

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Appeal No.D-85 of 2019

Cr. Appeal No.D-91 of 2019

Present:

Mr. Justice Naimatullah Phulpoto

Mr. Justice Shamsuddin Abbasi

Dates of Hearings: 13.01.2022 & 26.01.2022.

Date of Judgment: 03.02.2022.

Appellants/accused: Nand Lal S/o Chando Mal and
Mohan Lal S/o Piroo Mal, through
Mr. Farooq H. Naek,
Advocate.

The State / ANF: Through Mr. Muhammad Ayoub
Kassar, Special Prosecutor.

J U D G M E N T

NAIMATULLAH PHULPOTO, J:- Appellants Nand Lal and Mohan Lal and co-accused Muhammad Shafique and Muhammad Mohsin Javed (since acquitted) were indicted by learned Special Judge, CNS Jamshoro @ Kotri in Special Case No.12 of 2014 vide Crime No.09 of 2014 registered at P.S ANF Hyderabad under Section 9(c), 13 & 14 of CNS Act, 1997. On the conclusion of trial, co-accused Muhammad Shafique and Muhammad Mohsin Javed were acquitted by the learned trial Court vide its judgment dated 07.05.2019. However, appellants Nand Lal and Mohan Lal were convicted under Section 9(c) of Control of Narcotic Substances Act, 1997 and sentenced to imprisonment for life and to pay fine of Rs.500,000/-. In case of default in payment of fine,

appellants were ordered to suffer S.I for three months. However, appellants were extended benefit of Section 382-B Cr.P.C. Hence, appellants have filed the instant appeals.

2. Brief facts of the prosecution case as mentioned by the learned trial Court in the impugned judgment are as under:-

“The brief facts of the prosecution case are that complainant SI Syed Suleman has lodged the FIR on 11.06.2014 with Police Station ANF Hyderabad, stating therein that through higher officers he received spy information that heavy quantity of heroin is to be smuggled at Karachi in Cotton Bales loaded in one Troller Bearing Registration No.SLJ-8725 and if prompt action is taken against them, there is possibility of recovery and arrest. On such information as per directions of higher officers, the complainant alongwith ASI Ali Muhammad, Abdul Hameed, HC Sher Muhammad, HC Muhammad Umer, HC Abdul Razzak, PC Kashan, PC Riaz, PC Akhtar Ali, PC Manzoor Kind, Constable Ghulam Abbas and other staff duly armed in government vehicle with drivers Muhammad Ali and Ghulam Haider under supervision of A/D Incharge Police Station Nouman Hanif vide roznamcha entry No.05 at 1500 hours left PS ANF Hyderabad and at 1550 hours reached at Super Highway Jamshoro Tool Plaza going towards Karachi, made Nakabandi and waited for arrival of above troller No.SLJ-8725, when at about 1630 hours as per spy aforesaid troller arrived, signaled and stopped at the side, on which cotton bales were loaded. The drivers were caught hold and they asked passerby persons to become witness / mashir of search, who refused, hence, from the raiding party ASI Ali Muhammad and PC Kashan Ahmed, were nominated as mashirs and the driver disclosed his name as Muhammad Shafique S/o Muhammad Latif, R/o Chak No.NP 32 Post Office Sanjarpur Tehsil Sadiqabad District Rahim Yar Khan, whereas second driver disclosed his name Muhammad Mohsin Javed S/o Chaudhry Nazeer Ahmed R/o Basti

Zohrabadin near Khattak CNG Pump Khanewal and they disclosed about loading of 135 cotton bales from OK Qalandari Cotton Factory Kotri Industrial Area for delivering the same at Karachi. In presence of above witnesses, 135 Cotton bales were unloaded through above constables from the troller, placed at the side over which hard shuttering wire were wrapped, which were cut, opened and checked the same. From 58 Cotton bales, 58 packets in white colour plastic theli of Heroin were recovered. From 10 Cotton bales, 10 packets capsule type were recovered, found containing heroin. From 68 cotton bales, 68 packets of heroin, each weighing 1/1 Kilogram (grass) heroin, total 68 Kilograms (grass) heroin were recovered. 20/20 packets were sealed in two nylon katas for chemical examination, whereas 18 packets in one kata and 10 packets in one kata sealed the same and serial No.01 to 04 were written on the katas while from remaining 67 cotton bales, nothing was secured. From search of troller, insurances certificate, registration book and more documents about the troller were recovered from dashboard of troller. From the personal search of driver Muhammad Shafique, original CNIC, driving license card, cash Rs.5000/- and mobile phone were recovered. From second driver Muhammad Mohsin Javed, they secured driving license card, one mobile phone with sim and cash Rs.4500/-. Both the persons were arrested. Thereafter, they loaded four plastics katas of heroin on troller No.SLJ-8725 with keys, documents, recovered articles from accused and cotton bales with wires. The mashirnama was prepared at the spot in presence of mashirs, who signed the same. The complainant then lodged the FIR under Section 6, 9-C, 14-15 of CNS 1997, after reaching at police station on behalf of State.

3. After usual investigation, challan was submitted against the accused under the above referred sections.

4. Trial Court framed the charge against appellants Nand Lal and Mohan Lal, co-accused Muhammad Shafique and Muhammad Mohsin Javed at Ex-04. Accused pleaded not guilty and claimed to be tried.

5. At the trial, prosecution examined PW-1 Anwar Ali at Ex-10, who produced statement under Section 164 Cr.P.C and attested copy of Builty No.8924 at Ex-10/A and 10/B respectively. PW-02 Muhammad Qurban at Ex-11, who produced carbon copy of Builty No.8924 at Ex-11/A. PW-03 Shamsuddin at Ex-12, who has produced his statement under Section 164 Cr.P.C. PW-04 SIP Syed Suleman Shah at Ex-13, who produced departure and arrival entry No.8 dated 11.06.2014 and 12.06.2014 at Ex-13/A, mashirnama of arrest and recovery, FIR, letter of dispatching the property, chemical report, arrival entry No.4 and 5 dated 04.07.2014, mashirnama, TRC issued by FBR, partnership deed of Nand Lal and Mohan Lal, agreement of transfer deed hold rights in between M/s. Kotri Food Industry and M/s OK Qalandari Cotton Ginning Pressing & Oil Mills, Final notice of NBP issued to Nand Lal dated 17.04.2014, CNIC form of Mohan Lal, CNIS of Nand Lal, CNIC of Waqar Ahmed at Ex-13/B to 13/N respectively. PW-05 SIP Ali Muhammad Yousufzai Pathan at Ex-14, who has produced attested copy of entry No.50 at Ex-14/A. Thereafter, prosecution side was closed.

6. Learned trial Court recorded statements of the accused / appellants under Section 342 Cr.P.C at Exs.21 & 22 as well as statements of co-accused, who were acquitted by the trial Court. Scanned copy of one of the accused Nand Lal is reproduced as under:-

Ex.No. 21

Dt. 04-05-2019

IN THE COURT OF ADDITIONAL SESSIONS/SPECIAL JUDGE
(N), /MCTC JAMSHORO

Special Case No.12 of 2014

THE STATE VERSUS Muhammad Shafique & others.

Crime No.09 of 2014
P.S- ANF Hyderabad
u/s.9(c) of CNS Act, 1997

STATEMENT OF ACCUSED U/S 342 Cr.PC

My name is : Nand Lal
Father's Name : Chandu Mal
Caste : Hindu (Brahmin)
Religion : Hindu
Age about : 43 years
Occupation : Owner of "Haji Ginning Factory" / OK
Residence of : Qalandari Factory Site Kotri
Mithun Town, Alind Khan Thana Bata Icham.

Examination of accused

Q.No.1 You have heard the prosecution evidence, it has come in evidence that on 11-06-2014 AT 1630 hours at Super Highway Road near Jamshoro Toll Plaz co-accused Muhammad Mohsin and Muhammad Shafique were arrested by ANF Police, Hyderabad headed by SI Syed Suleman and found in possession and trafficking of 68-KGs of Heroin Powder in contravention of section 6 & 8 of CNS Act and you accused Nand Ali and co-accused Mohan Lal loaded in the troller bearing registration No.SLJ-8725 were found in transporting of such Heroin Powder in contravention of section 7 (c) of CNS Act, 1997. What have you to say?

Answer:

I am no contact with Mohsin and Shafique. He never reveal in contact with each other. I was not having knowledge of quantity of Heroin made from their possession. I have no concern with the quantity of Heroin and even no evidence was come on record as per prosecution case. Even no bus they entered in the name of OK Qalandari Factory has been reserved for the plant of quantity of Heroin. Even no bus they has been reserved by the ID of the case from spot, drivers and trolle.

Q.No.2: It has also been alleged that you accused Nand Lal and co-accused Mohan Lal possessed O.K Qalandari cotton Factory situated in Site Area, Kotri

[Handwritten initials]

generated/derived to narcotic substance in contravention of section 12 of CNS Act. What have you to say?

Answer: *N*, actually our Cotton Factory is not working since January 2014 and it is pledged by NBP including entire articles, which fact has been deliberately in IO of this case in his examination - in - chief. No evidence has been inspected against the transport from my factory including about concealment.

Q.No.3: It has also been alleged that you accused Nand Lal and co-accused Mohan Lal being owners of O.K Qalandari Cotton Factory, situated in Site Area, Kotri assisted co-accused Mohammad Mohsin Javed and Shafique for trafficking of 68-KGs of Heroin Powder in contravention of Section 14 of CNS Act and documents i.e bilty etc were also recovered from your O.K Qalandary cotton Factory. What have you to say?

Answer: *N*, I have no concern about it. No entry was received from my factory or any document as well.

Q.No.4 It has also been alleged that property was sent to the Chemical Laboratory, who certified the same to be the Heroin. What have you to say?

Answer: *N*, it is incorrect and wrong because I have no concern or relation with Shafique and Mohsin. On 11.7.2014 I obtained protection from Huda Huda Supt & Sena Huzenad vide BA no. 675/17/4. After getting home I found investigation and search over entire documents of pledged to my factory in IO except Bilty and CNIC of Nand Lal. All documents were provided by me. I gave specimen to IO and total in this I have no concern with the alleged recovery.

Q.No.5. Do you claim case property?

Answer: *N*, I don't claim the case property of this case.

[Handwritten signature]

Q.No.6 Why the witnesses have deposed against you?

Answer: *N*, the complainant and the IO of this case are witness against me as the witness of this case. I was incorporated my name in the challan. Even I am not mentioned in the IO despite of this in the next day of 11.8.2014 the complainant and the IO of this case came at the home of my partner Mohan Lal and served notice with Section 160 Cr.P.C. and Section 21 of CNS Act which proves that the case has been registered against me. In this matter I am overheard hence who deposed against us so also because witness against me as the witness of this case.

Q.No.7. Do you want to examine yourself on oath? *Recd of this IO.*

Answer: No Sir.

Q.No.8. Do you want to lead any evidence in your defence?

Answer: *NO Sir*

Handwritten initials and scribbles at the top right of the page.

Q.No.9. Have you to say anything else?

Answer: I have been asked to say anything else. I started the factory in 2013. Bhakta is being given by the owners of the factory located at the area Kot and since starting the factory for about few months I paid Bhakta the different deposits. After some time, my factory has pledged hence I refused to pay Bhakta to them which annoyed them thereafter, ANF had threatened me for dire consequences. After, my partner also received notice up to 160 to be in section 31 CNS Act at his home located at TBIC. It was served by IO upon him. IO threatened him that if I will not pay extortion money then I will be arrested by them. We also tried to settle down the issue and some money was also paid by us to them but we were not satisfied. My name has been incorporated by them in the charge sheet for the same reason we obtained protection from the Home Guard and Police. After that I found the investigation on their very long and handled over all the documents to IO. On 4-7-2014, after some time I came to know for the first time that challenge has been taken by an inquiry subsequent to that. Some documents have been shown by the IO which were handled over by me. In the ongoing investigation as well, one bogus domain certainly name of factory and registration no. of factory mentioned in the file being no. 8924. Within any file and as per procedure it was written, for the same reason. All names was given for conducting trial at our factory. Even broken locks have not been produced by the IO which proves that the print in case is false one. A large number did not influence me who had issued but they had denied the signature etc. Pu Shamon did not prove the identification. For any further information I provide the photo copy of the case file of the case in CNS Act No. 352 and order dt: 4-7-2014 issued in CR No. S-675/2014 at

Handwritten signature on the left side of the page.

Belee
Handwritten signature and date 04/5/14.

Certified

Certified that the above statement has been read by me and it contains the account of the case as made by the witness who has been seen before me and to be true and their signature etc.

Handwritten signature and date 04/5/14.

7. Trial Court after hearing the learned Counsel for the parties and assessment of the evidence convicted and sentenced the appellants as stated above while co-accused Muhammad Shafique and Muhammad Mohsin Javed were acquitted of the charges. Hence, both convicts / appellants have filed these appeals against their conviction.

8. We have heard Mr. Farooq H. Naek, learned Advocate for the appellants and Mr. Muhammad Ayoub Kassar, learned Special Prosecutor ANF and have perused the material available on the record with their assistance.

9. Mr. Farooq H. Naek, learned Advocate for the appellants made following submissions in support of his case:-

- (A) Whole prosecution case revolves around the bogus bulity.
- (B) Corbon copy of bulity No.8924 has been produced as Ex-11/A, which is in the name of OK Qalandari Cotton Factory but it has been managed.
- (C) Original bulity was neither recovered nor produced before the trial Court.
- (D) No bulity was recovered from the possession of co-accused drivers of the troller, so also from the search of troller.
- (E) Issuance of bulity by owner of Autos and not by Manager of the Transport Company shows that case is engineered one.
- (F) Photostat copy / corbon copy of bulity was produced before the trial Court without any title and it was not admissible in evidence.
- (G) Raid was conducted on OK Qalandari Cotton Factory and it was in gross violation of Section 20 of CNS Act, 1997 and Section 103 of Cr.P.C.

- (H) Identification parade of the appellants / accused was not held as required under Article 22 of the Qanun-e-Shahadat Order, 1984.
- (I) Builty produced before the trial Court was fabricated.
- (J) Chemical Examiner has not been examined to prove chemical report.
- (K) Appellants have no nexus with recovery of the heroin and only name of OK Qalandari Factory was disclosed by co-accused on the behest of ANF officials.
- (L) Appellants are owners of OK Qalandari Cotton Factory and they have been falsely implicated in this case upon the statement of co-accused persons from whom recovery of the narcotics was made. It is submitted that this piece of evidence is inadmissible in evidence as per Article 38 of the Qanun-e-Shahadat Order, 1984.
- (M) All the incriminating pieces of the evidence particularly the question regarding Builty No.8924 was not put to the appellants / accused in their statement recorded under Section 342 Cr.P.C for explanation.
- (N) Co-accused have been acquitted on same set of evidence.

In support of his contentions, learned Counsel for appellants has placed reliance upon the cases of MUHAMMAD ASGHAR v. The STATE (PLD 2008 Supreme Court 513), MURSAL KAZMI alias QAMAR SHAH and another v. The STATE (2009 SCMR 1410), ASGHAR ALI alias SABAH and others v. The STATE and others (1992 SCMR 2088), ZAKI UR REHMAN LAKHWI v. Malik MUHAMMAD AKRAM AWAN and another (PLD 2010 Lahore 270), STATE through Advocate-General Sindh v. BASHIR and others (PLD 1997 Supreme Court 408), SAJJAD ALI and 3 others v. The STATE (PLD 2005 Karachi 213), PAKISTAN ENGINEERING CONSULTANTS through Managing Partner v.

PAKISTAN INTERNATIONAL AIRLINES CORPORATION through Managing Director and another (PLD 2006 Karachi 511), Khan MUHAMMAD YUSUF KHAN KHATTAK v. S.M. AYUB and 2 others (PLD 1973 Supreme Court 160), Ch. MUNEER HUSSAIN v. Mst. WAZEERAN MAI alias Mst. WAZIR MAI (PLD 2005 Supreme Court 658), ABDUL QADIR v. The STATE (2015 P.Cr.LJ 235), SAFEER HUSSAIN QURESHI v. The STATE (1992 P.Cr.LJ 1072), TAJ WALI SHAH v. The STATE (2014 P.Cr.LJ 323) and MUHAMMAD ALI v. The STATE (2008 P.Cr.LJ 87).

10. Mr. Muhammad Ayoub Kassar, learned Special Prosecutor ANF argued that testimony of the prosecution witnesses / ANF officials could not be discarded only on the ground of their being ANF officials particularly when ANF officials were not shown to have any grudge against the appellants for their false implication in the case. It is further submitted that it was quite difficult for the prosecution witnesses to foist huge quantity of the heroin upon the appellants. Special Prosecutor further submitted that appellants are admittedly owners of OK Qalandri Cotton Factory. He further submitted that PW-2 Muhammad Qurban has produced carbon copy of Builty No.8924 in his evidence as Ex-11/A and it is sufficient to connect the appellants with the commission of the offence. As regards to the case of co-accused, who have been acquitted by the trial Court, it is submitted by the prosecutor that case of co-accused Muhammad Shafique and Muhammad Mohsin Javed was not identical to the case of the appellants. In support of his contentions, reliance is placed upon the cases of SHAZIA BIBI v. The STATE (2020 SCMR 460), MUSHTAQ AHMAD v. The STATE and another (2020 SCMR 474), TAHIR-UZ-ZAMAN v. STATE/ANF (2019 PCr.LJ 1302), MUHAMMAD

SARFRAZ v. The STATE and others (2017 SCMR 1874), The STATE/ANF v. MUHAMMAD ARSHAD (2017 SCMR 283), ZAFAR v. The STATE (2008 SCMR 1254), MUHAMMAD ISMAIL and another v. The STATE (2018 YLR Note 41) and SHEIKH RIAZUDDIN v. The STATE (SBLR 2018 Sindh 1710).

11. We have heard learned Counsel for the parties and perused the evidence minutely. In the present case, the main incriminating piece of evidence was Bilty No.8924 produced at Ex-11/A. Such incriminating piece of evidence was not put to accused / appellants for explanation. The evidence of PW-2 Muhammad Qurban is material in this case. His examination-in-chief is reproduced as under:-

“I have my autos shop at New Hala Bypass, Hyderabad, I used to keep the books of the different goods transporters, in order to put their bilties as per their directions. On 10.04.2014 I received telephonic message from Muhammad Anwar, running New Malik Goods Transport at Shahdadkot. I issued such bilty from their book to Muhammad Shafique being driver of Troller No.SLJ-8725 by receiving Rs.2200/- as commission, with directions to collect cotton bales from ‘OK Qalandari Cotton Factory’ Kotri. I see Ex-10/B, which is same, correct and bears my signature. Thereafter, I said Muhammad Shafique driven the Troller to the said cotton factory. Accused Muhammad Shafique present in Court alongwith other accused is same.

RE-CALLED AND RE-AFFIRMED
EXAMINATION IN CHIEF IS CONTINUED

The troller bearing registration No.SLJ-8725 parked outside the Court is same.

RE-EXAMINATION IN CHIEF TO SPP FOR ANF

I produce original carbon copy of the bilty No.8924, whose copy was produced by me in my examination in chief recorded on 08.05.2017 at Ex-11/A, which is same.”

12. PW Muhammad Qurban has deposed that on 10.04.2014 he received telephonic message from Muhammad Anwar. He issued bilty to Muhammad Shafique being driver of troller No.SLJ-8725 by receiving

Rs.2,200/- as commission with direction to collect cotton bales from OK Qalandari Cotton Factory Kotri and he handed over bulity papers to driver Muhammad Shafique of the troller. PW-03 Shamsuddin has deposed that on 06.06.2014 he was present as private Security Guard at Qalandari Cotton Factory. At about 9:00 / 10:00 a.m, three trucks entered into the factory in the supervision of one Dileep. On 09.06.2014 one white coloured car entered into the factory from which Waqar and present appellants alighted. They took some shoppers from the dickey of car and went to the office of the factory. After some time Dileep went out of the factory and after 2/3 hours he returned back alongwith 10/12 labour and set the factory in function. The factory was in function whole night under the supervision of Mohan Lal and Nand Lal. On 10.06.2014 said car again entered into the factory followed by one troller. The said troller was loaded by cotton bales. The drivers of the trollers were asked to take rest in the office and loading of the cotton bales continued for the whole night. This incriminating circumstance has also not been put to the appellants in their statements recorded under Section 342 Cr.P.C. In the statements of accused / appellants Nand Lal and Mohan Lal recorded under Section 342 Cr.P.C the incriminating piece of evidence regarding issuance of the bulity for collecting cotton bales from OK Qalandari Cotton Factory Kotri owned by the appellants was also not put to the appellants / accused, but learned trial Court while discussing Point No.2 has heavily relied upon this piece of evidence to connect the appellants with the commission of the offence and conviction has been based upon the aforesaid piece of evidence against the appellants. Relevant portion of the impugned judgment of the trial Court, on which reliance has been placed, is reproduced as under:-

“Admittedly, from the version of complainant and mashir it stood proved that 68-KGs of Heroin Chars was recovered on 11-06-2014 near Toll Plaza from Troller No.SLJ-8725 driven by accused Muhammad Shafique and Muhammad Mohsin. Not only this, on 04-07-2014 raid was conducted at O.K Qalandary Cotton Factory from arrest of owners namely Nand Lal and Mohan Lal but they escaped away indeed, from there, certain documents were recovered, which have been brought on record by the complainant/I.O of the case through his evidence. He testified his signatures over the documents and identified accused present in court to be same at the time of recording of his evidence. P.W Anwar Ali, the Manager in New Malak Brothers Goods Company has brought on record copy of statement under Section 164 Cr.P.C and bulity No.636, containing number of troller. He said that contacted with driver Muhammad Shafique for loading these goods on which he was agreed and he paid him Rs.2200/- and then proceeded to O.K Qalandari Cotton Factory. Not only this he also gave contact number of Waqar to driver Muhammad Shafique and asked him to contact him. **P.W Muhammad Qurban has submitted that he had issued bulity from their book to Muhammad Shafique being driver of Troller No.SLJ-8725 with direction to collect bales from O.K Qalandari Cotton Factory Kotri. The said P.W Qurban had brought on record carbon copy of said bulity bearing No.8924 vide Ex-11/A. Further, it has been brought on record by P.W Shamsuddin that on 06-06-2014 he was security guard at Qalandari Cotton Factory, where troller of accused Muhammad Shafique and Mohsin Javed was loaded with cotton. Not only this, he had disclosed the role of accused Mohan Lal and Nand Lal and of absconding accused Dileep and Waqar.”**

13. It is by now a settled principle of criminal law that each and every material piece of evidence being relied upon by the prosecution against an accused person must be put to him at the time of recording of

his statement under Section 342 Cr.P.C. so as to provide him an opportunity to explain his position in that regard and denial of such opportunity to the accused person defeats the ends of justice. It is also equally settled that a failure to comply with this mandatory requirement vitiates a trial. The case in hand is a case under Section 9(c) Control of Narcotic Substances Act, 1997 entailing a sentence of death or imprisonment for life and we have truly been shocked by the cursory and casual manner in which the learned trial Judge had handled the matter of recording of statements of the appellants under Section 342 Cr.P.C which statements are completely shorn of the necessary details which were required to put to the appellants. It goes without saying that the omission on the part of the learned trial Court mentioned above was not merely an irregularity curable under section 537 Cr.P.C. but the same was a downright illegality which had vitiated conviction and sentence of the appellants recorded by the trial Court.

14. It may be observed here that learned Advocate for the appellants and learned Special Prosecutor ANF have confirmed that these material incriminating pieces of the evidence have not been put to the appellants while examining them under Section 342 Cr.P.C. In the recent judgment, the Honourable Supreme Court of Pakistan in Criminal Appeal No.77 of 2020 (*Jan Muhammad v. the State*) decided on 04.03.2021 has held as under:-

“5. It has been observed by us with concern that none of the afore-mentioned pieces of evidence has been put to the appellant while examining him under section 342, Code of Criminal Procedure. It has been laid down many a time by this Court that a piece of evidence produced by the prosecution against an accused if not put to accused while examining him under section 342, Code of Criminal Procedure cannot be used against him. The rationale behind it is that the accused must know and then respond to the evidence brought against him by the prosecution. He

(accused) must have firsthand knowledge of all the aspects of the prosecution case being brought against him. It appears that even the learned Judge in chambers of High Court while reappraising evidence available on record did not consider this aspect of the matter. Keeping in view the peculiar circumstances of the case, learned counsel for the appellant and learned Additional Prosecutor General, Sindh assisted by widow of deceased are in agreement that the matter needs to be remanded to the learned trial Court for re-recording statement of appellant under section 342, Code of Criminal Procedure while putting all pieces of prosecution evidence produced during trial to him, giving him an opportunity to know and respond to the same.”

15. In view of the above, there is no occasion for going into the factual aspect of this case in detail. The matter of appellants needs to be remanded to the trial Court for re-recording statements of the appellants under Section 342 Cr.P.C while putting all material pieces of prosecution evidence produced during the trial to them, giving them an opportunity to know and respond to the same.

16. For the above stated reasons, the appeals are allowed. Impugned judgment dated 07.05.2019 passed by the trial Court is set aside. Resultantly, conviction and sentence of the appellants are also set aside. Appellants shall be treated as under trial prisoners. Learned trial Court shall record statements of the appellants under Section 342 Cr.P.C afresh by putting them all material pieces of prosecution evidence, enabling them to know about the incriminating pieces of evidence and reply the same. Learned Trial Court shall decide the case within a period of one month in accordance with law.

17. In the view of above, appeals are disposed of in above terms.

JUDGE

JUDGE