NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 513-514 OF 2014

BALESHWAR MAHTO & ANR. .....APPELLANT(S)

VERSUS

STATE OF BIHAR & ANR. .....RESPONDENT(S)

J U D G M E N T

A.K. SIKRI, J.

These appeals are preferred by two appellants, named, Khelawan Yadav and Baleshar Mahto (hereinafter referred to as A-1 and A-2 respectively). While A-1 has been convicted for the offence punishable under Section 302 of the Indian Penal Code (for short, 'IPC') and also under Section 27 of Arms Act, for which he is sentenced to undergo Rigorous Imprisonment (RI) for life, A-2 has been found guilty for the offence punishable under Section 307, IPC and also Section 27 of the Arms Act. Sentence awarded to him is RI for 7 years under both counts. The aforesaid conviction and sentences given by the Sessions Court have been upheld by the High Court vide its common judgment dated 13th March, 2013 in the two separate appeals preferred by these

appellants. It is this judgment which is impugned by the appellants in these appeals.

2. Case against the appellants, as set up by the prosecution was that Anandi Prasad (PW-7) along with his father, Lala Mahto and brother Bindeshwar Prasad had gone to their field to sow paddy seeds. While they were plowing the field, A-1 armed with rifle, Dulli Mahto armed with lathi, Rajendra Mahto armed with gun, Arun Yadav armed with gun, Umesh Prasad armed with garasa, Subhash Prasad armed with bhala, Baleshwar Mahto (A-2), Siwan Mahto armed with gun, Ram Bilas Yadav armed with Garasa, Surendra Yadav armed with gun, Ram Lagan Prasad armed with gun came there. A-1 questioned Anandi Prasad (PW-7) for their aforesaid act as according to A-1 those fields belonged to him. PW-7, however, resisted this claiming that these were their fields which they were plowing. This resistance on the part of PW-7 led Dulli Mahto to exhort others to kill PW-7 and his father and brother. Khelawan opened fire from his rifle and the firing of which hit on the head of Lala Mahto and his head was smashed and he felled down there. Baleshwar also pened fire which hit on the left shoulder of Anandi and also on his head. Rambilahs hit him on his head with 'grasa'. Umesh also hit on the head of Bindeshwar, the brother of Anandi. Duli hit them with 'lathi' other accused had also opened fire due to which no body could dare to come there. Lala Mahto, father of PW-7 succumbed

to the injuries inflicted by the aforesaid persons.

3. PW-7 informed Bind Police Station about the aforesaid incident by giving his Fardbeyan (Exhibit 9). In his Fardbeyan, PW-7 also mentioned that Brahmdeo Sao, Kameshwar Prasad and Ramu Sao had witnessed the aforesaid occurrence. FIR was registered on the basis of the said Fardbeyan and investigation commenced thereafter. On the conclusion of the investigation, the charge-sheet was submitted under Sections 302 and 307, IPC as well as under Section 27 of the Arms Act for causing murder of Lala Mahto and attempt to murder for PW-7 and his brother Bindeshwar Prasad. All the accused persons were put on trial. The trial court found A-1 and A-2 guilty of the offences, as mentioned above, but acquitted all others. Against the acquittal of other accused persons, challenge was not laid by the State or the complainant and, therefore, their acquittal attained finality. However, these appellants filed their separate appeals challenging the conviction and sentences awarded by the trial court in which attempt they have failed as the High Court has found the appeals to be devoid of any merits. During the pendency of the appeal before the High Court, the appellants were given bail by suspending their sentences, the High Court, therefore, directed them to surrender before the trial court to serve out their sentences.

4. In the SLPs filed by the appellants, leave was granted on 21st February,

2014. Thereafter, on 13th October, 2014, A-2 was released on bail. Insofar as A-1 is concerned, he was not granted bail and, therefore, he has remained in jail during the pendency of these appeals.

5. Mr. Nagendra Rai, learned senior counsel appeared for these two appellants to argue these appeals. Mr. Abhinav Mukherji, counsel contested the appeal by making his submissions on behalf of the respondent–State. Insofar as appellants are concerned they have made threefold submissions in their endeavour to show that the prosecution has not been able to prove the case beyond reasonable doubt and, in fact, it was a case of faulty and partial investigation. The threefold submissions in this behalf, projected by the learned counsel, are the following:

(i) It is submitted, in the first instance, that it was admittedly a case of land dispute as both the parties were claiming that the land which was being plowed by the complainant belonged to the accused persons. It was further pointed out that even as per the prosecution, quarrel erupted when the appellants objected to the said fields being plowed by PW-7, his father and brother. Learned counsel argued that, in fact, in the fight that ensued, even accused party was attacked by the complainant's party and both the sides had received injuries. However, the Investigation Officer (IO) did not bother to mention about the injuries suffered by the persons belonging to the accused party and this aspect

was totally sidetracked. Referring to the deposition of Dr. C.P. Sinha (PW-2), it was pointed out that A-2 was also found injured on whose person as many as six injuries were found. It was argued that there were two plots, Plot No. 3497 and Plot No. 3595 whereas Plot No. 3497 belonged to the complainant party, Plot No. 3495 belonged to accused persons. It was submitted that at the time of incident, the complainant party was in fact plowing Plot No. 3495 which belonged to the accused party. For this purpose, the deposition of PW-10, Shri. Jai Narain Singh who is also the resident of that area was referred to. On this basis, it was argued that fault lied with the complainant party who had interfered with the plot belonging to the accused party which gave justifiable reason to the accused party to protest and because of this reason sudden fight took place. The submission was that it was not a pre-meditated act but both the parties got raged due to the aforesaid dispute about the ownership of the plots. A-1, therefore, could not be convicted of committing murder and punished under Section 302 of IPC, more so, when accused party also got injured in the said fight.

(ii) It was further submitted that the medical evidence by the doctors who examined PW-7, his brother as well as his father was at variance with the ocular evidence i.e. the description of the incident as given by the PW-7. In this behalf, it was submitted that PW-2, Dr. C.P. Sinha, who had examined Bindeshwar Prasad, brother of PW-7, found that the

injuries were caused by hard fluid substances and was simple in nature. The same medical evidence was also referred to in respect of father of PW-7 which showed only one incised wound which according to PW-2 was caused by a sharp cutting weapon.

The learned counsel for the appellants referred to postmortem report (Exh. 7) of deceased Lala Mahto. It is stated therein that injury was caused by sharp cutting heavy weapon. It was, thus, argued that version of PW-7 that it was a gun shot injury, was clearly wrong and contrary to the medical evidence and, therefore, PW-7 did not describe the incident correctly and was unworthy of any credence.

(iii) Last submission of the counsel for the appellants was that injuries on the deceased as well as on PW-7 and his brother were not duly explained. This submission was also based on what is argued above, namely, the injuries as stated by the eye-witnesses are at variance with the injuries recorded in the medical examination of these persons.

It was, thus, submitted that when there happens to be inconsistency between the ocular and the medical evidence and when medical evidence makes the oral testimony improbable, the same becomes a relevant factor in the process of evaluation of such evidence. However, the High Court has not at all appreciated the medical evidence even when the medial evidence completely derails the prosecution version so far factum of murder by means of rifle is

concerned. In such case the ocular evidence should have been rejected in toto.

It was also submitted that in the present case when evidence of prosecution witnesses (PWs) has been disbelieved with regard to other co-accused (since acquitted) then in that event there was no justification to accept its reliability with regard to other co-accused. Number of judgments were cited in support of the aforesaid arguments advanced by both the counsel for the appellants.

6. Learned counsel for the State, on the other hand, submitted that the appellants had made the aforesaid submission by selectively picking certain portions from oral testimonies of the witnesses. According to him, when the ocular evidence is read in its entirety along with the medical evidence, the plea of the appellant would be found to be untenable. It was submitted that the High Court in its detailed judgment had dealt with all the aforesaid submissions and after duly appreciating the same did not find any substance therein. He also referred to the statements of some independent witnesses as well who supported the prosecution version. He emphasised that even as per the deposition of PW-2, bullet injury by rifle was not ruled out.

7. After considering the respective submissions along with the material on record and going through the judgments of the courts below, we are inclined to concur with the view taken by the High Court in affirming the

conviction and sentence of these two appellants.

8. We may mention, in the first instance, that in the statement of the appellants recorded under Section 313 of the Code of Criminal Procedure (Cr.PC), the defence taken was that of the total denial of the occurrence. It was stated that because of the long standing land dispute they were falsely implicated in this case. On the contrary, according to these appellants, they were attacked by the complainant party for which the accused party had got P.S. Case No. 117/1982 registered against them and the case in-question was nothing but a counter blast. This defence is not only against the record but not even argued or pleaded by the counsel for the appellants. On the contrary, the entire focus of the appellants' argument is that on the basis that due to the land dispute, a sudden quarrel and scuffle took place between the two parties wherein both were injured. This is clearly contrary to the stand taken by the appellants in their statements given under Section 313 of Cr.P.C. where they completely denied the occurrence itself.

9. Regarding the argument of the counsel for the appellants that there is contradiction between the oral evidence and the medical records, we do not find any such inconsistency as alleged by the defence. Insofar as injury inflicted on the deceased Lala Mahto is concerned, no doubt PW-2 (Dr. C.P. Sinha) has stated that it seemed to have been caused by a sharp cutting weapon. However, at the same time it is pointed out that

injury in nature was one incised weapon 4 ½ x1"x scalp bone deep on the right side of head injuring the right parital lob of brain laceration of this condex cells resulting to unconsciousness and paralysis of the left side of the body. It is significant to mention that he has further categorically stated that in his opinion such an injury could have been caused by rifle shot as well. Likewise, in the postmortem report also, it is stated that injury was ante-mortem which was incised wound of the same measurement and description as given in report of PW-2. This post-mortem report further discloses that on dissection, it was found that skull was cut and fractured corresponding to the level of the injury and brain was lacerated by pieces of bone.

10. Likewise, insofar as injuries which were found on the person of Bindeshwar Prasad, brother of PW-7 description thereof is as under:

> "(i) One lacerated wound 1"x1"/4x1"/4 on the head internally.
>
> (ii) Three lacerated wound of various sizes-sizes ranging 2 ½" x ¼ "x ¼" to 1"x ¼" x ¼" on the back."

No doubt, it is mentioned that the aforesaid injuries were simple in nature. However, the learned counsel for the appellants conveniently omitted to mention about the injuries inflicted upon PW-7 which according to PW-2 were as under:

> "1. Multiple Pea sized gunshot wound (pillets) on the left scapular region of the back. 'All were superficial.'

> 2. One Pea sized pillet wound on the left side of head posterially. It was also superficial."

These injuries are sufficient to rope in A-2 for offences under Section 307, IPC. When we examine the matter in the aforesaid perspective we do not find any inconsistency between ocular evidence and the medical evidence. How medical evidence is to be collated with ocular evidence, is described by this Court in ***Kamaljit Singh*** vs. ***State of Punjab***[1] in the following fashion:

> "8. It is trite law that minor variations between medical evidence and ocular evidence do not take away the primacy of the latter. Unless medical evidence in its term goes so far as to completely rule out all possibilities whatsoever of injuries taking place in the manner stated by the eyewitnesses, the testimony of the eyewitnesses cannot be thrown out. (See *Solanki Chimanbhai Ukabhai* v. *State of Gujarat* [(1983) 2 SCC 174 : 1983 SCC (Cri) 379 : AIR 1983 SC 484]. The position was illuminatingly and exhaustively reiterated in *State of U.P.* v. *Krishna Gopal* [(1988) 4 SCC 302 : 1988 SCC (Cri) 928 : AIR 1988 SC 2154]. When the acquittal by the trial court was found to be on the basis of unwarranted assumptions and manifestly erroneous appreciation of evidence by ignoring valuable and credible evidence resulting in serious and substantial miscarriage of justice, the High Court cannot in this case be found fault with for its well-merited interference."

11. Here, PW-7 is also an injured witness. When the eye-witness is also an injured person, due credence to his version needs to be accorded. On this aspect, we may refer to the following observations in ***Abdul Sayeed*** vs. ***State of Madhya Pradesh***[2]:

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1 (2003) 12 SCC 155
2 (2010) 10 SCC 259

"28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convincing evidence is required to discredit an injured witness." [Vide *Ramlagan Singh* v. *State of Bihar* [(1973) 3 SCC 881:1973 SCC (Cri) 563:AIR 1972 SC 2593], *Malkhan Singh* v. *State of U.P.* [(1975) 3 SCC 311 : 1974 SCC (Cri) 919 : AIR 1975 SC 12], *Machhi Singh* v. *State of Punjab* [(1983) 3 SCC 470 : 1983 SCC (Cri) 681], *Appabhai* v. *State of Gujarat* [1988 Supp SCC 241 : 1988 SCC (Cri) 559 : AIR 1988 SC 696], *Bonkya* v. *State of Maharashtra* [(1995) 6 SCC 447 : 1995 SCC (Cri) 1113], *Bhag Singh* [(1997) 7 SCC 712 : 1997 SCC (Cri) 1163], *Mohar* v. *State of U.P.* [(2002) 7 SCC 606 : 2003 SCC (Cri) 121] (SCC p. 606*b-c*), *Dinesh Kumar* v. *State of Rajasthan* [(2008) 8 SCC 270 : (2008) 3 SCC (Cri) 472], *Vishnu* v. *State of Rajasthan* [(2009) 10 SCC 477 : (2010) 1 SCC (Cri) 302], *Annareddy Sambasiva Reddy* v. *State of A.P.* [(2009) 12 SCC 546 : (2010) 1 SCC (Cri) 630] and *Balraje* v. *State of Maharashtra* [(2010) 6 SCC 673 : (2010) 3 SCC (Cri) 211]

29. While deciding this issue, a similar view was taken in *Jarnail Singh* v. *State of Punjab* [(2009) 9 SCC 719 : (2010) 1 SCC (Cri) 107] , where this Court reiterated the special evidentiary status accorded to the testimony of an injured accused and relying on its earlier judgments held as under: (SCC pp. 726-27, paras 28-29)

"28. Darshan Singh (PW 4) was an injured witness. He had been examined by the doctor. His testimony could not be brushed aside lightly. He had given full details of the incident as he was present at the time when the assailants reached the tubewell. In *Shivalingappa Kallayanappa* v. *State of Karnataka* [1994 Supp (3) SCC 235 : 1994 SCC (Cri) 1694] this Court has held that the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies, for the reason that his presence on the scene stands established in case it is proved that he suffered the injury during the said incident.

29. In *State of U.P.* v. *Kishan Chand* [(2004) 7 SCC 629 :

> 2004 SCC (Cri) 2021] a similar view has been reiterated observing that the testimony of a stamped witness has its own relevance and efficacy. The fact that the witness sustained injuries at the time and place of occurrence, lends support to his testimony that he was present during the occurrence. In case the injured witness is subjected to lengthy cross-examination and nothing can be elicited to discard his testimony, it should be relied upon (vide *Krishan* v. *State of Haryana* [(2006) 12 SCC 459 : (2007) 2 SCC (Cri) 214]). Thus, we are of the considered opinion that evidence of Darshan Singh (PW 4) has rightly been relied upon by the courts below."
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> 30. The law on the point can be summarised to the effect that the testimony of the injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein."

12. In this very judgment, relationship between the medical evidence and ocular evidence was also discussed, based on number of earlier precedents, as under:

> "33. In *State of Haryana* v. *Bhagirath* [(1999) 5 SCC 96 : 1999 SCC (Cri) 658] it was held as follows: (SCC p. 101, para 15)
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> "15. *The opinion given by a medical witness need not be the last word on the subject*. Such an opinion shall be tested by the court. If the opinion is bereft of logic or objectivity, the court is not obliged to go by that opinion. After all opinion is what is formed in the mind of a person regarding a fact situation. If one doctor forms one opinion and another doctor forms a different opinion on the same facts *it is open to the Judge to adopt the view which is more objective or probable*. Similarly if the opinion given by one doctor is not consistent with probability the court has no liability to go by that opinion merely because it is

> said by the doctor. Of course, due weight must be given to opinions given by persons who are experts in the particular subject."
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> (emphasis added)
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> 34. Drawing on *Bhagirath case* [(1999) 5 SCC 96 : 1999 SCC (Cri) 658] , this Court has held that where the medical evidence is at variance with ocular evidence, "it has to be noted that it would be erroneous to accord undue primacy to the hypothetical answers of medical witnesses to exclude the eyewitnesses' account which had to be tested independently and not treated as the 'variable' keeping the medical evidence as the 'constant' ".
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> 35. Where the eyewitnesses' account is found credible and trustworthy, a medical opinion pointing to alternative possibilities cannot be accepted as conclusive. The eyewitnesses' account requires a careful independent assessment and evaluation for its credibility, which should not be adversely prejudged on the basis of any other evidence, including medical evidence, as the sole touchstone for the test of such credibility.
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> "*21*. … The evidence must be tested for its inherent consistency and the inherent probability of the story; consistency with the account of other witnesses held to be creditworthy; consistency with the undisputed facts, the 'credit' of the witnesses; their performance in the witness box; their power of observation, etc. Then the probative value of such evidence becomes eligible to be put into the scales for a cumulative evaluation.
> [Vide *Thaman Kumar* v. *State* (*UT of Chandigarh*) [(2003) 6 SCC 380 : 2003 SCC (Cri) 1362] and *Krishnan* v. *State* [(2003) 7 SCC 56 : 2003 SCC (Cri) 1577] at SCC pp. 62-63, para 21.]"

13. We may point out at this stage that apart from PW-7, there were independent witnesses and injured eye-witnesses whose depositions have been taken into account. We would like to reproduce following description of these witnesses as recorded by the High Court in the impugned judgment.

"The remaining witnesses happen to be material witness. PW-4 had deposed that on the day and time of occurrence while he was going to ease himself towards south to his village he found Lala Mahto ploughing the field while Anandi was sowing the seed. At that time Dulli Mahto armed with lathi, Ram Lagan Prasad, Surendra, Rajendra, Arun armed with gun, Ram Bilas and Umesh armed with Garasa and Subhash armed with Bhala came and said that they will not allow to plough the filed. Lala Mahto retaliated by saying that land belongs to him, hence he will plough. On this Dully Mahto ordered. Khelawan fired causing injury over head of Lala Mahto who fell down. Blood began to ooze. Thereafter, Baleshwar had fired causing injury over left upper portion of back as well as over head. Ram Bilash assaulted with Garasa over head of Anandi. Umesh and Dulli assaulted Bindeshwar with Paina which was corrected as Dully had assaulted with Lathi and Umesh with Garasa then thereafter all of them left the place. They have taken dead body to P.S. along with Anandi and Bindeshwar. During cross-examination he had narrated that the total area of the disputed land happens to be six decimal having boundary North Dully Mahto, South Harnath Sah, West Lala Mahto and East Prabhu Mahto. He had not seen quarreling Duli Mahto with Lala Mahto with regard to the disputed land. However, the dispute was going on amongst them with regard to other plot lying in the same vicinity. A 144 and 145 Cr.P.C. proceeding had already been fought in between. In para-5 he had deposed that he was going towards pond lying South to the village and during said course he had seen mob present at the disputed land who were only accused persons. He heard sound of firing from that place only. He became afraid of and remained there. The persons who were engaged in nearby field witness the same. In para-6 had said that the villagers came after half an hour. Accused persons had already escaped there from before arrival of the villagers. Then thereafter he had gone to the place of occurrence and had seen the injured. In para-10 there happens to be contradiction. In para-11 had denied with regard to counter case. He had further denied having Dulli Mahto in injured condition.

14. P.W.-5 is one of the injured who had deposed that on the alleged date and time of occurrence he along with his father Lala Mahto brother Anandi and Indu had gone to the P.O. land and were engaged in agriculture work. At that very time Dulli armed with lathi, Ram Khelawan armed with rifle, Sheo Nandan, Baleshwar, Ram Lagan, Arun,

Surendra and Rajendra armed with gun, Subhash armed with Bhala, Ram Bilas and Umesh armged with Garasa came there out of whom Kehlawan had forbidden his brother Anandi to plough the field. He claimed the land belongs to him. The same was retaliated over which Dulli ordered to kill. Ram Khelawan fired causing injury over head of his father. Baleshwar fired causing injury over upper portion of back Anandi as well as head. Ram Bilas had assaulted with Garasa over his head. Umesh and Dulli had asaulted him with Garasa and lathi respectively. Other accused were terrorizing the villagers by making indiscriminate firing. Then thereafter all the accused persons left therefrom. Brahamdeo Sah, Jagarnath Yadav, Kameshwar Yadav and Biseshwar Sah along with others have witnessed the occurrence out of whom Biseshwar had gone in camp of accused. Thereafter, the vilalgers lifted his father to P.S. along with them where his brother Anandi gave his fardbeyan. Thereafter they were sent to hospital from where they were referred to PMCH during course of which his father died. On 20.07.1982 he had produced blood stain cloth before the police. During cross-examination at para-2 had admitted that both the persons are on litigating term since before the occurrence. In para-4 he had disclosed that his father had ploughed the aforesaid land about three or four days ago. As he was not present so he could say whether any sort of litigation had taken place or not. At the time of occurrence paddy seed was being sown. Then said that at that very time the field was being ploughed as well as they were also engaged in putting seed. He had given the boundary of the land North Dulli Mahto, South Harnath Sah, East and West Lala Mahto (Prosecution party). Then had disclosed that the Khesra number of P.O. land happens to be 3497. He is not aware with the fact whether there was any sort of dispute with regard to P.O. land. In para-9 had said that he had gone to P.O. land along with his father and brother. They have not met with accused in midst of way. He had not seen the accused persons in the vicinity of the P.O. land. In para-11 had said that for the first time he had seen accused persons at some distance from his filed approximately four lagga west who were variously armed. They came and said to shoot over which firing was made. His brother Indu fled away while they remained in the field. Firing was made which cause injury to his father. At that very time his father was east to him at a distance of 4-5 hands. He has seen his father sustaining firearm injury at Southern-Western corner of the field. He fell down over which he along with Anandi rushed and tried to

> lift. No firing was made at that very time. Then said that they had already sustained injury. He further said that Anandi had sustained injury just after falling of his father. The whole occurrence was over within 5 to 10 minutes. He had said that even after sustaining gun shot injury his brother rushed to his father. He also gone there and during course thereof, he was assaulted. In para-14 had said that he had not found any injury over the person or Umesh and Ram Khelawan at the P.O. He himself volunteered in course of fleeing there was confrontation with villagers during course of which they sustained injury. He had also heard with regard to Dulli Mahto. In para-12 had disclosed that he had seen blood at Southern-Western corner of his field."

14. The aforesaid analysis of ours is sufficient to reject the other contentions advanced by the appellants. When the appellants had come to the place of occurrence armed with deadly weapons, their intention and purpose would be more than apparent and, therefore, the appellants cannot argue that incident occurred at the spur of the moment. The argument that there was a longstanding land dispute between the two parties, in fact, goes against the appellants as it shows previous animosity due to the said dispute because of which the appellants in order to teach 'lesson' to the complainant party attacked them in the manner described by the prosecution. In view of the aforesaid discussion, various judgments cited by learned counsel for appellants will have no bearing or application to the facts of the instant case. It is, therefore, not even necessary to discuss them.

15. We, therefore, do not find any error in convicting A-1 for the offence punishable under Section 302 IPC as well as Section 27 of the Arms Act

and A-2 for the offence punishable under Section 307 IPC and Section 27 of the Arms Act.

16. Coming to the sentence, insofar as A-1 is concerned, since life imprisonment is the minimum sentence that is to be awarded for commission of offence of murder under Section 302 of IPC, we maintain the same. However, we are conscious of the fact that A-1 is almost 80 years of age. Further, incident occurred almost 34 years ago. In these circumstances, he may prefer a representation to the State for remission of his further sentence. When such a representation is filed by A-1, same shall be given due consideration by the competent authority within the four corners of law.

A-2 is also 80 years of age. Going by this consideration coupled with the fact that incident happened 34 years ago, we modify the sentence of 7 years R.I. to that of the period already undergone. Since he is on bail, his bail bond shall stand discharged.

Appeals are disposed of in the aforesaid terms.

.....J.
(A.K. SIKRI)

.....J.
(N.V. RAMANA)

NEW DELHI;
JANUARY 09, 2017.

SUPREME COURT OF INDIA
JUDGMENT