



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

Date of decision: 02nd JULY, 2025

IN THE MATTER OF:

+ **CRL.A. 118/2003**

STATE

.....Appellant

Through: Mr. Ritesh Kumar Bahri, APP for the
State with Ms. Divya Yadav and Mr.
Lalit Luthra, Advs.

versus

RAMESH CHAND & ORS.

.....Respondents

Through: Mr. Anurag Andley, Mr. Aditya
Andley, Mr. Tanmay Gupta, Mr.
Sahil Nagar and Ms. Aditi, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The present criminal appeal has been filed by the State, challenging the judgment dated 23.10.2000 passed by the Learned Additional Sessions Judge, Karkardooma Courts, Delhi, in Sessions Case No. 42/1998 arising out of FIR No. 213/1997, registered at P.S. Geeta Colony, whereby the accused persons, namely Ramesh Chand and his wife Dayawati @ Bhuria, have been acquitted of all charges under Sections 363, 364, 302, 201 read with 34 of the Indian Penal Code, 1860.

2. The gist of this case pertains to the death of a 2.5 year old child, Sandeep, who went missing on 17.11.1997 from the vicinity of his home in Rani Garden, Shastri Nagar, Delhi. Five days later, his body was recovered



from a drain in the Shakarpur area. The prosecution alleged that the child was kidnapped and murdered by the accused, who were their neighbours, due to prior animosity and a dispute concerning faith healing practices allegedly involving the female accused.

3. After the trial, during which twenty-four prosecution witnesses were examined, the learned Trial Court acquitted the accused by extending them the benefit of doubt, holding inter alia that the prosecution had failed to establish a cogent and unbroken chain of circumstances capable of conclusively pointing to the guilt of the accused. The present appeal seeks to assail the said findings and argues that the Trial Court failed to appreciate the circumstantial evidence in its proper perspective.

4. The facts leading to the filing of the present appeal are as follows:

- a. It is stated that on 17.11.1997, at approximately 6:30 PM, a minor male child aged about 2.5 years by the name of *Master Sandeep*, son of Brij Bhushan(PW1) and Meenu(PW2), went missing from outside his residence at House No. 125, Rani Garden, Shastri Nagar, Delhi. The child was playing unattended in the lane outside his house when he allegedly disappeared. At the time of the incident, Brij Bhushan was not present at home and had returned from work around 7:00 PM, upon which he was informed of the disappearance.
- b. It is stated that the missing report was lodged at Police Station Geeta Colony on the same evening. Despite initial efforts made by the parents, neighbours, and the local police to trace the whereabouts of the missing child, no success was achieved over the next few days. During this period, it is further alleged that



the accused persons—namely Ramesh Chand and his wife Dayawati @ Bhuria, who resided in the adjacent house—were also found to be absent from their residence, which led the complainant to suspect their involvement.

- c. It is stated that the complainant had developed suspicion against the accused persons based on an alleged altercation that had occurred approximately 15 days prior to the incident. According to the parents of the child, accused Dayawati had approached the complainant's wife seeking assistance in visiting a faith healer or spiritual figure to address issues of infertility, and an argument had ensued between the parties during this interaction. The prosecution claims that this prior enmity, coupled with the disappearance of the accused, laid the foundation for suspicion.
- d. It is stated that on 23.11.1997, the police received information about the discovery of an unidentified dead body of a male child near a drainage canal (*ganda nala*) in the jurisdiction of Police Station Shakarpur. Upon reaching the spot, the complainant identified the body as that of his son, Master Sandeep. A post-mortem examination was conducted by Dr. K. Goyal (PW22), who opined that the cause of death was asphyxia due to manual strangulation, and that the time of death corresponded with the period immediately following the child's disappearance.
- e. It is stated that based on the complainant's suspicion and the circumstances surrounding the death, the police registered an



FIR under Sections 363, 302, and 201 IPC, later adding Section 34 IPC as well. Accused Dayawati @ Bhuria was apprehended on 24.11.1997. During interrogation, she is alleged to have made a disclosure statement (Ex. PW1/D) in the presence of the complainant, wherein she narrated the manner in which the deceased child was allegedly confined in a suitcase, suffocated, and his body subsequently disposed of.

- f. It is stated that pursuant to the said disclosure, the police claim to have recovered a grey coloured suitcase and a shawl allegedly used in the concealment and transportation of the dead body from the accused's premises at House No. 124, Rani Garden. The suitcase and shawl were seized vide seizure memo Ex. PW1/E, in the presence of PW1. The accused also allegedly pointed out the site of disposal near the Shakarpur drain, where the body was previously found.
- g. It is stated that on 25.11.1997, the second accused, Ramesh Chand, was apprehended near Anand Vihar Bus Stand. He is also alleged to have made a similar disclosure statement (Ex. PW1/G), admitting knowledge and participation in the incident. A locket, claimed by PW1 to have been worn by the child at the time of his disappearance, was allegedly recovered from the possession of accused Dayawati and identified during trial.
- h. It is stated that during the course of trial, the prosecution examined 24 witnesses, including the parents of the deceased (PW1 and PW2), various police officials involved in the investigation (PW12 SI Sanjay Gupta, PW19 SI Brijesh Kumar,



PW24 Insp. V.S. Malik), the autopsy doctor (PW22 Dr. K. Goyal), and several other witnesses. The material evidence comprised disclosure statements, recovery memos, post-mortem report (Ex. PW22/A), site plans (Ex. PW19/B), and various seized items.

- i. Vide judgment dated 23.10.2000, the Learned Additional Sessions Judge, Karkardooma Courts, acquitted both accused persons.
- j. It is in these circumstances that the present criminal appeal has been filed by the State under Section 378(1) of the Code of Criminal Procedure, assailing the acquittal of the Respondents and seeking a reversal of the impugned Judgment on the ground that it suffers from serious errors of law and appreciation of evidence.

5. The learned Additional Sessions Judge, *vide* Judgment dated 23.10.2000, acquitted the accused persons—Ramesh Chand and Dayawati @ Bhuria—of all charges under Sections 363, 364, 302, 201 read with Section 34 of the Indian Penal Code (IPC). The Trial Court, upon a comprehensive evaluation of the oral and documentary evidence adduced during trial, held that the prosecution had failed to prove the charges beyond reasonable doubt.

6. The Trial Court noted that the case of the prosecution was entirely based on circumstantial evidence, there being no direct witness to the alleged act of kidnapping or murder. The Court observed that the initial suspicion against the accused persons was based primarily on their sudden



disappearance from their residence and a prior quarrel with the complainant's family, which in itself could not establish culpability.

7. Insofar as the disclosure statements and alleged recoveries were concerned, the learned ASJ held that the evidentiary value of such statements under Section 27 of the Indian Evidence Act was limited, especially in the absence of independent public witnesses to corroborate the alleged recovery of the suitcase, shawl, and locket. It was also noted that there were material inconsistencies regarding who was present during the recoveries, and the chain of custody of seized articles was not satisfactorily established. The relevant portion of the impugned Judgment reads as under:-

“17. Also, as discussed above, the prosecution failed to prove the motive strong enough for the accused persons to commit the offence, and in this connection reference is made to the case of Shahabuddin Vs. State reported in 1973 CRI.L.J.723 (V 79 C 217) wherein the Lordships observed such referring to article 166 Bartar Criminal Offence 12th Edition Vol-I as under:

“The absence of motive or the presence of a motive may raise or remove a reasonable doubt as to the guilt of the accused. The absence of motive or of all apparent inducement to commit the crime is a strong circumstance in favour of the accused, particularly in cases pending on circumstantial evidence.”

In the present case, the motive alleged against the accused persons was a strong circumstantial evidence as to be established like any other incriminating circumstantial evidence need to be proved in such cases. On the face of different versions in respect of arrest of the accused persons, delay in arrest by the investigation authorities on the premises that accused persons were not available, although evidence on



record shows that they were available and were rather interrogated by the police before their actual arrest even on the next day of the incident; doubtful recovery of locket, shawl and brief case as discussed in detail, and no credible circumstantial evidence against the accused persons as well as no establishment of the motive, leads me to the conclusion that the prosecution failed to bring home the guilt of the accused persons beyond reasonable doubt. On the basis of the evidence as discussed above, the accused persons deserves to be given benefit of doubt. The prosecution failed to establish and even prove on record that the accused Ramesh kidnapped the deceased Sandeep or was seen in the company of the deceased Sandeep or he was seen by the witnesses along with his wife taking the dead body on the shoulders enveloped in a shawl or that the accused persons committed murder of the deceased Sandeep and also threw away the dead body so as to conceal their action of such commission of murder as per the case of the prosecution.”

8. The Trial Court further held that the prosecution failed to establish any conclusive nexus between the accused and the death of the child. While the post-mortem report confirmed that the death was homicidal, there was no forensic or scientific evidence linking the recovered items to the deceased. The relevant portion of the impugned Judgment reads as under:-

“12. The prosecution has failed to link even the accused Bhuria with the shawl and the brief case which were recovered from her possession and on her pointing out as no link has been established with the dead body of Sandeep specifically when as per the Post mortem report Ex. PW 22/A the deceased was having injury on the tip of the tounge which was stated to be bruise with small laceration at the center of side point 3 c.m. and the other were on the lower lip showing small laceration of about 25 c.m. at about center at oral surface with bruising around and also as per the



photographs Ex. PW 7/E and PW 7/F which clearly reveals out blood stains on the face of deceased of which smear must have come on the shawl as well as in the brief case with which he was carried by accused Bhuria and by accused Ramesh as per disclosure statement. Disclosure statement is also not sufficient for conviction of the accused for the offences in view of the disclosure of the facts leading to recovery of locket, shawl and brief case has been held to be doubtful as per the discussion above. There is no evidence on record against the accused Ramesh that he was found carrying the dead body in the brief case. Not only the disclosure of the accused Ramesh is not admissible in evidence as there was no disclosure of facts by him which were not known to the Investigation Authorities at the time when the disclosure was made on 6.12.97 who also disclosed that the dead body fell out from the brief case on the road which was a public road as per the statement of Raju (PW 3) and nobody saw that incident, is, highly improbable and not acceptable in the facts and circumstances of the case. ”

9. The Trial Court concluded that the circumstances put forth by the prosecution did not form a complete chain to inevitably point towards the guilt of the accused to the exclusion of all other hypotheses. In view of these observations, the Trial Court extended the benefit of doubt to both accused persons and acquitted them of all charges.

10. The Trial Court examined the testimony of twenty-four prosecution witnesses in detail and found significant shortcomings in the evidentiary value of their depositions. The key witnesses relied upon by the prosecution were PW1 Brij Bhushan (father of the deceased), PW2 Meenu (mother of the deceased), PW12 SI Sanjay Gupta, PW19 SI Brijesh Kumar, PW22 Dr.



K. Goyal (autopsy surgeon), and PW24 Insp. V.S. Malik (Investigating Officer).

11. As regards PW1 Brij Bhushan and PW2 Meenu, the parents of the deceased, the Trial Court observed that although their grief and anguish were unquestionable, their testimonies were largely speculative when it came to implicating the accused. The suspicion they harboured against Ramesh Chand and Dayawati @ Bhuria was based on a prior altercation concerning a visit to a faith healer and the accused persons' subsequent disappearance. However, this suspicion was held to be insufficient to form a reliable foundation for criminal liability.

12. The Trial Court scrutinized the alleged disclosure statements made by the accused persons under Section 27 of the Indian Evidence Act, which were central to the prosecution's case. These statements (Ex. PW1/D and Ex. PW1/G) purportedly led to the recovery of a grey suitcase, a shawl, and a locket. However, the court found that:

- a. No independent or public witnesses were associated with the recovery process.
- b. The link between the items recovered and the deceased remained unsubstantiated, particularly due to the absence of any forensic examination or report tying the items to the victim.

13. The Trial Court, while appreciating the testimony of PW5, observed that although her statement lent some contextual support to the background of the case and the initial suspicion raised by the complainant, it did not directly link the accused to the offence. Her testimony was found to be based primarily on post-incident inferences and neighbourhood hearsay. Importantly, she did not witness the act of kidnapping, nor could she offer



any direct account of the events immediately surrounding the disappearance of the child. As such, the court treated her testimony as corroborative of the general background and motive theory, but insufficient to establish guilt.

14. As regards PW22 Dr. K. Goyal, who conducted the post-mortem examination, the Trial Court accepted his testimony that the child had died of asphyxia caused by strangulation. However, the Trial Court emphasized that the post-mortem findings merely established the cause and manner of death and did not by themselves incriminate the accused, especially in the absence of any direct or circumstantial evidence pointing to their involvement.

15. The evidence of police officers, including PW12 SI Sanjay Gupta and PW24 Insp. V.S. Malik, was also examined with caution. The Trial Court noted inconsistencies in the sequence of events regarding the arrest, interrogation, and recoveries attributed to the accused. Discrepancies were also noted in the time and place of arrest, the preparation of site plans, and the custody. The absence of public witnesses in key procedural steps was held to be a significant deficiency.

16. The Trial Court ultimately held that the prosecution failed to establish a conclusive chain of circumstantial evidence. The testimonial inconsistencies, coupled with the procedural lapses and lack of independent corroboration, rendered the prosecution's case doubtful. The learned ASJ found that the standard of proof required for conviction—proof beyond reasonable doubt—had not been met, and accordingly acquitted both accused.

17. Learned counsel appearing for the Petitioner—State contended that the judgment of the Trial Court suffers from grave errors in appreciation of evidence and application of law, resulting in a miscarriage of justice. It was



submitted that the Trial Court adopted an unduly hyper-technical approach while evaluating the circumstantial evidence, which, when seen cumulatively, was sufficient to establish the guilt of the accused beyond reasonable doubt.

18. It is also contended that the prosecution had proved a complete and cogent chain of circumstances which inevitably pointed to the guilt of the accused. The fact that the accused persons, who were neighbours of the complainant, had absconded from their residence immediately after the child went missing on 17.11.1997, was a highly incriminating circumstance. Their unexplained disappearance and the subsequent recovery of the body of the deceased child on 23.11.1997 from a drain corroborated the complainant's suspicion.

19. It is also argued that the disclosure statements made by both accused persons under Section 27 of the Indian Evidence Act led to the recovery of highly incriminating articles, including a suitcase, a shawl used in wrapping the body, and a locket identified by the father (PW1) as belonging to the deceased. It was urged that these recoveries had been made in the presence of the complainant and investigating officers and that the absence of independent public witnesses ought not to be treated as crucial, particularly in the context of neighbourhood crimes where witnesses are often reluctant to testify.

20. It was further contended that the post-mortem report conducted by PW22 Dr. K. Goyal confirmed that the cause of death was asphyxia due to strangulation, and the timing of death was consistent with the disappearance of the child. The medical evidence, coupled with the circumstantial



recoveries and the conduct of the accused, formed a compelling body of evidence which was not properly appreciated by the Trial Court.

21. It is also submitted that the Trial Court erred in placing undue emphasis on minor discrepancies and in failing to view the evidence in its totality. It was contended that in a case of circumstantial evidence, each circumstance must be proved, but it is not necessary that each piece of evidence must be conclusive by itself. The collective effect of all circumstances, it was argued, was more than sufficient to sustain a conviction.

22. Accordingly, it was prayed by the learned counsel for the state that the impugned judgment dated 23.10.2000 be set aside, and the accused persons be convicted for the offences under Sections 363, 302, 201 read with Section 34 of the IPC.

23. *Per Contra*, Learned counsel for the Respondents contends that the impugned judgment dated 23.10.2000, passed by the Learned ASJ, is a well-reasoned and legally sound decision rendered after a comprehensive evaluation of the evidence on record. The Respondents were charged under Sections 302/34 IPC and 201/34 IPC, and additionally, Respondent Ramesh Chand was charged under Sections 363 and 364 IPC. It was submitted that the prosecution case, being entirely circumstantial, failed to establish a complete chain of evidence leading inevitably to the guilt of the accused.

24. Relying on the judgments in Mohan v. State of Karnataka, (2022) 12 SCC 619, and State v. Tofil Ahmad, 2024 SCC OnLine Del 5403, it was submitted that the Trial Court rightly extended the benefit of doubt as the circumstances relied upon by the prosecution-namely alleged recoveries,



motive, and last seen evidence, were neither individually conclusive nor collectively sufficient to sustain a conviction.

25. It was further contended that the alleged recovery of a briefcase (Ex. P-1), a shawl (Ex. P-2), and a silver locket (Ex. P-3) was made on 25.11.1997 at the instance of Respondent, Dayawati. However, all these recoveries were witnessed only by interested witnesses-namely, PW1 (father of the deceased) and police officials (PW14 and PW16)-and not a single independent or public witness was joined during these seizures. It was submitted that no forensic examination or serological testing was conducted to link the recovered items with the deceased, despite blood samples having been collected, thereby undermining the evidentiary value of the recoveries.

26. It was additionally submitted that, as recorded in para 8 of the impugned judgment, the complainant PW1 had given a detailed description of the child's clothing in the initial complaint but had made no mention of any silver locket (tabiz). The locket was recovered more than eight days after the incident, and it was argued that it is illogical to suggest that the accused would have retained such a highly incriminating article despite knowing they were being investigated. Furthermore, photographs of the deceased (Ex. PW7/E and Ex. PW7/F) showed bloodstains on the face, yet no bloodstains were found on either the shawl or the briefcase allegedly used to carry the body, as noted by the Trial Court in paras 12 and 13.

27. It is contended that the State's case regarding motive was premised on an alleged quarrel between the complainant's family and the Respondents, purportedly arising from a visit to a self-styled godman, Baba Ramji Das (PW4). It was submitted that PW4 turned hostile during trial, denied knowing PW1 and PW2, and repudiated the statement attributed to him



under Section 161 CrPC. Accordingly, as recorded in paras 6, 14, and 17 of the Trial Court judgment, the alleged motive remained wholly unproved and could not support the prosecution's theory.

28. It was also submitted that the testimonies of PW5 and PW9, who allegedly saw the deceased with Respondent Ramesh Chand on 17.11.1997, were unreliable and contradicted by the statements of other witnesses. PW9, a minor, claimed he came to meet PW1 but found the house locked and saw the deceased with Ramesh Chand. However, this was inconsistent with the testimony of PW2, who was inside the house at the relevant time and never stated that the house was locked. Moreover, PW9 was unable to recall the clothes worn by the deceased. As noted in para 9 of the Trial Court judgment, his testimony lacked credibility.

29. It is supplementally stated that PW5, who claimed to be the landlady of PW1 and PW2, stated that she saw Ramesh Chand taking the deceased child with him. However, she did not communicate this fact to PW2 at any point, including during the initial search for the child or during the lodging of the FIR. Her failure to report such a crucial fact, as noted in para 10 of the impugned judgment, rendered her testimony unreliable and indicative of being an afterthought.

30. It was further submitted that the testimony of PW3, who stated that he saw Respondent Dayawati carrying "something" under her shawl and Respondent Ramesh Chand carrying a suitcase, was at best vague and speculative. PW3 did not claim to have seen the deceased child and was not a seizure witness. Notably, he was never asked to identify the same shawl or suitcase allegedly seen by him during the incident, as recorded in para 11 of



the Trial Court judgment. His evidence could not therefore be relied upon to establish any incriminating circumstance.

31. Additionally, it was pointed out that the incriminating evidence allegedly arising from PW5's testimony was never put to the accused in their statements under Section 313 CrPC and thus, cannot be relied upon. Reliance was placed on Nababuddin v. State of Haryana, **2023 SCC OnLine SC 1534**, paras 9-15, where the Supreme Court held that incriminating material not put to the accused under Section 313 must be excluded from consideration.

32. It was furthermore submitted that the arrest memo showed Ramesh Chand's arrest on 06.12.1997, while PW2, in her testimony, stated that both accused were arrested on 25.11.1997 and taken to the police station after the recovery of the locket. There were thus glaring contradictions in the prosecution's version regarding the timeline of arrest and recovery, casting serious doubt on the veracity of the police procedure.

33. In light of the above, it was submitted that the prosecution failed to establish a complete and unbroken chain of circumstances. Each of the three alleged links-recovery, motive, and last seen suffered from material infirmities. The findings of the Trial Court were based on sound legal reasoning and were consistent with settled principles governing circumstantial evidence. It was therefore prayed that the appeal be dismissed and the acquittal of the Respondents be upheld.

34. Heard the Learned Counsels for both the parties and perused the material on record.

35. The prosecution's case, as unfolded through the charge sheet and evidence adduced before the learned Trial Court, is premised entirely on



circumstantial evidence. It was alleged that on 17.11.1997, the deceased, a minor child aged about two and a half years, went missing from outside his residence. An FIR was initially registered under Section 363 IPC upon the complaint of PW1 (father of the deceased), and later sections 364, 302, and 201 IPC were invoked after the recovery of the deceased child's body from a drain on 22.11.1997.

36. The prosecution alleged that the Respondents, Ramesh Chand and Dayawati, who were neighbours of the complainant's family, had kidnapped and murdered the deceased owing to prior animosity. The alleged motive stemmed from an earlier incident where PW1 and PW2 had introduced Dayawati to a local spiritual healer, Baba Ramji Das (PW4), who purportedly misbehaved with her, leading to resentment on the part of the accused.

37. The prosecution further relied on three principal circumstances to establish the guilt of the accused:

- i. Last seen evidence: PW5 (landlady) and PW9 (a child witness) allegedly saw the deceased child in the company of Ramesh Chand on the afternoon of 17.11.1997. Additionally, PW3 is stated to have seen both accused carrying a suitcase and a bundle wrapped in a shawl on the same day.
- ii. Recovery of incriminating articles: On 25.11.1997, at the instance of accused Dayawati, a briefcase (Ex. P-1) and a shawl (Ex. P-2) were recovered from the house of the accused. A silver locket/tabiz (Ex. P-3) allegedly belonging to the deceased was also recovered. These recoveries were made pursuant to



disclosure statements recorded under Section 27 of the Indian Evidence Act.

- iii. Motive: The animosity allegedly arising out of the Baba episode was sought to be projected as the motive behind the offence.

38. In support of its case, the prosecution examined 26 witnesses. The testimony of PW1 and PW2 (parents of the deceased) sought to establish the background, timeline, and motive. PW5 and PW9 were relied upon as last seen witnesses. PW3 sought to provide corroboration regarding suspicious conduct of the accused on the relevant date. The recovery witnesses included PW14 and PW16, while PW22 (the autopsy doctor) deposed to the cause of death being homicidal strangulation. The Investigating Officer, PW24, sought to tie together the chain of events.

39. It was contended that the cumulative effect of these circumstances established the guilt of the accused beyond reasonable doubt and that the Trial Court erred in discarding the prosecution's evidence on hyper-technical grounds. The State, therefore, sought reversal of the acquittal and conviction of both Respondents

40. The case of the prosecution rests on circumstantial evidence and the testimonies of 26 witnesses, out of which PW1, PW2, PW3, PW5, and PW9 were crucial to the case. A closer analysis of their depositions reveals several material inconsistencies, omissions, and contradictions that were rightly taken into account by the Trial Court.

41. PW1 - Mohan Lal (Father of the Deceased) deposed about the disappearance of his child on 17.11.1997 and his subsequent efforts to trace him. He stated that he suspected the Respondents due to prior enmity and



their alleged abscondence after the incident. He further identified the recovered briefcase, shawl, and silver locket as belonging to or associated with the deceased. However, during cross-examination, PW1 admitted that he had not mentioned the silver locket in his initial complaint (Ex. PW1/A), raising doubt about the credibility of his identification. His presence as a witness to the recovery (Ex. PW1/E and Ex. PW1/J) was also questioned as he was an interested party.

42. PW2 - Meenu (Mother of the Deceased) corroborated PW1's version regarding the disappearance of the child and the family's suspicion on the accused. She deposed to the accused persons being absent from their home post-incident and linked the motive to the prior dispute involving Baba Ramji Das. However, she provided conflicting accounts regarding the arrest of the accused-stating at various points that Dayawati was arrested on 18.11.1997 and that both Respondents were taken into custody on 25.11.1997 after recovery of the locket. This directly contradicted the arrest memos produced by the prosecution and weakened the prosecution's timeline. Further, her testimony was silent on whether she was informed by PW5 about having seen the deceased with Ramesh Chand, casting doubt on the credibility of PW5's version.

43. PW3 - Bharat Singh (Neighbour) claimed to have seen Dayawati carrying something in her arms wrapped in a shawl, accompanied by Ramesh Chand who was holding a suitcase, on the date of the incident. However, he did not depose to having seen the deceased child. He was not a witness to the seizure of the shawl or briefcase, and no Test Identification Parade (TIP) of the recovered articles was conducted. Despite this, he purported to identify the same in court, which dilutes the evidentiary weight



of his testimony. His account was held to be at best an insinuation and not a substantive circumstance implicating the accused.

44. PW5 - Kamla (Landlady) stated that she had seen Ramesh Chand taking the deceased child with him on 17.11.1997. However, she admitted that she did not inform PW2 or the investigating agency of this vital fact during the initial investigation or while accompanying PW2 to search for the child. The Trial Court found this omission to be critical and opined that she was likely introduced at a later stage to bolster the prosecution's case. Moreover, this alleged last seen evidence was never put to the accused in their examination under Section 313 CrPC, which further reduces its probative value.

45. PW9 - Child Witness, a minor friend of the deceased, claimed to have seen Ramesh Chand with the deceased outside the complainant's house on the day of the incident. However, he contradicted PW2's version by claiming that the house was locked and no one was inside, whereas PW2 categorically deposed that she was present at home. Furthermore, PW9 failed to describe the clothing worn by the deceased on that day, and his reason for visiting PW1's house was implausible. The inconsistencies in his testimony were material and rendered his evidence unreliable.

46. It is a settled proposition of criminal jurisprudence that in a case resting solely on circumstantial evidence, each link in the chain must be proved beyond reasonable doubt, and the prosecution must exclude every hypothesis consistent with the innocence of the accused. In the present case, despite the recoveries of allegedly incriminating articles such as a briefcase, shawl, and silver locket (Ex. P1 to P3), the prosecution failed to examine any independent witness to such recoveries. The seizure witnesses—PW1



(father of the deceased) and police officials—were either interested or official witnesses. No local resident or neutral witness from the locality was examined to lend independent corroboration, although the recoveries were purportedly made from a residential neighbourhood.

47. Moreover, a glaring investigative lapse was the failure to send the recovered shawl or briefcase for serological or forensic examination. This omission assumes critical importance in light of the post-mortem findings (Ex. PW22/A), which indicated blood injuries on the face and tongue of the deceased, suggesting that the alleged mode of transportation would logically have left traces of blood. The absence of any forensic attempt to connect the articles with the victim fatally weakens the probative value of the recoveries.

48. The Hon'ble Supreme Court in Navaneethakrishnan v. State, (2018) 16 SCC 161, has observed as under:-

“18. In the present case, there is no witness of the occurrence and it is only based on circumstantial evidence. Before moving further, it would be apposite to refer the law regarding reliability of circumstantial evidence to acquit or convict an accused. The law regarding circumstantial evidence was aptly dealt with by this Court in Padala Veera Reddy v. State of A.P. [Padala Veera Reddy v. State of A.P., 1989 Supp (2) SCC 706 : 1991 SCC (Cri) 407] wherein this Court has observed as under: (SCC pp. 710-11, para 10).

“10. ... (1) The circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape



from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”

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27. The law is well settled that each and every incriminating circumstance must be clearly established by reliable and clinching evidence and the circumstances so proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn and no other hypothesis against the guilt is possible. In a case depending largely upon circumstantial evidence, there is always a danger that conjecture or suspicion may take the place of legal proof. The court must satisfy itself that various circumstances in the chain of events must be such as to rule out a reasonable likelihood of the innocence of the accused. When the important link goes, the chain of circumstances gets snapped and the other circumstances cannot, in any manner, establish the guilt of the accused beyond all reasonable doubt. The court has to be watchful and avoid the danger of allowing the suspicion to take the place of legal proof for sometimes, unconsciously it may happen to be a short step between moral certainty and legal proof. There is a long mental distance between “may be true” and “must be true” and the same divides conjectures from sure conclusions. The Court is mindful of caution by the settled principles of law and the decisions rendered by this Court that in a given case like this, where the prosecution rests on the circumstantial evidence, the prosecution must place and prove all the



necessary circumstances, which would constitute a complete chain without a snap and pointing to the hypothesis that except the accused, no one had committed the offence, which in the present case, the prosecution has failed to prove.”

49. It is held that non-examination of independent witnesses or failure to undertake available scientific tests can create a fatal gap in the prosecution case, especially where the evidence is otherwise circumstantial. Applying this principle, the omission on part of the prosecution to conduct forensic corroboration, coupled with the failure to examine neutral witnesses, renders the case against the accused speculative at best and insufficient to return a finding of guilt beyond reasonable doubt.

50. The Trial Court, after a detailed and structured analysis of the evidence adduced, rightly concluded that the prosecution had failed to establish a complete and unbroken chain of circumstances that would inevitably point to the guilt of the accused. The Trial Court observed the contradictions and omissions in the testimonies of key witnesses, particularly PW2, PW5, and PW9, whose evidence was central to the “last seen” theory. It found the testimony of PW9 to be contradictory to PW2’s version regarding the presence and condition of the house, and that of PW5 to be unreliable due to her unexplained silence at crucial stages, including the filing of the FIR and the initial search for the child.

51. Further, the Trial Court correctly held that the alleged recoveries—though introduced as incriminating circumstances—suffered from evidentiary infirmities. The Trial Court noted that the silver locket was not mentioned in the initial complaint (Ex. PW1/A), weakening the identification. While also highlighting that no blood or biological evidence



was collected from the recovered articles, despite there being visible injuries on the deceased, as per the post-mortem report. The absence of forensic analysis and independent seizure witnesses contributed significantly to the reasonable doubt in the prosecution's story.

52. The Trial Court also took judicial notice of the fact that the key witness regarding motive—PW4 (the spiritual healer)—turned hostile and denied the alleged incident altogether. In the absence of any credible proof of motive, and given the speculative nature of the narrative, the Trial Court rightly held that the prosecution's case was not free from reasonable doubt. Consequently, it extended the benefit of doubt to both accused and acquitted them by a well-reasoned judgment dated 23.10.2000.

53. It is apposite to reiterate the well-settled legal principles governing the exercise of appellate jurisdiction against an order of acquittal under Section 378 of the Code of Criminal Procedure, 1973.

54. Section 378 CrPC provides that the State Government may, in any case where an accused has been acquitted, direct the Public Prosecutor to present an appeal to the High Court. Sub-section (3) mandates that such an appeal shall not be entertained except with the leave of the High Court. Thus, the provision acts as a check on routine appeals against acquittals and demands a reasoned demonstration that the findings of the Trial Court suffer from manifest illegality or perverse appreciation of evidence.

55. The Supreme Court has consistently held that an appellate court should be slow to interfere with a judgment of acquittal unless the view taken by the Trial Court is not merely erroneous, but palpably perverse or wholly unreasonable. In Chandrappa v. State of Karnataka, (2007) 4 SCC 415, the Court laid down the following principles:-



“42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court



should not disturb the finding of acquittal recorded by the trial court.”

56. In Muralidhar v. State of Karnataka, (2014) 5 SCC 730, the Court emphasized that unless the judgment of acquittal is "grossly unreasonable or suffering from grave infirmities," it should not be overturned merely because the appellate court might have taken a different view on the same evidence.

57. Similarly, in State of Rajasthan v. Shera Ram, (2012) 1 SCC 602, it was reiterated that where the Trial Court has taken a plausible view, interference should be avoided even if the appellate court feels that another view is possible. The principle of benefit of doubt continues to govern cases where circumstantial evidence is inconclusive.

58. Thus, the jurisprudential underpinning of Section 378 CrPC is that the freedom of the individual is paramount and should not be disturbed lightly in the absence of compelling reasons. This heightened threshold for interference with an acquittal reflects the constitutional value of the presumption of innocence, which lies at the heart of criminal jurisprudence.

59. Applying the principles delineated in Section 378 CrPC and the judicial pronouncements referred to above, this Court is required to determine whether the view taken by the learned Trial Court was so perverse or unreasonable as to call for interference.

60. Upon a comprehensive evaluation of the record and the reasoning employed by the Trial Court, it becomes evident that the acquittal is premised on a meticulous appreciation of evidence and cannot be characterized as manifestly illegal or absurd. The Trial Court has tested each link of the circumstantial chain being the alleged recovery, motive, and last



seen on the touchstone of settled evidentiary standards and found them inadequate.

61. The alleged recoveries made from the residence of the Respondents were not corroborated by any independent public witness and lacked forensic support linking them to the deceased. The prosecution, despite collecting blood samples, failed to conduct any scientific examination to ascertain whether the suitcase or shawl bore any bloodstains. This omission becomes significant in light of the medical evidence indicating the presence of blood on the face of the deceased and injury to the tongue.

62. The motive sought to be imputed by the prosecution was based on alleged enmity arising from a quarrel involving a spiritual healer. However, the said witness (PW4) turned hostile and denied any knowledge of the parties or incident. In the absence of a proven motive, this Court is left only with speculative inferences, which cannot substitute proof beyond reasonable doubt.

63. The testimonies of the last seen witnesses (PW5 and PW9) were not found to be trustworthy. PW9's account was internally inconsistent and contradicted by PW2. PW5, while claiming to have seen the child with the accused, failed to disclose this critical fact to the complainant or during initial investigation, thereby undermining the credibility of her statement. Further, this alleged incriminatory evidence was never put to the accused under Section 313 CrPC, rendering it inadmissible against them.

64. Additionally, there were material discrepancies in the prosecution's narrative concerning the dates of arrest and the procedural chronology of recovery, further diluting the credibility of the investigation.



65. The Trial Court, in its well-reasoned judgment, has objectively evaluated the evidence and provided cogent reasons for granting the benefit of doubt to the accused. It has rightly held that the prosecution has failed to establish a complete and unbroken chain of circumstances that would inevitably point towards the guilt of the accused persons.

66. The view taken by the Trial Court is certainly a *possible* and *plausible* view on the evidence. As reiterated in Chandrappa (supra) and Shera Ram (supra), the mere possibility of an alternative view is no ground to overturn an acquittal unless the findings are perverse, capricious, or wholly unsustainable in law.

67. This Court is, therefore, not persuaded to disturb the findings of the Trial Court. The acquittal recorded by the Trial Court is not only legally tenable but also supported by settled principles governing criminal jurisprudence.

68. Consequently, the appeal is devoid of merit and is hereby dismissed. The judgment of acquittal dated 23.10.2000 passed by the learned ASJ, Delhi in Sessions Case No. 59/98 stands affirmed.

SUBRAMONIUM PRASAD, J

HARISH VAIDYANATHANSHANKAR, J

JULY 02, 2025

Rahul/JP