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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 8<sup>th</sup> April, 2026*

*Uploaded on: 10<sup>th</sup> April, 2026*

+ **CRL.A. 87/2017**

THE STATE ( NCT OF DELHI) .....Appellant

Through: Mr. Aashneet Singh, APP for State.  
SI Ankur, P.S. Sultanpuri.

versus

RANJIT & ORS .....Respondents

Through: Mr. M.L. Yadav, Mr. Prashant, Mr.  
Piyush Saini and Mr. Hardeep Godara,  
Advts. for R2 & R3.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE MADHU JAIN**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present appeal under Section 378 of the Code of Criminal Procedure, has been filed by the State challenging the impugned judgment dated 10<sup>th</sup> November, 2015 passed by the Id. Additional Sessions Judge-04, North District, Rohini Court, Delhi in *Sessions Case No. 172/4* arising out of *FIR No. 36/11* registered at P.S. Sultanpuri for offences punishable under Sections 365/34 of the Indian Penal Code, 1860. *Vide* the impugned judgment, the Respondents - Ranjit, Raju and Prabhu Dayal @ Babla, have been acquitted.
3. The brief facts of the case are that a complaint was registered at P.S. Sultanpuri on 3<sup>rd</sup> February, 2011 at the instance of the Complainant - Smt. Shanti (PW-5), wherein it was stated that on 2<sup>nd</sup> February, 2011, she and her



husband had gone to visit the house of her grandmother (*dadi*) located at House no. B-3, Sultanpuri. At about 4 P.M., the three accused, who were directly or indirectly related to the complainant, had come to the said place and had demanded a sum of Rs. 5,000/- from her husband, to be returned to them. However, since the husband of the complainant had stated that he did not have the money, the complaint alleged that he was forcibly taken away by the said three persons in a car to an unknown location.

4. The Complainant searched for her husband and upon not being able to trace him she approached the police for filing the said complaint. Upon the said complaint being received, **FIR No. 36/11** was registered at P.S. Sultanpuri under Sections 365/34 of IPC. Thereafter, investigation was conducted for tracing the Complainant's husband, however, on 10<sup>th</sup> February, 2011 *i.e.*, almost eight days after having been last seen by the Complainant, a body was found by the police of one male aged about 24-25 in the jurisdiction of P.S. S.P. Badli. The said body was identified by the Complainant to be of her husband. It was stated that the Complainant had been accompanied by her sister-in-law at the time of identification.

5. The accused persons were then apprehended on different dates and certain recoveries were also stated to have been made on 26<sup>th</sup> February, 2011, from some of the accused persons including a chair, *thapi* (the murder weapon), DVD wire, plastic rope and chunni. It was the case of the prosecution that all the accused persons had confessed to their involvement in the commission of the offense.

6. It is noted that although there were in total five accused persons against whom trial had been conducted, the present appeal has only been preferred against three Respondents - Ranjit, Raju and Prabhu Dayal @ Babla.



7. The matter was then assigned to the Court of Session, Rohini Court, and charges were also framed on 14th October, 2011 under Sections 302/365/201/34 of IPC.

8. On behalf of the prosecution, fourteen witnesses were examined out of whom, apart from the official witnesses and the doctor and the police officials, the only public witness who was examined was Complainant - PW-5. It is noted that another public witness - PW-11, was examined, however, his testimony was limited to the accused person who has not been arrayed as a party to the present appeal.

9. The Trial Court, after considering the entire evidence, came to the conclusion that there were various discrepancies in the prosecution's case. Some of the discrepancies which were observed by the Trial Court are:

- (i) The Complainant is stated to have made a PCR call at about 11:00 pm on 2<sup>nd</sup> February, 2011. However, no record in respect thereof was produced.
- (ii) The PCR van is also stated to have visited the relevant site that very night of 2<sup>nd</sup> February, 2011. However, no police officials, who had visited the site were examined.
- (iii) There were also certain inconsistencies in the initial statement given by the Complainant (PW-5) to the police and the statement which was recorded before the Court.
- (iv) The sister-in-law of the complainant *i.e.*, Jyoti, who is stated to have accompanied the PW-5 for the purpose of identification of the body, has not been examined.
- (v) No other public witness or other family witness have been examined to establish that the three accused had forcibly taken



the deceased with them in the car.

- (vi) Even the recovery of the various materials was doubted by the Trial Court. The Trial Court came to the conclusion that these items appear to have been planted at the particular place as there was sufficient time gap between the date of incident and the recovery of the same.
- (vii) Various other contradictions which appeared in the documents produced by the prosecution were also considered by the Trial Court.

10. Mr. Aashneet Singh, Id. APP for the State has submitted that the post mortem report dated 10th February, 2011 clearly establishes the date when the deceased went missing as eight days prior to the post mortem, which corroborates the stand of PW-5. In addition, it is submitted that the recovery of the items cannot be doubted as the same was at the instance of the accused persons and there was no ground for the Trial Court to come to the conclusion that the same was planted evidence.

11. Mr. Singh, Id. APP also further submits that the deceased was not seen after 2nd February, 2011, as also stated by the Complainant/PW-5, and therefore, the last seen evidence ought to be taken into consideration.

12. On the other hand, Mr. M.L. Yadav, Id. Counsel for the Respondents submits that since there was no public witness apart from the Complainant/PW-5, no independent family witness and no corroborating testimony by any person which supports the stand of PW-5, the same ought not to be believed by the Court.

13. It is further submitted by him that the Police had failed to produce very crucial evidence in the nature of PCR entry in the records of the police. The



official who is stated to have visited after the PCR call, has also not been examined, which challenges the credibility of PW-5/Complainant.

14. Further, the FIR was also registered on 3<sup>rd</sup> February, 2011, almost one whole day after the incident was reported to the Police, and the said delay is inexplicable, if the events took place in the chronology as stated in the complaint, as the police had arrived on the very night when the deceased is alleged to have gone missing.

15. The Court has considered the matter.

16. A perusal of the impugned judgment would show that the Court has highlighted various discrepancies, material inconsistencies and contradictions in the documents, testimonies and the events which are stated to have taken place by the prosecution. There is no independent corroboration of any of the facts stated by PW-5/Complainant.

17. There could have been no justification as to why no member of the public or any other member of the family was not produced to support PW-5/Complainant. The sister-in-law of PW-5, *i.e.*, the sister of the deceased, who is stated to have been present during identification of the deceased, was also not examined.

18. Due to all these contradictions and circumstances, the last seen theory becomes quite nebulous and cannot be stated to have been proved beyond reasonable doubt. There can be no doubt that as per law, conviction can take place on the basis of last seen evidence. However, in this case, the conviction would not be justified as there is lack of material evidence to support the case of the prosecution. The Supreme Court in *Manoj @ Munna vs. The State Of Chhattisgarh, 2025 INSC 1466* has discussed the law on last seen evidence and whether the same is sufficient to convict an accused in a case resting



entirely on circumstantial evidence. The relevant observations of the Supreme Court in this regard are:

**23. Keeping in view the above-stated testimonies, the crucial question is — whether the evidence of last seen together is sufficient enough to convict the appellant in a case resting entirely on circumstantial evidence?**

*24. The doctrine of last seen rests on the logical presumption that where an individual is last seen alive in the close company of an accused, and is soon thereafter found dead, the accused must reasonably account for the circumstances in which they parted ways, as such facts fall particularly within his knowledge. Thus, it rests on the presumption that human behavior follows natural probabilities, and, hence, the person who was last seen with the deceased must be able to explain the facts that resulted in the subsequent death of the deceased.*

**25. Recently in the case of Padman Bibhar vs. State of Odisha, this Court, speaking through one of us (Prashant Kumar Mishra, J.), while acquitting the accused of charges under Sections 302 and 201 of the IPC held that the conviction cannot be sustained against the accused merely on the ground that the accused was last seen with the deceased.**

*26. In Rambraksh vs. State of Chhattisgarh, this Court observed that the last seen theory applies only when the time gap between the last seen point and the discovery of the death is so small that no one else could have committed the crime. Even then, this circumstance alone is insufficient and the prosecution must establish a complete chain of circumstances proving the accused's guilt. In the said decision, this Court held as under:*



“12. It is trite law that a conviction cannot be recorded against the accused merely on the ground that the accused was last seen with the deceased. **In other words, a conviction cannot be based on the only circumstance of last seen together.** Normally, last seen theory comes into play where the time gap, between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead, is so small that possibility of any person other than the accused being the perpetrator of the crime becomes impossible. **To record a conviction, the last seen together itself would not be sufficient and the prosecution has to complete the chain of circumstances to bring home the guilt of the accused.**”

(emphasis applied)

27. Further this Court in the case of Krishnan alias Ramasamy and Others vs. State of Tamil Nadu while relying on its judgment in Arjun Marik vs. State of Bihar observed as follows:

“21. The conviction cannot be based only on circumstance of last seen together with the deceased. In Arjun Marik v. State of Bihar [1994 Supp (2) SCC 372 : 1994 SCC (Cri) 1551] this Court held as follows: (SCC p. 385, para 31) “31. Thus the evidence that the appellant had gone to Sitaram in the evening of 19-7-1985 and had stayed in the night at the house of deceased Sitaram is very shaky and inconclusive. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is



*settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.”*

28. *In Kanhaiya Lal vs. State of Rajasthan, this Court held that evidence on last seen together is a weak evidence and conviction only on the basis of last seen together without there being any other corroborative evidence against the accused will not be sufficient to convict the accused for an offence under Sections 302 and 201 of the IPC.*

[...]

34. *In view of the above discussion, we are of the opinion that the nature of circumstantial evidence available against the appellant though raises a doubt that he may have committed the offence but the same is not so conclusive that he can be convicted only on the evidence of the last seen together. Be that as it may. It is a settled proposition that whenever any doubt emanates in the mind of the Court, the benefit shall accrue to the accused and not the prosecution. The present is a case where except for the evidence of last seen together, there is no other corroborative evidence against the appellant. Therefore, the conviction only on the basis of last seen together cannot be sustained.”*

19. As is clear from the above, last seen evidence being circumstantial in nature is considered a weak evidence, which on its own is not sufficient for conviction in the absence of any corroborative evidence. Thus, even in the present case, in the absence of corroborative evidence to support the last seen evidence, the Trial Court has rightly acquitted the Respondents.



20. Moreover, in an appeal, the Court is hesitant to overturn an acquittal, unless the Trial Court has taken a completely unsustainable or perverse view. In this regard, the Supreme Court in *Mallappa & Ors. vs. State of Karnataka, 2024 INSC 104* has summarised the principles to be considered while deciding an appeal against acquittal, which are as under:

*“36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:*

- (i) *Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive – inclusive of all evidence, oral or documentary;*
- (ii) *Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;*
- (iii) *If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;*
- (iv) ***If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;***
- (v) ***If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;***
- (vi) ***In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court.”***



2026:DHC:3011-DB



21. In the light of the evidence adduced by the prosecution, the view of the Trial Court is a plausible view. The guilt in this case has not been established beyond reasonable doubt.

22. Under these circumstances, in the opinion of the Court no ground is made out for interfering with the impugned judgement of the Trial Court.

23. Accordingly, the appeal is dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**MADHU JAIN  
JUDGE**

**APRIL 8, 2026/b/msh**