

IN THE HIGH COURT OF SINDH AT KARACHI

Present : Omar Sial, J

Criminal Appeal No. 79 of 1999

Appellants : Taj Muhammad & others
through M/s. Mehmood A. Qureshi and Ahsan Gul
Dahri, Advocates.

Respondent : The State
through Mr. Muntazir Mehdi, D.P.G.

Complainant : Mr. Sajjad Ahmed Chandio, Advocate

Date of hearing : 12th September, 2022

JUDGMENT

1. The incident

A bloody fight broke out between two groups consisting of a large number of persons on 28.01.1983 at about 2:00 p.m. 7 persons lost their lives whereas 3 were injured. F.I.R. No. 11 of 1983 was registered on 28.01.1983 under sections 302, 307, 147, 148, 149, 114 and 109 P.P.C. at the Badin police station. The incident occurred because of a dispute regarding who would be the *gaddi nashin* of a local saint. The term *gaddi nashin* refers to the successor of a holy man (commonly referred to as a *sufi* or a *pir*) and in some instances to a descendant of a disciple of a *sufi*. In the present case the 2 groups of persons fought after the death of one Pir Gul Hassan. The accused group of people supported one Pir Faiz Mohammad as the *gaddi nasheen*, whereas the complainant group of people declined to accept him as the Pir.

2. Dead and Injured

7 persons died and 3 were injured in the incident.

The names of the persons who died in the incident were: (i) Bahram (ii) Moula Bux (iii) Khamiso (iv) Suleman (v) Wali Muhammad (vi) Ghulam Muhammad and (vii) Muhammad Siddique.

The names of the persons who were injured in the incident were: (i) Suhrab (ii) Haji and (iii) Tooh.

3. Accused

32 persons were accused for the death and injuries of the above persons.

They were:

S. No.	Accused	Present Status
1.	Taj Mohammad	Convicted
2.	Raza Muhammad	Convicted but dead
3.	Zafarullah	Convicted but dead
4.	Abdullah	Acquitted
5.	Lakhi	Acquitted
6.	Illahi Bux	Died during trial
7.	Rahab	Died during trial
8.	Malang	Died during trial
9.	Badal	Convicted
10.	Edan	Convicted
11.	Ali Nawaz	Died during trial
12.	Ghulam Haider	Convicted
13.	Illahi Bux	Convicted
14.	Mirajuddin	Died during trial
15.	Bakshan	Convicted
16.	Abdullah alias Leemon	Convicted
17.	Ali Mardan	Died during trial
18.	Muhammad Hanif	Convicted
19.	Ghulam Miran	Died during trial
20.	Mirzo	Died during trial
21.	Niaz Hussain	Convicted
22.	Ghulam Muhammad	Convicted
23.	Usman	Convicted
24.	Rajab	Convicted
25.	Kamal	Convicted
26.	Allah Warayo	Convicted
27.	Wahid Bux	Convicted
28.	Haji Luqman	Died before trial
29.	Akhund Muhammad Saleh	Died before trial
30.	Hadi Bux	Died before trial
31.	Samano	Absconder
32.	Rajab	Absconder

4. Appellants

Those who were convicted and appealed the judgment of the learned trial court and have remained alive to date together with their alleged roles in the incident are as follows:

S. No.	Accused	Present Status	Role Assigned	Allegedly armed with
1.	Taj Mohammad	Convicted	Presence	Single Barrel Gun
2.	Badal	Convicted	Presence	Hatchet
3.	Edan	Convicted	Causing a hatchet blow to deceased Behram however said to be armed with a gun.	Double Barrel Gun
4.	Ghulam Haider	Convicted	Causing injury to Haji.	Hatchet
5.	Illahi Bux Chandio	Convicted	Presence	Double Barrel Gun
6.	Bakshan	Convicted	Presence	Revolver
7.	Abdullah alias Leemon	Convicted	Presence	Revolver
8.	Muhammad Hanif	Convicted	Presence	Unarmed
9.	Niaz Hussain	Convicted	Presence	Unarmed
10.	Ghulam Muhammad Korejo	Convicted	Presence	Single Barrel Gun
11.	Usman Keerio	Convicted	Presence	Single Barrel Gun
12.	Rajab	Convicted	Presence	Unarmed
13.	Kamal	Convicted	Presence	Unarmed
14.	Allah Warayo	Convicted	Presence	Unarmed
15.	Wahid Bux	Convicted	Presence	Rifle

5. Witnesses examined at trial

Prosecution Witness (P.W.)	Name	What was he brought in as a witness for
1	Haji	Eye witness - sustained injuries
2	Suhrab	Eye witness - sustained injuries
3	Tooh	Eye witness - sustained injuries
4	Allah Dino	Eye witness
5	Ramzan	Eye witness
6	Moosa	Witness to: (i) the inspection of the dead bodies of Ghulam and Siddiq (ii) inquest reports of Ghulam and Siddiq.
7	Mohammad Qasim	Witness to: (i) inspection of the place of incident.

		(ii) memo of injuries to Tooh, Suhrab and Haji. (iii) inspection of injures to Ghulam and Siddiq
8	Allahwarayo	Witness to: (i) Inquest Reports of Suleman, Behram, Maula Bux, Wali Mohammad, Khamiso (ii) Arrest of Ali Mardan, Ghulam Mohammad Korejo, Edan, Buxan, Ali Nawaz, Badal, Mairaj, Ghulam Haider, Illahi Bux, Abdullah alias Leemon, Zafar Chandio, Lakhi, Abdullah Talpur, Illahi Bux Keerio, Rahib Keerio, Malang, Haji Luqman, Raza Mohammad, Taj Muhammad (iii) Inspection of the injuries sustained by Taj Muhammad (accused) (iv) Recovery of revolver – Raza Mohammad (v) Recovery of 14 live cartridges from Mairajuddin (vi) Recovery of hatchet from Ghulam Haider Junejo (vii) Recovery of revolver from Abdullah alias Leemon (viii) Recovery of revolver from Illahi Bux Chandio (ix) Recovery of gun from Usman Keerio (x) Recovery of Datsun car from Abdullah Talpur
9	Dr. Abdul Jabbar	(i) Post mortem of deceased Ghulam and Siddiq (ii) Medical examination of PW Suhrab, PW Haji, PW Tooh, accused Taj Muhammad, PW Taj Muhammad, Suhrab
10	Lance Naik Ali Asghar	Corpse bearer of 5 dead bodies
11	HC Allah Bachayo	Corpse bearer of 2 dead bodies
12	Mukhtiarkar Abdul Razzak	(i) mashirnama dated 5-2-1983 for identification of Mirzo, Niaz Hussain, Muhammad Hanif and Ghulam Meeran (ii) mashirnama dated 10-2-1983 for identification of Rajab, Osman, Kamal, Allah Warayo
13	SIP Fazal Muhammad	Record of telephone message from Badin hospital, went there completed formalities and gave letter to M.O. for post mortem of Ghulam and Sidiq
14	Tapedar Ghulam Abbas	He produced: (i) sketch of wardat (ii) entries of khasra record of block NO.86/1 to 4 (iii) mashirnama of search of kot of Luari Dargah dated 30-1-1983
15	Complainant Wali Dad	Un-injured eye witness
16	SIP Dhani Parto, I.O.	He produced (i) report incorporated in 154 Cr.P.C. book (ii) mashirnama of search and arrest of accused Mirzo, Niaz Hussain, Hanif, Ghulam Meeran, Usman, Rajab, Kamal and Allah Warayo, Akhund Mohammad, Saleh and Haji Bux Sahto (iii) mashirnama of recovery of rifle of Akhund Muhammad (iv) report of ballistic expert (v) station diary of P.S. Tando Bago dated 28-1-1983 showing presence of accused Zafar at P.S. Tando Bago on

		28-1-1983 (vi) mashirnama of recovery of gun of accused Edan, Korejo by SIP Khurshid Alam
17	Dr. Muhammad Ishaq	Dr. Jamilur Rehman who had conducted post mortem examination had died as such he being conversant with signature of Dr. Jamilur Rehman was examined and produced the post mortem notes of deceased Maula Bux, Behram, Suleman, Wali Muhammad Bagrani and Khamiso

6. Counsel's arguments

The learned counsel for the appellants argued that a large number of people were implicated in this case because the complainant party wanted to occupy the land which was in possession of the Dargah. That apart from 4 of the appellants the others were not even assigned a role and were said to be present on the spot. 2 of them were even said to be unarmed. Common intention was not proved. Testimony of the so called eye witnesses in itself reveals that there are numerous contradictions in their statements and that the same have been massively improved from what they had recorded earlier through section 161 and section 164 Cr.P.C. statements. The medical evidence does not reconcile with the ocular version as far as appellant Edan is concerned. The recovery effected was a complete farce and the licensed weapons of some of the appellants were taken and shown to be the weapons used in the crime. Malafide of the investigating officer and the witnesses is floating on the surface of the record.

To the contrary the learned counsel for the complainant as well as the learned DPG argued that mere relationship of the prosecution witnesses with the deceased was no ground to discredit their evidence. The quality of the evidence and not its quantity should be seen. They were also of the view that the witnesses recorded sound testimonies and the prosecution did not ask them material questions. As regards the medical evidence, while agreeing that there was a contradiction as far as Edan is concerned, yet medical evidence could not supersede the ocular version. They argued that technicalities should be ignored and that conviction could

also be based on the sole testimony of a witness. Lastly, they argued that the fact that the appellants except 4 of them were said to be only present on the spot they could not be given a benefit of this as pursuant to section 34 P.P.C. all of them are guilty for the acts of those who killed and injured the members of the complainant party.

A number of cases were cited by the counsels. The list of these are on record. For the sake of brevity I have not listed them here as all the case law cited was in support of well-established principles of law, to which there is no cavil.

I have heard the counsels and reviewed the evidence. My observations and findings are as follows.

7. Injuries to the complainant party

As mentioned above, all the appellants except 4 of them, were assigned the role of being present on the spot. No overt role or act was attributed to them. It was alleged that the role of 4 of the appellants i.e. Edan Korejo, Ghulam Hyder Junejo, Merajuddin Kerio and Zafarullah Chandio was restricted to causing injuries to members of the rival group. I have first addressed the material evidence with regards to these 4 appellants.

(i) Role assigned to Edan Korejo: The prosecution witnesses testified that at the time of the incident, Edan was armed with a single barrel gun. However, strangely enough he is not accused of causing a firearm injury to even one of the injured. The allegation against him is that he snatched a hatchet from one of the co-accused, namely, Malang and then hit one of the deceased i.e. Behram with that hatchet. Prosecution's own witness i.e. Suhrab testified that when they reached the place of incident, Behram and Moula Bux were already lying injured on the ground. He also testified that *"I do not know as to which accused had caused injuries to which deceased or to injured."* It was prosecution witnesses Tooh, Allah Dino, Wali Dad and Ramzan who narrated that Edan had snatched a hatchet from Malang and had then hit Behram on the neck with it. I find this account unnatural. It

doesn't make much sense that while Edan was armed with a gun, with which he could have very easily shot and killed Behram had he wanted to, he opted to in a widespread brawl, to first snatch a hatchet from one of his partners and then holding his gun in one hand proceed to hit Behram with a hatchet. Tooh's testimony becomes further doubtful reflecting an element of malafide when he himself went on to state at trial that *"It is correct that I had not seen any of the PWs or deceased receiving injuries at wardat."* Similarly. Allah Dino too, at trial stated that *"I had not stated in my statement before magistrate that accused Edan and Hyder had caused injuries to injured who were lying on the ground."* This was confirmed by PW Dhani Parto, who was the investigating officer of the case, when he testified that *"PW Allah Dino had not stated in his police statement that accused Edan had caused injury over neck of deceased Behram."* There is another prosecution witness i.e. Ramzan who made similar allegations on Edan as Tooh and Allah Dino, however, this witness too, earlier when his statement under section 164 Cr.P.C. was recorded, had not mentioned that he saw Edan come with a gun, snatch a hatchet from Malang and then hit Behram. It appears that the complainant party has attempted to throw the net wide which has also come as an afterthought when it was determined by the forensic expert that the gun, allegedly carried by Edan at the time of the incident and later recovered at his pointation was in a broken condition and that the injury on Edan's person was not from a fire arm but from that of a hatchet.

(ii) Role assigned to accused Ghulam Hyder:

One of the injured i.e. PW Haji alleged that *"accused Hyder gave me hatchet blow with its sharp side on my shoulder. I fell down the ground. I fell down in Sim Nali. After receiving injury I became unconscious."* Dr. Abdul Jabbar, who examined PW Haji stated that *"on X Ray examination no fracture or dislocation was seen. The injury is simple in nature."*

(iii) Role assigned against accused Merajuddin:

PW Tooh stated at trial that *"accused Merajuddin after giving hakal had fired at me from his gun which hit me on my abdomen."* What is interesting

in the testimony of this witness that he went on to testify *"it is not a fact that I was fired from my back."* He further stated that *"I had not received any injury on my buttock."* He also stated that *"it is not a fact that I had received one injury at the back at the end of spinal cord. I have not received injury at my right thigh."* His testimony is in complete conflict with that of the doctor who examined him. Dr. Abdul Jabbar testified that he had found the following injuries on Tooh:

1. A lacerated wound measuring 1 cm x .5 cm over upper one third of right thigh.
2. A lacerated wound measuring 1 cm x .5 cm over upper one third of right hip.
3. A lacerated wound measuring 1 cm x .5 cm over upper one third of right joint just 6 cm close to injury No.2.
4. A lacerated wound measuring 5 cm x .5 cm over region of greater trochanter of right femur.
5. A lacerated wound measuring 1 cm x .5 cm over right abdominal wall.
6. A lacerated wound measuring .5 cm x .5 cm over one third of the upper side of right arm.

Another witness i.e. Ramzan, who testified at trial also implicated Merajuddin as causing injuries to Tooh. This witness however earlier in his section 164 Cr.P.C. statement had made no mention of this act. It appears that he improved materially in his statement at trial to throw the net wide and implicate as many people of the accused party as was possible. It is also pertinent to mention that according to the testimony of the investigating officer i.e. Dhani Parto, Merajuddin and Abdullah alias Leemon were in his custody on 28.01.1983 in another case till 1:15 p.m. The incident allegedly occurred at 2:00 p.m. Dhani Parto testified that *"On 28.1.1983 I had taken accused Abdullah alias Leemon and Merajuddin from Luari Sharif to P.S. Badin in connection with investigation of crime No.63/1983 of PS Badin. The accused remained with me upto 1.15 PM on that date. Till that time accused were not having any arm in their possession. The investigating*

officer was not sure how long it would take a person to travel from the police station to the place of incident, however the same appears unlikely if one keeps in mind the testimony of PW Abdul Razzak who was the mukhtiarkar and who opined that Luari Sharif was at a distance of 8 to 10 miles away from Badin. This journey would take some time as according to witness Allah Dino *“public and private transport is not plying between my village and Luari Sharif”* (he was a resident of village Wali Mohammad Bagrani). The investigating officer Dhani Parto further added that *“there was metaled road and after that there was katcha road passing from Jungle on way to wardat. The katcha road might be 3 kilometers from metaled road (main road) to the wardat. The said katcha path from the metaled road was very near to luari Sharif”*. Keeping in view what the prosecution witness themselves stated it appears highly unlikely that Abdullah alias Leemon and Merajuddin would have been able to reach the place of incident from the Luari police station in a span of a maximum of 45 minutes.

(iv) Role assigned against accused Zafar:

PW Allah Dino stated at trial that *“accused Zafar Chandio gave danda blow to Suleman.”* PW Ramzan stated first that *“Zafar Chandio was armed with danda.”* And then went on to say that *“accused Zafar had caused injury to Suleman over his head.”* PW Haji stated that *“accused Zafar was armed with danda.”* Similarly PW Suhrab stated that *“six seven accused were armed with laties including Zafar.”* Complainant Wali Dad also stated that *“I also saw accused Zafar Chandio causing danda blow on the head of PW Suleman.”* He also went on to say that *“I had seen injury on the forehead of Suleman.”* The testimony of all these witnesses turned out to be false and fabricated when Dr. Jamil-ur-Rehman (who had died by then but whose signatures and handwriting on the post mortem reports was confirmed by PW Dr. Mohammad Ishaq) who had conducted the postmortem of deceased Suleman concluded after examination that all the injuries received by Suleman were fire-arm injuries. It was also shown at trial, through daily diary entries produced by prosecution witness Dhani

Parto that on the date of incident i.e. on 28.01.1983 that accused Zafar was detained at the Tando Bago police station from 8:10 a.m. to 4:00 p.m. on the date of the incident i.e. 28.01.1983. The incident had occurred at 2:00 p.m. on that date. Medical evidence did not corroborate the allegation of the prosecution and the prosecution's own witness who was the investigating officer of the case also negated the allegation.

8. Identification Parade

Out of the current appellants, 6 were identified in an identification parade. They were: Muhammad Hanif, Niaz Hussain, Usman, Allah Warayo, Kamal and Rajab.

9. Eye witnesses

The testimony of the witnesses has to be taken with a grain of salt as far as their accuracy, reliability and trustworthiness is concerned. The supposed eye witnesses would require super human qualities to precisely identify which 32 persons were present, what weapons were they armed with, who hit who and at what part of the body. I simply do not believe that each of the witness could get this right in the middle of a full scale brawl between two groups (even the complainant party comprised of a substantial number of people) in which weapons were being used freely. There is no doubt in my mind that the complainant party has tried to involve as many persons of their rival group in this incident. The impact however of such a large scale implication has been that the veracity of the entire prosecution case becomes doubtful, at least to the extent of the appellants. The quarrel, though said to be over succession, appears to be primarily motivated by the possession of land. Both groups were at fault. The complainant party simply cannot allege that this was a one sided attack. Taj Mohammad being injured in the attack is itself an indication of that. There is massive discrepancies in the time when the dead bodies were seen by the police. This discrepancy ranges from a couple to hours to at least 5 or 6 hours. I also find the testimony of the supposed eye witnesses quite doubtful. According to **PW Haji** he was working in a tract of land that

was 2 furlongs away from the place of incident and that it took him and the others half an hour to reach the place of incident after they had heard the sound of firing. He also acknowledged at trial that the police had not recorded his statement ever and that he himself had also not gone to the police station to have his statement recorded. Him recording a statement first time after 10 years of the incident and then identifying some of the accused who he had not known before cannot be given credence. In any case, this witness at trial was unable to attribute a specific role to any of the accused except Ghulam Haider, who he said had hit him on his shoulder with a hatchet. According to **PW Suhrab** when he reached the place of occurrence, he and the others, which included PW Haji saw Moula Bux and Behram lying in an injured condition. This was not in consonance with what PW Haji stated who said that they only saw Moula Bux injured. PW Suhrab also testified that *“I do not know as to which accused had caused injuries to which deceased or injured.”* **PW Tooh** also stated at trial that *“I cannot say as to who caused injuries from the side of the accused to any PWs”* He repeated himself in his cross examination by saying *“it is correct that I had not seen any of the PWs or the deceased receiving injuries at the wardat.”* How then could he have seen Edan hitting Behram with a hatchet? **PW Allah Dino** admitted that the statement under section 161 Cr.P.C. which he had recorded was not taken by the investigating officer of the case i.e. Dhani Parto but that some other police officer who he did not know had recorded it. The presence of this witness at the place of occurrence is indeed doubtful in itself. He claims that he reached the place of incident along with the others – which according to him was 3 or 4 blocks away – when they had heard the firing. The investigating officer Dhani Parto confirmed at trial that Allah Dino had not mentioned that Edan had hit Behram with a hatchet when his statement was recorded. What makes his presence doubtful is that he himself acknowledged that he had disappeared from the scene of the incident when the police arrived and then he had come back later when the dead bodies were being inspected. I find this conduct extremely unnatural. I also do not believe him when he

saw Behram and Moula Bux being fired upon. According to the testimonies of the other eye witnesses, both Behram and Moula Bux had already been shot at when they had arrived. He also admitted, contrary to what he stated at trial, that he had not told the magistrate when recording his section 164 Cr.P.C. statement that he had seen Edan or Haider causing hatchet injuries to Behram or Moula Bux. **PW Ramzan** admitted at trial that his section 161 Cr.P.C. statement was recorded 10 to 15 days after the occurrence, though he was supposedly an eye witness. Not much credence can be given to such a statement which loses its evidentiary value because of the delay in its recording and no reason being attributed to the delay. It appears from a complete reading of the evidence given by this witness that he too might not have been present on the spot when the incident occurred and has been brought in as a witness at a later time. PW Ramzan, who also claimed to be an eye witness, gave a completely different account, compared to the other witnesses, regarding what had been seen by them. According to him there were 12 other persons with him when they had gone to the place of incident after hearing the firing noise. According to him there were 39 persons present from the accused side. That all the eye witnesses had hid in a water drain because they were afraid and when they reached the place of incident they had only seen the aftermath of what had happened. His testimony belies and negates the testimony of all other eye witnesses. Non-recording and substantially late recording of section 161 Cr.P.C. statements together with the material improvements made by the witnesses from what they had recorded in their section 164 Cr.P.C. statements coupled with material contradictions between their statements makes their respective statements extremely doubtful and for a matter of fact it appears that their statements are not true and highly exaggerated. The truth of what happened is lost in these statements. I would be most reluctant to uphold conviction on the quality of such statements.

10. Identification Parade

An identification parade was held on 05.02.1983 for the purpose of the witnesses to identify appellant Hanif Jamali and appellant Niaz Hussain (the remaining 2 accused who were also put up for identification i.e. Mirzo and Ghulam Mirani have died). The identification parade was not held in the prescribed manner. One, the 4 accused were put up for a joint identification along with only 4 dummies. Only the complainant Wali Dad identified the 4 accused, which must not have been difficult as by that time he had had many opportunities to see them earlier. On 10.02.1983 another identification parade was held in which Usman, Rajab, Kamal and Allah Warayo were put up for identification by Wali Dad, the complainant. This time again a joint identification parade was held but the number of dummies had increased to 8. The dummies and the accused were both brought by the investigating officer for the parade. The description of the dummies was not noted by the magistrate, in fact he also admitted that he had not written the names and particulars of the dummies. He could not confirm that the age, height and other particulars of the dummies were written by him. He also admitted that when the complainant had identified the accused, he had not said a word let alone assign a role to them. Absolutely no value can be given to such an identification parade. No other witness, who claimed to be an eye witness, was brought in to identify the accused they did not know. The memo that the magistrate made after the identification parade become further doubtful when contrary to what the magistrate stated at trial i.e. the complainant did not say anything while identifying the accused, the memo records that the complainant states that they were present on the scene. Even then, no role apart from presence has been attributed to them.

11. Investigating Officer

He admitted that he has sealed some case property (i.e. bullets and cartridges) and not sealed the others. He admitted that while he had shown *lathis* and guns recovered from the place of incident, the complainant had

recorded that all the accused had departed in one Datsun vehicle along with the respective weapons that they had brought. This very fact makes the recovery from the scene of the incident doubtful. It is also impossible that 32 persons fitted into one Datsun vehicle along with their arms in order to leave the premises. He admitted that he had not produced the letter written by the military authorities saying that appellant Wahid Bux was at the military academy undergoing training on the date he was said to be present at the place of occurrence. He admitted that the identification parade of the accused who were identified (stated above) was held even before they had been arrested for the crime. A very one sided investigation was held in this case. The defence plea was neither taken into consideration by the investigating officer nor by the learned trial court. The record reflects that one of the appellants i.e. Taj Mohammad was injured in the bloody brawl but that finding was suppressed during investigation. The complainant party who claimed that they were working in field some 30 minutes away from the place of incident, quite strangely claimed that while they had hatchets, they left the hatchets in the field when they came to the place of incident.

12. Common Intention

It is well settled that common intention requires a pre-planned meeting of the minds prior to the incident to make vicariously liable a person for the acts of the other. In the current case, no evidence to establish the same was led at trial. In any case, the evidence itself makes the presence of the appellants and the eye witnesses debatable, to say the least. It is obvious that the complainant party has tried to loop in as many persons from their rival group as they possibly could. The net result of the maneuvering and manipulation is that who the real culprits of the incident and what were the true facts got completely eclipsed in the process.

13. Opinion of the Court

It has unfortunately taken 39 years for the case to get to this position. 17 years were spent in trial and another 22 years have passed in

the adjudication of this appeal. The record in this case is voluminous and cumbersome. Unnecessarily long, meaningless and repetitive cross examinations coupled with scattered and incomplete paperwork compounded difficulties even more. I would like to put on record my appreciation for the counsels, in particular Mr. Mehmood Qureshi, who laboriously have collated the record, so that some sense could be made of the evidence that was led in this case.

Looking at the entire evidence holistically and in particular keeping in mind the above observations, I am of the view that none of the appellants caused the death of any of the 7 deceased. There is also considerable doubt whether the 4 appellants said to have caused injuries actually did so. Common intention was not proved to make those appellants present vicariously liable for the acts of their colleagues. The prosecution was unable to prove its case against the appellants.

Conclusion

The appeal is allowed and the appellants acquitted of the charge. They are all on bail, their bail bonds stand cancelled and sureties discharged which may be returned to their depositors upon identification.

JUDGE