

## Bakshia Mukinda Neo Budha and Another Vs State of Bombay

**Court:** Bombay High Court (Nagpur Bench)

**Date of Decision:** Sept. 10, 1959

**Acts Referred:** Evidence Act, 1872 " Section 27  
 Penal Code, 1860 (IPC) " Section 395

**Citation:** AIR 1960 Bom 263 : (1960) CriLJ 807

**Hon'ble Judges:** Kotwal, J; Gokhale, J

**Bench:** Division Bench

### Judgement

Gokhale, J.

The three appellants were convicted u/s 395 of the Indian Penal Code and each of them was sentenced to rigorous

imprisonment for three years by the learned Sessions Judge, Akola in Sessions Trial No. 8 of 1959. The charge against the appellants was that on

11th September 1958 they, along with two others, committed dacoity and looted grocery articles belonging to one Akbarali Syed Anwar and thus

committed an offence u/s 395 of the Indian Penal Code.

2. Akbarali Syed Anwar has a grocery shop at Khetri and his son-in-law Abdul Munaf is working in his shop. A few days prior to the last Pola

Day, he sent Abdul Munaf and one Jardarkhan to make purchase from Khamgaon from the shop of one Haji Adam Bodabhai, with which shop

he had a Khata. Rs. 500 were paid by him for being paid to the Khamgaon shop towards his previous dues. Abdul Munaf and Jardarkhan left

Khetri on 9th September 1958 and reached Khamgaon via Bala-pur in the evening, Rs. 500/- were paid in the shop of Haji Adam Bodabhai and

Abdul Munaf and Jardarkhan stayed overnight at Khamgaon. On the next day, Abdul Munaf purchased grocery articles worth Rs. 900/- and

Jardarkhan purchased -articles worth Rs. 600/. consisting of wheat, edible oil, gram dal, coconuts, Bidis, betelnuts etc. These articles were given

from the shop by one Abu who, it appears, wrote chits bearing Akbarali's name and put those chits on the oil tins which were purchased. A torch

of 2 cells was also purchased by Abdul Munaf from "Taheri shop" at Khamgaon. On the 10th in the evening a truck was engaged and the goods

were loaded into that truck and at about 8-30 p.m. Abdul Munaf and Jardarkhan left Khamgaon. They appear to have been held up at Balapur

on account of the rains and on 11th September at 11 a.m. they reached Babhulgaon where the truck had to be unloaded because there was only

Kacha road from Babhulgaon to Khetri. In accordance with the instructions left at Khetri, 21 donkeys had been sent to Babhulgaon at about 1

P.M. for taking these articles to Khetri. The owners of these donkeys were Covinda, Mara, Sheoram and Motiram. The grocery articles were

loaded on these 21 donkeys. The articles purchased by Abdul Munaf were loaded on 12 donkeys belonging to Mara and Govinda, while the

grocery articles purchased by Jardarkhan were loaded on 9 donkeys belonging to Sheoram- and Motiram. The party left Babhulgaon at about "" 3

p.m., the donkeys and their owners going by the cart-track and Abdul Munaf and Jardarkhan going ahead by the foot-path. The foot-path and the

cart-track met near the village of Chatari and there Abdul Munaf and Jardarkhan met Motiram and Sheoram, who were driving their 9 donkeys

towards Khetri. Abdul Munaf and Jardarkhan asked them about the remaining 12 donkeys, but both of them told them that the donkeys would

come soon. The party thereafter proceeded to Chatari. It may be mentioned that the distance between Babhulgaon and Khetri is about 8 miles and

that between. Chatari and Khetri is about 2 miles. Sheoram, it appears, was sitting on a donkey while Motiram-was walking and, according to the

prosecution, Abdul Munaf and Jardarkhan were following them at some distance. Then shouts and abuses were heard by them and Abdul Munaf

flashed his torch to see what was the matter, when he saw the present appellants and two others. According to the prosecution, Abdul Munaf

knew accused Nos. 1 and 2 by their names and the other three by their faces. Accused No. 1 Bakshia, it is alleged, put a sickle around Abdul

Munaf's neck and someone snatched the torch from his hand. It is the prosecution case that the dacoits, who were coming from the opposite

direction, asked Sheoram to get down from the donkey and Sheoram, being frightened, got down from the donkey and went back running

towards Motiram. It appears that ,. when the dacoits approached Abdul Munaf and Jardarkhan, Sheoram and Motiram ran away with the 9

donkeys towards Khetri. When Abdul Munaf was attacked by one of the dacoits, Jardarkhan went ahead and asked them what the matter was,

and the accused are said to have rushed at Jardarkhan also, Accused No. 1 is alleged to have put his sickle round Jardarkhan's neck, but

jardarkhan managed to escape. Abdul Munaf went running to Khetri and told Akbarali, who was sitting in the grocery shop, that accused No. 1

Bakshia and accused No. 2 Rustum and three other Mahars of Chatari had tried to loot their goods. In the meanwhile Sheoram and Motiram

arrived with the 9 donkeys, The goods on those donkeys were unloaded and Sheoram and Motiram went away to their respective houses, Within

a short time thereafter, Jardarkhan and Govinda arrived at tie shop. According to the prosecution, Govinda told Akbarali that accused No, 1

Bakshia and accused No. 2 Rustum and three other Mahars from Chatari village had looted goods from four donkeys. As has been already stated,

the goods purchased by Abdul Munaf were loaded on 12 donkeys belonging to Govinda and Mara and it appears that the dacoits, according to

the prosecution, looted goods from 4 of these donkeys. Subsequently the remaining 8 out of the 12 donkeys arrived at the shop with goods loaded

on them and these goods also were unloaded. Akbarali in the meanwhile personally went to the house of the Police Patil of Khetri, one Tulshiram,

and gave him information about the incident. It seems, however, that Tulshiram told Akbarali when he went to the vill" age limits that the spot

where the offence appeared to have been committed was within the jurisdiction of the Police Patil of Chatari and, therefore, a complaint should be

lodged with the Police Patil of that village. That is why Akbarali, Tulshiram, Jardarkhan, Govinda and two Chowkidars proceeded towards the

scene of offence, when they met at a short distance Mara who told them that the dacojts had taken away his cap and looted goods from 4

donkeys. It seems that the 4 donkeys also arrived there without the goods on their backs and thereafter the party reached the scene of offence and

found there one tin of edible oil, two saddles of donkeys and a chaddar belonging to Abdul Munaf lying there. The party proceeded to the village

of Chatari, but Mara who was feeling tired returned back to Khetri. At Chatari, Akbarali and his companions went to the house of Uttamrao

Police Patil. There Akbarali lodged a written complaint before him saying that accused Nos. 1 and 2 and three other Mahars had looted goods

belonging to him from 4 donkeys at a distance of about 2 furlongs from Chatari. Uttamrao Patil accepted the complaint and wrote an endorsement

and should have forwarded the same to the Police station at Channi which, it appears, is at a distance of about 2 miles from Chatari as well as from

the village of Khetri. But it seems that a Maramari had taken place in the grocery shop of one Sidaji at Chatari on the same night and information

about this incident had already been sent to the police station at Channi. That was why Uttamrao Patil seems to have told Akbarali and his party

that the Police Sub-Inspector of Channi would soon arrive at Chatari and, therefore, they should wait there for some time, so that the complaint of

Akbarali could be handed over to the Police Sub-Inspector personally. Mohd. Anwar Mohd, Sarwar, Police Sub-Inspector of Channi, arrived at

the village of Chatari at about 10-30 p.m. He first visited Sidaji's shop and arrived at the village Chavdi at about 11 P.M. and as soon as he

arrived there Akbarali handed over his written complaint to him, which is Exhibit P-1. On receipt of the complaint, the Sub-Inspector went to the

scene of offence where one tin of edible oil, two donkey saddles, one Chaddar, an empty box and an old gunny bag were found lying there and all

these articles were attached under a seizure memo (Exhibit P-4). A panchanama (Exhibit P-3) regarding the scene of offence was also made there.

When the Sub-Inspector went to the Maharwadi at Chatari, accused Nos. 1 and 2 were found in their respective houses and both of them were

taken to the village Chavdi for interrogation. On the next day, i.e., on the 12th, at about 6-30 a.m., the scene of offence was visited by the Sub-

Inspector along with the Panchas and the complainant Akbarali. When the neighbourhood was inspected, a wheat bag was found; at a distance of

about 35 paces from the scene of offence in a field in which cotton crop was growing. The wheat bag (Article F) was attached under a seizure

memo (Exhibit P-6) and at a distance of 40-paces from this spot a box containing Bidis, betel-nuts, etc. was found. That was attached under a

seizure memo (Exhibit P-7) and a panchanama (Exhibit P-5) regarding the place where these articles were found was also made. After the Sub-

Inspector returned to the village, accused No. 1 Bakshia was called and questioned in the presence of two panchas. It is alleged by the prosecution

that he made a statement that he had kept certain grocery articles and corn concealed beneath a stack of Kadbi stems in a field outside the village

and he offered to point out and produce these articles. A memo of the statement Ex. P-8 was made and accused No. 1 Bakshia led the police and

the panchas to a field situate at a distance of about 2 furlongs from the village and produced a tin of edible oil, a bag of wheat, a bag of gram dal

and a bag containing loose tea powder, from beneath a stack of Kadbi stems situated in the field of one Isnaji Supaji and these articles were

attached under a seizure memo (Exhibit P-9). After returning to the village, the statements of several persons were recorded. On the next day, i.e.,

on 13th September, accused No. 3 Maruti was sent to Balapur for medical examination in connection with the Maramari which had taken place at

Chatari near Sidaji's shop. On 14th September, Police Inspector Tikale questioned accused No. 3 Maruti in the presence of two panchas and the

said accused is alleged to have made a statement that he had kept a torch concealed in an earthen pot in his house and offered to point out and

produce the same. A memo of his statement Ex. P-22, was made and" accused No, 8 led the Police and the panchas to his house at Chatari and

produced a torch from an earthen pot in his house. That torch was attached under a seizure memo (Exhibit P-20) and it is alleged to have been

identified by Abdul Munaf and Jardarkhan. An identification parade was held" on 16th September 1958 when Abdul Munaf, Jardarkhan, Govinda

and Motiram identified accused Nos. 1 to 4 as the dacoits of that evening. Accused No. 5 Vikram was undergoing medical treatment. So a

separate identification parade was held with regard to him on 4th October 1958 and he was also identified as being one of the dacoits. After

further investigation a charge-sheet u/s 395 of the Indian Penal Code was sent against the three appellants and two others. The Committing

Magistrate, after holding a preliminary inquiry, committed the three appellants along with two others to stand their trial in the Court of Sessions for

the offence u/s 395 of the Indian Penal Code.

3. The defence of the accused was that all of them were falsely implicated and they were completely innocent. All five original accused were

residents of Chatari village and their plea was that the Mahars of that village and the members of the other communities were not pulling on well.

They had become "Navabudhas" about two years back and the caste Hindus were trying to create trouble for the Mahars, It was the case of the

accused that in all 75 or 100 Mahar families were residing in the village and they had stopped removing or dead animals since about 3 years and

that had given offence to the caste Hindus, Then one Pund-uk Patil gave a donation of Rs. 4000/- for a school in the village, a meeting was

convened about it and it was decided to construct a school, and the suggestion of the accused was that the Maliars Were asking for half of the

amount for their own purposes and that created further illfeeling between the Mahars and the other communities. One Dayandeo was murdered in

the village about 2 years back and some people were suspecting accused Nos. 1, 2 and 5 in connection with that murder. It is the case of the

accused that on account of this ill-feeling they have been falsely implicated in the present case. On the night of the dacoity there was an attempt to

commit dacoity at Sidaji's shop at Chatari, and Sidaji, his brother Jairam, Jagdeo and Chinkaji, who were panchas, and the Police Patil Tulshiram

have, therefore, implicated the accused in the present offence and these persons had somehow induced Akbarali and Abdul "Munaf and the other

witnesses to make a false case of dacoity against the accused.

4. The learned Sessions Judge gave a finding that a dacoity did really take place on 11th September 1958 at 7-30 p.m. at a distance of about 2

furlongs from Chatari village, as alleged by the prosecution. He rejected the defence of the accused and convicted accused Nos. 1 to 3, the

present appellants, of the offence u/s 395 of the Indian Penal Code and sentenced each of them to three years" rigorous imprisonment. As regards

original accused Nos. 4 and 5, Daulat Jari and Vikram Raoji, the learned Sessions Judge held that the evidence was not sufficient to justify their

conviction on the charge levelled against them and they were consequently given the benefit of doubt and acquitted. It is against the conviction of

the appellants u/s 395 of the Indian Penal Code that the present appeal has been filed.

5. Mr. Naidu on behalf of the appellants contends that the night of the offence was admittedly a very dark night and the offence is alleged to have

taken place at 7-30 p.m. and the evidence implicating the present appellants, according to Mr. Naidu, is not cogent enough to justify their

conviction. It is not disputed in this Court that the grocery articles belonging to Akbarali which were being carried on donkeys between Chatari and

Khetri, were looted and the dacoits carried away the grocery articles from the backs of 4 donkeys. There is abundant evidence on the record to

justify the finding of the trial Court that a dacoity did really take place on 11th September at 7-30 p.m., as alleged by the prosecution. The only

question is whether the present appellants were the dacoits, and on that point the findings recorded by the learned sessions Judge are challenged

by Mr. Naidu.

(6-9) As against the three appellants, there is first of all oral evidence and that is sought to be supported by the prosecution by the evidence about

the discovery of certain articles as a result of information given by appellant No. 1 Bakshia and appellant No. 3 Maruti.

(His Lordship then discussed the evidence on record and continued as under :).

10. This is all the oral evidence on the record so far as the complicity of the present appellants in the offence of dacoity is concerned. It may be

mentioned that the learned Sessions Judge was not impressed by the evidence regarding identification of the accused by the eye-witnesses and it is

not relied upon on behalf of the State in this appeal either.

11. So far as the appellants Nos. 1 and 3 are concerned, the prosecution relies on the discovery of certain articles as a result of the information

given by the appellants Nos. 1 and 3. Accused No. 1 Bakshia was questioned by the Police Sub-Inspector on 12th September and he made a

statement in the presence of two panchas, Jagdeo and Baliram, which is recorded at Exhibit P-8. That statement, so far as it is admissible, was that

accused No. 1 and his partners had hidden grocery articles under a heap of Kadba in a field and he would show the same and hand over the

same. Now, in pursuance of this statement accused No. 1 took the panchas to the field of one Isnaji Supaji and produced from a heap of Kadba

in that field four articles, viz., a tin containing oil having a label bearing the name of Akbarali (Article A), one gunny-bag containing wheat (Article

G), one gunny-bag containing gram pulse (Article H) and one tin containing tea powder (Art, C). Only one panch was examined in this connection,

viz. Jagdeo, and Mr. Naidu contends that Jagdeo and Baliram were the two panchas employed by the police on that day when not only grocery

articles were seized from near the scene of offence but also in connection with the seizure of articles alleged to have been produced by accused

No. 1. In our view, the mere fact that these two panchas acted also in respect of the seizure of articles elsewhere would not vitiate in any manner

the evidence as to the production by accused No. 1 of the four articles from the heap of Kadba in the field of Isnaji Supaji. Isnaji Supaji, the

owner of the field, has not been examined, but, according to Jagdeo, accused No. 1 offered to point out and produce some property concealed by

him beneath a Kadba stack, That supports the statement recorded in the memo (Exhibit P-8). It is contended by Mr. Naidu that according to Jag-

deo's evidence, accused No. 1 had told the panchas that he had kept half a bag of wheat, one tin of edible oil, one tin of loose tea and a bundle of

chana dal, but this statement is not to be found recorded in exhibit P-8. This is again a matter of detail and we do not think that merely because of

this omission the evidence on this point is in any manner vitiated. All the four articles have been identified by Abdul Munaf as being amongst the

articles purchased by him at Kham-gaon. What is more, according to him, when he purchased the articles at Khamgaon one Abu wrote chits

bearing Akbarali's name and put those chits on the oil tins, and the seizure memo (Exhibit P-9) indicates that Article A was a tin of oil with a label

bearing on it the name of Akbarali. That would clearly identify the property produced by accused No. 1 as containing one of the articles which

were purchased by Abdul Munaf at Khamgaon. This evidence of the production of the articles by accused No. 1 Bakshia is a strong piece of

corroborative evidence which would support the oral evidence on the record.

12. There can be no dispute that the statement recorded in Exh. P-8 attributed to accused No. 1, is admissible u/s 27 of the Evidence Act. The

legal position as regards discovery in consequence of information received from an accused person is well settled. u/s 26 of the Evidence Act, no

confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be

proved as against such person. Section 27 provides an exception and it states that when any fact is deposed to as discovered in consequence of

information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a

confession or not, as relates distinctly to the fact thereby discovered may be proved. In Pudukuri Kottaya v. Emperor, 49 Bom LR 508 : AIR 1947

PC 67, it has been held by the Privy Council that the condition necessary to bring Section 27 into operation is that the discovery of a fact in

consequence of information received from a person accused of any offence in the custody of a police officer must be deposed to, and so much of

the information as relates to the fact thereby discovered may be proved. If a fact is actually discovered in consequence of information given, some

guarantee is afforded thereby that the information was true and that is why it can be safely allowed to be given in evidence. But the "fact

discovered" within Section 27 of the Evidence Act can- not be treated as equivalent to the object produced. The fact discovered embraces the

place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact.

The principle laid down in this leading case has been followed in several cases of this Court and has been referred to in the Full Bench case, Rama

Shidappa Thorali and Others Vs. State, , where it was held that when a statement made by an accused person while in custody of a police officer

is tendered in evidence u/s 27 of the Evidence Act, on the ground that an article which is concealed and the accused's knowledge of its

whereabouts are discovered in consequence of the statement, the words included in the statement with regard to the authorship of the

concealment, e.g., "I have concealed", "I have hidden", or "I have kept", are admissible in evidence u/s 27 of the Act. Now, in the present case,

accused No. 1 stated before the panchas that he and his partners had hidden certain grocery articles under a heap of Kadba in a field, and he

actually took the panchas to the field of one Isnaji Supaji and produced four articles from below the heap of Kadba in that field. It is clear,

therefore, that the place where the articles were hidden was discovered as a result of this information and the fact that accused No. 1 led the

panchas to this place and produced the articles shows that he had not only knowledge as to the place where they were hidden but was able to

produce them before the panchas, very soon after he made the statement.

13. Mr. Naidu does not contest this legal position, but he argues that Section 27 of the Evidence Act would not be applicable in the present case

because at the time the alleged statement was made by accused No. 1 he was not in custody of any police officer. In order to appreciate this

argument, certain facts have to be stated. The offence of dacoity took place on 11th September 1958. The first information was lodged at 11 p.m.

on that day, in which the name of accused No. 1 was mentioned as being one of the dacoits. The statement recorded in exhibit P-8 was made by

accused No. 1 before the panchas on 12th September, and on that very day four articles were produced by him before the panchas, from beneath

a heap of Kadba in a field. The evidence of Police Sub-Inspector Mohd. Anwar indicates that he had questioned accused No. 1 Bakshia in

connection with this offence. But he actually arrested him at Balapur on the 16th. The argument of Mr. Naidu is that if accused No. 1 was arrested

on the 16th, it could not be said that he was in custody of any police officer on the 12th and, therefore, Section 27 of the Evidence Act would not

apply. We are not prepared to uphold this argument. Chapter V of the Code of Criminal Procedure contains provisions as to arrest, escape and

retaking of the accused and Section 46 (1) provides that in making an arrest the police officer or other person making the same shall actually touch

or confine the body of the person to be arrested, unless there be a submission to the custody by word or action. It is true that the actual arrest of

accused No. 1 was made at Balapur on 16th September. But it is clear from the evidence on the record that the Sub-Inspector had closely

questioned accused No. 1 on the 12th and as a result of that interrogation accused No. 1 made a statement which is recorded at Exhibit P-8; and

he not only made a statement but took the panchas and the police officer to the field of Isnaji Supaji and produced 4 articles from below the heap

of Kadaba in that field and it has been proved that there were some of the articles looted. In our view, the fact that accused No. 1 was

interrogated on the 12th and made a statement and, led the panchas and the police officer to a field and thereafter, produced certain articles, which

are the subject-matter of dacoity, would be sufficient to establish that there was submission on his part to police custody. We are supported in this

view by a decision of the Calcutta High Court-reported in Sudam Chandra Bag Vs. Emperor, , where it was held by a Division Bench that where

a police officer, although he arrested a person charged with being in possession of cocaine after the finding of the cocaine with him, interviewed the

accused and was with him for a considerable time and walked with him to the place where the accused pointed out the spot where the cocaine

might be found, it must be held that the accused was in police custody at the time when he made the statement as to the spot where the cocaine

could be found and his statement was admissible u/s 27 of the Evidence Act. In our view, therefore, the evidence as to the statement made by

accused No. 1 on 12th September 1958 as well as the evidence as to the discovery of 4 articles produced by him would be admissible u/s 27 and

would support the prosecution case that accused No. 1 was guilty of the offence of dacoity.

14. As regards accused No. 3, it appears that he was also arrested on 16th September. But on 14th September he made a statement recorded at

Exh. P-22 before two panchas, Chinkaji Dhole and Nathu Dhole, to the effect that he had kept one battery in an earthen pot in his house and he

offered to give it to the panchas. Panch Chinkaji was examined in connection with this statement as P.W. 10 and he deposed in his evidence that

such a statement was made by accused No. 3 and when they went to accused No. 3's house the accused produced a torch which was attached

under a seizure memo (Exh. P-20). This torch is Article L and it was identified by Abdul Munaf (P.W. 1) as the torch which was purchased by him

at Khamgaon from a cutlery shop. The owner of this cutlery shop, one Abbasibhai (P.W. 9) was also examined by the prosecution and according

to his evidence he had sold that torch to Abdul Munaf on 10th September 1958 and there was an entry in connection with that sale in his accounts,

though Abdul Munaf's name was not mentioned in the accounts. Mr. Naidu contends that this identification is a very weak piece of evidence

because torches of this type are obtainable in the market. It is true that when Article L was shown to witness Abbasibhai it had become rusted,

But since Abdul Munaf also identified it as the one purchased by him at Khamgaon, we think that the evidence as to the identification of the torch

can be relied upon. As regards the statement made by accused No. 3 at Exhibit P-22 and its admissibility u/s 27 of the Evidence Act, Mr. Naidu

raised the same contention even with regard to this statement viz. that accused No. 3 was not in police custody on 14th because he was arrested

on 16th. That argument of his we have examined and rejected in connection with Exhibit P-8, the statement made by accused No. 1, and we do

not think that it would be correct to say that accused No. 3 was not in police custody when he made the statement, in view of the fact that he also

was interrogated and made a statement in the presence of the police officer and the panchas and produced the torch from his house in their

presence. In our opinion, therefore, this production of the torch which Abdul Munaf purchased at Khamgaon by accused No. 3 is also a piece of

evidence which would corroborate the oral evidence in the case and especially the evidence of Govinda that accused No. 3 was also one of the

dacoits who were responsible for looting grocery articles.

15. There is however some difficulty as regards the case of accused No. 2 Rustum. It is true that the evidence of Motiram, Abdul Munaf,

Jardarkhan and Govinda would show that he was present at the scene of offence. As we have already stated, Motiram's evidence cannot establish

the case against the accused because he appears to have bolted away as soon as the dacoits began to abuse him and Sheoram. Abdul Munaf and

Jardarkhan do not seem to have witnessed the removal of the grocery articles, but their evidence would undoubtedly indicate that accused No. 2

was also present. The evidence of Govinda (P.W. 3) which we have accepted would show that accused No. 2 was not only present but whenever

he went near the donkeys both accused Nos. 1 and 2 used to rush at him. Mr. Mudholkar contends that this evidence of Govinda, taken along

with the fact that the name of accused No. 2 Rustum is mentioned in the first information report, is sufficient to establish that he also was one of the

dacoits. At the same time, there is no evidence on the record that accused No. 2 was in possession of any articles which were the subject-matter

of dacoity. He made no statement and produced no article. Admittedly it was a dark night when the dacoity was committed and, though the oral

evidence would indicate that he was present at that time, we do not think that, so far as accused No. 2 is concerned, it would be safe to rely on the

evidence of Govinda that he also took an active part in the dacoity along with accused No. 1. It may be that he was present at about that time as

deposed to by the witnesses. But, in our judgment, there is a possibility of his not having taken any part at all in the actual looting as deposed to by

Govinda. A reasonable doubt, therefore arises as to his guilt u/s 395 of the Indian Penal Code and we must give him the benefit of that doubt.

16. The result is that the appeals of accused No. 1 Bakshia and accused No. 3 Maruti fail and are dismissed and their convictions u/s 395 of the

Indian Penal Code and the sentence of three years" rigorous imprisonment imposed on each of them are confirmed. But the appeal of accused No.

2 Rustum will be allowed, his conviction u/s 395 of the Indian Penal Code and the sentence imposed upon him will be set aside and he will be

directed to be acquitted and discharged so far as this case is concerned.