HIGH COURT OF TRIPURA
AGARTALA

CRL.A(J) NO.3 OF 2014

Sri Abhiram Rupini,
S/o- Lt. Jay Narayan Rupini
Of- Sinaikami, P.O + P.S.- Jirania
Dist:- West Tripura

…… Convict Appellant

Versus

The State of Tripura.

…….. Respondent

For Appellant(s)	: Mr. Ratan Datta, Adv. Ms. Simita Chakraborty, Adv.
For Respondent(s)	: Mr. A. Roy Barman, Addl. P.P.
Date of hearing	: 23.11.2018
Date of Delivery of Judgment and order	: 30/11/2018
Whether fit for reporting	: **YES**

HON'BLE THE CHIEF JUSTICE MR. SANJAY KAROL
HON'BLE MR. JUSTICE ARINDAM LODH

Judgment & Order

A. Lodh, J.

Unsuccessful appellant approached this Court against the judgment dated 30th January, 2012 passed by the learned Addl. Sessions Judge, West Tripura, Agartala (Court No.3) in Sessions Trial No.100 of 2011, thereby convicting him for the offence punishable under Section 302 of IPC and sentencing him to suffer rigorous imprisonment for life and to pay a fine of Rs.5,000/- in default to suffer further rigorous imprisonment for one year.

2. Gravamen of the prosecution case is that, one Ramayan Rupini brother of the informant along with other friends were gossiping in the house of Biswajoy Rupini, at the time the accused-appellant Abhiram Rupini along with Haripada Rupini on 06.06.2010 at about 10.00 P.M. went to the house of Biswajoy Rupini and asked Ramayana Rupini to accompany him to his house. After hearing hue and cry and being alarmed the parents and brother and sister (informant) rushed to the house of Abhiram Rupini, the appellant herein, and found Ramayan Rupini with severe injuries on his head being assaulted by the appellant by one 'resamphir' (a sharp piece of wood of betel nuts tree). Then Ramayana Rupini was brought to his house by his parents and other and on the next morning was taken to the Jirania Hospital i.e., on 07.06.2010, wherefrom he was referred to GBP Hospital, but he succumbed to his injuries on 09.06.2010, the cause of death of deceased Ramayana Rupini was due to blow given by the convict-appellant, Abhiram Rupini. Thereafter, on the same day i.e., on 09.06.2010 Smt. Radhika Rupini (P.W.-1) being the sister of the deceased lodged complaint to the police station and the police registered a case under Section 302 of the IPC.

3. Investigation pertaining to the same was also commenced. Thereafter post mortem was performed on the death body, necessary memos were drawn and statement of the witnesses was recorded. The appellant was arrested on 09th

June, 2010 and upon completion of investigation the charge sheet was filed.

4. Being committed, charge was framed by the learned Sessions Judge, which is reproduced below:-

> *" I, Shri Subir Ch. Saha, Addititonal Sessions Judge, West Tripura, Agartala, Court No.3, do hereby charge you.*
> *1. Sri Abhiram Rupini,*
> *as follows:-*
>
> *That, you on 06.06.2010, at about 22.30 hrs. at Sinai Kami, under Jirania P.S. assaulted Ramayan Rupini by wooden piece (Resampi) with intent to murder him and out of that assault said Ramayan Rupini sustained grievous injury on his head and succumbed to that injury in G.B.P Hospital. Agartala on 9.6.2010 at about 03.30 hrs, and you have thereby committed an offence punishable U/S 302 of the Indian Penal Code and within my cognizance."*

5. The Trial Court concluded the trial and convicted the appellant under Section 302 of the IPC, vide impugned judgment and order dated 30th January, 2012 and awarded sentence as referred to herein above.

6. Being aggrieved, the present appeal has been preferred.

7. We have heard Mr. R. Dutta, learned counsel appearing for the appellant as well as Mr. A. Roy Barman, learned Addl P.P., appearing for the State-respondent and also perused the entire records of the case.

8. The conviction of the appellant is primarily based on the statements of Smt. Radhika Rupini (P.W.-1), Shri Joy Chandra

Rupini (P.W-3), Sri Shri Biswajoy Rupini, (P.W.-6), Sri Bijoy Rupini, (P.W.-7) and Sri Haripada Rupini, (P.W-8).

9. The P.W.-1 is the sister informant, the P.W.-3 is the father of the deceased and P.W.6, P.W-7 and P.W-8 are the friends of the deceased.

10. Learned counsel of the appellant has urged that there was delay of three days in lodging the FIR and, therefore, the very basis and foundation of the prosecution case is doubtful. Calling the evidence of the prosecution witnesses, the learned counsel submits that there are serious contradictions of the statement of the prosecution witnesses and none of the prosecution witnesses is the eyewitness. He further submits that none of the witnesses were present in the place of occurrence at the time of the incident and the place of occurrence itself is doubtful and there were so many houses adjacent to the house of the convict-appellant, but they were not examined by the Investigating Officer. The 'resamphir' is one kind of weapon which means a stick of a betel nut tree used for weaving purpose, and it is found in almost in all the houses who use the same stick for the purpose of weaving. He further submits that the Doctor is not definite about the cause of the death. He further submits that no marks of blood stain were found in the house of the accused and the prosecution has failed to establish the fact that the deceased died in the house of the convict-appellant.

11. Mr. Datta, learned counsel further submits that the P.W.1 has stated in her evidence that she went along with her parents and brother in the house of the accused-appellant but P.W.4 the brother of the deceased has stated that his father went to the house of the accused-appellant first. The learned counsel has further stated that P.W.-1 is the interested witness and both the brother and sister have contradicted themselves about the presence of the P.W.3, the father of the deceased. The learned counsel has drawn our attention to the cross examination of P.W.3, wherein he has stated " *I went first to the house of Abhiram …… my son, my wife and daughter came later on together*" The learned counsel finds serious contradiction in the statement of the related witnesses of the deceased.

12. Lastly, Mr. Datta, learned counsel submits that there was no motive to kill Ramayan Rupini and had Ramayan Rupini been taken to hospital in time, then he would have survived. The learned counsel has tried to persuade this Court that even if the prosecution case is believed, at best it will be a case of extending benefit of exception of Section 300 of IPC. The learned counsel has relied on **Ram Kumar Pandey vs. State of Madhaya Pradesh** reported in **(1975) 3CC 815** para 15 and 16 wherein the Apex Court has held that:

> *"The site plans should show the place where blood is found and blood marks should be taken from the spot*

whether it has fallen to prove the fact that the incident actually occurred at that place where it is alleged"

13. Relying upon this decision, learned counsel has tried to persuade us that no such evidence is found in the present case. He further submits that the residents of the adjacent houses which were also not shown could have been the best witnesses of the incident. The learned counsel also has drawn our attention to Section 273 of the Police Regulation of Bengal which deals with the '*map'* or '*plan*' to accompany the charge sheet in certain cases.

14. The learned counsel has referred to **State of U.P. Vs. Indrajeet alias Sukhantha** reported in **(2000) 7 SCC 249** and he has tried to convince this Court that no clinching circumstance or evidence is found in the prosecution case and in absence of this, the accused is entitled to be acquitted.

15. To support his submission that number of injuries cannot determine the extent of cruelty of the accused, he relied upon **Surinder kumar Vs. Union Territory, Chandigarh** reported in **(1989) 2 SCC 217**. He further relied upon **Gabbu B. Lodhi and ors. vs. State of Madhaya Pradesh** reported in **(2004) CRI.L.J 2001** to substantiate his argument that contradictions in the instant case are fatal. Relying on the decision in **Mahavir Singh vs. State of Madhya Pradesh** reported in **(2016) 10 SCC 220** he has tried to persuade this Court that when the presence of eyewitness at the place of occurrence is not

established, the consequence of the case will be acquittal. Further, relying upon **Rajkumar Singh alias Raju alias Batya vs. State of Rajasthan** reported in **(2013) 5 SCC 722**, he submits that in a case of circumstantial evidence, each chain of occurrence has to be established, and if any of the chain is found missing, the accused is entitled to get the benefit of doubt and is liable to be acquitted.

16. *Per contra,* Mr. A. Roy Barman, learned Addl. P.P., appearing for the State has defended the judgment passed by the learned Trial Court and has stated that each of the circumstances to prove the culpability of the accused to cause murder to the deceased Ramayan Rupini have been established. There are sufficient evidence to prove the charge of Section 302 of IPC against the accused-appellant, hence, he has tried to persuade this Court to uphold the judgment passed by the learned Sessions Judge.

17. In the light of the aforesaid factual and legal position, we have proceeded to evaluate the evidence whether each of the circumstances has been proved, and if there is clear motive or pre-meditation behind the murder of Ramayan Rupini.

18. In the present case, taking of tea in a stall, gossiping of the deceased along with his friend in the house of the Biswajoy Rupini; Ramayan being called by Abhiram (accused-appellant herein) and death of Ramayan in the house of the accused,

Abhiram have to be established, which, if established would complete the chain of circumstances.

19. P.W.10, Bikram Rupini, the owner of the tea stall, has stated in his evidence that in the month of June in 2010 at about 7.00 A.M. Abhiram Rupini, Ramayan Rupini and Laxmima went to his stall for taking tea and Abhiram asked him to give a cup of tea to Laxmima. Accordingly, he gave a cup of tea to Laxmima, and thereafter, Abhiram left.

20. P.W.6, Biswajoy Rupini is one of the vital witness in whose house on 6th June 2010 at 9.30/10.00 pm Ramayan Rupini, Sanjib Rupini, Bijoy Rupuni and Biswajoy himself were gossiping. He has clearly stated that at that time his uncle Abhiram Rupini, i.e., the appellant herein, and his brother-in-law Haripada Rupini went to their house when Abhiram Rupini called Ramayan Rupini that he had some talk with him and accordingly, both of them had taken Ramayan Rupini along with them. After a short while, they heard hue and cry in the house of Abhiram Rupini and they rushed to the house of Abhiram Rupini where they found Ramayan Rupini lying in that house with injuries on his person. They further found Haripada Rupini at the house of Abhiram Rupini. This witness has further stated that he also found Bijoy Manik Rupini(brother), Radhika Rupini(sister) and parents of Ramayan Rupini in that house and Radhika Rupini told him that Abhiram assaulted Ramayan by one ‘resamphir’. Most interesting part of his evidence is that he

has stated that Ramayan was taken by Abhiram to compromise with a dispute that cropped up in connection with taking of tea by one Laxmima.

In cross examination he has stated that Haripada Rupini is the husband of his sister while Abhiram Rupini is his distant relative.

21. P.W-5, Sanjib Rupini has also corroborated the version of P.W.-6, Biswajoy Rupini that on 6th June 2010 at about 10.00 P.M. they were gossiping at the house of P.W.6 and after hearing some noise they went to the house of Abhiram and they came to learn that Abhiram caused injury to Ramayan. The most vital part of his evidence is that he has also stated that Ramayan was taken by Abhiram on the pretext of compromise and that was about half an hour before the incident.

22. P.W-7, Bijoy Rupini, who also was gossiping in the house of Biswajoy Rupini, P.W-6, has corraborated the version of P.W.5.

23. P.W. 8, Haripada Rupini, is the most vital witness of the case. In his evidence, he has stated that on 06th June 2010 at about 8.00/8.30 PM he went to the house of Laxmi Rupini and after sometime, Abhiram Rupini also came there and told him that something had happened in connection with taking tea by Laxmima, and he was requested to come to his house and

accordingly, he went to his house where Abhiram Rupini told that he was insulted by Ramayan Rupini, the deceased in connection with the matter of taking tea. The said witness was further requested to accompany him to the house of Biswajoy Rupini and both of them went to the house of Biswajoy where they found Ramayan, Biswajoy, Sanjib and Bijoy were gossiping. At that time, Abhiram told Ramayan as to why he insulted him, and in reply Ramayan told that he was just joking. Thereafter, Ramayan was taken by Abhiram towards the house to compromise and the said witness also accompanied Ramayan and Abhiram. He has further stated that on the way he was asked by Abhiram to return back to his house and thereafter, both the accused-Abhiram and Ramayan proceeded further towards the house of Abhiram. But he thought that some sort of quarrel might take place in between them and he also proceeded towards the house of Abhiram. The said witness has categorically stated that when he reached in front of the house of Abhiram he heard some noise inside the house and entered inside when he saw that Abhiram was striking on tin of verandah with one 'resamphir' in an aggressive mood and thereafter, he saw Abhiram struck on the head of Ramayan with the said 'resamphir' causing serious injury to Ramayan and thereafter, he did not find Abhiram in his house. The said witness identified the 'resamphir' which is marked as Exbt-M.O.1.

In the cross examination, however, he has stated that he was only asked by police about the incident and he did

not state to the police that he was present in the area after the incident. Further, he has denied the suggestion that Abhiram did not tell him about the fact of insult by Ramayan or he did not accompany Abhiram to bring Ramayan from the house of Biswajoy for compromise or he did not enter the house of Abhiram or did not see Abhiram to strike Ramayan by 'resamphir' or he deposed falsely of being tutored by the Ramayan's family'

24. Now, we may take notice of the evidence of the family members of the deceased Ramayan Rupini, who first rushed to the house of Abhiram Rupini.

25. P.W.3, the father of the deceased Ramayan has stated in his evidence that on 06th June 2010 the incident took place in the house of the accused-appellant Abhiram at about 10.00 PM. On hearing alarm he went to the house of the Abhiram and saw Abhiram assaulting his son Ramayan by one 'resamphir'. On seeing him Abhiram fled away. He has further stated that his wife, son and daughter also went to the house of Abhiram and they brought his injured son to their house and on that day they could not shift his son to the hospital on the presumption that no Doctor will be available in the Jirania Hospital on that night.

In cross-examination, he has stated that the accused Ahbiram is his brother-in-law and has categorically stated that he went first to the house of Abhiram Rupini and found

Haripada Rupini i.e., P.W. 8. During his cross examination, the said witness has volunteered that because of pain and suffering they could not inform the incident to the police station. He has further stated that there was no enmity between his deceased son and accused-appellant. He has denied the suggestion that his son was in drunken condition and he sustained injury otherwise and for that reason they did not inform the police for three days.

26. P.W.1, i.e. the informant Smt. Radhika Rupini is the sister of deceased Ramayan. She has stated that on 6th June, 2010 at about 10.00 /11.00 PM on hearing some alarm she along with her parents and brother went to the house of the appellant when they found Ramayan sustained grievous injuries on his person, they brought her brother to their house and on being asked by them her brother i.e., Ramayan told that accused Abhiram assaulted him by one 'resamphir'.

In her cross examination she has stated that she was not the witness of the occurrence. The house of the accused is adjacent to their house and she has also stated in her cross examination that Haripada Rupini, a neighbor, was also found present in the house of her uncle i.e., accused- appellant.

27. P.W.-4, Bijoy Manik Rupini is the full blooded brother of Ramayan and he rushed to the house of the accused Abhiram along with their family members. He has stated that they were hearing hue and cry of his brother in the house of the accused

Abhiram Rupini and his father first went to the house of the accused and thereafter, he along with his mother and sister (P.W.1) went to the house of the accused and saw his brother Ramayan lying there with injuries in his head. He came to learn that accused Abhiram inflicted injuries by one 'resamphir' to his brother.

In cross examination, he has stated that he found Haripada Rupini, P.W.8 present in the house of the accused.

28. Now, if we analyze the statements of the witnesses as stated above it is found beyond doubt that Abhiram the accused , Ramayan, the deceased and laxmima were having their cups of tea at the stall of Bikram Rupini (P.W-10) and further, Ramayan Rupini, Biswajoy Rupini(P.W-6) and Sanjib Rupini(P.W-5) and Bijoy Rupini (P.W-7) were gossiping at the house of Biswajoy Rupini when Abhiram Rupini, the accused-appellant herein, accompanied by P.W.-8, Haripada Rupini went to the house of Biswajoy and asked Ramayan to go to the house of Biswajoy to amicably settle the dispute that cropped up in regard to the payment of cost of tea which was offered by Biswajoy to Laxmima at the tea stall of P.W-10 in the morning. Haripada Rupini, P.W.-8 accompanied both the accused-appellant and Ramayan on their way to the house of the accused. While they proceeded, though P.W.-8 was asked to go back to his house, he followed them on the pretext that something could happen and a few minutes after he found Abhiram was striking the tins of his verandah and started

assaulting Ramayan who sustained injuries on his person, and on hearing hue and cry of Ramayan, his father, brother, sister and mother arrived at the spot when Abhiram fled away.

29. Evaluating the statements of the witnesses we do not find any of the circumstances is missed to complete the chain of entire episode of murder of Ramayan Rupini in the appellant's house. We have perused and analyzed all the evidence and findings arrived at by the learned Sessions Judge, and we are in agreement with the learned Sessions Judge, that the murder was committed by the accused-appellant. There is some minor discrepancy about the presence of P.W.8, Haripada Rupini at the exact time of inflicting blows by Abhiram upon Ramayan, but his evidence that he followed the accused-appellant as well as Ramayan towards the house of Abhiram when he fled away cannot be brushed aside.

30. In our considered view, while appreciating the evidence, the Court must not attach undue importance to minor discrepancy and it is in fact entirety of the situation which must be taken into consideration. Further, Court must consider broad spectrum of prosecution version. The discrepancy might/may be due to minor error of perception or observation or due to lapse of memory or due to faulty or stereotyped investigation.

31. In the case in hand, the Doctor, P.W.12, who conducted the postmortem of the deceased Ramayan, found five injuries

in his head and out of which three injures are found fatal and enough to cause death. The learned Sessions Judge, have taken note of the evidence of Doctor as well as the Post Mortem report, Exbt. M.O.1. We find no infirmity in the analysis and conclusion of learned Trial Judge that the cause of death was due to injuries caused by the accused-appellant. We repel the submission of learned counsel for the appellant that the Doctor has not mentioned the name of weapon used in the alleged history of assault.

In his cross examination, the Doctor has volunteered that he has mentioned it was the blunt force which caused death.

32. We also have taken note of the findings of the learned Sessions Judge, that in the examination of 313 of Cr.P.C the accused gave no satisfactory explanation how his nephew Ramayan sustained injury at his house, except his denial. In our opinion, the incident occurred at the house of the appellant and he is the best person to explain the circumstance under which Ramayan sustained injuries on his head.

33. We also may take note of the submission of learned counsel of the appellant that no blood stain mark was identified by the investigating officer. In our opinion, in the case at hand, after three days of the incident, the FIR was lodged and the said three days are sufficient to wash out any blood stain in any part of the house. Further, we have taken note of the submission of learned counsel that there is serious discrepancy

in preparation of the hand sketch map when the alleged incident has occurred. We have gone through the decision in **Ram kumar Panday Vs State of Madhaya Pradesh** reported in **(1975) 3SCC 815** cited by learned counsel which deals with the consequence of faulty preparation of sketch map and lack of showing the actual place of blood stains at the sight plan preparation by the investigating officer.

34. We have given our anxious look to the map prepared by the investigating officer, Exbt- B series, along with the index. We find that the investigating officer has fixed a post which is marked as 'A' in the map and then marked the place of occurrence, the hut of the accused-appellant as 'B'. The investigating officer also has marked the dwelling hut of the deceased which is marked as 'F' in the Map. In this regard we have taken note of the evidence of P.W-13, the investigating officer, who has stated that on 09.06.2010 he received an information which was recorded as Jirania P.S Case No. 29/2010 dated 09.06.2010 and started investigation following that G.D. entry and written complaint lodged by the P.W.-1, then he visited the place of occurrence and prepared a hand sketch map along with the supporting index. Thus, there is every chance of washing out blood stain from the place of occurrence within the gap of three days when the incident took place i.e., on 6th June 2010.

35. After perusal of the case of **Ram Kumar Pandey (Supra)** it is found that the FIR was lodged just after the occurrence of the incident and the police started investigation accordingly. Further, the Apex Court while analyzing **Ram Kumar Pandey (Supra)** has found enough discrepancy in the version of the prosecution witnesses which is absent in the present case. In the case at hand, the statements of the witnesses are found to be consistent as described above. Therefore, it can safely be said that the deceased sustained injuries at the house of accused-appellant Abhiram Rupini.

36. Now, one vital question remains as to whether, the accused-appellant inflicted blows upon the deceased with a clear intention to kill him or it was under sudden heat of passion during a sudden quarrel without any premeditation. From the evidence, we discussed above, it has come to light that Abhiram Rupini brought Ramayan Rupini, his sister's son to make an amicable settlement in regard to the dispute that had cropped up in making the payment of the cost of tea that was offered to Laxmima at his instance at the tea stall of P.W.-10. We have given our thoughtful consideration to the weapon used in the commission of the crime. In the case at hand, the weapon used is a piece of wood of betel nut tree commonly known as 'resamphir' and is found in every house, which is used for weaving purpose. Thus, Abhiram Rupini did not store or carry any such other weapon which are commonly used with a clear motive/intention to kill one.

37. We have noticed that the appellant did not use any regular or earmarked weapon for committing murder. If the accused wanted to commit murder, he could have used a regular weapon which is capable to cause more serious injuries to Ramayan Rupini. 'Resamphir' is not really a 'deadly' weapon. As we find it is one part of betel nut tree which is used for the purpose of weaving and is found in every house hold.

38. We repel the submission of the learned Addl.P.P., that it is a 'deadly weapon' so as to cause, *pre se,* any serious wound or a grievous hurt or injury to the victim. Though, the bringing of the victim into the house of the accused may be construed to be with a sinister intention or purpose to compromise the dispute, but from the type of weapon he used in assaulting the victim, it could not be either reasonable or legitimately postulated that it was the definite intention of committing the murder of the victim or inflicting upon the victim such a grave, serious injury sufficient to cause his death, particularly, when the victim is the son of his own sister and was well aware of the fact that he brought the deceased from the midst of his companion (P.W.-5. P.W.-6 and P.W.-7) in presence of Haripada Rupini, P.W-8.

39. The learned counsel for the appellant has made an alternate submission that if the gravamen of the charge and sum and substance of the evidence placed on record, in our

considered opinion, the inevitable consequence which follows should be that apart from any positive motive being either attributed in this case, or alleged or proved by the prosecution, there is no clinching circumstance or evidence to reasonably establish the culpability of the accused for a charge of murder. Absence of intention to cause death and coupled with lack of knowledge that death would be inevitable caused on account of the injuries would make the offence fall only under Section 304 Part 2 of the IPC, and not under Section 302 of IPC.

That leads us to take note of Exception 4 to Section 300 IPC which is read as under:

> *" Exception 4:- Culpable homicide is not murder, if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken under advantage or acted in a cruel of unusual manner:*
>
> *Explanation: it is immaterial in such cases which party offers, the provocation or commits the first assault."*

40. To invoke this exception four requirements must be satisfied, namely, i) It was a sudden fight, ii) There was no premeditation. iii) The act was done in a heat of passion and iv) The assailant has not taken any undue advantage or acted in a cruel manner. The cause of quarrel is not relevant nor is it relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in fit of anger. Of course the offender must not have taken undue advantage or acted in a cruel manner.

Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries some of which proves fatal he would be entitled to the benefit of this exception provided he has not acted cruelly.

41. In the instant case, the accused-appellant brought Ramayan Rupini in his house to amicably settle a dispute and we find that there was no previous ill will between the parties. On the contrary the relationship was cordial and perhaps during the compromise talk quarrel had erupted and in the heat of passion during that quarrel without any premeditation used the weapon which is commonly used for the purpose of weaving, not a 'deadly' as other conventional weapon/s used for causing murder.

42. Consequently, in the absence of any motive or intention to kill and having regard to the type of weapon used and the nature of injuries caused upon the deceased , the case in hand cannot appropriately said to be one warranting application of Section 302 of IPC.

43. The learned Session Judge has not at all considered these aspects while convicting and sentencing the accused for life imprisonment as aforestated, but we do not think that merely because three injuries were found to be fatal to the deceased it could be said that the accused-appellant had acted in a cruel and unusual manner.

44. In our opinion, punishment should always be proportionate/commensurate to the gravity of offence. The Court has to decide the punishment after considering all aggravating and mitigating factors and the circumstances in which the crime has been committed. Conduct and state of mind of the accused and the gravity of the criminal act are the factors of paramount importance.

Under these circumstances, we think it proper to convict the accused under Section 304 Part II of IPC and direct him to suffer rigorous imprisonment for seven years. Resultantly, this appeal is partly allowed, the order of conviction and sentence passed under Section 302 of IPC is set aside and the fine money if paid is directed to be refunded. The appellant is convicted under Section 304 part II IPC and is directed to suffer rigorous imprisonment for seven years. It has been submitted at the Bar that the accused-appellant has not completed seven years. In view of the above submission it is directed that the accused-appellant shall be set at liberty on the completion of seven years without any further detention if he is not wanted at any other cases.

Send back the L.C.Rs.

(ARINDAM LODH),J **(SANJAY KAROL),CJ.**

suhanjit