

PETITIONER:  
NARAYANA GOPAL KRISHNA HEGDE& OTHERS

Vs.

RESPONDENT:  
THE STATE OF KARNATAKA

DATE OF JUDGMENT: 07/08/1996

BENCH:  
G.N. RAY, K. VENKATASWAMI

ACT:

HEADNOTE:

JUDGMENT:

#### J U D G M E N T

VENKATASWAMI J.

All these appeals by special leave are preferred against the common judgment of the Karnataka High Court in criminal Appeal Nos. 791, 792 of 1988 and 129-130 of 1989 dated 20th July, 1990. Briefly stated the facts as presented by the prosecution are the following :-

P.W. 16 Praveen Chandra was the Divisional Forest officer of Sirsi Division during the relevant period. On 19.4.1988 at about 4.00 p.m. he received a phone call from an anonymous caller that at night at about 1.00 a.m. (20.4.1988) there was likelihood of a lorry transporting forest produce from Manjuguni side and the same person called P.W. 16 half an hour later and informed him that his officials would do well to be Present near Kambigar cross at about 11.00 p.m. itself.

The area referred to by the anonymour caller fell in the jurisdiction of Hulekal Range Forest office. Accordingly, P.W.16 summoned the deceased Arvind Hegde, the concerned Forest Range Officer to meet him to take instructions in connection with the above-said phone call. The deceased met P.W.16 at about 6.30 p.m. on 19.4.1988 and he was asked by P.W.16 to keep a watch at the Kambigar Cross to intercept the lorry that was expected to transport illegally cut forest fuel wood. The deceased was also instructed to take necessary staff with him for his assistance. The revolver in the custody of P.W. 16 was also handed over to the deceased. One Mahabaleshwar Joshi was the borther-in-law of the deceased and was also a Forest contractor. Few days earlier he has lent his Ambassador Car bearing No. MES 6008 with the deceased. The deceased travelled in the said car from Sirsi Hulekal Range office and took the assistance of P.Ws 2 and 3 (forest guards) and went to Hegdekatta Forest Office to take the assistance of P.W. 1 P.W. 1 was requested to secure the presence of P.Ws 4 & 5 (forest guards) for further assistance. P.W.s 2 and 3 were a armed with a gun each. The deceased further directed the forest guards to place heavy stones across the road to block free passage to the lorry. At about 3.30 a.m. on 20.4.1988, as expected, the lorry returned from kambigar

Forest loaded with illegally cut jungle wood upto the body level. The lorry had a nameboard "SHRIMAN NARAYANA' and registration No. MYE 5070. In spite of the deceased signalling the lorry to stop, it fled away avoiding the stones kept on the road. The deceased fired at it with his revolver, but the bullet could not release. P.W. 2 also fired from his gun, but it missed the target, namely, the wheel tyre of the vehicle. Thereafter the deceased and his men followed the lorry in their car and the lorry having gone near the house of one Neelkantha Hegde stopped in front of it. A-11 was driving the lorry and there were 4 persons in the lorry. All of them got down and ran to the house of Neelkantha Hegde.

Neelkantha Hegde, his sons, namely, A-1, A-3, A-4 and A-10 as well as his Uncle's sons, namely A-2, A-5, A-8 and A-9 were all in the house and they came out of the house on seeing the lorry. The deceased informed the accused who came out of the house the A-11 had driven the lorry without stopping the same in spite of signal was given to stop the same. The deceased called upon them to produce any permit if they had to cut and carry jungle wood. The accused replied in the negative. When the deceased informed them that the lorry would be seized, all the accused protested that they would not allow him to seize the lorry, but wanted to unload the wood. In spite of the deceased repeatedly informing them about the various forest offences committed and about the information they had already got and instructions given by P.W. 16, the accused did not allow the deceased to discharge his official duty. Realising the situation, the deceased asked P.W. 5 to inform P.W. 16 on phone about the happenings there. The deceased also asked P.W. 4 to go Sirsi and bring P.W. 16 to the spot. Sensing the gravity of the situation, A-4, A-6 and A-7 told the other accused that before the arrival of P.W. 16, the lorry must be removed from that place for the purpose of unloading the fuel elsewhere. The deceased was also equally determined to carry out his job. The deceased and P.W. 1 stood in front of the lorry on its left side and P.W. 2 stood on the right side. While so, A-1 occupied the driver's seat, A-8 and A-10 sat by his side in the cabin. When A-1 started the engine, A-4, A-6 and A-7 dragged the forest guards aside and tore their uniform. A-2 and A-6 snatched the gun from P.W. 2. A-7 snatched the gun held by P.W. 6. When the accused attempted to drive the lorry, the deceased who was standing in front of it climbed over the crashguard in front of the vehicle. A-2, A-3, A-5 and A-9 climbed into the body of the vehicle. A-1 started the vehicle while the deceased was standing on the crashguard. The guard and the foresters followed the lorry running and at that time A-11 (who drove the lorry in the first instance) emerged from his hiding and shouted that as they were always facing obstructions from the forest guards they should be killed. The lorry thus went to a distance of about 11/2 further longs on that forest road then came to a halt near yantalli Cross. When the lorry was at that Cross, the forest guards heard the voice of the deceased that he was being killed. A-1, A-8 and A-10 got down from the cabin of the vehicle and A-8 started assaulting the deceased with a jungle wood. All the accused had surrounded the deceased and when the Guards reached the spot, they left the place saying that everything was over. The shirt that the deceased was wearing, one of the shoes, his revolver with belt, his waist belt were all lying near him and he was lying with blood injuries and was found dead. That was about 5.10 a.m. when P.W. 16 along with the Sub Inspector of Police, Sirsi and some police personnel arrived at the spot, the deceased

was shifted in a car to the Government hospital at Sirsi along with P.Ws. 2, 3 and 6. P.W.1 gave written complaint at the Sirsi Police Station at 9.30 a. m. A case was registered as crime No. 37188. The Circle Inspector (P.W. 30) on receiving information about the murder of the deceased and his body being kept at the mortuary of the Government hospital went there and seeing that some violence was likely to take place, made arrangements for maintaining peace. Thereafter he held inquest over the dead body, examined witnesses and arrested Accused Nos. 1 to 6. P.W. 30 seized MO-2 a blood-stained firewood pellet stated to have been used in assaulting the deceased, the leather belt of the deceased, one shoe, a cap, the revolver of the deceased, a misfired bullet, bloodstained earth, and 2 live cartridges. On the left side mudguard of the lorry, some bloodstains were seen and its scrapings were collected. The lorry was seized under a mahazer. The Ambassador car was found parked about 300 yards away from the spot where the deceased was murdered. The switch key was in the dashboard. The two guns that were carried by the two guards were also found on the back side of the vehicle. Two used cartridges and one unused cartridge was also lying there. After examining some more witnesses, P.W. 30 handed over investigation to the Core of Detectives (C.O.D.). P.W. 31 who took over further investigation from P.W. 30, sent the blood-stained articles for chemical analysis, sent the fire-arms, cartridges etc. To the ballistic experts in the State Scientific Laboratory and on completion of the investigation, filed the charge-sheet.

All the accused stood charged for the offences punishable under section 143, 147, 353 read with 149, 352 read with 149, 506 read with 149, 302 read with 149 & 114 of I.P.C. and section 62(2) read with Section 104 of The Karnataka Forest Act.

The substantial defence taken by the accused was that they were falsely implicated at the instance of P.W.15. the brother -in-law of the deceased who was also a rival forest contractor like the accused and the deceased might have died on account of hit by lorry or tuck accidentally. They also drew the attention of the trial court to the discrepancies in oral evidence of P.Ws 1, 2, 3 and 6 as to who was alleged to have caused the blow by jungle wood and also the discrepancy regarding the cause of death as spoken to in oral evidence and as recorded in p-53, 56 and 57. They also relied on the fact of considerable delay in lodging the F.I.R. which according to them, gave room to fabricate the F.I.R.

The learned Session Judge on the evidence adduced before him, both oral and documentary, found A-11 guilty of the forest offence under section 62(2) read with section 104 of the Karnataka Forest Act and sentenced him to suffer R.I. for 6 months and to pay a fine of Rs. 1000/ in default to undergo 2 months R.I. A-1 to A-10 were found guilty of rioting under Section 147 I.P.C. and were sentenced to simple imprisonment for 6 months each. A-1 to A-10 were also found guilty under section 353 read with section 149 I.P.C. and were sentenced to R.I. for one year and to pay a fine of rupees one thousand each, in default to undergo R.I. for 3 months. In addition, A-1 to A-10 were also found guilty under section 332 read with section 149 I.P.C. and they were sentenced to R.I. for one year and to pay a fine of Rs. 1000/ each, in default to undergo R.I. for 3 months. In addition, A1, A2, A3, A5, A8, A9 and A10 were found guilty under Section 302 read with section 149 I.P.C. and for that they were sentenced to undergo imprisonment for life.

substantial sentences of imprisonment were directed to run concurrently.

The accused aggrieved by the conviction and sentence preferred tow appeals to the High Court. The State Government also filed appeals against acquittal of some accused under section 302 read with section 149 and also another appeals for enhancement of sentence. The learned counsel appearing for the accused reiterated the same arguments in the High Court that were advanced before the learned Sessions Judge. The learned judges of the high court on consideration of the arguments and after perusing the judgment of the learned Sessions judge and all connected records partly allowed the appeals filed by the accused persons by setting aside their conviction and sentence passed for the offence under section 332 read with section 149 and consequently acquitted them of the said charge. The learned Judges also set aside the sentence passed against A2, A3, A5 and A9 under section 302 read with section 149 IPC and acquitted them of the said charge. so for as A1, A8 and A10 are concerned, their conviction under section 302 I.P.C. read with section 149 was however confirmed as conviction under section 302 IPC red with section 34 IPC. here sentence to suffer imprisonment for life was also confirmed. Apart from this, the other convictions and sentence imposed under section 353 read with section 149 and 147 were also confirmed. So far as the appeal filed by the State are concerned, the High Court declined to interfere with the conviction and sentence imposed. by the sessions judgement on certain accused and consequently, dismissed the appeal.

It is under these circumstances the accused have filed these appeal by special leave against their conviction and sentence and the State has Also preferred appals for conviction of the acquitted accused and also for the enhancement of sentence.

Mr. N. Natarajan, learned senior counsel elaborately argue the matter before us and took us through the judgment of the High Court and also through the relevant documents and depositions. We do not propose to deal with all the points raised and argued before us. We are inclined to confine to the points that are crucial and are directly relevant to the facts of this case.

On an overall perusal and appreciation of the facts, we are satisfied that the accused were responsible for committing the forest offence and in order to escape punishment for that offence, they had driven away the lorry loaded with billets of illegally cut forest fuel trees by using criminal force and assaulting the concerned forest officials from discharging their duties. Therefore, we are not interfering with the conviction and sentence imposed on the accused for those offences for which they were charged.

So for as the conviction and sentence of A, A8 and A10 for the offence under section 302 read with section 34 IPC is concerned the act attributed to them was that these accused were in the cabin of the lorry, A1 being at the driver's seat and drove away the lorry even though the deceased prevented them from taking away the lorry by clinging on to the crash board. The evidence of the prosecution, namely, PWs 1, 2 and 3 on this aspect was hat they also tried to prevent the lorry from moving from the premises of NeelKantha Hegde. However, they were overpowered by the accused by snatching away the guns from them and by pushing them out from the way of the lorry. Thereafter, according to them, they chased the lorry about furlong on two when they said to have heard the voice of the deceased

crying that he was being killed. When they actually reached the place, the deceased was found dead and the lorry was taken away from that place. We have seen from the evidence as spoken to by the prosecution witnesses that PW1 was having a torch and they were 100 ft away from the lorry and they were able to see the attack by the accused (A1, A8 and A10) on the deceased.

Here the contention of the learned counsel for the accused was that there is a vital discrepancy in the evidence of PWS 2 and 3 on one hand and PW6 on the other. It is the definite case of PWS 2 and 3 that it was A8 who got down from the cabin of the lorry and attacked the deceased with the forest wood which resulted in the death of the deceased. On the other hand, P.W. 6 gave evidence showing it was A1 who got down from the cabin with forest log and attacked the deceased which caused the death. The other accused, according to P.W. 6 were engaged in pulling the uniform, revolver etc. from the body of the deceased. Though this discrepancy was noticed by the High Court, according to the learned senior counsel, that was not given due importance while appreciating the defence case and convicting the accused for the offence under section 302. He also submitted that the log which was supposed to have been used to attack the deceased was supposed to have been used to attack the deceased was market was MO-2. The measurement of that log as given in the panchanama and as spoken to by PW. 23 who has subscribed as a witness to the panchanama was 42" in length and 8" in diameter. According to the learned counsel a single man cannot lift such a big log and with that attack was alleged by the prosecution witnesses. It is the further submission of the learned senior counsel that the High Court has totally misunderstood the arguments advanced before it regarding the cause for the death, namely, the deceased might have been hit by a lorry or a truck. The High Court presumed that the deceased was run over by a lorry. That was nobody's case. According to the learned senior counsel, the lorry while trying to turn from the Tar road to Katcha road there was a small culvert and the ground was covered by pebbles and there was just sufficient gap for the lorry along to go in that katcha road while crossing the culvert and the deceased forest officer who was clinging on the crash board of the lorry might have fallen from the lorry on the pebbles on a rough surface which might have caused the death and not as spoken to by the P.Ws. He also suggested that P.Ws 1, 2, 3 and 6 could not have seen from a distance of 100 ft. At 3-4.00 A.M. in the forest area the exact cause for the death of the deceased. The fact that there was a culvert and 8 "Aswathakattas" was spoken to by PW 23. He also submitted that even before the F.I.R. was registered the cause for the death of the deceased as given by P.Ws 2 and 3 to the medical officer as recorded in Ex. P.53, P.56 and P.57 supports the case of the defence that the cause for the death of the deceased was by accident and not as spoken to by P.Ws. It is the contention of Mr. Natarajan, learned Senior counsel for the accused that the High Court was not justified in rejecting the evidence of P.W 25 the medical officer and also the statements recorded by him in Ex. P.53, P.56 and P.57. Mr. Natarajan also contended that the High Court was not at all justified in convicting the accused for offence under section 302 read with section 34 IPC while the conviction by the learned Sessions Judge was for offence under section 302 read with section 34 IPC while the conviction by the learned Sessions Judge was for offence under section 302 read with section 149. According to the learned counsel, there could not have been a common

intention arrived at in the cabin by A1, A8 and A10 while driving away the lorry and they wanted to avoid punishment for forest offence committed by them and they never intended to kill the forest officer in this connection. Lastly, he submitted that the High Court knowing the weakness in the prosecuting case has confirmed the conviction and sentence on the basis of possibilities and inferences which cannot be sustained.

The learned counsel appearing for the State supported the judgment by referring to the findings given by the High Court and he also submitted that those findings are based on appreciation of facts and they do not call for any interference. Apart from that he also submitted that the High Court was not justified in dismissing the state appeals for conviction of the accused who were acquitted by the Sessions Judge for the offence under section 302 I.P.C and also for the offence under section 302 I.P.C and also for enhancing the sentence.

We have carefully considered the submissions advanced on both sides and also perused the judgments of the trial court and that of the High Court. We are of the view that the conviction and sentence awarded by the High Court under section 302 read with Section 34 IPC requires further consideration at our hands in the light of the well-settled principle that 'every accused is entitled to the benefit of any reasonable doubt arising out of the facts and circumstances of the case'. This Court has repeatedly pointed out that the principle of extending the benefit of reasonable doubt to the accused cannot be readily accepted, but should be carefully applied if certain circumstances exist and warrant the application of the principle. It is sufficient to refer to the judgment of this Court in *K. Gopal Reddy v. State of Andhra Pradesh* 1979 (1) SCC 355. This Court in the said judgement observed as follows:

"If two reasonably probable and evenly balanced views of the evidence are possible, one must necessarily concede the existence of a reasonable doubt. But, fanciful and remote possibilities must be left out of account. To entitle an accused person to the benefit of doubt arising from the possibility of a duality of views, the possible view in favour of the accused must be as nearly reasonably preponderance of probability as all one way, a bare possibility of another view will not entitle the accused to claim the benefit of any view of the evidence in favour of the accused must be reasonable even as any doubt, the benefit of which an accused person may claim, must be reasonable."

The Court further observed:

"A reasonable doubt", it has been remarked, "does not mean some light, airy, insubstantial doubt that may flit through the minds of any of us about almost anything at some time or other. It does not mean a doubt begotten by sympathy out of reluctance to convict: it

means a real doubt, begotten by sympathy out of reluctance to convict: it means a real doubt, a doubt founded upon reason, As observed by lord Denning in Miller V. Ministry of Pensions (1947) 2 all ER 372) "Proof beyond a reasonable doubt does not mean proof beyond a shadow of a doubt does not mean proof beyond a shadow of a doubt. The law would fail to project the community if it admitted fanciful possibilities to defect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour, which can be dismissed with the sentence 'of course it is possible but not in the least probable' the case is proved beyond reasonable doubt, but Karan vs. State of U.P. (AIR 1974 SC 1567 ), this court observed (at p.1569):

"Neither mere possibilities nor remote possibilities nor mere doubts which are not reasonable can, without danger to the administration of justice, be the foundation of the acquittal of an accused person, if there is otherwise fairly credible testimony.

Bearing the above well-settled principle in mind, we will not examine the case put forward by the learned counsel for the accused-appellants. It is the contention of Mr. N. Natarajan, learned senior counsel appearing for the accused that the deceased might have died not by manhandling by the accused (A1, A8 and A10) as spoken to by the prosecution witness, put on account of a fall from the crash board from which the was clinging on when the lorry diverting from the Tar road and entering into the katcha road. It is the further argument of the learned counsel that this was not properly appreciated by the High Court and the High Court wrongly proceeded as if the argument was that the deceased was run over by the lorry. In this connection, it is relevant to extract a portion of the evidence of P.W. 23 who has subscribed as a witness to the Panchnama.

He deposed as follows:

"When we went to that place along with PWs. 1 and 6, some forest official and police officials were present. No forest guards were present at the time. The distance from Nilkantha Hedge's house to Yentalli cross is about two furlongs and not four furlongs as suggested. There are "ASWATHAKATTAS" Four numbers on the eastern side and four numbers on the western side towards the southern side of Hegdekatta Sirsi Road. There was a small "Kornakalu" in the middle of Yentalli cross road running about 17 1/2 feet. The

eastern and western sides of Yentalli cross road touches the stone steps of two "ASWATHAKATTAS". The witness volunteered that the distance of 14 feet. The tyre marks were visible after about 30 to 40 feet from the starting of Yentalli cross as there was grass. The places spread all over the place. It is not correct to suggest that there was no marked kutchra road and it is only a open ground."

This evidence is supported by Panchanama which reads as follows :-

"At the time of drawing Panchanama, the eye witnesses recognised all the article, said aforesaid articles were seized by the C.P.I. From the above said crime.

This place is abutting to Hegdekatta Sirsi Tar road, katcha road heading to Rudramule. It is at distance of 2 furlongs east of the house of the Neelkanta Hegde. This place is government forest, and having survey No.423 of shivalli village. Since there are totally 8 Ashwathakatta in this place. It is called Yentalli Katta. Kachcha road is in between Ashwath katta and telephone pole No. A-II/19. Distance between the place where blood is found telephone pole is 10'-5' and it is in east direction, Kachcha road further heading to south in direction and on the road the fresh clear make of the tyre of the lorry is found."

This is one aspect of the matter. The other aspect pointed out by the learned counsel for the accused-appellants was with regard to the nature of external injuries which could have been caused, according to him, Only by the fall of the victim from the lorry on a rough surface and not by receiving blow with piece of jungle wood. The external injuries caused were the following:

- (1) Two lacerated wound over the occipital region measuring 2" x 1/2 bone deep
- (2) Contusion over the right cheek 8" x 6".
- (3) Contusion of the right upper eye lid was present. Bleeding from both nostrils and left ear was present.
- (4) Multiple constructions and abrasion over the chest wall, anterior abdominal wall and back were present.
- (5) Abrasion over the anterior aspect of the left thigh 12" x 12" and another abrasion over the upper part of the right thigh measuring 3"x 3".
- (6) Abrasion over the right gluteal

region and upper posterior aspect of the right thigh 12" x 10".

On dissection of the body, the internal injuries found were the following:-

(1) Haematoma in the occipital region 6" x 6" was present.

(2) Fracture base of the skull extending through posterior and middle cranial fossa on both sides. Fracture of orbital roof on the right side. Fracture at the temporo occipital junction on the left side and temporo frontal region on the right side.

(3) Laceration of right cerebellum.

(4) On examination of the thorax there was fracture of the 3rd of 5th rib in the anterior axillary line on the right side. Fracture of 4th to 8th ribs at their junction with vertebrae on the left side. Pleura was torn on both side. About 500 CC. of blood was present in the pleural cavity.

(6) Laceration of both the lobes of the liver was present. Perinephric haematoma was present 6 on both the sides of kidney.

According to P.W. 25, the Medical Officer, the deceased died due to shock and haemorrhage on account of injuries of the vital organs.

To a suggestion put by the learned counsel for the accused to the effect that all those injuries could have been caused as a result of a fall from the medical officer, did not rule out that possibility. Having regard to the external injuries as extracted above, the contention of the learned counsel for the accused-appellants that those injuries could have been caused by the body coming into contact with some rough surface on account of the rolling of the body by a fall from the lorry cannot be brushed aside. It is also noteworthy that the accused in order to take away the lorry to distant place to dispose of the illegally cut jungle wood diverted the same from Tar road to Katcha road and the width of the Katcha road was just enough to allow the lorry to enter in the Katcha road, where there were "Ashwathakattas" which means that people tree surrounded by some small brick/stone structure further narrowing the width of the road. It is also seen from the Panchanama that on one side those "Ashwathakattas" were there and on the opposite side there was a electric pole. All these things would strengthen the argument of the learned counsel for the accused that the deceased could have fallen from the lorry while the lorry turned from Tar road to Katcha road and thereby sustained all the injuries.

Now coming to the contention of the learned counsel for the accused-appellants that there was abnormal delay in registering the F.I.R. We are of the view that by itself it may not assume importance, but in the light of other circumstances this delay may not be easily ignored. The High Court itself found with the Station House Officer for not registering the F.I.R. immediately when he was at the scene of incident. The delay in registering the F.I.R. assumed importance in view of the fact that in the Accident Register, the cause of death was recorded as accident due to hit by a truck. This statement was recorded not only in one

register, but in three registers, namely, Exs. P53, P56 and P57. This was the earliest information given by P.Ws. 2 and 3. However, when they gave oral evidence, they have spoken differently regarding the cause of death, namely, manhandling of the deceased by A1, A8, and A10. According to the defence counsel, the original version was changed to suit the convenience of prosecution by registering the F.I.R. belatedly. The High Court, however, brushed aside Ex. P53, P56 and P57 by observing that they cannot be looked into as substantive evidence even though they are marked on the prosecution side and they are public documents and presumed to be genuine and duly recorded.

Yet another discrepancy pointed out by the learned counsel for the accused was that the definite case of P.Ws. 1, 2 and 3 was that it was A8 who got down from the cabin of the lorry and hit the deceased by M02 and others jointed in tearing the uniform of the deceased by removing the revolver etc. On the other hand, P.W. 6 has spoken that it was A-1 who got down from the cabin with M.O.2 and gave the blow to the deceased and others jointed A1. This discrepancy was noticed by the High Court. It is again the contention of the learned counsel for the accused-appellants that in the forest area at about 3-4 A.M., P.Ws 1, 2, 3, and 6 have followed the lorry by running behind it and alleged to have seen the accused beating the deceased from a distance of 100 ft with the help of a torch light. This according to the learned counsel, is not possible particularly when the place of occurrence was forest surrounded by trees.

Lastly, it was contended that having regard to the size of M02 said to have been used by the accused to attack the deceased, the prosecution case must fail. We have noticed that the size of M02 as noted in the Panchanama was 41" in length and 8" in diameter. In the normal course, it is not possible for a person to handle that heavy material for attacking anyone. If we take into account all these factors, we entertain that there exists a reasonable doubt and the benefit of which must go to the accused. We do not think that there exists a reasonable doubt and the benefit of which must go to the accused. We do not think that the doubts created are either fancy or remote possibilities. On the facts of this case, we are satisfied that evenly balanced two views are possible and, therefore, we are inclined to give the benefit of reasonable doubt to the accused and hold that the charge against A1, A8 and A10 under section 302 has not been proved beyond reasonable doubt.

Before concluding we would like to share the appreciation expressed by the High Court in the following words:

"In that process, the efforts of the deceased Range forest Officer Hegdekatta should deserve appreciation not only in hands of his colleagues or official superiors but also of the Court. Even when the lorry started from the precincts of the house of the accused, disregarding his own safety to person and life the deceased clung to the crashguard in order to prevent the lorry proceeding further."

As regards conviction of other charges, we do not think there is any case for interference.

In the result, the conviction and sentence of A1, A8 and A10 under section 302 read with section 34 IPC is set

aside and the conviction and sentence in respect of other offences is confirmed. In view of the above findings, the appeals preferred by the State are dismissed.

JUDIS