

**HIGH COURT OF MADHYA PRADESH
BENCH GWALIOR**

DIVISION BENCH

G.S. Ahluwalia and Rajeev Kumar Shrivastava J.J.

Cr. A. No. 171/2010

Ramnarayan Vs. State of M.P.

Shri Pavan Vijayvargiya, Counsel for the appellant
Shri C.P. Singh, Counsel for the State

Date of Hearing : 30-7-2021
Date of Judgment : 04-Aug-2021
Approved for Reporting :

Judgment

04-Aug-2021

Per G.S. Ahluwalia J.

1. This Criminal Appeal under Section 374 of Cr.P.C. has been filed against the judgment and sentence dated 22-2-2010 passed by Additional Sessions Judge, Chachoda, Distt. Guna in S.T.No. 9/2009, and has been convicted and sentenced for the following offences :

Offence	Sentence	Fine
Under Section 452 IPC	3 years Rigorous Imprisonment	Rs. 500/- in default 1 month R.I.
Under Section 302 IPC	Life Imprisonment	Rs. 1000/- in default 2 months R.I.

2. According to the Prosecution story, the complainant Banwari, along with his injured father Jaswant, lodged a F.I.R. in Police outpost, alleging that at about 8 P.M., his injured father Jaswant was sleeping in the courtyard. The complainant also went to sleep in the

room. At about 9 P.M., he heard the noise of beating and shouting. The complainant came out of the house and found that his father was lying in an injured condition and was shouting. He saw that his father had two *Farsa* injuries on his head. A lot of blood was coming out. The injured was not in a position to speak. Before the complainant could come out of the house, the assailant had run away. Some villagers were sitting in the village, they might have seen the incident.

3. The injured was sent for medical examination. Four incised and one lacerated wounds were found on the scalp, nose, chin etc. The injured was referred to District Hospital Guna, where he expired on 20-12-2008. The post-mortem of the dead body of the deceased was done. The statements of the witnesses were recorded. The appellant-accused was arrested on 21-12-2008. His memorandum was recorded. One *Farsa* stained with blood was seized from his possession. One blood stained shirt was also seized from his possession. Blood stained and plain earth from the spot as well as the blood stained shirt of the injured (Deceased) was also seized. The police after completing the investigation, filed the charge sheet for offence under Sections 302,307,452,324 of I.P.C.

4. The Trial Court by order dated 22-1-2019 framed charges under Sections 452, 302 of I.P.C.

5. The appellant-accused, abjured his guilt and pleaded not guilty.

6. On 12-2-2009, an application for grant of bail was filed on the

ground that the appellant-accused is of unstable mental condition. By an order passed on the same day, the prayer for bail was rejected, however, the prayer for treatment was allowed. Four witnesses namely Banwali (P.W.1) Guddya (P.W.2), Kamleshbai (P.W.3) and Gajraj (P.W.4) were examined on the same day and the case was fixed for 13-2-2009. On 13-2-2009, Shivraj Singh (P.W.5) was examined. On 28-2-2009, a letter was received from Sub-Jail Chachoda, that the appellant-accused is suffering from Psychosis, therefore, he may be permitted to be sent to Mental Hospital, Gwalior. Accordingly, the prayer was allowed and it was directed that the appellant-accused be shifted to Central Jail, Gwalior for a limited period i.e., till his treatment. Thereafter the trial was adjourned on different dates and ultimately on 18-6-2009, a report was received from Central Jail, Gwalior, that now the appellant-accused is cool and calm, and accordingly, it was directed that the appellant-accused be transferred back from Central Jail, Gwalior to Sub-Jail Chachoda and the trial was resumed.

7. The Prosecution in support of its case, examined Banvari (P.W.1), Guddya (P.W.2), Kamleshbai (P.W.3), Gajraj Singh (P.W.4), Shivraj Singh (P.W.5), Mishrilal (P.W.6), Ramesh (P.W.7), Haricharan (P.W.8), Banvir Singh (P.W.9), Kailashnarayan (P.W.10), Murarilal (P.W. 11), Dr. Jalaluddin (P.W. 12), Raghvendra Singh Tomar (P.W.13), Hajarilal Verma (P.W.14), and Dr. Sudhir Rathor (P.W.15).

8. The appellant-accused examined Alok Vajpai (D.W.1) in his

defence to prove his mental instability.

9. The Trial Court, after recording evidence and hearing both the parties, convicted and sentenced the appellant-accused for the above mentioned offences.

10. Challenging the judgment and sentence passed by the Court below, it is submitted that the entire prosecution story is based on a solitary circumstance i.e., the appellant-accused was seen running away from the house of injured. No F.S.L. report has been produced to prove that the *Farsa* or the cloths of the appellant-accused were stained with blood or not? It is submitted that undisputedly, the appellant-accused was of unsound mind, and he was given treatment during the trial also, therefore, it is clear that he is an innocent person. It is further submitted that the appellant-accused has been falsely implicated because his sister wanted to grab the entire property.

11. Per contra, the Counsel for the State has supported the findings of conviction recorded by the Trial Court. However, it is fairly conceded that the only circumstance against the appellant-accused is that he was seen running away from the house of the injured.

12. Heard the learned Counsel for the parties.

13. At the beginning, this Court would like to mention here that although the F.S.L. report was produced before the Trial Court, but the Trial Court, did not exhibit the same under Section 293 of Cr.P.C. Therefore, the said F.S.L. report has remained unexhibited. Under

these circumstances, the same cannot be read against the appellant-accused or in favor of prosecution.

14. Before adverting to the facts of the case, this Court would like to find out as to whether the death of Jaswant was homicidal in nature or not?

15. The injured Jaswant was sent for Medical Treatment. He was treated by Dr. Jalaluddin (P.W.12) who found following injuries on the body of the injured (Later on died) Jaswant :

- (i) Incised Wound over scalp right side size 4 cm x $\frac{1}{2}$ cm x $\frac{1}{2}$ cm
- (ii) Incised Wound over scalp left parietal area size 3 cm x $\frac{1}{2}$ cm x $\frac{1}{2}$ cm
- (iii) Incised Wound over left Parietal area of skull size 1 $\frac{1}{2}$ cm, $\frac{1}{2}$ cm x $\frac{1}{2}$ cm
- (iv) Lacerated Wound over nose size 1 cm x $\frac{1}{4}$ cm x $\frac{1}{4}$ cm slight bleeding present
- (v) Incised Wound just below chin size 2 $\frac{1}{2}$ cm x $\frac{1}{2}$ cm x $\frac{1}{2}$ cm blood is coming out through right ear.

The M.L.C. report is Ex. P.17.

16. This witness was cross examined in brief. He submitted that injury no. 4 was caused by hard and blunt object. He also clarified that he cannot say that by which weapon, the injuries were caused.

17. Dr. Sudhir Rathor (P.W. 15) conducted the Post-mortem of the dead body of Jaswant and found the following injuries on his dead body :

- (i) Sticked wound 5 cm long over forehead
- (ii) Sticked wound 6 cm long over left fronto parietal region.
- (iii) Sticked wound 5.5 cm long over right fronto parietal region
- (iv) Sticked wound 6 cm transversely over lower part of

chin

- (v) Sticked wound 2 cm long lower lip
- (vi) Sticked wound 3 cm long over nose
- (vii) Sticked wound 4 cm long over pinna of left ear
- (viii) Contusion shoulder right 4 cm X 4 cm

Fracture of Left Fronto parietal bone and subdural haematoma over lt. Lobe was found.

The cause of death was shock due to head injuries. The post-mortem report is Ex. P.20.

18. This witness was cross-examined briefly. This witness admitted that the injuries sustained by the deceased could have been caused due to fall. He also could not clarify that by which weapon, the injuries were caused.

19. Thus, from the M.L.C., Ex. P. 17 and Post-mortem report, Ex. P.20, it is clear that the death of the deceased Jaswant was homicidal in nature.

20. The next question for consideration is that whether the appellant-accused is the perpetrator of the offence or not?

21. The prosecution story is based on circumstantial Evidence i.e.,

- (i) The appellant-accused was seen running away from the spot;
- (ii) Recovery of blood stained *Farsa* and blood stained shirt of appellant.

Appellant was seen running away from the spot

22. Banwari (P.W.1) has stated that when he came out, he saw that the appellant-accused was running out of the house and was having *Farsi* with him. He further stated that Kamleshbai (P.W.3), Guddya

(P.W.2), Gajraj Singh (P.W.4) also came on the spot. He further clarified that he had not seen the actual assault. However, in his cross examination, this witness admitted that on the date of incident, he could not identify the person who was running away as it was dark. He further admitted that even Guddya (P.W.2) also could not identify that who was running out of the house. He further admitted that since, they were not knowing that who has assaulted his father, otherwise, they would have certainly disclosed his name in the F.I.R., Ex. P.1. He also admitted that even in his police statement Ex. D.1 he had not disclosed the name of the assailant. However, he clarified that on the next day of incident, he had come to know about the name of assailant, but did not clarify the source of his information. Thus, it is clear that this witness had not seen the actual assailant as well as had not seen that who was running away from the spot. However, this witness has specifically stated that even Guddya (P.W.2) could not identify the assailant or the person who was running away.

23. Kamleshbai (P.W.3) has stated that the deceased i.e., her father-in-law was sleeping in the courtyard, whereas this witness, Banwari (P.W.1) and Guddya (P.W.2) were sleeping in the room. At about 9 P.M., they heard the noise of beating. Thereafter, She and Banwari (P.W.1) came out and saw that the appellant-accused was running away. She further stated that the incident was told to elder brother Shivraj, resident of Binaganj. In cross-examination, she has stated that firstly She and her husband Banwari (P.W.1) came out of the

room. It was dark. They lit up *chimney* and saw the injuries of her father-in-law. She further admitted that they could see the injuries only after the *chimney* was lit up. She further stated that Guddya (P.W.2), Gajraj Singh (P.W.4), Mishrilal (P.W.6) and Murarilal (P.W.11) were informed that the appellant-accused was seen running away. Thereafter, She further clarified that Guddya (P.W.2), Gajraj Singh (P.W.4) and Murarilal (P.W. 11) were already there. Thereafter, stated that Gajraj (P.W.4), Mishrilal (P.W.6) and Murarilal (P.W.11) had come at a later stage. She further admitted that the appellant-accused were two brothers and are having lot of property. She further admitted that now the wife of Pappu, namely Gokal bai is the head heir (मुखिया वारिस). One brother of the appellant-accused has expired. She further admitted that from the very beginning, the appellant-accused used to behave like a mentally retarded person.

24. Thus, from the evidence of Banwari (P.W.1) and Kamleshbai (P.W.3), it was complete dark, and they could notice the injuries on the deceased only when they lit up the *chimney*. It is also clear that Guddya (P.W.2) was also sleeping in the room.

25. Guddya (P.W.2) has stated that he was sleeping in his room. His father was sleeping in the courtyard. He further claimed that the appellant-accused had assaulted his father by means of an axe on his head. He further claimed that when he came out of his room, then the appellant-accused ran away after noticing this witness. Thereafter, he informed his elder brother Shivraj, who is residing in Binaganj. Then,

they took the injured to Binaganj and from there to Guna. At about 3 A.M. in the night, his father died and thereafter, Pappu, the brother of the appellant-accused committed suicide by hanging himself, as he was under an apprehension, that he might be made an accused for the murder of Jaswant. However, claimed that Pappu had not killed Jaswant. He further claimed that he himself had seen appellant-accused running away from the spot. Since, the blood stained cloths were seized from the possession of appellant-accused, therefore, he is claiming that it was the appellant-accused who had killed his father. In cross-examination, this witness clarified that firstly Banwari (P.W.1) reached on the spot, and thereafter, Kamleshbai (P.W.3) reached there and thereafter, this witness reached on the spot. Again he clarified that all the three i.e., this witness, Banwari (P.W.1) and Kamleshbai (P.W.3) had come out of their room together. Again he clarified that, his earlier statement that his brother and *bhabhi* had reached on the spot is correct. He further stated that he had given the axe to the police. He further claimed that when he reached near the dead body, it was dark. However, denied that because of dark he could not identify the person who had run away. He further claimed that he had identified the appellant-accused who was having an axe. This fact was told by him to his elder brother Shivraj on phone.

26. From the evidence of this witness, it is clear that he is a shaky witness. Further, he has also admitted that it was dark. He has also admitted that initially, Banwari (P.W.1) and Kamleshbai (P.W.3)

reached on the spot.

27. Shivraj (P.W. 5) has stated that he is the resident of Binaganj. Guddya (P.W.2) informed him on phone that some one has assaulted their father. He accordingly instructed that since, he is not having any conveyance, therefore, they should bring the injured to Binaganj and accordingly, they came to Binaganj. They went to Police Outpost and the injured was sent to Govt. Hospital. From there, the injured was referred to Guna. At about 4-4:30 A.M. his father expired. The post-mortem was conducted at about 12-1:00. The dead body was handed over to him vide supurdagi Ex. P.5. *Safina form* is Ex. P.4.

28. Thus, it is clear that this witness has not said that he was informed by Guddya (P.W.2) that the appellant-accused has assaulted the injured. On the contrary, it is specifically claimed by him that Guddya (P.W.2) had informed that some body has assaulted the injured.

29. Guddya (P.W.2) has admitted that it was dark. He reached on the spot after Banwari (P.W.1) and Kamleshbai (P.W.3). Kamlesh bai (P.W.3) has admitted that it was dark and nothing was visible and they could notice the injuries on Jaswant only after *chimney* was lit up. Further, the evidence of Guddya (P.W.2) that he informed his elder brother Shivraj (P.W.5) about the assailant is not corroborated by his elder brother Shivraj (P.W.5). From the evidence of Shivraj (P.W.5), it is clear that Guddya (P.W.2) had informed that someone has assaulted their father. Thus, it is clear that the evidence of

Guddya (P.W.2) that he had seen the assailant and had also seen him while he was running away is false and cannot be relied upon. Thus, if the evidence of Banwari (P.W.1), Guddya (P.W.2), Kamleshbai (P.W.3) and Shivraj Singh (P.W. 5) are read conjointly, it would be clear that Banwari (P.W.1), Guddya (P.W.2), and Kamleshbai (P.W.3) had in fact could not see that who had assaulted the deceased, therefore, their evidence that it was the appellant-accused, who was running away from the spot is not trustworthy.

30. Gajraj Singh (P.W. 4) is a chance witness. He has stated that he had gone to see his cow and saw that the appellant-accused was running away with *Farsi*. In cross-examination, this witness has stated that he had seen the appellant-accused from the door of his house and the house of deceased is situated near the house of this witness. He further admitted that it was dark on the date of incident. He further admitted that occasionally, the appellant-accused loses his mental control. He further admitted that he had not informed Banwari, Guddya, Kamleshbai, Murari, and Mishrilal that he had seen the appellant-accused, running away from the spot. He further admitted that the appellant-accused has a lot of property.

31. Thus, it is clear that not only he is a chance witness, but also did not disclose to Banwari, Guddya, Kamleshbai, Murari, and Mishrilal, that he had seen the appellant-accused, running away from the spot and kept quite, till his statement was recorded by police i.e., 21-12-2008 (After two days of incident).

32. Murarilal (P.W.11) is a hearsay witness. However, he admitted that the appellant-accused was mentally retarded at the time of incident. He also admitted that the appellant-accused had never received proper treatment. He further stated that he had never given any information to Mishrilal (P.W.6) with regard to appellant-accused, but clarified that he had merely given an information to Mishrilal (P.W.6) that his son-in-law Pappu has committed suicide. He further admitted that in fact the police had come to the village to arrest Pappu.

33. Mishrilal (P.W.6) has claimed that Murarilal (P.W.11) informed him on mobile that his son-in-law Pappu has committed suicide. He further informed that since, the appellant-accused had assaulted the injured Jaswant, therefore, under an apprehension, that Pappu may be implicated in the offence, he has committed suicide. In cross-examination, this witness has stated that Gokalbai (wife of Pappu) is his cousin sister. Nandram i.e., father of appellant-accused and Pappu has two sons only and has no other legal heir.

34. Since, this witness was informed by Murarilal (P.W.11) who himself is a hearsay witness, therefore, the prosecution would not get any assistance from the evidence of this witness.

35. Thus, from the evidence of above mentioned witnesses, it is clear that the prosecution has failed to prove that the appellant-accused was seen by Banwari (P.W.1), Guddya (P.W.2), Kamlesh bai (P.W.3). So far as Gajraj Singh (P.W.4) is concerned, he is not a

reliable witness. None of the witness has stated about the source of light. On the contrary, it is apparent from the evidence of Kamleshbai (P.W.3) that it was dark and they could see the injuries only when they lit up the *chimney*. Further this witness, did not inform anybody including Banwari (P.W.1), Guddya (P.W.2) and Kamleshbai (P.W.3) that he had seen the appellant-accused running away from the spot.

36. The Supreme Court in the case of **Jarnail Singh v. State of Punjab**, reported in (2009) 9 SCC 719 has held as under :

21. In *Sachchey Lal Tiwari v. State of U.P.* this Court while considering the evidentiary value of the chance witness in a case of murder which had taken place in a street and a passerby had deposed that he had witnessed the incident, observed as under:

If the offence is committed in a street only a passerby will be the witness. His evidence cannot be brushed aside lightly or viewed with suspicion on the ground that he was a mere chance witness. However, there must be an explanation for his presence there.

The Court further explained that the expression “chance witness” is borrowed from countries where every man’s home is considered his castle and everyone must have an explanation for his presence elsewhere or in another man’s castle. It is quite unsuitable an expression in a country like India where people are less formal and more casual, at any rate in the matter of explaining their presence.

22. The evidence of a chance witness requires a very cautious and close scrutiny and a chance witness must adequately explain his presence at the place of occurrence (*Satbir v. Surat Singh*, *Harjinder Singh v. State of Punjab*, *Acharaparambath Pradeepan v. State of Kerala* and *Sarvesh Narain Shukla v. Daroga Singh*). Deposition of a chance witness whose presence at the place of incident remains doubtful should be discarded (vide *Shankarlal v. State of Rajasthan*).

23. Conduct of the chance witness, subsequent to the incident may also be taken into consideration particularly as to whether he has informed anyone else in the village about

the incident (vide *Thangaiya v. State of T.N.*). Gurcharan Singh (PW 18) met the informant Darshan Singh (PW 4) before lodging the FIR and the fact of conspiracy was not disclosed by Gurcharan Singh (PW 18) and Darshan Singh (PW 4). The fact of conspiracy has not been mentioned in the FIR. Hakam Singh, the other witness on this issue has not been examined by the prosecution. Thus, the High Court was justified in discarding the part of the prosecution case relating to conspiracy. However, in the fact situation of the present case, acquittal of the said two co-accused has no bearing, so far as the present appeal is concerned.

37. Since, Gajraj Singh (P.W.4) is a chance witness, and according to Kamlesh bai (P.W.3) he had also reached on the spot, but he did not disclose to any body that he had seen the appellant-accused running away from the spot. Therefore, considering the subsequent conduct of Gajraj Singh (P.W.4), it is held that he is also not a trustworthy and reliable witness.

38. Thus, this Court is of the considered opinion, that the prosecution has failed to prove that the appellant-accused was seen running away from the spot, immediately after the incident.

39. However, this Court would like to observe that the Trial Court has not considered the effect of admissions made by the witnesses in their cross-examination. The Trial Court conveniently ignored the material aspects of the matter by writing a just two lines that nothing could be elicited from their cross-examination which would make their evidence unreliable. The exact observation made by the Trial Court is as under :

Para 22..... इस संबंध में इन साक्षियों के प्रतिपरीक्षण के दौरान ऐसा कोई तथ्य प्रकट नहीं हुआ है, जिससे कि उनके द्वारा इस संबंध में किये गये कथन संदेहास्पद एवं

अविश्वसनीय माने जाने का आधार उत्पन्न हो सके ।

40. Cross-examination is the only tool in the hand of the defence to dislodge the prosecution story and therefore, the Trial Court must appreciate the credibility and reliability of a witness after testing the examination-in-chief in the light of the cross-examination. The life and liberty of a person cannot be curtailed merely by mentioning that “nothing could be elicited from the cross-examination of the witnesses, which may make their evidence unreliable.”

Recovery of Blood stained Axe and Cloths

41. Ramesh (P.W.7) has stated that confessional statement, Ex. P.9 was given by the appellant, but denied that any *Farsi* was seized from the possession of appellant-accused, although the seizure memo Ex. P.10 bears his signature. He further stated that T-Shirt was seized from the possession of appellant-accused vide seizure memo Ex. P.11. In cross-examination, this witness has clarified that the appellant was arrested from a grave yard and at that time, he was naked. He also admitted that the appellant-accused used to lose his mental balance and during this period, he used to take off his cloths.

42. Haricharan (P.W.8) has proved the seizure of blood stained and plain earth vide seizure memo Ex. P.12. He further stated that T-Shirt was seized from the appellant-accused.

43. Banvari Singh (P.W.9) had registered F.I.R., Ex. P.13. This witness had also seized the cloths of the deceased vide seizure memo Ex. P.14.

44. Kailash Narayan (P.W. 10) has stated that Banwari (P.W.1) had lodged a F.I.R., Ex. P.1 against unknown person(s). He had given an application, Ex. P.15 to the Medical Officer, Binaganj to record the dying declaration of the deceased. The requisition form, Ex. P.16 is for conducting medical examination.

45. Raghvendra Singh Tomar (P.W.13) is the investigating officer, who has stated that he had prepared the spot map, Ex. P.2, blood stained and plain earth as well as blood stained shirt of injured Jaswant was seized vide seizure memo P.12. The statements of the witnesses were recorded. The appellant-accused was arrested vide arrest memo Ex. P.8. The cloths of the appellant-accused were seized vide seizure memo Ex. P.11. The memorandum of accused was recorded and *Farsi* was seized from this possession. The incriminating articles were sent to F.S.L, Gwalior.

46. It is undisputed fact that, F.S.L., report was not available on record. Thus, the prosecution has failed to prove that any blood was found on *Farsi* and cloths of the appellant-accused or not?

47. It is true that even the independent witness of seizure doesnot support the prosecution case, but still the seizure can be proved by the evidence of police personals, but in the present case, there is no evidence that whether any blood much less human blood was found on the *Farsi* and cloths of the appellant-accused. Therefore, the prosecution has failed to prove the second circumstance of seizure of blood stained *Farsi* and blood stained cloths of the appellant-

accused.

48. No other circumstance is available against the appellant-accused.

49. Under the facts and circumstances of the case, this Court is of the considered opinion, that the prosecution has failed to prove the guilt of the appellant-accused.

50. Accordingly, he is acquitted of charge under Section 452,302 of I.P.C.

51. The judgment and sentence dated 22-2-2010 passed by Add. Sessions Judge, Chachoda, Distt. Guna in S.T. No. 9/2009 is hereby **Set aside.**

52. The appellant is in jail. He is directed to be released immediately, if not required in any other case.

53. In the present case, the appellant-accused is in jail from the date of his arrest i.e., 21-12-2008 i.e., approximately 13 years. The Supreme Court, in exercise of its power under Article 142 of the Constitution of India, in the case of **Ankush Maruti Shinde Vs. State of Maharashtra** reported in **(2019) 15 SCC 470**, has awarded compensation amount to the accused persons on account of their false prosecution.

54. Life and Liberty is a Fundamental Right of a citizen of India, enshrined under Article 21 of the Constitution of India. It is true, that mere acquittal in all the cases may not invite payment of compensation to the accused persons, but where it is found that the

investigation itself was faulty and was not done properly, as a result an innocent person has remained in jail for approximately 13 years, then this Court cannot shut its eyes towards its Constitutional Duty to safeguard the fundamental right of the appellant-accused as guaranteed under Articles 20 and 21 of the Constitution of India.

55. In the present case, it has come on record, that Pappu, the brother of the appellant-accused, committed suicide after coming to know that Jaswant has expired. Guddya (P.W.2), and Kamleshbai (P.W.3) have admitted that the appellant-accused and his brother had lot of property. Mishrilal (P.W. 6) has admitted that widow of Pappu, namely Gokalbai is his cousin sister. Mishrilal (P.W.6) is working in Police Department. It appears that Pappu might have killed the deceased and thereafter, he also committed suicide. Since, the appellant was not in a fit state of mind, therefore, a story must have been concocted by the witnesses, may be at the instance of Mishrilal (P.W.6) to falsely implicate the appellant, so that in case if he is sent to jail, then Gokalbai would be the only person, who would get the complete control over the property. Thus, it is clear that the false implication of the appellant-accused was with a solitary intention to grab the share of appellant in the property. It is really unfortunate that the appellant, who was suffering from *psychosis* has remained in jail for approximately 13 years for no mistake on his part. Therefore, his honorable acquittal is not sufficient to apply ointment on his wounds suffered by him on account of violation of his fundamental

right of life and liberty. Accordingly, the State is directed to pay Rs. 3 Lacs to the appellant for his false and malicious prosecution. The appellant shall be free to institute civil suit for recovery of damages for the loss sustained by him. Let the compensation of Rs. 3 Lacs be paid within a period of one month from today. The State if so desires, shall be free to recover the same from the witnesses.

56. With aforesaid directions, appeal succeeds and is hereby **Allowed.**

(G.S. Ahluwalia)
Judge

(Rajeev Kumar Shrivastava)
Judge

