College Hospital. As per Ext. P1, PW1, the brother of the deceased had come to the shop near the toddy shop for making some purchases. While he was walking towards the shop he saw his brother and PW3 talking to each other. Then P.W.1 saw the appellant and two others approaching the deceased and questioning him as to how dare he play with them. P.W.1 saw the appellant stabbing the deceased, Ravi. When the appellant attempted to again stab the deceased, P.W.3 intervened and attempted to block it. Immediately the 2 persons accompanying the appellant caught hold of PW3 and restrained him exhorting the appellant to stab Ravi. The appellant then stabbed Ravi on the neck and in the stomach. While PW1 ran crying to his brother, a crowd gathered there and appellant along with his companions fled from the scene. PW1 and PW2 and some people who gathered there picked up the injured from the pool of blood and laid him aside. Subsequently in a Police Jeep, the injured was taken to the Medical College Hospital (hereinafter referred to as "MCH"), Thrissur where he was declared dead. The motive for the commission of the offence was also spoken to by PW1 in Ext. P1 as being an earlier altercation between the appellant and the deceased, at about noon. Investigation commenced with the registration of FIR on 12.8.2002 at 8.30 p.m, receipt of which was endorsed by the Court of the Judicial First Class Magistrate III, Thrissur at 10.30 a.m on the very next day. PW23, the Circle Inspector of Police took over the investigation and concluded the same. However, the final

report was filed by PW22. The Magistrate''s Court having committed the case to the Sessions Court, the case against A2 and A3 were split up to be tried before the Children''s Court, Thrissur. The Sessions Court framed 4 issues.

i. Cause of death of the deceased;

ii. who inflicted the injuries sustained by the deceased?;

iii. who inflicted the injuries on CW 2 (PW3)?; and

iv. the offence, if any, committed by the accused.

4. Having found that the deceased died of the injuries sustained in the incident, which were inflicted by the appellant along with the injuries on PW3, the trial Court convicted the appellant u/s 302 and 324 of the I.P.C. The Court below in entering the said conviction relied on the evidence of PW1 as also that of the official witnesses and also relied on the totality of circumstances. In this appeal we are called upon to decide whether the evidence relied on by the trial court clinchingly established the case against the accused and does not pave the way for any reasonable doubt as to the innocence of the accused.

5. The prosecution went to trial with an airtight case. The case of the prosecution specifically spoke of two separate instances - the earlier one being projected as the motive for the later one. The first incident was with respect to an altercation between the appellant and the deceased on the refusal of the deceased to give the appellant a drink of liquor. The persons who were present at that time had pacified the appellant and the deceased and separated them; but the appellant had gone off in a huff threatening the deceased. It was this incident which was the motive for the later incident of the stabbing of the deceased by the appellant. According to the prosecution, there were a number of witnesses who saw both the incidents.

6. From the contradictions marked, the picture that emerges is this: The deceased along with P.W.3, P.W.12, P.W.13 and one Kochu had commenced drinking in the morning at the open ground near the toddy shop at Kuttanelloor. Twice they had gone for replenishment and the second journey to purchase liquor was undertaken by P.W.3 and the deceased. On their way back, they met the appellant, who also travelled along with them. Joining their earlier company, the five, who started the drinking bout, commenced consuming liquor when the appellant also requested for some. The deceased then refused on the ground that the appellant can join only if he has money. This led to a wordy altercation and a scuffle. The other witnesses present there separated the two and as stated above, the appellant went off in a huff. P.W.3, P.W.12 and P.W.13, who were drinking together, were arrayed as witnesses of the first incident. P.W.5, a person who had joined them at one point and P.W.9 and P.W.19, neighbouring shop owners, were also witnesses to the said incident. The said incident happened at about 4.00 p.m. and the later incident around 6.30 p.m. Angered by the earlier incident, the appellant had, along with two

others, approached the deceased and P.W.3 who were standing near the toddy shop and had indiscriminately stabbed the deceased as also caused injury to P.W.3. P.W.3, who had suffered an injury in the melee, as also P.W.2, a neighbour, P.W.9 and P.W.19, neighbouring shop owners, were witnesses to the said incident. P.W.3, P.W.9 and P.W.19 were witnesses to both the incidents according to the case of the prosecution. P.W.1, the brother of the deceased, as noticed earlier, was also a witness to the second incident. It is the case of the prosecution that after stabbing the deceased, the appellant had, on going away from the scene of occurrence, encountered one Kochu who had been earlier in the drinking company and scornfully told him about the stabbing of the deceased. P.Ws.6 and 7 were arrayed as witnesses of what transpired between the appellant and the said Kochu. P.W.8 was another witness who had seen the appellant going to the scene of crime before the incident and saw the appellant going away from the scene too. P.Ws 10 and 11 were friends of the 3rd accused, to whom the 3rd accused had revealed the fact of his joining the appellant and participating in the incident, in which, the appellant stabbed the deceased. However, all of these witnesses too turned hostile to the prosecution. The prosecution, who came to Court with six eye witnesses to prove the motive; and almost an equal number of eye witnesses regarding the incident proper and four others to whom the appellant and the 3rd accused had spoken about the incident proper was left with a single witness in the form of the deceased''s brother, that too to talk only about the actual commission of the crime.

7. The counsel for the defence would challenge the conviction on the ground that the marshalling of evidence done by the trial court is unreal and improbable. The main plank of challenge would be the hostility displayed by all of the eye witnesses except one. The loyal witness, it is contended, is the brother of the deceased and hence ''interested''. In the context of the overwhelming hostility, even of PW3 who is alleged to have sustained injury in an attempt to save the deceased, the defence contends that the prosecution case is one cooked up and cannot lead to a conviction based on the testimony of interested related witness PW1. The learned Public Prosecutor, however, would strenuously urge that it is not the number of witnesses or circumstances that a court has to consider but the quality of the evidence has to be analyzed to enter a finding of guilt or innocence. In the instant case, there is no room for arithmetical counting and the veracity of the witness, loyal to the prosecution and the circumstances decipherable on an over view, if weighed in the scale of reasonableness, no prudent mind could enter a finding other than that of guilt is the submission of the prosecution. The prosecution has placed before us the allegation of motive, the incident proper, the participants, the witnesses, the entire investigation including scientific evidence to prove that the appellant had in fact caused the death of the deceased and contended that in law he is to be punished.

8. The motive of wordy altercation in the afternoon between the deceased and the appellant has been recorded in the FI Statement, but as a hearsay. Evidently there is no other motive alleged by the prosecution and it was the refusal of the deceased to

give appellant a drink of liquor without payment that infuriated the appellant and led to his stabbing the deceased with the help of two others. As stated earlier, though there were six witnesses to the above incident, three of whom were active participants, none of them gave evidence regarding the altercation and scuffle between the appellant and the deceased. However, it is trite that the evidence of hostile witnesses to the extent that they speak in tandem with the case of the prosecution can be relied on by a Court of law as provided u/s 154 of the Indian Evidence Act. The Honourable Supreme Court in Khujji alias Surendra Tiwari Vs. State of Madhya Pradesh, held that the declaration of a witness as hostile does not efface his entire evidence from the record. The testimony of a hostile witness to the extent found reliable can be acted upon. The above position was reiterated in Prithi Vs. State of Haryana, , wherein, relying on the earlier referred three Judge Bench decision, the Supreme Court restated the above declaration of law as being the accepted and consistent legal position. As stated earlier, in the instant case the hostility displayed by the majority could not be the sole reason for discarding their evidence in toto. The testimony of such hostile witnesses to the extent which it supports the prosecution case can definitely be relied on, so much of the said evidence being admissible.

9. P.W.3 is a person, according to the prosecution, who was with the deceased from the morning of the said fateful day till the evening when the deceased was stabbed. On the first day of examination of P.W.3 (16.6.2006), the 164 statement was put to him and he admitted the signature as also the factum of his giving such a statement before the Magistrate. Each of the statements made before the Magistrate was put to him and he admitted to having said so before the Magistrate; but towards the end P.W.3 stated that he was tutored and threatened by the police and claimed the statement recorded by the Magistrate to be made under coercion. On the second day of his examination, he was asked to step down from the witness box and directed to be examined as to whether he was then under the influence of alcohol. The 3rd day of examination was on 19.6.2006 when, before he was sworn in, the Magistrate had questioned him to understand whether he was inebriated on the said day also. Finding P.W.3 to be not under the influence of alcohol, the cross examination by the Prosecutor continued on that day. P.W.3 again repeated his contention regarding the coerced statement made before the Magistrate. Exhibits P9(a) to P9 (u) were the case diary contradictions, which were in tandem with Exhibit P8, 164 statement about the earlier incident, regarding the motive and the later incidents of the commission of the actual crime. The witness feigned ignorance about the second incident, but it is admitted that the deceased and P.W.3 were drinking together on the said day. What comes out from an overall reading of P.W.3''s evidence is that he is thoroughly unstable and this must be the reason which prompted P.W.3''s 164 statement being recorded by a Magistrate; P.W.21.

10. P.W.5 and P.W.9, who had allegedly seen the earlier incident of altercation and scuffle, also resiled from their earlier statement to the police, before Court. P.Ws 12

and 13, who were also drinking companions of P.W.3 and the deceased, turned hostile. However, P.W.12 and P.W.3 admit to the fact that five of them (P.W.12, deceased, P.W.13, P.W.3 and one Kochu) were drinking together on that day. While P.W.12 denied that he had brought the appellant to the drinking bout since the appellant wanted a drink, P.W.12 admitted to the next statement made u/s 161: "First, myself, Ravi, Pauly, Kochu and Davis consumed the drinks". Going by the contradictions Exhibits P13(e) and P13(f), the said statement was a precursor to the demand for a drink by the appellant and the refusal of the deceased. So, much is evident from the word "first" used in the said statement ( ). Occurrence of an incident prior to the commission of crime is very clear. However, there is no substantive evidence regarding the altercation and scuffle and the subsequent threat made by the appellant. Though an incident is established, the motive for the crime is not established by reason of the enmasse hostility of the witnesses arrayed before the Court. Motive, in any event, is not a necessary ingredient when there are other compelling evidence pointing unerringly to the guilt of the accused.

11. That the deceased died of stab injuries in a homicidal attack made on him is beyond any dispute. That the said homicide was caused at the place marked in Exhibit P17 scene mahazar and Exhibit P19 scene plan is clear from the evidence of the hostile witnesses itself. P.W.2, a resident, neighbouring to the scene of occurrence speaks of the occurrence having taken place about 10 feet from her house. Though P.W.2 does not talk about the incident proper, so much of her evidence which would indicate the death of the deceased, in an incident near to her house, can safely be relied upon. P.W.3 admits to having been with the deceased from morning, but however asserts that he was in an advanced state of intoxication and hence was unaware of what was happening around him. Despite his asserting ignorance about what transpired, it is clear that he had suffered an injury on his right hand. He specifically speaks of a mark in his hand, but again feigns ignorance of the actual infliction of the injury or the treatment thereafter. But, we have the evidence of P.W.15, the doctor who treated P.W.3. On the strength of Exhibit P16 wound certificate, P.W.15 deposed before Court that the patient himself had stated the history and alleged cause of injury to be "alleged assault by known person at Kuttanelloor at 6.00 p.m. on 12.8.2002". The same is evident from Exhibit P16 and the identification marks noticed in the wound certificate were also specifically put to P.W.3 and admitted by him as pointing to his bodily marks. The evidence of P.W.15 on the strength of Exhibit P16 wound certificate as also the limited corroboration by P.W.3 to the aspects noticed above, would again point to the death of the deceased having occurred at the scene of occurrence. P.W.5 as also D.W.1 speak of the deceased having suffered stab injuries at the scene of occurrence; though falling short of witnessing the same. The evidence of P.W.14, the doctor who conducted the post mortem (Exhibit P15 post mortem certificate) speaks of a total of 12 injuries, of which three (injury nos. 2, 5 and 10) were fatal, which independently or together, according to him, could cause the death of a human being. It is also to be noticed

that the incised wounds found on the body of the deceased; a total of 8 numbers, show indiscriminate stabbing, of which three were fatal and one grievous. The possibility of the said injuries being caused by M.O.1 weapon has also been confirmed by the doctor who conducted the post mortem examination. On the strength of the circumstances explained above, it can be safely deduced that the deceased died of stab injuries by M.O.1 weapon inflicted on him at the scene of the crime, described in Exhibit P17 scene mahazar and Exhibit P19 scene plan.

12. It is with these circumstances in the background, that the evidence of P.W.1 has to be looked into, and this necessarily brings us to the question of at whose hand the crime was committed. That the incident happened is clearly established. The witnesses though hostile have spoken to the incident in which the deceased suffered stab injuries and as a consequence met his death. P.W.1 is the brother of the deceased and was the first informant before the police. P.W.1 was residing in the said locality and according to him he had come to the spot for making some purchases. While he was approaching the shop, he saw his brother and P.W.3 talking to each other and immediately thereafter the incident in which his brother was stabbed by the appellant occurred. P.W.1 graphically describes the first stab made by the appellant on the neck of the deceased and the subsequent indiscriminate stabs as also a vain attempt made by P.W.3 to ward off one of the stabs. P.W.3 when he unsuccessfully attempted to block the stab of the appellant, according to P.W.1, suffered an injury and was restrained by the two persons accompanying the appellant. The said statements made before Court was in all material aspects similar to the First Information Statement (Exhibit P1) made by P.W.1. The F.I. Statement made by P.W.1 was at 8.30 p.m, immediately after the incident at 6.30 p.m. The F.I.R. has also been promptly transmitted to the Court, whose endorsement is on the next day at 10.30 a.m. The veracity of P.W.1 cannot be doubted and is further strengthened by the prompt F.I. Statement as also the equally prompt transmission of the F.I.R. to the Court. The injury suffered by P.W.3, as has been discussed earlier, eloquently fortifies the testimony of P.W.1.

13. The counsel for the appellant would, however, assail the order of conviction passed by the lower Court on the basis of the sole testimony of P.W.1 on grounds of he being the one and only witness, especially in the context of all the other 13 witnesses turning hostile as also the obvious interest of the witness evidenced by his close relationship.

14. There is absolutely no rule of law that conviction cannot be based on the testimony of a single witness. Crimes cannot be wished away for reason only that the same was witnessed by only one person. It is that principle which is enshrined in Section 134 of the Indian Evidence Act. As early as in Vadivelu Thevar Vs. The State of Madras, , it has been held by the Hon''ble Supreme Court that corroboration not being insisted upon by the statute, there cannot be a rule of law that conviction cannot be based on the testimony of a single witness. However, even as a rule of

prudence, it was held that the insistence of corroboration would always depend on the circumstances of the case as also the quality of evidence. On a consideration of the relevant authorities and the provisions of the Evidence Act, the propositions that are firmly established were stated by the Supreme Court as follows:-

(1) As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.

(2) Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.

(3) Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes.

The statutory principle that "evidence has to be weighed and not counted" laid down in the said decision was noticed and affirmed by the Supreme Court in Namdeo v. State of Maharashtra [(2007) 14 SCC 150] and Takdir Samsuddin Sheikh Vs. State of Gujarat and Another, . The testimony of a solitary witness hence can be made the basis for conviction if the credibility of the witness is free from blemish or suspicion and the quality of his evidence impresses the Court as natural, wholly truthful and convincing enough for the Court to unhesitatingly record a conviction. In the present case, the evidence of P.W.1 is one which inspires the confidence of a Court and more so being very similar to the prompt First Information Statement and corroborated by the attendant circumstances. The promptness of the First Information Statement and the lodging of the F.I.R. as also its immediate transmission to the Court erases any suspicion regarding manipulation. There is nothing to challenge the credibility of the witness and we are of the definite opinion that P.W.1''s evidence is wholly truthful and utterly reliable.

15. The further challenge of P.W.1''s evidence is on the basis of his close relationship with the deceased. The decisions in the case of Namdeo and Takdir Samsuddin Sheikh, noticed supra, are answers in deciding this question also. The term "interested" as held by the Supreme Court postulates that the witness must have some direct interest in having the accused somehow or other convicted for some animus or for some other reason. Merely because a witness is related, that does not make him "interested". It has been the consistent opinion of the Hon''ble Supreme Court that unless the witness has cause; such as an animosity against the accused to wish to implicate him falsely, a witness is normally to be considered independent, if the said witness does not spring from sources which are likely to be tainted. Though

normally a close relative may not want to help the real culprit to escape from the jaws of law, it definitely cannot be ruled out when there is no indication as to the real culprit and the witness has a personal or family score or enmity to be settled. In the instant case, there is absolutely no suggestion that P.W.1 was inimical to the appellant. There is also no suggestion that even the deceased harboured any earlier enmity to the appellant and vice versa. The appellant and the deceased but for the skirmish a few hours ago were not declared foes. P.W.1, in any event, has absolutely no axe to grind against the appellant. Nor is there any suggestion made in this regard. The declaration of the Supreme Court, that "the mere fact of relationship far from being a foundation (for criticism) is often a sure guarantee of truth" in Dalip Singh and Others Vs. State of Punjab, was emphasized with approval in Namdeo''s case (supra). The incident as spoken to by P.W.1, according to us, is trustworthy, reliable and wholly acceptable. P.W.1''s evidence cannot be ignored or effaced only for being solitary amongst collective hostility. Nor can his evidence be eschewed as being "interested", by reason only of his close relationship with the deceased.

16. P.W.1 was unshaken in his cross examination. The defence has examined one Janadas as D.W.1, who was C.W.22. The said D.W.1, as noticed earlier, admits to the incident in which the deceased met his death, but does not speak of having seen the actual stabbing. D.W.1 had accompanied the deceased to the Medical College Hospital. The effort of the defence was to discredit P.W.1 by disproving his presence at the scene of occurrence and also by showing that the said Janadas did not have a vegetable shop in the locality. The later aspect regarding the existence or not of a vegetable shop is not clear from the evidence of D.W.1. D.W.1 admits of his having earlier carried on a vegetable shop, but speaks of having the business of a bakery at the relevant time. The said discrepancy, even if believed, cannot lead to the entire evidence of P.W.1 being discredited.

17. The further evidence of D.W.1 is to the effect that P.W.1 was not available at the scene of occurrence and had boarded the police jeep, while the deceased was being carried to the hospital. It is pertinent that there was no specific question or suggestion put to P.W.1 in this regard while he was in the box. But, for a broad suggestion that P.W.1 was not present, which was promptly negatived by P.W.1, there was no such suggestion put to P.W.1. The contention of the defence that P.W.1, who saw the stabbing of his brother, did not question the assailants or offer a helping hand, does not merit any consideration. There is no set pattern or accepted rule of response for a human being in a given situation. The rule of probabilities does not extend to classifying human reactions in straight jacket formulae. P.W.1, in fact, speaks of being taken aback on witnessing the stabbing, but soon runs to his brother crying. The response of P.W.1 cannot at all be said to be improbable human conduct as to persuade this Court to disbelieve his presence at the scene of occurrence.

18. In the attempt to look for corroboration, especially in the context of almost all except one of the witnesses turning hostile, we are aided by the medical evidence and the recovery made u/s 27. The post mortem certificate, Exhibit P15, shows 12 wounds, of which injury Nos.10 and 11 correspond to the stab on the neck and stomach graphically described by P.W.1. The cause of death was already discussed and the evidence of the doctor who conducted autopsy regarding the death having been caused by a weapon like M.O.1, was also discussed. The accused, after having been taken into custody, was questioned and had, as per Exhibit P18(a), confessed the concealment of M.O.1 weapon. The Investigating Officer, based on the said confession and having been led by the appellant, discovered the weapon at the place where it was concealed. The weapon has been recovered from the place of concealment and handed over to the Investigating Officer by the appellant.

19. The contention that the recovery was made from an open place cannot at all be countenanced, since going by Exhibit P18, seizure mahazar, it is clear that the weapon was recovered from beneath the concrete slab of a drainage on the side of a public road. The mere fact that the public has access to that place does not at all deviate from the fact that the weapon was concealed, that too from the eye of any casual onlooker. The Investigating Officer speaks of the said recovery, though P.W.17, who had attested Exhibit P18, turned hostile in Court.

20. One other compelling circumstance is the absence of the appellant, who had been absconding from the date of the occurrence, i.e.12.08.2002, till he surrendered before Court on 26.08.2002. The appellant has no explanation for his absence and subsequent surrender before Court after a fortnight. We were also perturbed by the enmasse hostility of the witnesses in the above case as noticed in the beginning. In looking at the evidence, we have come across clear indications that the appellant had made threats against anybody speaking about having witnessed the incident. P.W.1, in his evidence, specifically speaks of the appellant immediately after the stabbing, having levelled a threat to the general public that anyone who speaks of the incident would meet with the same fate. True, this does not find a place in Exhibit P1 F.I. Statement. However, the same cannot be considered to be an embellishment, since Exhibit P1 is about the incident proper constituting the offence, while the aforementioned statement is regarding the subsequent conduct of the appellant. This factor of fear sown in the minds of the onlookers is also very evident from the testimony of P.Ws 12 and 13, who specifically speaks of fear on hearing about the murder of their friend, Ravi, the deceased.

21. On a consideration of the entire evidence on record, especially the stellar evidence of P.W.1, we are of the opinion that the appellant had committed the offence alleged against him. The stabbing of the deceased and his resultant death constituting the offence u/s 302 as also the infliction of the injury on P.W.3 constituting the offence u/s 324, in our opinion is convincingly proved by the ocular testimony of P.W.1 as also the attendant compelling circumstances discussed above.

P.W.3, though hostile, has no case that the offence against him allegedly committed by the appellant has been compounded by him. There is not even a grain of doubt aroused in the mind of the Court regarding the innocence of the appellant. The order of conviction and sentence passed by the learned Sessions Judge, according to us, does not warrant any interference in appeal and the same is confirmed. The appeal, hence, stands dismissed.