THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Jail Appeal No.D-06 of 2021
Crl.Confirmation case No D-09 of 2021

Present:
Mr. Justice Amjad Ali Sahito.
Mr. Justice Khadim Hussain Soomro

Appellant	:	Iqbal son of Khair Muhammad Chandio Through Mr. Altaf Hussain Surahio, Advocate
Complainant	:	Ali Asghar s/o Ali Ahmed @ Haji Eman Chandio Through Mr.Habibullah Ghouri, Advocate
The State:		Through Mr.Ali Anwar Kandhro, Addl. Prosecutor General
Date of hearing	:	11.07.2023
Date of decision	:	11.07.2023

JUDGMENT

KHADIM HUSSAIN SOOMRO, J;- The listed criminal jail appeal filed by above named appellant calls in question the impugned judgment dated 15.02.2021, rendered by learned 1st Additional Sessions Judge/MCTC, Qambar, in Sessions Case No.506/2009 (Re. State Vs. Iqbal Chandio), emanating from FIR bearing Crime No.317/2009, for offences under Sections 302, 114, 148, 149, 337-H(2) PPC registered with P.S, Qambar, whereby he was convicted for an offence punishable under Section 302(b) PPC and sentenced him to death as *Tazir* to be hanged by neck till he is dead, with compensation of Rs.500,000/- to be paid to the L.Rs of deceased and in default whereof to undergo simple imprisonment for six months and compensation amount to be recovered from him as per law. Further, R.I for two years for offence punishable under Section 148 PPC and fine of Rs.20000/- for offence punishable under Section 337-H(ii) PPC r/ w Section 149 PPC and in default thereof to undergo simple imprisonment for five months.

Besides this, a criminal reference for confirmation of death sentence to the appellant was also moved by learned trial Court.

2. The concise facts of the prosecution case as depicted in the FIR lodged on 10.10.2009, at about 2000 hours, by complainant Ali Asghar Chandio with P.S, Qambar are to the effect that there was a dispute between his father Ali Ahmed alias Haji Eman and uncle Iqbal Chandio over the property relating to the landed and shops etc; whereupon his uncle Iqbal Chandio was annoyed and he used to say that he will kill his cousin Ali Ahmed alias Haji Eman. On the eventful day, at evening, he alongwith his father Ali Ahmed alias Haji Eman aged about 50/51 years, brother Saddam and maternal uncle Qurban Ali Chandio were sitting in their house, there was a call outside of their house that their guests have come at guest-house/otaq, whereupon they all four were coming towards the otaq for meeting the guests, in the meantime, at about 06.00 p.m, they reached in the street of their house, they saw and identified every one namely Iqbal Chandio (present appellant) armed with repeater, 2). Abdul Rasheed Chandio with repeater, 3). Naeem Ahmed Chandio with gun, 4). Dildar Chandio with Kalashnikov, 5). Sultan Chandio with rifle and one unknown culprit with gun. On seeing them, accused Dildar Chandio instigated rest of the accused to take Ali Ahmed alias Haji Eman and kill him. Within their sight, accused Iqbal, Abdul Rasheed, Naeem, Sultan, Dildar and one unknown culprit fired from their weapons at Ali Ahmed alias Haji Eman with intention to commit his murder, which hit him and he fell down. Owing to fear of weapons they remained mum and then all the accused seeing his father falling on the ground, went away towards their houses alongwith their respective weapons besides making aerial firing. The complainant then found his father having sustained fire arm injuries on different parts of his body, he while writhing succumbed to injures within their sight. Leaving the above witnesses over his dead body, the complainant came at police station and reported the incident with police.

3. The investigating officer on completion of usual investigation submitted final report under Section 173 Cr.PC before the Court of

learned Judicial Magistrate from where after completion of codal formalities, the case was sent up to the Court of learned Sessions Judge, Qamber, from where it was made over to learned trial Court, where the case proceeded against co-accused Sultan ended in conviction while the case against present appellant and others was kept on dormant file. Subsequently, the present appellant joined the trial and the formal charge was framed against him, to which he pleaded not guilty and claimed trial.

4. To prove the case, the prosecution examined PW-01, SIP/Author of FIR namely Munawar Ali, PW-02 complainant Ali Asghar, PW-03 eye-witness Saddam Hussain, PW-04 eye-witness Qurban Ali, PW-05 Mashir Abdullah Chandio, PW-06 Tapedar Majid Ali, PW-07 Investigation officer/SIP Fida Hussain Langah and PW-08 Dr. Rizwan Ahmed. They all produced certain relevant documents in support of their statements. Thereafter, learned State Counsel closed the side of prosecution.

5. The present appellant in his statement recorded in terms of Section 342 Cr.PC, denied the allegations' leveled against him by pleading his innocence, stating therein that he was named in FIR due to old enmity. He, however, did not examine himself on oath in disproof of the charge, nor led any evidence in his defence.

6. On assessment of the evidence so brought on record by prosecution and hearing counsel for the parties, the learned trial Court convicted and sentenced the present appellant, as discussed above.

7. Per learned defence counsel, the impugned judgment is against the law and facts of the case; that the present appellant is innocent and has been falsely implicated in this case due to old enmity; there is inconsistency in the evidence of prosecution witnesses and that the medical evidence is in conflict with the ocular account; that on the same set of evidence, the learned trial Court awarded imprisonment for life to co-accused Sultan through judgment dated 22-06-2019. Being aggrieved he preferred an appeal before this court, the same was dismissed and his conviction and sentence awarded to him was

maintained. whereas the appellant has been convicted and sentenced to death. lastly the learned counsel for the appellant prayed that he would be satisfied by not pressing this appeal on its merits, while maintaining the conviction 302(b) PPC and his sentence may be converted from death to the imprisonment for life.

8. Conversely, learned counsel for the complainant and learned Addl.P.G for the State while supporting the impugned judgment contended that there was no *malafide* on the part of complainant to have implicated the present appellant in this case falsely; that the appellant is named in the FIR with specific role of firing at the deceased which has proved fatal; that the ocular testimony furnished by the complainant and his eye-witnesses is corroborated by the medical evidence coupled with circumstantial account; that learned trial Court has rightly appreciated the evidence while recording conviction and sentence to the appellant in accordance with law, therefore, he deserves no leniency and they lastly prayed for dismissal of the instant criminal jail appeal but with no objection to the extent of converting his sentence from death to imprisonment for life.

9. We have given due consideration to the contentions of learned counsel for the parties and have minutely perused the material made available on the record with their able assistance.

10. The meticulous re-appraisal of the evidence so produced by the prosecution is entailing that Complainant Ali Asghar and PWs Saddam Hussain and Qurban Ali examined at trial, in their evidence testified that this incident took place on 10.10.2009, in evening hours, they accompanied with Ali Ahmed alias Haji Eman (complainant's father), were present in their house situated at village Kamal Khan Chandio, Taluka Qamber. At that time, they heard a call from outside of the house that some guests have come in his guest house located near his house, hence they came out of the house and proceeded towards the guest house in order to meet them. Meanwhile, in the street on way towards the guest house/Otaq at about 06.00 p.m, they saw six armed persons standing in the street. Out of them, they identified five as

Dildar armed with K.K, Iqbal with repeater, Abdul Rasheed with repeater, Naeem Ahmed with gun, Sultan with rifle and sixth as unknown who was armed with gun. As soon as they came nearer to them, accused Dildar Chandio instigated rest of the accused to commit murder of his father Ali Ahmed alias Haji Eman Chandio, hence all of the rest accused including present accused Iqbal Chandio made fires with their respective weapons straightly at his father Ali Ahmed alias Haji Eman Chandio, which hit him and he having raised cries fell down on the ground. They were bare-handed hence kept quite. Thereafter, all accused making aerial firing and raising slogans escaped away towards their houses. After their escape, they inspected the dead body of Ahmed Ali alias Haji Eman and found it sustaining injuries on different parts of his body with bleeding, who died in their presence at the spot. Leaving Qurban and Saddam Hussain at the dead body of deceased, the complainant went to P.S Qamber and reported the incident with police. Further, the complainant added that on the same date, at about 10.30 p.m, I.O came at place of incident alongwith his police officials, duly armed in a police mobile and he inspected dead body of his father and injuries sustained by him at his pointation in presence of mashirs Abdullah Chandio and Najamuddin and thereafter he also inspected place of incident wherefrom he collected blood stained earth and empties (15 cartridges of 12 bore, 20 empties of K.K, and 5 empties of 07mm rifle) and sealed the same separately. He also prepared Danistnama and mashirmamas. He testified that his father's body was transferred to Government Hospital at Qamber, where its post-mortem was performed before his remains was given to him. They were extensively cross-examined by learned defence counsel but was unable to locate any evidence to support the appellant.

11. The ocular account furnished by all these three eye-witnesses is further corroborated by the medical evidence of Dr. Rizwan Ahmed Magsi who in his evidence deposed that he conducted postmortem of deceased Ali Ahmed alias Haji Eman Chandio and found the following injuries on his person;

1. A Lacerated punctured wound 02 cm x 0.4 cm on left Axilla.
2. A lacerated punctured wound 01 cm x 01 cm entry wound on left arm.
3. Lacerated punctured wound 0.5 cm x 0.5 cm x exit wound on left arm.
4. Lacerated punctured Wound 01 cm x 0.5 cm entry wound on left forearm.
5. Exit wound lacerated punctured wound 0.5 cm x 0.5 cm on left forearm.
6. Lacerated punctured wound 01 cm x 01 cm x left lumber region.
7. Lacerated punctured wound 01 cm x 01 cm x left lumber region.
8. Lacerated punctured wound 01 cm x 01 cm on top of left hip.

From the external as well as internal examination on dead body of the deceased, the medical officer opined that the death of deceased occurred due to hemorrhage and shock as result of injuries, which were anti-mortem in nature and that time between injury and death was instantaneously and between death and postmortem was about 04 hours. It is observed that medical evidence is in the nature of *supporting, confirmatory or explanatory* of direct or circumstantial evidence, and is not *"corroborative evidence"* in sense the term is used in legal parlance for a piece of evidence that itself also has some probative force to connect the accused with commission of the offence. Medical evidence itself does not throw any light over the identity of offender. Such evidence may confirm the available substantive evidence concerning certain facts including the seat of injury, nature of injury, cause of death, kind of weapon used in the occurrence, duration between injuries but it does not connect the accused with commission of offence. It cannot constitute corroboration for proving involvement of accused in commission of the offence, as it does not establish identity of the accused. Reliance to this is placed on cases of ***Yaqoob Shah v. State (PLD 1976 SC 53); Machia v. State (PLD 1976 SC 695); Muhammad Iqbal v. Abid Hussain (1994 SCMR 1928); Mehmood Ahmad v. State (1995 SCMR 127); Muhammad***

Sharif v. State (1997 SCMR 866); Dildar Hussain v. Muhammad Afzaal (PLD 2004 SC 663); Iftikhar Hussain v. State (2004 SCMR 1185); Sikandar v. State (2006 SCMR 1786); Ghulam Murtaza v. Muhammad Akram (2007 SCMR 1549); Altaf Hussain v. Fakhar Hussain (2008 SCMR 1103) and Hashim Qasim v. State (2017 SCMR 986). In the case in hand, from the medical evidence produced by the prosecution it established that the death was caused due to discharge from firearm weapon which is fully supportive to the ocular account furnished by the prosecution. Here, the contention of learned defence counsel that there is conflict in between ocular and medical accounts, as the present appellant with others was alleged to have fired separately at the deceased but it has not been established beyond doubt as to whose fire-shot proved fatal, in that situation, the contention with regard to acquittal of the appellant carries no force, as all the witnesses have unanimously deposed that the appellant has actively/conjointly participated in commission of the offence by firing at the deceased which is further supported by medical account coupled with recovery of empties from the venue of occurrence with positive report of Chemical Examiner. In case of ***Muhammad Riaz and another V. The State and another (2007 SCMR 1413),*** the Hon'ble Supreme Court has held as under:-

> *6. A glance at the particulars of injuries would clearly show that these injuries were caused from some distance. In the ordinary course of events, it would thus, be difficult to ascertain as to which of the injuries was caused by which of the appellants. Even one of the injuries could have been caused by the fire attributed to co-accused Abdul Khaliq who stands acquitted at the trial and is, no longer available before this Court in the present appeal and petition for leave to appeal. The Medical Officer has pointed out that both injuries were sufficient to cause death in the ordinary course of nature, It would thus, mean that both the injuries were individually and collectively sufficient in the ordinary course' of nature to cause the death of the deceased. During the course of cross-examination, Medico-Legal Expert did not deny the possibility that both the injuries on the person of the deceased could be the result of a single fire.* ***Since***

> ***it is very difficult and not easily ascertainable as to which of the accused out of three assailants was responsible for causing these injuries, discretion in the matter of sentence exercised by the trial Court in our considered view does not suffer from perversity or any arbitrariness.***

12. In this case, three eye-witnesses have fully supported the case as has been discussed above. However, the sole evidence of a material witness i.e an eyewitness is always sufficient to establish guilt of the accused if the same is confidence-inspiring and trustworthy and supported by other independent source of evidence because the law considers quality of evidence and not its quantity to prove the charge. The accused can be convicted if the Court finds direct oral evidence of ***one eye-witness*** to be reliable, trustworthy and confidence-inspiring. In this respect, reliance is placed on cases of ***Muhammad Ehsan v. The State (2006 SCMR 1857)*** and ***Niaz-Ud-Din v. The State (2011 SCMR 725)***. Further, the Honourable Supreme Court of Pakistan in a case of ***Allah Bakhsh v. Shammi and others (PLD 1980 SC 225)*** also held that "*even in murder case conviction can be based on the testimony of a single witness, if the Court is satisfied that he is reliable*." There can be no denial to the legally established principle of law that it is always the *direct* evidence which is material to decide a *fact (charge)*. The *failure* of direct evidence is always sufficient to hold a criminal charge as *'not proved'* but where *direct evidence* holds the field and stands with the test of it being natural and confidence-inspiring then the requirement of independent corroboration is only a rule of abundant caution and not a mandatory rule to be applied invariably in each case. Reliance here can *safely* be placed upon a case of ***Muhammad Ehsan vs. the State (2006 SCMR 1857),*** wherein the Honourable Supreme Court of Pakistan has held that;-

> *"5. It be noted that this Court has time and again held that the rule of corroboration is rule of abundant caution and* ***not a mandatory rule to be applied invariably in each case*** *rather this is settled principle that if the Court is satisfied about the truthfulness of direct evidence, the requirement of*

corroborative evidence would not be of much significance in that, as it may as in the present case eye-witness account which is unimpeachable and confidence-inspiring character and is corroborated by medical evidence".

13. The ocular evidence being supportive with medical evidence is further corroborated by the circumstantial account in shape of evidence of duty officer SIP Fida Hussain Langah, who in his evidence deposed that on receipt of case papers from ASI Munawar Ali he conducted investigation of the case, in that he inspected the place of incident, inspected the dead body of deceased who was having sustained fire arm injuries on his person, collected bloodstained earth and sealed the same in a packet of cigarette and a piece of cloth in presence of mashirs Abdullah and Najamuddin; he also collected empties of 15 cartridges of 12 bore, 20 empties of 12 bore K.K and 05 empties of 7mm, sealed the same and prepared such memo of inspection of place of incident, inspection of dead body and recovery. Thereafter, he prepared Danistnama of deceased Ali Ahmed @ Haji Eman in presence of same mashirs; he then wrote a letter to Mukhtiarkar concerned for directing Tapedar of Deh Kamal Khan to prepare sketch of place of incident; he arrested accused Abdul Rasheed Chandio and prepared such memo in presence of same mashirs and subsequently he took accused Abdul Rasheed from lockup of P.S Qamber and interrogated him who during interrogation accused admitted to produce the crime weapon viz. repeater of 12 bore then he on his pointation left P.S and secured unlicensed repeater of 12 bore on the lead of said accused which was used by him in commission of murder of Ali Ahmed @ Haji Eman and such memo was prepared in presence of same mashirs. On return to P.S, he lodged separate FIR under Section 13 EAO. He then sent the unlicensed weapon as well as crime empties to laboratory for examination and received report in positive. PW/Mashir Abdullah Chandio has also endorsed the version of the investigation officer on same line. Both these witnesses were cross-examined by learned defence counsel but he could not find any substance favourable to the appellant/accused.

14. Learned counsel for appellant mainly focused on the point that the witnesses are close relatives to the deceased and are interested; therefore, their evidence cannot be relied upon. The contention raised in this regard carries no force, as in the instant matter, the eye-witnesses have sufficiently explained the date, time and place of incident as well as each and every event of the occurrence. It is observed that where the witnesses fall within the category of natural witnesses and detailed the manner of the incident in a confidence-inspiring manner then only escape available with the accused is to satisfactorily establish that the witnesses are not witnesses of truth but "**interested**" one. An interested witness is not the one who is relative or friend but is the one who has a motive to falsely implicate an accused. Mere relationship of eye-witnesses with the deceased alone is not enough to discard testimony of the complainant and his witnesses. In matters of capital punishment, the accused would not stand absolved by making a mere allegation of dispute/enmity but would require to bring on record evidence that there had been such a dispute/enmity which could be believed to have motivated the "**natural witnesses"** in involving innocent at the cost of escape of **"real culprits"**. In a case of ***Zulfiqar Ahmed & another v. State (2011 SCMR 492)***, the Honourable Supreme Court of Pakistan has held as under:-

> *"...It is well settled by now that merely on the ground of inter se relationship the statement of a witness cannot be brushed aside. The concept of 'interested witness' was discussed elaborately in case titled Iqbal alias Bala v. The State (1994 SCMR-01) and it was held that 'friendship or relationship with the deceased will not be sufficient to discredit a witness particularly when there is no motive to falsely involve the accused".*

15. Although, learned counsels for the appellant had pointed out some minor contradictions/improbabilities in the evidence which in our view are not sufficient to discard evidence of the eye-witnesses who have fully supported the case of prosecution on each aspect. It is settled principal of law that where in the evidence, the prosecution established its case beyond reasonable doubt then if there arise some

minor contradictions which always are available in each and every case as no one can give evidence like a pen-picture, hence the same being formal are to be ignored. The reliance in this context is placed on a case of ***Zakir Khan V. The State (1995 SCMR 1793)***, wherein the Honourable Supreme Court of Pakistan has held as under:-

> *"13. The evidence recorded in the case further indicates that all the prosecution witnesses have fully supported each other on all material points. However, emphasis has been laid by Mr. Motiani upon the improvements which can be found by him in their respective statements made before the Court and some minor contradictions in their evidence were also pointed out. A contradiction, unlike an omission, is an inconsistency between the earlier version of a witness and his subsequent version before the Court. The rule is now well established that only material contradictions are to be taken into consideration by the Court while minor discrepancies found in the evidence of witnesses, which generally occur, are to be overlooked. There is also a tendency on the part of witnesses in this country to overstate a fact or to make improvements in their depositions before the Court. But a mere omission by witness to disclose a certain fact to the Investigating Officer would not render his testimony unreliable unless the improvement made by the witness while giving evidence before the Court has sufficient probative force to bring home the guilt to the accused."*

16. Turning to the motive of the incident, wherein the previous enmity is alleged to have been made basis in the present case, the prosecution has brought on no tangible evidence in this regard to justify the claim of the complainant. In that situation, the motive yet remains questionable. It was observed that the complainant asserted motive in the FIR to be of the dispute over landed property against the present accused/appellant, but nothing has been brought on record which could suggest that there was a dispute between the parties over the landed properties; hence the prosecution has failed to prove the motive set up in the present case.

17. The statement of appellant was recorded before learned trial Court under Section 342, Cr.PC wherein no question regarding the motive was put to him for his explanation but it was used against him

by learned trial Court for awarding death sentence. It is settled principle of law that any piece of evidence not put to the accused at the time of recording his/their statement under Section 342 Cr.P.C, could not be considered against him/them and failure on the part of the prosecution to establish the motive may react upon a sentence of death as has been held by the Honourable Apex Court in a case of ***Qaddan and others v. The State (2017 SCMR-148),*** wherein it was held as under;-

> "*3. We have noticed that before the High Court the only prayer made by the learned counsel for the appellants was that in view of some peculiar circumstances of this case the sentences of death passed against the appellants may be reduced to imprisonment for life and, thus, we have confined our consideration of this case only to the issue of mitigation of the appellants' sentences of death. In this context it has straightaway been noticed by us that according to the FIR as well as the statements of the eye-witnesses made before the trial court the appellants and the other members of the accused party had come armed and had gone into the house of one Ali Sher Brohi quite peacefully and it was the complainant party which had provoked the accused party at the spot which provocation had led to the present occurrence. It is, thus, obvious that but for the intervention and provocation of the complainant party the present occurrence might not have taken place at all. We have further observed that one lady died and three others had received injuries during the occurrence in issue which also indicates that the occurrence in question had developed at the spur of the moment without any premeditation and that different members of the accused party as well as of the complainant party embroiled with each other in a developing occurrence.* ***Apart from that the motive set up by the prosecution had never been put to the present appellants at the time of recording of their statements under section 342, Cr.P.C. The law is settled that a piece of evidence not put to an accused person at the time of recording of his statement under section 342, Cr.P.C. cannot be considered against him.*** *The alleged recovery of the weapons of offence from the appellants during the investigation had been discarded by the High Court.* ***The criminal case in hand had originated in the year 1989 and the appellants have already spent more than 16 years in jail in connection with this case.*** *All these factors available on the record do make*

out a case for reduction of the appellants' sentences of death to imprisonment for life and particularly the motive part of this case going out of consideration because of its not having been put to the appellants at the time of recording of their statements under section 342, Cr.P.C. brings into operation the settled principle that failure on the part of the prosecution to establish the motive may react upon a sentence of death and a reference in this respect may be made to the cases of Ahmad Nawaz v. The State (2011 SCMR 593), Iftikhar Mehmood and another v. Qaiser Iftikhar and others (2011 SCMR 1165), Muhammad Mumtaz v.The State and another (2012 SCMR 267), Muhammad Imran @ Asif v.The State (2013 SCMR 782), Sabir Hussain alias Sabri, v.The State (2013 SCMR 1554), Zeeshan Afzal alias Shani and another v.The State and another (2013 SCMR 1602), Naveed alias Needu and others v.The State and others (2014 SCMR 1464) and Muhammad Nadeem Waqas and another v.The State (2014 SCMR 1658). This appeal is, therefore, dismissed to the extent of the convictions and sentences of Qaddan, Rajib and Esso appellants except to the extent of their sentences of death on all the counts of the charge under section 302(b), P.P.C. read with section 149, P.P.C. which sentences of death are reduced to imprisonment for life on each such count of the charge. All the sentences of imprisonment passed against the said appellants shall run concurrently to each other and the benefit under section 382-B, Cr.P.C. shall be extended to them. This appeal is disposed of in these terms."

18. As to the sentence awarded to the appellant by the trial court, admittedly it has been observed by us that the complainant in the FIR set out a specific motive, and his evidence was recorded before the trial court so also his witnesses; there is nothing on the record to prove that the incident of altercation between the appellant accused was ever reported to the police. The complainant did not disclose the description of the landed property. It appears that the real cause of occurrence has not been disclosed by either side; in these circumstances, we are of the view that the motive set out by the prosecution remains far from being proved. Reliance is placed in the case of ***Muhammad Akram alias Akri (2019 SCMR-610*)**, wherein the Honourable Supreme Court of Pakistan while maintaining the conviction of the appellant under

section 302 (b) PPC, but his sentence of death is converted into imprisonment for life. Furthermore, the learned counsel for the complainant as well as Additional P.G. for the state raised no objection by submitting that if the death sentence awarded to the appellant is converted into life imprisonment, then they have no objection. In the instant case, the co-accused Sultan, with utmost similar role and on the same set of evidence, has already been convicted and sentenced to imprisonment for life and such conviction on being assailed by him was also maintained. by this Court vide judgment dated 17.12.2020 passed in Crl.Appeal No.S-40/2019.

19. Consequent upon the above discussion and while relying upon case laws (supra), we are of the unanimous view that the prosecution has successfully established the guilt against the appellant Iqbal, son of Khair Muhammad Chandio, through an ocular account which is also otherwise corroborated by medical evidence, coupled with the recovery of crime weapon from him. Thus the conviction of the appellant under section 302 (b) P.P.C is maintained, but his sentence of death is converted into imprisonment for life. However, the payment of compensation to legal heirs of the deceased, so awarded by the learned trial Court, shall remain intact, and the sentences for offences punishable under Sections 148 PPC and 337-H(ii) r/w Section 149 PPC are also maintained all the sentence awarded to the appellant shall run concurrently. The benefit of section 382 Cr.P.C is also extended to the appellant.

20. The criminal reference for confirmation of the death sentence made by the learned trial Court is answered in "Negative", while the instant criminal jail criminal appeal is disposed of with the above modification. The office is directed to supply the certified true copy of the judgment to the appellant named above free of cost through the concerned superintendent jail.

JUDGE

JUDGE