V.S. DREAM COACHING

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For

H.J.S. P.C.S. (J) A.P.O. & CLAT

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Secret of success is to know something

nobody else knows

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For Judicial Service Aspirants

In the service of Judicial Fraternity

V.S. DREAM COACHING

1. Study Material-Law

Introduction

The Anti-Defection Law was passed in India in 1985 as a part of the Tenth Schedule of the Indian Constitution. It was enacted to prevent elected representatives from switching parties after they are elected. The law was intended to curb political instability and promote party discipline. The Anti-Defection Law is a crucial element in India's parliamentary democracy, and it has had a significant impact on the political landscape of the country. It also sometimes leads to Horse-Trading. The necessity of the Act arose after the 'Aaya Ram, Gaya Ram' scene in Haryana. This became a popular phrase in Indian politics after this 1967 incident, referring to legislators who frequently change their political allegiance and jump from one political party to another.

What is the Anti-Defection Law?

The Anti-Defection Law aims to prevent elected representatives from switching parties after being elected. It states that if an elected representative voluntarily gives up their membership of a political party or votes against the party's directives, they will be disqualified from being a member of the House.

The law also applies to nominated members of the House who join a political party after their nomination. The law also provides for the disqualification of a member if they violate the whip issued by their party on a particular vote. A whip is an order issued by the party leadership to its members directing them to vote in a particular way. The Anti-Defection Law, therefore, ensures that elected representatives vote in accordance with their party's decisions and policies.

The Anti-Defection Law applies to both the Lok Sabha (Lower House of Parliament) and the Rajya Sabha (Upper House of Parliament) as well as State Legislatures.

The Process of Disqualification

Under the Anti-Defection Law, a complaint can be made to the Speaker or the Chairman of the House (in the case of the Rajya Sabha) by any member of the House. The complaint should be in writing and should be signed by the member

making the complaint. The Speaker or the Chairman, as the case may be, then examines the complaint and decides whether or not to disqualify the member.

The decision of the Speaker or the Chairman is final and cannot be questioned in any court of law. However, the member who has been disqualified may challenge the decision in the High Court or the Supreme Court. The courts can only examine whether the decision of the Speaker or the Chairman was in accordance with the law and the Constitution.

Exceptions to the Law

The Anti-Defection Law provides for certain exceptions. A member can defect without attracting disqualification if:

- The member and at least one-third of the members of the party they belong to, join a new party.
- The member joins a new party after their original party merges with another party.
- The member refuses to abide by the party whip in the event of a split in the party.

These exceptions were added to the law to ensure that members are not penalized for events beyond their control.

Constitutional Amendment

The 1985 Act defined a "merger" as the "defection" of one-third of an elected political party's members. Nevertheless, this was changed by the 91st Constitutional Amendment Act of 2003, and now at least two-thirds of a party's members must support a "merger" in order to get around the anti-defection provision.

Expected Impact of the Anti-Defection Law

The Anti-Defection Law at certain extent helped to stabilize governments and promote party discipline. Before the Anti-Defection Law, elected representatives would often switch parties to gain political power or influence. This led to political instability and a lack of accountability. It has ensured that elected representatives vote in accordance with their party's policies and decisions. The law has also helped to somewhat prevent horse-trading and the buying of votes.

Criticism of anti-defection law

The absurdity of anti-defection law has reduced legislators to being accountable to the party and failed to preserve the stability of government. Recently, MLAs in Puducherry resigned leading to lowering the numbers of no-confidence motion to succeed. Somewhat scenarios are seen in Madhya Pradesh and Karnataka. The recent political turmoil in Maharashtra has also led to rise of talks about the Anti-defection law. The purpose of this law was to prevent elected representatives from switching parties for personal gain, thereby destabilizing the government. However, the law has faced criticism for various reasons, including violation of the freedom of speech and expression and the right to dissent.

One of the criticisms of the anti-defection law is that it curtails the freedom of speech and expression of the elected representatives. Under the law, a member of a political party can be disqualified if he or she votes against the party whip, which means that the member is required to vote in accordance with the direction of the party leadership. This puts the members in a difficult position as they are unable to vote according to their conscience, and are forced to toe the party line even if they disagree with it. Instead of being accountable to the voters who have elected them, the legislator becomes accountable to the party. The law in practice has also encouraged legislative horse-trading, which is against the principles of a democratic system.

Another criticism of the law is that it prevents elected representatives from changing their party affiliation if they feel that their current party no longer represents their views or if they feel that the party has become corrupt. This can result in a situation where the elected representative is forced to remain with a party that he or she no longer believes in, or to resign from their position. Furthermore, the law has been criticized for being arbitrary and discriminatory. It provides for disqualification of members who voluntarily give up the membership of their party, but not for those who are expelled from the party. This means that a member can be disqualified even if he or she resigns from the party voluntarily, but not if he or she is expelled from the party.

Landmark Cases related to Anti-Defection Law

One of the landmark cases that highlighted the problems with the anti-defection law was the case of **Kihoto Hollohan Vs. Zachillhu and Ors., 1992 SCR (1) 686,** in this case, the Supreme Court upheld the constitutionality of the anti-defection law but also stated that the law should not be used to stifle dissent or prevent elected representatives from voting according to their conscience. The court also emphasized that the law should be used sparingly and only in cases where it is necessary to maintain the stability of the government.

Recent: The Speaker will continue to be the deciding authority as long as the 1992 ruling of the SC, wherein a Constitution Bench upheld the validity of the 10th schedule, is not reversed, was upheld by Justice P S Narasimha, who was a member of the five-judge bench hearing a batch of petitions arising from last year's political fallout in Maharashtra following differences in the **'Shiv Sena' between the Uddhav Thackeray and Eknath Shinde clans.**

In the 1994 case of **Ravi S. Naik v. Union of India AIR 1994 SC 1558,** the Supreme Court ruled that the expression "voluntarily gives up membership in a political party" had broader meanings and was not the same as resignation. The Supreme Court ruled in the Kihoto Hollohan case (1993) that the decision of the speaker on disqualification is subject to judicial review on the grounds of sanctity, absurdity, etc.

In the 2007 case of **Rajendra Singh Rana v. Swami Prasad Maurya (2007) 4 SCC 270,** the Supreme Court ruled that the Speaker is in violation of the Tenth Schedule if he ignores a complaint or accepts claims of splits or mergers without making a findings. He is also thought to have broken his constitutional obligations. Now that we know, the Governor cannot ignore the Cabinet's request to convene a House session for legislative purposes or to allow the chief minister to demonstrate his majority. In reality, the court has repeatedly made it clear that a floor test must be held as soon as possible when the majority of the ruling party is in doubt, including in the 2016 Uttarakhand case.

The Supreme Court explicitly said in **Nabam Rebia and Bamang Felix v. Deputy Speaker (2017) 13 SCC 332** that the Governor does not have sole authority to call a special session of the House.

In conclusion, while the anti-defection law was introduced with the intention of preventing instability in the government, it has been criticized for being arbitrary and discriminatory, and for curtailing the freedom of speech and expression of elected representatives. The law needs to be re-examined to ensure that it strikes a balance between preventing defections and allowing elected representatives to vote according to their conscience. However, the law has also had some unintended consequences. It has led to a lack of independent thinking among elected representatives, who are often forced to vote according to their party's directives. The law has also led to a decrease in the number of independent candidates contesting elections, as they are often unable to win without the backing of a political party.

The Law Commission of India recommends an appropriate amendment to the Tenth Schedule of the Constitution in its Report No. 255 on "Electoral Reforms,"

which would have the effect of giving the President or the Governor, as the case may be, (instead of the Speaker or the Chairman), who would act on the advice of the ECI, the authority to decide on questions of disqualification on the basis of defection. The Speaker's office's integrity would be preserved as a result. The solution for parties is to enhance their internal mechanisms if the stability of the government is a problem as a result of people defecting from their party. There would be a higher barrier to leaving the party if they drew individuals in based on their ideologies and had processes in place that allowed members to rise in the party hierarchy based on their ability (instead of inheritance).

B. Important Cases Full Report

IN THE SUPREME COURT OF INDIA

Sundar @ Sundarrajan
Vs.
State by Inspector of Police
[Review Petition (Crl.) Nos. 159-160 of 2013]
[Criminal Appeal Nos. 300-301 of 2011]

HEADNOTE – The 'rarest of rare' doctrine requires that the death sentence not be imposed only by taking into account the grave nature of crime but only if there is no possibility of reformation in a criminal'

JUDGMENT

Dr. Dhananjaya Y. Chandrachud, CJI

This judgment consists of the following sections:

1. The applicant is a convict on death row. He has moved this court for a fresh look at his petition seeking a review of his conviction for the offence of murder and the award of the sentence of death. He does so on the basis of the decision of the Constitution Bench in Mohd. Arif alias Ashfaq v Registrar, Supreme Court of India1. In Mohd. Arif, this Court has held that review petitions arising from conviction and the imposition of the sentence of death must be heard in open court and cannot be disposed of by circulation.

The Constitution Bench allowed a period of a month from the date of judgment to petitioners whose applications seeking review of the judgment of this Court confirming the award of the sentence of death were rejected by circulation, where the sentence was yet to be executed.

A. Prologue - The impact of Mohd. Arif

2. In Mohd. Arif, this Court took note of the irreversible nature of the death penalty and of the possibility of two judicial minds reaching differing conclusions on the question of a case being appropriate for the award of the death penalty. The judgment of the majority allowed the right to oral hearing in review for cases involving death penalty:

29. [...] death sentence cases are a distinct category of cases altogether. Quite apart from Article 134 of the Constitution granting an automatic right of appeal to the Supreme Court in all death sentence cases, and apart from death sentence being granted only in the rarest of rare cases, two factors have impressed us.

The first is the irreversibility of a death penalty. And the second is the fact that different judicially trained minds can arrive at conclusions which, on the same facts, can be diametrically opposed to each other. Adverting first to the second factor mentioned above, it is well known that the basic principle behind returning the verdict of death sentence is that it has to be awarded in the rarest of rare cases. There may be aggravating as well as mitigating circumstances which are to be examined by the Court.

At the same time, it is not possible to lay down the principles to determine as to which case would fall in the category of rarest of rare cases, justifying the death sentence. It is not even easy to mention precisely the parameters or aggravating/ mitigating circumstances which should be kept in mind while arriving at such a question. Though attempts are made by Judges in various cases to state such circumstances, they remain illustrative only.

30. [...] A sentence is a compound of many factors, including the nature of the offence as well as the circumstances extenuating or aggravating the offence. A large number of aggravating circumstances and mitigating circumstances have been pointed out in Bachan Singh v. State of Punjab, SCC at pp. 749-50, paras 202 & 206, that a Judge should take into account when awarding the death sentence.

Again, as pointed out above, apart from the fact that these lists are only illustrative, as clarified in Bachan Singh itself, different judicially trained minds can apply different aggravating and mitigating circumstances to ultimately arrive at a conclusion, on considering all relevant factors that the death penalty may or

may not be awarded in any given case. Experience based on judicial decisions touching upon this aspect amply demonstrate such a divergent approach being taken.

Though, it is not necessary to dwell upon this aspect elaborately, at the same time, it needs to be emphasised that when on the same set of facts, one judicial mind can come to the conclusion that the circumstances do not warrant the death penalty, whereas another may feel it to be a fit case fully justifying the death penalty, we feel that when a convict who has suffered the sentence of death and files a review petition, the necessity of oral hearing in such a review petition becomes an integral part of "reasonable procedure".

(emphasis supplied)

3. A recent study by Project 39A examined all the judgments involving a sentence of death delivered by the Supreme Court between 2007 and 2021 as part of which it analysed the exercise of the review jurisdiction in capital cases. 2 It noted that, during the period covered by the study, before the decision in Mohd. Arif, 14 review petitions were dismissed by circulation and the capital punishment was confirmed in all of them.

Out of these, 13 were re-opened in view of the judgment which resulted in only 4 re-confirmations of the death penalty. On the other hand, 7 judgments resulted in commutation of death sentences, 1 in acquittal and 1 case being abated due to the death of the prisoner. In view of the above data, the impact of the oral hearing of review petitions, due to the judgment in Mohd. Arif leading to a change in the outcome of a death penalty confirmation is evident.

4. The Court in Mohd. Arif, however, was not persuaded by the argument of involving two additional judges beyond the judges who had heard the original appeal during the hearing of the review petition. It also held that a review must be ordinarily heard by the same bench which originally heard the criminal appeal. It had noted that:

39. Henceforth, in all cases in which death sentence has been awarded by the High Court in appeals pending before the Supreme Court, only a bench of three Hon'ble Judges will hear the same. This is for the reason that at least three judicially trained minds need to apply their minds at the final stage of the journey of a convict on death row, given the vagaries of the sentencing procedure outlined above. At present, we are not persuaded to have a minimum of 5 learned Judges hear all death sentence cases.

Further, [...] a review is ordinarily to be heard only by the same bench which originally heard the criminal appeal. This is obviously for the reason that in order

that a review succeeds, errors apparent on the record have to be found. It is axiomatic that the same learned Judges alleged to have committed the error be called upon now to rectify such error. We, therefore, turn down [the...] plea that two additional Judges be added at the review stage in death sentence cases.

(emphasis supplied)

5. The data analysed by Project 39A indicates that it is not merely the oral hearing of review petitions that has changed the outcomes. There may also be a correlation between the ultimate outcome changing and different judges being involved as part of the review process instead of the same judges who had originally decided the appeal. Post Mohd. Arif, this happens when the judges who were members of the original bench have demitted office by the time the open court review comes for hearing.

The data involves the 13 review cases re-opened and re-decided post Mohd. Arif after an oral hearing as well as 10 fresh review cases which were decided post Mohd. Arif. Out of 13 post Mohd. Arif cases which were re-opened, we have already noted that only 4 led to re-confirmation of the award of the death penalty, while in 7 cases the sentence was commuted to life imprisonment, 1 resulted in an acquittal and 1 stood abated. Out of the 10 fresh review cases, in 7 the death sentence was confirmed while in 3 the sentence was commuted.

6. In the cases where the sentence of death was commuted to life imprisonment, i.e. 7 cases from the first lot of 13 re-opened review cases and 3 cases from the second lot of 10 fresh review cases, all of the benches in review were of a different composition from the bench that decided the appeal. The 1 case which resulted in acquittal also had a different bench in review from the one in appeal. On the other hand, in the 11 cases which re-confirmed the death sentence, 7 benches had a composition of one or all the judges being the same as the bench that decided the appeal. The report notes that:

The stage of review is rendered almost superfluous for the purpose envisaged by the majority, i.e., a further reconsideration of a death sentence, when the same bench (as in criminal appeal) is called upon to decide the review petition. This is in fact demonstrated by the data. As predicted by Justice Chelameswar, when heard by the same bench as the appeal, review petitions resulted in the death sentence being maintained. 4 out of 11 confirmation judgments rendered at the stage of review had the same bench.

While the remaining 7 confirmation judgments in review were rendered by benches of different composition, it is relevant to note that in 1 of these judgments one judge was common to both the benches that decided the review and the appeal, and in yet another, two judges were common to both benches.

On the other hand, all of the 10 judgments that resulted in commutation at the review stage, were rendered by benches having a different composition from the bench that decided the appeal. Therefore, the data suggests that a review petition filed within 30 days of the judgment rendered in appeal, decided by the same bench, will not demonstrate considerable differences in approaches or outcome, unlike those decided by a different bench.

(emphasis supplied)

7. While the above data is not conclusive and the correlation may not necessarily equate to causation, we find it appropriate to mention as the present case is also one of those being re-opened and re-heard as a result of the decision in Mohd. Arif. We clarify by way of abundant caution that being both a smaller bench and having not been called upon to consider the impact of different judges sitting in the review of an appeal confirming the death sentence, we are not deciding on the merits of the proposition.

B. Background

8. In view of the judgment in Mohd. Arif, the order dated 20 March 2013 in the present case dismissing the review petition through circulation was recalled and this review petition was heard in open court.

9. The petitioner was accused of kidnapping and murdering a 7-year-old child. The petitioner is alleged to have picked up the victim while he was returning from school in the school van on 27 July 2009. Prosecution witnesses testified to the petitioner having picked up the victim on his motorbike.

10. Due to the victim's absence, his mother attempted to find his whereabouts and was informed of the above sequence of events by one of the witnesses. Accordingly, she proceeded to register a complaint at Police Station, Kammapuram on the same date. On the same night, she also received a call on her mobile phone from the petitioner, demanding a ransom of Rs. 5 lakhs for the release of the victim. Further, another ransom call was made on the succeeding day from a telephone booth. One of the witnesses is the individual who runs the booth and has testified that the petitioner made a call enquiring regarding the payment of money.

11. On 30 July 2009 the police raided the house of the petitioner and arrested him along with a co-accused who was later acquitted. The petitioner made confessional statements on the basis of which three mobile phone sets, two of which had SIM cards, were recovered. The petitioner confessed to strangling the deceased, putting his dead body in a gunny bag and throwing it in the

Meerankulam tank. The body of the deceased was recovered from the tank on the basis of the confessional statement.

12. On the basis of the investigation, the petitioner was charged under Sections 364A, 302 and 201 of the Indian Penal Code.3 The trial was committed to the Court of the Sessions Judge on 30 July 2010. The Sessions Judge convicted the petitioner for the offences with which he was charged and sentenced him to (i) death with a fine of Rs.1000 for the offence under section 364A IPC, (ii) death with a fine of Rs.1000 for the offence under section 302 IPC; and (ii) rigorous imprisonment for seven years and a fine of Rs.1000 for the offence under section 201 IPC. The co-accused was acquitted of all the offences.

13. The petitioner's appeal was dismissed by the High Court of Judicature at Madras by a judgment dated 30 September 2010. The High Court confirmed both the conviction and the award of the death sentence.

14. This Court dismissed the appeal of the petitioner and confirmed the judgment of the Madras High Court on 5 February 2013. Both the High Court and this Court entered into a detailed appreciation of facts before confirming the conviction.

C. Scope of Review Jurisdiction

15. Article 137 of the Constitution states that the Supreme Court has the power to review any judgment pronounced by it subject to provisions of law made by the Parliament or any rules under Article 145. The Supreme Court Rules 20134 have been framed under Article 145 of the Constitution. Order XLVII Rule 1 of the 2013 Rules provides that the Court may review its own judgment 16. or order but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII Rule 1 of the Code of Civil Procedure 1908, and in a criminal proceeding except on the ground of an error apparent on the face of the record.

17. In Mofil Khan v State of Jharkhand5, a three judge Bench of this Court while discussing the scope of the power of review held that:

2. [...] Review is not rehearing of the appeal all over again and to maintain a review petition, it has to be shown that there has been a miscarriage of justice (See: Suthendraraja v. State). An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review (See: Kamlesh Verma v. Mayavati).

An applicant cannot be allowed to reargue the appeal in an application for review on the grounds that were urged at the time of hearing of the appeal. Even if the applicant succeeds in establishing that there may be another view possible on the conviction or sentence of the accused that is not a sufficient ground for review. This Court shall exercise its jurisdiction to review only when a glaring omission or patent mistake has crept in the earlier decision due to judicial fallibility. There has to be an error apparent on the face of the record leading to miscarriage of justice.

D. Error Apparent on the Face of the Record?

D.1 Submissions of Counsel

18. We have heard the counsel for the petitioner and for the State of Tamil Nadu. The counsel for the petitioner has submitted that the following errors are apparent on the face of the record and call for a review of the judgment dismissing the appeal:

a. There is no proof that the phone number through which the ransom calls were allegedly made by the petitioner i.e. the number ending with XXX5961, belongs to the petitioner;

b. That the call detail records show that the above-mentioned number is registered with one individual with residence in Alathur, Palakkad whom the petitioner has no connection with;

c. That the 15-digit IMEI number for the cell phone, allegedly belonging to the petitioner containing the SIM with mobile number ending with XXX5961, mentioned in the seizure memo differs from the IMEI number mentioned in the call detail record;

d. There is no evidence that the number on which the ransom call was allegedly made to PW1 (mother of the deceased), i.e. the number ending with XXX847, belongs to PW1;

e. PW1 has not stated that calls were made to her on 28 July 2009 and the testimony of PW16, the operator of the phone booth through which the call was made, cannot be relied upon; and

f. The certificate under Section 65B of the Indian Evidence Act 18726 for the call detail records was not furnished.

19. The counsel for the State of Tamil Nadu strongly resisted the submissions which were urged by the Petitioner. The counsel submitted that the above

grounds do not amount to errors apparent on the face of the record and do not meet the standard for re-appreciating evidence by this Court in review jurisdiction in the face of concurrent findings of the Trial Court, the High Court and this Court. The counsel also took us through the relevant exhibits and statements of prosecution witnesses to counter the grounds raised by the petitioner on merits.

D.2. Analysis

20. We are in agreement with the counsel for the State of Tamil Nadu. The grounds which have been raised by the petitioner have already been dealt with by the courts which have arrived at concurrent findings recording the guilt of the petitioner. Further, the case of the prosecution is not founded only on the alleged calls for ransom but on consistent interlinked evidence as both the High Court and Supreme Court found in their judgments.

21. Regardless, we consider it appropriate to deal with the contentions of the petitioner.

22. The petitioner has alleged that the number through which the ransom call was allegedly made did not belong to him. However, on the basis of his statement of 30 July 2009, the cell phone with the SIM for the mobile number ending with XXX5961 was seized from the petitioner along with 2 other cell phones, the motorbike on which he had kidnapped the victim as well as the victim's school bag.

23. Similarly, the contention based on the difference in the IMEI number recorded in the seizure memo and the call detail records does not affect the prosecution's case for the following reason. The difference in the IMEI number recorded in the seizure memo and the call detail record pertains to the last digit of the 15-digit IMEI number.

Every device has a unique IMEI number identifying the brand owner in the model. The first 8 digits are the Type Allocation Code (TAC) digits of which the initial 2 digits identify the reporting body and the next 6 identify the brand owner and device model allocated by the reporting body. The next 6 digits are the unique serial number assigned to individual devices by the manufacturer.7

24. These 14 digits in the petitioner's case match in both the seizure memo and the call detail record. The last digit in the IMEI number is the 'Luhn check digit' based on a function of the other digits using an algorithm. Technically, the last digit, which is the only digit that is different in the seizure memo and the call detail record, can be calculated through the algorithm on the basis of the first 14 digits which are the same in both the documents.

As the last digit of an IMEI number is a function of the first 14 digits, as long as the first 14 digits are a match, it can only lead to one unique device. Accordingly, it can be conclusively said that a difference in only the last digit of the IMEI number cannot imply that it represents the IMEI number of a separate device. Therefore, the difference in the last digit of the IMEI number can reasonably be assumed to be a typographical error and does not raise a doubt in the prosecution's case.

25. The arguments regarding non-verification of PW1's number, non-confirmation with PW1 regarding a call received on the subsequent day as claimed by PW16 have been raised at a belated stage.

26. PW8 has stated in her testimony that the petitioner called her to enquire regarding the phone number of PW1 and she told him to cut the phone and call again so she can retrieve the number and provide the same, as she did on the second call. PW1 has also testified that she received the call for ransom at about 9:30PM. It was upon the petitioner, at the stage of cross-examination of PW1 to raise questions regarding the number ending with XXX847 belonging to her or regarding the call alleged to have been made by the petitioner on 28 July 2009 mentioned by PW16.

27. Finally, the petitioner has argued that the CDRs cannot be relied upon due to the lack of production of the Section 65B certificate. The call detail records were verified in the testimony of the Legal Officer of Vodafone, PW11, who himself produced the documents from the computer. He has in his cross-examination specifically corroborated the details of the calls made between the petitioner and PW1 and PW8 (from whom the number of PW1 was received after enquiring about it during the call by petitioner).

The call detail records of the mobile number ending with XXX5961 confirm that two calls were made to PW8 at 9:22PM and 9:25PM on 27 July 2009. Immediately after this he called on the number ending with XXX847 at 9:39PM. However, admittedly the certificate mentioned under Section 65B of the IEA was not produced. 28. Section 65B was inserted in the IEA along with various other amendments by the Information Technology Act 20008 which took into account digital evidence. Section 65B provides for the admissibility of electronic records.

29. Section 65B of the IEA is reproduced below:

"65-B. Admissibility of electronic records.-

(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as "the

computer output") shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely-

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether-

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say-

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section-

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation - For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process."

30. The petitioner has relied upon the judgment of this court in Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal9 which reiterated the dictum in the decision in Anvar P.V. v P.K. Basheer10 requiring mandatory compliance with Section 65B of the IEA.

31. One of the earliest decisions on the provision was of a two judge bench of this Court in State (NCT of Delhi) v Navjot Sandhu11 where the Court held that Section 65B was only one of the provisions through which secondary evidence by way of electronic record could be admitted and that there was no bar on admitting evidence through other provisions. The Court noted that:

150. According to Section 63, "secondary evidence" means and includes, among other things, 'copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies'. Section 65 enables secondary evidence of the contents of a document to be adduced if the original is of such a nature as not to be easily movable.

It is not in dispute that the information contained in the call records is stored in huge servers which cannot be easily moved and produced in the court. That is what the High Court has also observed at para 276. Hence, printouts taken from the computers/servers by mechanical process and certified by a responsible official of the service-providing company can be led in evidence through a witness who can identify the signatures of the certifying officer or otherwise speak of the facts based on his personal knowledge.

Irrespective of the compliance with the requirements of Section 65-B, which is a provision dealing with admissibility of electronic records, there is no bar to adducing secondary evidence under the other provisions of the Evidence Act, namely, Sections 63 and 65. It may be that the certificate containing the details in sub-section (4) of Section 65-B is not filed in the instant case, but that does not mean that secondary evidence cannot be given even if the law permits such evidence to be given in the circumstances mentioned in the relevant provisions, namely, Sections 63 and 65.

(emphasis supplied)

32. The principle which was enunciated in Navjot Sandhu was overruled by a three judge bench of this Court in Anvar P.V. where it was held that:

22. The evidence relating to electronic record, as noted hereinbefore, being a special provision, the general law on secondary evidence under Section 63 read with Section 65 of the Evidence Act shall yield to the same. Generalia specialibus non derogant, special law will always prevail over the general law. It appears, the court omitted to take note of Sections 59 and 65-A dealing with the admissibility of electronic record. Sections 63 and 65 have no application in the case of secondary evidence by way of electronic record; the same is wholly governed by Sections 65-A and 65-B.

To that extent, the statement of law on admissibility of secondary evidence pertaining to electronic record, as stated by this Court in Navjot Sandhu case, does not lay down the correct legal position. It requires to be overruled and we do so. An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65-B are satisfied. Thus, in the case of CD, VCD, chip, etc., the same shall be accompanied by the certificate in terms of Section 65-B obtained at the time of taking the document, without which, the secondary evidence pertaining to that electronic record, is inadmissible.

(emphasis supplied)

33. Accordingly, in terms of the decision in Anvar P.V. for admitting any electronic evidence by way of secondary evidence, such as CDRs, the requirements of Section 65B would necessarily need to be satisfied and no other route under the IEA may be adopted for the admission of such evidence.

34. However, a three judge bench in Tomaso Bruno v State of Uttar Pradesh12 took a different approach and observed that secondary evidence of the contents of a document can also be led under Section 65 of the Evidence Act without referring to the decision in Anvar P.V. It held that:

24. With the advancement of information technology, scientific temper in the individual and at the institutional level is to pervade the methods of investigation. With the increasing impact of technology in everyday life and as a result, the production of electronic evidence in cases has become relevant to establish the guilt of the Accused or the liability of the Defendant. Electronic documents stricto sensu are admitted as material evidence. With the amendment to the Evidence Act in 2000, Sections 65-A and 65-B were introduced into Chapter V relating to documentary evidence. Section 65-A provides that contents of electronic records may be admitted as evidence if the criteria provided in Section 65-B is complied with.

The computer generated electronic records in evidence are admissible at a trial if proved in the manner specified by Section 65-B of the Evidence Act. Sub-section (1) of Section 65-B makes admissible as a document, paper printout of electronic records stored in optical or magnetic media produced by a computer, subject to the fulfilment of the conditions specified in Sub-section (2) of Section 65-B. Secondary evidence of contents of document can also be led Under Section 65 of the Evidence Act. PW 13 stated that he saw the full video recording of the fateful night in the CCTV camera, but he has not recorded the same in the case diary as nothing substantial to be adduced as evidence was present in it.

(emphasis supplied)

35. A two judge bench in Shafi Mohammed v State of Himachal Pradesh13 strayed even farther away from Anvar P.V. and held that the Sections 65A and 65B cannot be held to be a complete code on the subject. It held that:

24. We may, however, also refer to the judgment of this Court in Anvar P.V. v. P.K. Basheer, delivered by a three-Judge Bench. In the said judgment in para 24 it was observed that electronic evidence by way of primary evidence was covered by Section 62 of the Evidence Act to which procedure of Section 65-B of the Evidence Act was not admissible.

However, for the secondary evidence, procedure of Section 65-B of the Evidence Act was required to be followed and a contrary view taken in Navjot Sandhu that secondary evidence of electronic record could be covered under Sections 63 and 65 of the Evidence Act, was not correct. There are, however, observations in para 14 to the effect that electronic record can be proved only as per Section 65-B of the Evidence Act.

25. Though in view of the three-Judge Bench judgments in Tomaso Bruno and Ram Singh, it can be safely held that electronic evidence is admissible and provisions under Sections 65-A and 65-B of the Evidence Act are by way of a clarification and are procedural provisions. If the electronic evidence is authentic and relevant the same can certainly be admitted subject to the court being satisfied about its authenticity and procedure for its admissibility may depend on fact situation such as whether the person producing such evidence is in a position to furnish certificate under Section 65-B(4).

26. Sections 65-A and 65-B of the Evidence Act, 1872 cannot be held to be a complete code on the subject. In Anvar P.V., this Court in para 24 clarified that primary evidence of electronic record was not covered under Sections 65-A and 65-B of the Evidence Act. Primary evidence is the document produced before the court and the expression "document" is defined in Section 3 of the Evidence Act to mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

(emphasis supplied)

36. The Court in Shafi Mohammed even diluted the requirement of the Section 65B certificate. This led to contradictory positions in these cases vis-à-vis the law laid down by Anvar P.V. which was settled by a reference to a three judge bench of this Court in Arjun Panditrao Khotkar. The Court reiterated Anvar P.V. and held Tomaso Bruno per incuriam and overruled Shafi Mohammed. It held that:

73. The reference is thus answered by stating that:

73.1. Anvar P.V., as clarified by us hereinabove, is the law declared by this Court on Section 65-B of the Evidence Act. The judgment in Tomaso Bruno, being per incuriam, does not lay down the law correctly. Also, the judgment in Shafhi Mohammad and the judgment dated 3-4-2018 reported as Shafhi Mohd. v. State of H.P., do not lay down the law correctly and are therefore overruled.

73.2. The clarification referred to above is that the required certificate under Section 65-B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the device concerned, on which the original information is first stored, is owned and/or operated by him.

In cases where the "computer" happens to be a part of a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the court, then the only means of providing information contained in such electronic record can be in accordance with Section 65-B(1), together with the requisite certificate under Section 65-B(4). The last sentence in para 24 in Anvar P.V. which reads as "if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act." is thus clarified; it is to be read without the words "under Section 62 of the Evidence Act,.". With this clarification, the law stated in para 24 of Anvar P.V. does not need to be revisited.

(emphasis supplied)

37. Therefore, the law is now settled: a Section 65B certificate is mandatory in terms of this Court's judgment in Anvar P.V. as confirmed in Arjun Panditrao Khotkar.

38. However, Anvar P.V. was decided on 18 September 2014. Till then, the interpretation of law in Navjot Sandhu, which was decided on 4 August 2005 prevailed. In the instant case, the Trial Court pronounced its judgment on 30 July 2010. Two months later, on 30 September 2010, the High Court affirmed the decision of the Trial Court to award the death sentence. This Court dismissed the appeal and confirmed the death sentence on 5 February 2013. Even the review petition was dismissed in chambers on 20 March 2013 before being re-opened in the instant proceeding in view of the Constitution Bench's judgment in Mohd. Arif alias Ashfaq.

39. Accordingly, none of the courts had the benefit of the law laid down vis-à-vis the mandatory requirement of the Section 65B certificate in Anvar P.V.. The courts as well as the investigative agency proceeded in accordance with the law that was then prevailing.

40. In Sonu alias Amar v State of Haryana14 this court considered the impact of the retrospective application of Anvar P.V. upon trials that had already been held during the period when Navjot Sandhu held the field and observed that:

37. The interpretation of Section 65-B(4) by this Court by a judgment dated 4-8-2005 in Navjot Sandhu held the field till it was overruled on 18-9-2014 in Anvar case. All the criminal courts in this country are bound to follow the law as interpreted by this Court. Because of the interpretation of Section 65-B in Navjot Sandhu, there was no necessity of a certificate for proving electronic records. A large number of trials have been held during the period between 4-8-2005 and 18-9-2014. Electronic records without a certificate might have been adduced in evidence.

There is no doubt that the judgment of this Court in Anvar case has to be retrospective in operation unless the judicial tool of "prospective overruling" is applied. However, retrospective application of the judgment is not in the interest of administration of justice as it would necessitate the reopening of a large number of criminal cases. Criminal cases decided on the basis of electronic records adduced in evidence without certification have to be revisited as and when objections are taken by the accused at the appellate stage. Attempts will be made to reopen cases which have become final.

41. However, it did not decide upon this issue being a two judge bench and kept the question of law open for it to be decided in an appropriate case. In Arjun Panditrao Khotkar this court did not consider the question raised in Sonu.

42. On the other hand, Sonu did deal with the question of whether, at the appellate stage, the reliance upon CDRs can be reconsidered if the objection was not raised during the trial. As the counsel for the State of Tamil Nadu has argued, the defense as well did not raise the plea of the CDRs being inadmissible in the absence of a Section 65B certificate at the trial or at the appellate stage. On this issue, this Court in Sonu noted that:

32. It is nobody's case that CDRs which are a form of electronic record are not inherently admissible in evidence. The objection is that they were marked before the trial court without a certificate as required by Section 65-B(4). It is clear from the judgments referred to supra that an objection relating to the mode or method of proof has to be raised at the time of marking of the document as an exhibit and not later.

The crucial test, as affirmed by this Court, is whether the defect could have been cured at the stage of marking the document. Applying this test to the present case, if an objection was taken to the CDRs being marked without a certificate, the Court could have given the prosecution an opportunity to rectify the deficiency.

It is also clear from the above judgments that objections regarding admissibility of documents which are per se inadmissible can be taken even at the appellate stage. Admissibility of a document which is inherently inadmissible is an issue which can be taken up at the appellate stage because it is a fundamental issue. The mode or method of proof is procedural and objections, if not taken at the trial, cannot be permitted at the appellate stage. If the objections to the mode of proof are permitted to be taken at the appellate stage by a party, the other side does not have an opportunity of rectifying the deficiencies.

The learned Senior Counsel for the State referred to statements under Section 161 CrPC, 1973 as an example of documents falling under the said category of inherently inadmissible evidence. CDRs do not fall in the said category of documents. We are satisfied that an objection that CDRs are unreliable due to violation of the procedure prescribed in Section 65-B(4) cannot be permitted to be raised at this stage as the objection relates to the mode or method of proof.

(emphasis supplied)

43. While the Court in Arjun Panditrao Khotkar did not directly deal with the issue of allowing objections against CDRs, due to a violation of the procedure under Section 65B, being raised at a belated stage, it kept it open for trial courts, in exceptional cases, to allow the prosecution to provide such certificate at a later stage. It held that:

54. Therefore, in terms of general procedure, the prosecution is obligated to supply all documents upon which reliance may be placed to an Accused before commencement of the trial. Thus, the exercise of power by the courts in criminal trials in permitting evidence to be filed at a later stage should not result in serious or irreversible prejudice to the Accused. A balancing exercise in respect of the rights of parties has to be carried out by the court, in examining any application by the prosecution Under Sections 91 or 311 of the Code of Criminal Procedure or Section 165 of the Evidence Act.

Depending on the facts of each case, and the Court exercising discretion after seeing that the Accused is not prejudiced by want of a fair trial, the Court may in appropriate cases allow the prosecution to produce such certificate at a later point in time. If it is the Accused who desires to produce the requisite certificate as part of his defence, this again will depend upon the justice of the case-discretion to be exercised by the Court in accordance with law.

(emphasis supplied)

44. Therefore, we are inclined to agree with the ratio in Sonu by not allowing the objection which is raised at a belated stage that the CDRs are inadmissible in the

absence of a Section 65B certificate, especially in cases, where the trial has been completed before 18 September 2014, i.e. before the pronouncement of the decision in Anvar P.V.. However, we are also mindful of the fact that the instant matter involves the death sentence having been awarded.

45. Most recently, in Mohd. Arif v State (NCT of Delhi)15, a three judge Bench of this Court while deciding a review petition in a case involving the review of a death penalty faced a similar fact situation where the decisions of the trial court and appellate courts were rendered during the period when Navjot Sandhu was the prevailing law. In that case as well, the Court took note of it being a matter involving a death sentence and held that:

"24. Navjot Sandhu was decided on 4.8.2005 i.e., before the judgment was rendered by the Trial Court in the instant matter. The subsequent judgments of the High Court and this Court were passed on 13.9.2007 and 10.8.2011 respectively affirming the award of death sentence. These two judgments were delivered prior to the decision of this Court in Anvar P.V. which was given on 18.9.2014. The judgments by the trial Court, High Court and this Court were thus well before the decision in Anvar P.V. and were essentially in the backdrop of law laid down in Navjot Sandhu.

If we go by the principle accepted in paragraph 32 of the decision in Sonu alias Amar, the matter may stand on a completely different footing. It is for this reason that reliance has been placed on certain decisions of this Court to submit that the matter need not be reopened on issues which were dealt with in accordance with the law then prevailing. However, since the instant matter pertains to award of death sentence, this review petition must be considered in light of the decisions made by this Court in Anvar P.V. and Arjun Panditrao.

25. Consequently, we must eschew, for the present purposes, the electronic evidence in the form of CDRs which was without any appropriate certificate under Section 65-B(4) of the Evidence Act."

(emphasis supplied)

46. Accordingly, we too deem it appropriate to consider this review petition by eschewing the electronic evidence in the form of CDRs as they are without the appropriate certificate under Section 65B even if the law, as it was during the time the trial in the present case was conducted, allowed for such electronic evidence to be admitted.

47. Accordingly, we analyse the evidence considered by the High Court and this Court in appeal without relying upon the CDRs. The High Court took note of the

following evidence in its judgment before arriving at the conclusion of the guilt of the petitioner and confirming his conviction:

18. According to P.W.1 the mother of the deceased child Suresh, the child used to leave for School every day at about 8.00 A.M. and come back at about 4.30 P.M., and on the date of occurrence, i.e., 27.7.2009, the child as usual went to the school. From the evidence of P.W.6, the Correspondent of Sakthi Matriculation School, Vridhachalam, and also the attendance register, Ex.P3, it would be quite evident that the child attended the school that day and was returning from the school in the van meant for that purpose.

According to P.W.2, she is also studying along with the deceased Suresh, and on the day, both were returning from the school in the van and got down at Karkudal, and at that time A-1 who was standing under a Neem tree along with the motorbike, came to them and told the child Suresh that both his mother and grandmother were not doing well and on that false reason, took the child from the place.

The evidence of P.W.2 was much commented by the learned Counsel for the appellant. But, those contentions cannot be agreed. The learned trial Judge has categorically pointed out before recording the evidence that the maturity of the mind of the child, P.W.2, to give evidence was actually tested and found satisfactory, and then he recorded the evidence. The child at the time of occurrence, was 10 years old, and at the time of giving evidence, it was aged 11.

19. It would quite clear that if the evidence of a child witness is cogent and convincing, the Court can accept that evidence. In the instant case, the evidence of P.W.2 is narrated above. According to P.W.1, immediately when the child did not return by 4.30 P.M., she entertained suspicion and went in search of her son, and she immediately met P.W.2, the other child. P.W.2 informed P.W.1 that the child Suresh was taken by a person in a motorbike telling the above reasons.

Now, at this juncture, in order to accept the evidence of P.W.2, the earliest version as found in Ex. P1, in the considered opinion of the Court, would suffice. A perusal of Ex. P1, the complaint, would clearly indicate that after the child did not return, P.W.1 met P.W.2 Kamali, the other child, and she was informed by P.W.2 that the child was taken by a person in a motorbike with the above false reasons.

Thus the earliest version found therein, would clearly indicate that P.W.2 has come with a true version. That apart, the child was able to identify the motorbike, marked as M.O.5, before the Court. Despite cross-examination in full, the evidence of P.W.2 the child remained unshaken. Following the ratio laid down in

the above decision by the Apex Court, this Court is of the considered opinion that the evidence of P.W.2 has got to be accepted.

20. Added further, P.W.2 at the time of the identification parade, was able to identify A-1 properly as could be seen from the identification parade proceedings Ex. P4. Apart from that, the evidence of P.W.2 stood fully corroborated by the evidence of P.W.3. P.W.3 was a native of the same village, and all these persons were already known to him. P.W.3 was sufficiently matured and aged 41. According to him, he was actually coming on the way, and when the school van was stopped, P.W.2 and the deceased Suresh got down, and the child was called by A-1, and on some reason, the child was taken in the bike which was noticed by him. P.W.3 also took part in the identification parade and has also identified A-1 properly.

Now, the comment made by the learned Counsel for the appellant that as regards the identification parade, there were infirmities noticed cannot be countenanced in law. As far as the comment made that there was no requisition made by the Investigating Officer for the test identification parade or the signature of A-1 was not obtained is concerned, the same cannot be accepted for the reason that insofar as the identification parade conducted by P.W.10, it was pursuant to the orders of the Chief Judicial Magistrate only on the requisition made by the Investigating Officer; otherwise, it could not have taken place at all.

The conduct of the identification parade in order to identify A-1 in which P.Ws. 2 and 3 have participated, was never denied by the appellant before the trial Court. Under the circumstances, this Court is of the considered opinion that the test identification parade was properly done, and the trial Judge was perfectly correct in accepting the evidence adduced by the prosecution in that regard.

21. Apart from the above, it is pertinent to point out the legal position in respect of the identification parade. It is settled proposition of law that the identification parade is only a corroborative piece of evidence and the identification done in the Court, is a substantive piece of evidence. The Court must look into whether at the time when the witnesses saw the accused in the company of the deceased, such a thing would have caused a dent in their memory.

In the instant case, the child was only 7 years old, and both the child and P.W.2 Kamali who was coming along with the child, got down together, and the appellant/A-1 came there and took the child on the flimsy reason. In such a situation, naturally the same would have caused a dent in the memory of P.W.2, and and it would not fail ordinarily, and equally so the memory of P.W.3, a man aged about 41. No doubt, it would have caused a dent in their memory. Therefore, the trial Judge was perfectly correct in accepting the evidence of P.Ws.2 and 3.

48. From the above, it is clear that two witnesses, PW2 and PW3, saw the petitioner taking away the victim on his motorbike after he got down from the school bus while returning. PW2 and PW3 also identified the petitioner upon his arrest at the time of the test identification parade which was found to have been properly conducted. Furthermore, both of the witnesses also provided unimpeachable evidence in their respective cross-examinations before the trial court. The trial court also followed the proper procedure in taking the testimony of PW2, a child witness, by recording the maturity of the mind of the child, who even identified the motorbike before the Court.

49. The aforementioned evidence shows that the victim was last seen with the petitioner. In the appeal before this Court, the petitioner's counsel seems to have acknowledged that there was enough evidence to establish kidnapping, in view of the following observations:

21. We have considered the first contention advanced by the learned counsel for the appellant, on the basis of the contention noticed in the foregoing paragraph. In the veiled submission advanced in the hands of the learned counsel for the appellant, we find an implied acknowledgement, namely, that learned counsel acknowledges, that the prosecution had placed sufficient material on the record of the case to substantiate the factum of kidnapping of the deceased Suresh, at the hands of the accused-appellant. Be that as it may, without drawing any such inference, we would still endeavour to determine, whether the prosecution had been successful in establishing the factum of kidnapping of the deceased Suresh, at the hands of the accused-appellant.

(emphasis supplied)

50. This Court in the course of the decision in appeal took note of the evidence discussed above and held that there was sufficient evidence to hold the petitioner guilty of murder as well:

"27. Since in the facts and circumstances of this case, it has been duly established, that Suresh had been kidnapped by the accused-appellant; the accused-appellant has not been able to produce any material on the record of this case to show the release of Suresh from his custody. Section 106 of the Indian Evidence Act, 1872 places the onus on him. In the absence of any such material produced by the accused-appellant, it has to be accepted, that the custody of Suresh had remained with the accused-appellant, till he was murdered.

The motive/reason for the accused-appellant, for taking the extreme step was, that ransom as demanded by him, had not been paid. We are therefore, satisfied, that in the facts and circumstances of the present case, there is sufficient evidence

on the record of this case, on the basis whereof even the factum of murder of Suresh at the hands of the accused appellant stands established.

51. Furthermore, as this Court noted, material objects were recovered on the basis of the petitioner's statement:

28. We may now refer to some further material on the record of the case, to substantiate our aforesaid conclusion. In this behalf, it would be relevant to mention, that when the accused-appellant was detained on 30.7.2009, he had made a confessional statement in the presence of Kasinathan (PW13) stating, that he had strangulated Suresh to death, whereupon his body was put into a gunny bag and thrown into the Meerankulam tank.

It was thereafter, on the pointing out of the accused-appellant, that the body of Suresh was recovered from the Meerankulam tank. It was found in a gunny bag, as stated by the accused-appellant. Dr. Kathirvel (PW12) concluded after holding the post mortem examination of the dead body of Suresh, that Suresh had died on account of suffocation, prior to his having been drowned. The instant evidence clearly nails the accused-appellant as the perpetrator of the murder of Suresh.

Moreover, the statement of Kasinathan (PW13) further reveals that the school bag, books and slate of Suresh were recovered from the residence of the accused-appellant. These articles were confirmed by Maheshwari (PW1) as belonging to Suresh. In view of the factual and legal position dealt with hereinabove, we have no doubt in our mind, that the prosecution had produced sufficient material to establish not only the kidnapping of Suresh, but also his murder at the hands of the accused-appellant.

52. The evidence in the form of CDRs was merely to corroborate the evidence that had been given through the depositions of PW1 and PW8. Both of their testimonies stand corroborated not only through the CDRs but also through the recovery of the mobile phone on the basis of the confessional statement of the petitioner. The High Court discussed this evidence in the following para:

At this juncture, P.W.13 has categorically spoken to the fact that at the time of arrest, A-1 came forward to give a confessional statement voluntarily, and the same was recorded by the Investigator. The admissible part is marked as Ex.P9 pursuant to which he produced three cell phones out of which it was one which contained the number through which he made two phone calls to P.W.8 at about 9.22 P.M. and 9.25 P.M. respectively on 27.7.2010, and also at about 9.39 P.M. to P.W.1 making a demand for ransom.

At this juncture, the contentions put forth by the learned Counsel as to whether one Shankar who made the calls at 9.22 and 9.25 P.M., was alive or a fictitious

person, and the cellphone recovered from A-1, did not belong to him even as per the documentary evidence have got to be rejected since they do not carry merit. The cellphone from which all the three calls were made namely two calls to P.W.8 at about 9.22 and 9.25 P.M. in the name of Shankar and one call at 9.39 P.M. by A-1 to P.W.1, has been recovered, and the particulars of those calls have been recorded in the cellphone, and it was actually kept by P.W.8 during the relevant time and also A-1 during the relevant time.

Thus the prosecution has brought to the notice of the Court that in Ex.P5, the calls were actually found for 71 seconds at 9.22 P.M. and 43 seconds at 9.25 P.M. are found in Ex.P5, and another call which was made is also found therein which was from M.O.4 cellphone which was recovered from the appellant/A-1. Out of these three cell phones one cell phone was with the SIM card and the other two cell phones without SIM card.

Now the documentary evidence produced by the prosecution would go to show that three calls were made namely two calls to P.W.8 at 9.22 and 9.25 P.M. respectively and after ascertaining the number of P.W.1, the third call was made to P.W.1. All the documentary evidence were placed before the trial Court. Thus it would be quite clear that the evidence of P.W.8 that the appellant/A-1 wanted to know the number of P.W.1, and then he made a call to P.W.8 and came to know about the number, and thereafter, he made a call at about 9.39 P.M. to P.W.1 as could be found in the evidence of P.W.1.

Even if Ex. P5, being the CDR, is not relied upon by this Court in the above paragraph, the case of the prosecution is not weakened as it merely corroborates the documentary evidence and witness testimonies that remain unblemished regardless. From the above discussion, it is clear that there is no reason to doubt the guilt of the petitioner.

53. Therefore, even though none of the grounds raised by the petitioner amount to errors apparent on the face of the record, in view of the above analysis, it can also be conclusively said that all the grounds on merits fail to raise any reasonable doubt in the prosecution's case.

54. Accordingly, we see no reason in the review jurisdiction to interfere with the concurrent findings of the Trial Court, High Court and this Court vis-à-vis the guilt of the petitioner for kidnapping and murdering the victim.

55. The counsel for the petitioner has also pressed upon this Court to reconsider the quantum of the sentence in terms of the capital punishment which has been ordered by the Trial Court and confirmed in appeal in judgment of the High Court and this Court.

E. Sentencing & Mitigation

56. The counsel for the petitioner argued at length that the death sentence was passed without a proper mitigation exercise regarding the circumstances of the petitioner.

E.1. Lingering Doubt Theory

57. The counsel for the petitioner submitted that the sentence of death cannot be imposed in such cases where the conviction is based on circumstantial evidence as a 'lingering doubt' regarding the guilt of the accused persists.

58. However, in Shatrughna Baban Meshram v State of Maharashtra16, a three judge Bench of this Court has ruled out the theory of 'lingering doubt'/ 'residual doubt'. The Court held:

77. When it comes to cases based on circumstantial evidence in our jurisprudence, the standard that is adopted in terms of law laid down by this Court as noticed in Sharad Birdhichand Sarda and subsequent decisions is that the circumstances must not only be individually proved or established, but they must form a consistent chain, so conclusive as to rule out the possibility of any other hypothesis except the guilt of the accused.

On the strength of these principles, the burden in such cases is already of a greater magnitude. Once that burden is discharged, it is implicit that any other hypothesis or the innocence of the accused, already stands ruled out when the matter is taken up at the stage of sentence after returning the finding of guilt. So, theoretically the concept or theory of "residual doubt" does not have any place in a case based on circumstantial evidence. As a matter of fact, the theory of residual doubt was never accepted by the US Supreme Court as discussed earlier.

78. However, as summed up in Kalu Khan, while dealing with cases based on circumstantial evidence, for imposition of a death sentence, higher or stricter standard must be insisted upon. The approach to be adopted in matters concerning capital punishment, therefore ought to be in conformity with the principles culled out in para 50 hereinabove and the instant matter must therefore be considered in the light of those principles.

(emphasis supplied)

59. Accordingly, the argument of residual or lingering doubt does not come to the rescue of the petitioner. Rather, in the course of the appellate decision in the instant case, the standard laid out in Sharad Birdhichand Sarda and subsequent cases was brought to the notice of this Court and it was after analysing the facts

in reference to these principles that the Court upheld the guilt of the petitioner. This court noted that:

24. Based on the evidence noticed in the three preceding paragraphs, there can be no doubt whatsoever, that the accused appellant had been identified through cogent evidence as the person who had taken away Suresh when he disembarked from school van on 27.7.2009. The. factum of kidnapping of Suresh by the accused-appellant, therefore, stands duly established.

27. [...] We are therefore, satisfied, that in the facts and circumstances of the present case, there is sufficient evidence on the record of this case, on the basis whereof even the factum of murder of Suresh at the hands of the accused-appellant stands established.

60. This Court has already applied the relevant standard to confirm the guilt of the petitioner in the appeal in a case which is based on circumstantial evidence and it will not be appropriate for this Court to once again venture into an assessment of the evidence in the review jurisdiction in view of its limited scope.

E.2. Sentencing & Mitigation in the Trial Court and the Appellate Courts

61. Counsel for the petitioner argued that even if the petitioner's guilt was affirmed, the trial court and appellate courts failed to appropriately consider relevant aggravating and mitigating circumstances including the possibility of reformation of the petitioner while deciding upon the sentence. Counsel urged that the petitioner should not have been awarded the death sentence and it ought to be commuted in view of the failure of the courts to conduct an appropriate mitigation exercise.

62. In a line of precedent of this Court, there has been a discussion on whether a separate hearing on the issue of sentence is mandatory after recording the conviction of an accused for an offence punishable by death.

Section 235 of the Code of Criminal Procedure 197317 states thus:

235. Judgment of acquittal or conviction.-

(1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of Section 360, hear the accused on the question of sentence, and then pass sentence on him according to law.

63. In Santa Singh v State of Punjab18, a two judge Bench of this Court highlighted the requirement of having a separate sentencing hearing in view of Section 235(2) of the CrPC and noted that the stage of sentencing was as important a stage in the process of administering criminal justice as the adjudication of guilt.

64. The judgment of the majority in the Constitution Bench decision in Bachan Singh v State of Punjab19 reiterated the importance of a sentencing hearing. The Court noted that:

151. Section 354(3) of the CrPC, 1973, marks a significant shift in the legislative policy underlying the Code of 1898, as in force immediately before April 1, 1974, according to which both the alternative sentences of death or imprisonment for life provided for murder and for certain other capital offences under the Penal Code, were normal sentences. Now according to this changed legislative policy which is patent on the face of Section 354(3), the normal punishment for murder and six other capital offences under the Penal Code, is imprisonment for life (or imprisonment for a term of years) and death penalty is an exception.

152. In the context, we may also notice Section 235(2) of the Code of 1973, because it makes not only explicit, what according to the decision in Jagmohan's case was implicit in the scheme of the Code, but also bifurcates the trial by providing for two hearings, one at the pre-conviction stage and another at the pre-sentence stage.

163. [...] Now, Section 235(2) provides for a bifurcated trial and specifically gives the accused person a right of pre-sentence hearing, at which stage, he can bring on record material or evidence, which may not be strictly relevant to or connected with the particular crime under inquiry, but nevertheless, have, consistently with the policy underlined in Section 354(3) a bearing on the choice of sentence.

The present legislative policy discernible from Section 235(2) read with Section 354(3) is that in fixing the degree of punishment or making the choice of sentence for various offences, including one under Section 302, Penal Code, the Court should not confine its consideration "principally" or merely to the circumstances connected with particular crime, but also give due consideration to the circumstances of the criminal.

(emphasis supplied)

65. This requirement of a separate hearing was reiterated in Muniappan v State of Tamil Nadu20 where the Court noted the importance of complying with the provision for a separate hearing on sentencing not merely as a formality but in

spirit and substance by making a genuine effort to enquire into information that may have a bearing on the question of sentence.

66. In Allauddin Mian v State of Bihar21, a two judge Bench of this Court held that a sentencing hearing is required to satisfy the rules of natural justice; that it is mandatory and is not a mere formality. The Court noted:

10. The requirement of hearing the accused is intended to satisfy the rule of natural justice. It is a fundamental requirement of fair play that the accused who was hitherto concentrating on the prosecution evidence on the question of guilt should, on being found guilty, be asked if he has anything to say or any evidence to tender on the question of sentence. This is all the more necessary since the courts are generally required to make the choice from a wide range of discretion in the matter of sentencing. To assist the court in determining the correct sentence to be imposed the legislature introduced sub-section (2) to Section 235.

The said provision therefore satisfies a dual purpose; it satisfies the rule of natural justice by according to the accused an opportunity of being heard on the question of sentence and at the same time helps the court to choose the sentence to be awarded. Since the provision is intended to give the accused an opportunity to place before the court all the relevant material having a bearing on the question of sentence there can be no doubt that the provision is salutary and must be strictly followed. It is clearly mandatory and should not be treated as a mere formality.

In a case of life or death as stated earlier, the presiding officer must show a high degree of concern for the statutory right of the accused and should not treat it as a mere formality to be crossed before making the choice of sentence. If the choice is made, as in this case, without giving the accused an effective and real opportunity to place his antecedents, social and economic background, mitigating and extenuating circumstances, etc., before the court, the court's decision on the sentence would be vulnerable.

We need hardly mention that in many cases a sentencing decision has far more serious consequences on the offender and his family members than in the case of a purely administrative decision; a fortiori, therefore, the principle of fair play must apply with greater vigour in the case of the former than the latter. An administrative decision having civil consequences, if taken without giving a hearing is generally struck down as violative of the rule of natural justice.

Likewise a sentencing decision taken without following the requirements of subsection (2) of Section 235 of the Code in letter and spirit would also meet a similar fate and may have to be replaced by an appropriate order. The sentencing court must approach the question seriously and must endeavour to see that all the

relevant facts and circumstances bearing on the question of sentence are brought on record.

Only after giving due weight to the mitigating as well as the aggravating circumstances placed before it, it must pronounce the sentence. We think as a general rule the trial courts should after recording the conviction adjourn the matter to a future date and call upon both the prosecution as well as the defence to place the relevant material bearing on the question of sentence before it and thereafter pronounce the sentence to be imposed on the offender.

(emphasis supplied)

67. The importance of a separate sentencing hearing being afforded to the accused after recording a conviction was reiterated in Anguswamy v State of Tamil Nadu 22, Malkiat Singh v State of Punjab23 and Dattaraya v State of Maharashtra24.

68. On the other hand, there have also been judgments of this Court where it was held that while the court may adjourn for a separate hearing, same-day sentencing did not violate the provisions of Section 235(2) of the CrPC and did not in itself vitiate the sentence. This reasoning was adopted in the judgments of this Court in Dagdu v State of Maharashtra25, Tarlok Singh v State of Punjab26 and Ramdeo Chauhan v State of Assam27

69. In Suo Motu W.P. (Crl.) No. 1/2022 titled In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered while Imposing Death Sentences, this Court took note of the difference in approach in the interpretation of Section 235(2) of CrPC and referred the question for consideration of a larger bench. While it took note of the conflict on what amounted to 'sufficient time' at the trial court stage to allow for a separate and effective sentencing hearing, it noted that all the decisions also had the following common ground:

27. The common thread that runs through all these decisions is the express acknowledgment that meaningful, real and effective hearing must be afforded to the accused, with the opportunity to adduce material relevant for the question of sentencing.

70. In the present case, the judgment of the Trial Court dealing with sentencing indicates that a meaningful, real and effective hearing was not afforded to the petitioner.

71. The Trial Court did not conduct any separate hearing on sentencing and did not take into account any mitigating circumstances pertaining to the petitioner

before awarding the death penalty. In the course of its judgment, the trial court merely noted the following, before awarding the death penalty:

In present day circumstances it has become common of kidnapping of children and elders for ransom and kidnapped being murdered if expected ransom is not received. In this situation unless the kidnappers for ransom are punished with extreme penalty, in future kidnapping of children and elders for ransom would get increased and the danger of society getting totally spoiled, would have to faced is of no doubt. Hence having regard to all these it is decided that it would be in the interests of justice to award to the 1st accused the extreme penalty.

Not only that the court saw the mother of the deceased boy profusely crying and weeping in court over the death of her son in court and the scene of onlookers in court having wept also cannot be forgotten by anyone. Hence it is decided that such offenders have to be punished with extreme penalty; in the interests of justice.

72. The High Court took into account the gruesome and merciless nature of the act. It reiterated the precedents stating that the death penalty is to be awarded only in the rarest of rare cases. However, it did not specifically look at any mitigating circumstances bearing on the petitioner. It merely held that:

28. In a given case like this, it is an inhuman and a merciless act of gruesome murder which would shock the conscience of the society. Under the circumstance, showing mercy or leniency to such accused would be misplacing the mercy. That apart, showing leniency would be mockery on the criminal system. Therefore, the death penalty imposed by the trial Judge, has got to be affirmed, and accordingly, it is affirmed.

73. This Court examined the aggravating circumstances of the crime in detail. However, as regards the mitigating circumstances, it noted that:

31. As against the aforesaid aggravating circumstances, learned counsel for the accused-appellant could not point to us even a single mitigating circumstance. Thus viewed, even on the parameters laid down by this Court, in the decisions relied upon by the learned counsel for the accused-appellant, we have no choice, but to affirm the death penalty imposed upon the accused appellant by the High Court.

In fact, we have to record the aforesaid conclusion in view of the judgment rendered by this Court in Vikram Singh & Ors. Vs. State of Punjab, (2010) 3 SCC 56, wherein in the like circumstances (certainly, the circumstances herein are much graver than the ones in the said case), this Court had upheld the death penalty awarded by the High Court.

74. The above sequence indicates that no mitigating circumstances of the petitioner were taken into account at any stage of the trial or the appellate process even though the petitioner was sentenced to capital punishment.

75. In terms of the aggravating circumstances that were taken note of by this Court in appeal, our attention has been drawn to the following circumstance:

30. [...]

(vii) The choice of kidnapping the particular child for ransom, was well planned and consciously motivated. The parents of the deceased had four children - three daughters and one son. Kidnapping the only male child was to induce maximum fear in the mind of his parents. Purposefully killing the sole male child, has grave repercussions for the parents of the deceased. Agony for parents for the loss of their only male child, who would have carried further the family lineage, and is expected to see them through their old age, is unfathomable.

Extreme misery caused to the aggrieved party, certainly adds to the aggravating circumstances. We wish to note that the sex of the child cannot be in itself considered as an aggravating circumstance by a constitutional court. The murder of a young child is unquestionably a grievous crime and the young age of such a victim as well as the trauma that it causes for the entire family is in itself, undoubtedly, an aggravating circumstance.

In such a circumstance, it does not and should not matter for a constitutional court whether the young child was a male child or a female child. The murder remains equally tragic. Courts should also not indulge in furthering the notion that only a male child furthers family lineage or is able to assist the parents in old age. Such remarks involuntarily further patriarchal value judgements that courts should avoid regardless of the context.

76. In Rajendra Pralhadrao Wasnik v State of Maharashtra28, a three judge bench of this Court took note of the line of cases of this Court which underline the importance of considering the probability of reform and rehabilitation of the convicted accused before sentencing him to death. The court observed:

43. At this stage, we must hark back to Bachan Singh and differentiate between possibility, probability and impossibility of reform and rehabilitation. Bachan Singh requires us to consider the probability of reform and rehabilitation and not its possibility or its impossibility.

45. The law laid down by various decisions of this Court clearly and unequivocally mandates that the probability (not possibility or improbability or impossibility) that a convict can be reformed and rehabilitated in society must be

seriously and earnestly considered by the courts before awarding the death sentence. This is one of the mandates of the "special reasons" requirement of Section 354(3) CrPC and ought not to be taken lightly since it involves snuffing out the life of a person.

To effectuate this mandate, it is the obligation on the prosecution to prove to the court, through evidence, that the probability is that the convict cannot be reformed or rehabilitated. This can be achieved by bringing on record, inter alia, material about his conduct in jail, his conduct outside jail if he has been on bail for some time, medical evidence about his mental make-up, contact with his family and so on. Similarly, the convict can produce evidence on these issues as well.

46. If an inquiry of this nature is to be conducted, as is mandated by the decisions of this Court, it is quite obvious that the period between the date of conviction and the date of awarding sentence would be quite prolonged to enable the parties to gather and lead evidence which could assist the trial court in taking an informed decision on the sentence. But, there is no hurry in this regard, since in any case the convict will be in custody for a fairly long time serving out at least a life sentence.

47. Consideration of the reformation, rehabilitation and reintegration of the convict into society cannot be overemphasised. Until Bachan Singh, the emphasis given by the courts was primarily on the nature of the crime, its brutality and severity. Bachan Singh placed the sentencing process into perspective and introduced the necessity of considering the reformation or rehabilitation of the convict. Despite the view expressed by the Constitution Bench, there have been several instances, some of which have been pointed out in Bariyar and in Sangeet v. State of Haryana where there is a tendency to give primacy to the crime and consider the criminal in a somewhat secondary manner.

As observed in Sangeet "In the sentencing process, both the crime and the criminal are equally important." Therefore, we should not forget that the criminal, however ruthless he might be, is nevertheless a human being and is entitled to a life of dignity notwithstanding his crime. Therefore, it is for the prosecution and the courts to determine whether such a person, notwithstanding his crime, can be reformed and rehabilitated.

To obtain and analyse this information is certainly not an easy task but must nevertheless be undertaken. The process of rehabilitation is also not a simple one since it involves social reintegration of the convict into society. Of course, notwithstanding any information made available and its analysis by experts coupled with the evidence on record, there could be instances where the social

reintegration of the convict may not be possible. If that should happen, the option of a long duration of imprisonment is permissible.

(emphasis supplied)

77. The law laid down in Bachan Singh requires meeting the standard of 'rarest of rare' for award of the death penalty which requires the Courts to conclude that the convict is not fit for any kind of reformatory and rehabilitation scheme. As noted in Santosh Kumar Satishbhushan Bariyar v State of Maharashtra29, this requires looking beyond the crime at the criminal as well:

66. The rarest of rare dictum, as discussed above, hints at this difference between death punishment and the alternative punishment of life imprisonment. The relevant question here would be to determine whether life imprisonment as a punishment will be pointless and completely devoid of reason in the facts and circumstances of the case? As discussed above, life imprisonment can be said to be completely futile, only when the sentencing aim of reformation can be said to be unachievable.

Therefore, for satisfying the second exception to the rarest of rare doctrine, the court will have to provide clear evidence as to why the convict is not fit for any kind of reformatory and rehabilitation scheme. This analysis can only be done with rigour when the court focuses on the circumstances relating to the criminal, along with other circumstances. This is not an easy conclusion to be deciphered, but Bachan Singh sets the bar very high by introduction of the rarest of rare doctrine.

(emphasis supplied)

78. A similar point was underlined by this Court in Anil v State of Maharashtra30 where the Court noted that:

33. In Bachan Singh this Court has categorically stated, 'the probability that the accused would not commit criminal acts of violence as would constitute a continuing threat to the society', is a relevant circumstance, that must be given great weight in the determination of sentence. This was further expressed in Santosh Kumar Satishbhushan Bariyar. Many a times, while determining the sentence, the courts take it for granted, looking into the facts of a particular case, that the accused would be a menace to the society and there is no possibility of reformation and rehabilitation, while it is the duty of the court to ascertain those factors, and the State is obliged to furnish materials for and against the possibility of reformation and rehabilitation of the accused.

The facts, which the courts deal with, in a given case, cannot be the foundation for reaching such a conclusion, which, as already stated, calls for additional materials. We, therefore, direct that the criminal courts, while dealing with the offences like Section 302 IPC, after conviction, may, in appropriate cases, call for a report to determine, whether the accused could be reformed or rehabilitated, which depends upon the facts and circumstances of each case.

(emphasis supplied)

79. No such inquiry has been conducted for enabling a consideration of the factors mentioned above in case of the petitioner. Neither the trial court, nor the appellate courts have looked into any factors to conclusively state that the petitioner cannot be reformed or rehabilitated. In the present case, the Courts have reiterated the gruesome nature of crime to award the death penalty. In appeal, this Court merely noted that the counsel for the petitioner could not point towards mitigating circumstances and upheld the death penalty.

The state must equally place all material and circumstances on the record bearing on the probability of reform. Many such materials and aspects are within the knowledge of the state which has had custody of the accused both before and after the conviction. Moreover, the court cannot be an indifferent by-stander in the process. The process and powers of the court may be utilised to ensure that such material is made available to it to form a just sentencing decision bearing on the probability of reform.

80. In Mofil Khan, a three judge bench of this Court was also dealing with a review petition which was re-opened in view of the decision in Mohd. Arif v Registrar, Supreme Court of India. While commuting the death sentence to life imprisonment, the Court reiterated the importance of looking at the possibility of reformation and rehabilitation. Notably, it pointed out that it was the Court's duty to look into possible mitigating circumstances even if the accused was silent. The Court held that:

9. It would be profitable to refer to a judgment of this Court in Mohd. Mannan v. State of Bihar in which it was held that before imposing the extreme penalty of death sentence, the Court should satisfy itself that death sentence is imperative, as otherwise the convict would be a threat to the society, and that there is no possibility of reform or rehabilitation of the convict, after giving the convict an effective, meaningful, real opportunity of hearing on the question of sentence, by producing material. The hearing of sentence should be effective and even if the accused remains silent, the Court would be obliged and duty-bound to elicit relevant factors.

10. It is well-settled law that the possibility of reformation and rehabilitation of the convict is an important factor which has to be taken into account as a mitigating circumstance before sentencing him to death. There is a bounden duty cast on the Courts to elicit information of all the relevant factors and consider those regarding the possibility of reformation, even if the accused remains silent.

A scrutiny of the judgments of the trial court, the High Court and this Court would indicate that the sentence of death is imposed by taking into account the brutality of the crime. There is no reference to the possibility of reformation of the Petitioners, nor has the State procured any evidence to prove that there is no such possibility with respect to the Petitioners.

We have examined the socio-economic background of the Petitioners, the absence of any criminal antecedents, affidavits filed by their family and community members with whom they continue to share emotional ties and the certificate issued by the Jail Superintendent on their conduct during their long incarceration of 14 years. Considering all of the above, it cannot be said that there is no possibility of reformation of the Petitioners, foreclosing the alternative option of a lesser sentence and making the imposition of death sentence imperative.

(emphasis supplied)

81. The duty of the court to enquire into mitigating circumstances as well as to foreclose the possibility of reformation and rehabilitation before imposing the death penalty has been highlighted in multiple judgments of this Court. Despite this, in the present case, no such enquiry was conducted and the grievous nature of the crime was the only factor that was considered while awarding the death penalty.

82. During the course of the hearing of the review petition, this court had passed an order directing the counsel for the state to get instructions from jail authorities on the following aspects:

(i) the conduct of the petitioner in jail;

(ii) information on petitioner's involvement in any other case;

(iii) details of the petitioner acquiring education in jail;

(iv) details of petitioner's medical records; and

(v) any other relevant information.

83. Through an affidavit dated 26 September 2021, the Sub-Inspector of Police Kammapuram at Cuddalore District, Tamil Nadu has informed the court that the conduct of petitioner has been satisfactory and he has not been involved in any other case. Furthermore, he is suffering from systemic hypertension and availing medication from the prison hospital. The petitioner has also acquired a diploma in food catering during his time in the prison.

84. Separately, this Court also received a document dated 8 November 2018 from the Superintendent of Prisons, Central Prison, Cuddalore-4 in response to the letter from Assistant Registrar, Supreme Court of India communicating the order seeking instructions from jail authorities. Notably, this document states that the petitioner tried to escape from prison on 6 November 2013. It is concerning that the Respondent, in the affidavit dated 26 September 2021, has failed to include this information.

85. The non-disclosure of material facts amounts to misleading this Court and to an attempt at interfering with the administration of justice. In the Suo Motu Contempt Petition (Civil) No 3 of 2021 titled In Re: Perry Kansagra, this Court discussed the line of precedent of this Court dealing with tendering of affidavits and undertakings containing false statements or suppressing / concealing material facts amounting to contempt of court:

15. It is thus well settled that a person who makes a false statement before the Court and makes an attempt to deceive the Court, interferes with the administration of justice and is guilty of contempt of Court. The extracted portion above clearly shows that in such circumstances, the Court not only has the inherent power but it would be failing in its duty if the alleged contemnor is not dealt with in contempt jurisdiction for abusing the process of the Court. Accordingly, we deem it appropriate to initiate suo moto contempt proceedings against the respondent for withholding material information from this Court.

86. As per the written submissions of the petitioner, he was about 24 years old when the judgment of the Trial Court was rendered on 30 July 2010. He has been in prison since 2009, 13 years. He had no prior antecedents and the jail authorities have stated that he has not been involved in any other case. However, the jail authorities have brought to the notice of this Court, the attempt of petitioner to escape from prison.

87. In the review petition, it has also been submitted that the petitioner could not communicate mitigating circumstances bearing on his sentencing decision to the lawyer and his relatives, who being poor and uneducated, could not properly contest the case for him. The fact remains that no mitigating circumstances were placed before any of the appellate courts.

88. On the basis of these details, it cannot be said that there is no possibility of reformation even though the petitioner has committed a ghastly crime. We must consider several mitigating factors: the petitioner has no prior antecedents, was 23 years old when he committed the crime and has been in prison since 2009 where his conduct has been satisfactory, except for the attempt to escape prison in 2013. The petitioner is suffering from a case of systemic hypertension and has attempted to acquire some basic education in the form of a diploma in food catering. The acquisition of a vocation in jail has an important bearing on his ability to lead a gainful life.

89. Considering the above factors, we are of the view that even though the crime committed by the petitioner is unquestionably grave and unpardonable, it is not appropriate to affirm the death sentence that was awarded to him. As we have discussed, the 'rarest of rare' doctrine requires that the death sentence not be imposed only by taking into account the grave nature of crime but only if there is no possibility of reformation in a criminal.

90. However, we are also aware that a sentence of life imprisonment is subject to remission. In our opinion, this would not be adequate in view of the gruesome crime committed by the petitioner.

91. This court has been faced with similar situations earlier where it has noticed that the sentence of life imprisonment with remission may be inadequate in certain cases. For instance, in Swamy Shraddananda (2) @ Murali Manohar Mishra v State of Karnataka 31 the Court noted that:

92. The matter may be looked at from a slightly different angle. The issue of sentencing has two aspects. A sentence may be excessive and unduly harsh or it may be highly disproportionately inadequate. When an appellant comes to this Court carrying a death sentence awarded by the trial court and confirmed by the High Court, this Court may find, as in the present appeal, that the case just falls short of the rarest of the rare category and may feel somewhat reluctant in endorsing the death sentence.

But at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment subject to remission normally works out to a term of 14 years would be grossly disproportionate and inadequate. What then should the Court do? If the Court's option is limited only to two punishments, one a sentence of imprisonment, for all intents and purposes, of not more than 14 years and the other death, the Court may feel tempted and find itself nudged into endorsing the death penalty.

Such a course would indeed be disastrous. A far more just, reasonable and proper course would be to expand the options and to take over what, as a matter of fact,

lawfully belongs to the Court i.e. the vast hiatus between 14 years' imprisonment and death. It needs to be emphasised that the Court would take recourse to the expanded option primarily because in the facts of the case, the sentence of 14 year's imprisonment would amount to no punishment at all.

(emphasis supplied)

92. Accordingly, it is open to this Court to prescribe the length of imprisonment, especially in cases where the capital punishment is replaced by life imprisonment. Considering the facts of the instant case, we are of the considered view that the petitioner must undergo life imprisonment for not less than twenty years without remission of sentence.

F. Conclusion

93. For the reasons discussed above, we see no reason to doubt the guilt of the petitioner in kidnapping and murdering the victim. The exercise of the jurisdiction in review to interfere with the conviction is not warranted. However, we do take note of the arguments regarding the sentencing hearing not having been conducted separately in the Trial Court and mitigating circumstances having not been considered in the appellate courts before awarding the capital punishment to the petitioner.

While weighing this argument, the gruesome nature of the crime of murder of a young child of merely 7 years of age has also weighed upon us and we do not find that a sentence of life imprisonment, which normally works out to a term of 14 years, would be proportionate in the circumstances.

94. Accordingly, we commute the death sentence imposed upon the petitioner to life imprisonment for not less than twenty years without reprieve or remission.

95. Separately, a notice is required to be issued to the Inspector of Police, Kammapuram Police Station, Cuddalore District, State of Tamil Nadu to offer an explanation as to why action should not be taken for the filing of the affidavit dated 26 September 2021.

In this case, prima facie, material information regarding the conduct of the petitioner in the prison was concealed from this Court. Accordingly, the Registry is directed to register the matter as a suo motu proceeding for contempt of court.

96. We dispose of the review petitions in the above terms.

.....CJI [Dr. Dhananjaya Y. Chandrachud]

.....J. [Hima Kohli]

.....J. [Pamidighantam Sri Narasimha]

New Delhi;

March 21, 2023.

1 (2014) 9 SCC 737

2 Exercise of Review Jurisdiction in Capital Cases in DEATH PENALTY AND THE INDIAN SUPREME COURT (2007-2021), Project 39A, National Law University Delhi (2022).

3 "IPC"

4 "2013 Rules"

5 2021 SCC OnLineSC 1136

6 "IEA"

7 GSMA TAC Allocation and IMEI Programming Rules for Device Brand Owners and Manufacturers, Training Guide (February 2018 v1.0).

8 "IT Act"

9 (2020) 7 SCC 1

10 (2014) 10 SCC 473

11 (2005) 11 SCC 600

12 (2015) 7 SCC 178

13 (2018) 2 SCC 801

14 (2017) 8 SCC 570

15 2022 SCC OnLineSC 1509

16 (2021) 1 SCC 596

17 "CrPC"

18 (1976) 4 SCC 190

19 (1980) 2 SCC 684

20 (1981) 3 SCC 11

21 (1989) 3 SCC 5

22 (1989) 3 SCC 33

23 (1991) 4 SCC 341

24 (2020) 14 SCC 290

25 (1977) 3 SCC 68

26 (1977) 3 SCC 218

27 (2001) 5 SCC 714

28 (2019) 12 SCC 460

29 (2009) 6 SCC 498

30 2014 4 SCC 69

31 (2008) 13 SCC 767

IN THE SUPREME COURT OF INDIA

Pradeep Kumar
Vs.
State of Chhattisgarh

[Criminal Appeal No. 1304 of 2018]

HEADNOTE – Where two views are possible while relying on circumstantial evidence, the view favouring the accused must be preferred.

JUDGMENT

Sanjay Karol, J.

1. On 01.10.2003, Umesh Chowdhary, a resident of village Chitarpur falling within the territorial limits of Police Station Dhaurpur District was allegedly murdered by accused Pradeep Kumar (Appellant No. 2 in CRA No.940 of 2004) before the High Court Chhattisgarh, Bilaspur and Bhainsa alias Nandlal (Appellant No.1. before the High Court in the very same appeal) in relation to which FIR No.126/03 (Ex.P-6) was registered at Police Station Dhaurpur.

2. On 02.10.2003, Investigation Officer, I. Tirkey (PW-19) commenced investigation and after verifying the place of occurrence sent the dead body for post-mortem analysis which was conducted by Dr. Kamlesh Kumar (PW-14) in terms of his report (Ex.P-10). Investigation revealed that the crime was committed on account of animosity which the Appellant was harbouring against the deceased. The motive being the former's desire to use the shop in possession of the deceased in village Chitarpur.

3. The Trial Court, based on the extra judicial confessional statement (Ex.P-11) of accused Pradeep Kumar made in the presence of Ramkripal Soni (PW-1) and Gopal Yadav (PW-7), the depositions of Gajadhar Chowdhary (PW-10) father of the deceased, co-villagers Sirodh (PW-6), Radhika (PW-13) wife of (PW-7), all establishing the factum of prior animosity/"tension" inter se the parties; and with the addition of the police recovered keys of the shop of the deceased and his currency notes amounting to Rs.300/- from the possession of the Appellant.

The Court convicted both the accused in relation to offences punishable under Section 302/34 IPC and 201/34 IPC and sentenced them to serve imprisonment for life and pay fine of Rs.500/- in relation to the offence under Section 302/34 as also suffer imprisonment for seven years and pay fine of Rs.500/- in respect of the offence punishable under Section 201 IPC.

4. The Trial Court found the testimonies of both PW-1 and PW-7 reliable (despite PW-1 not supporting the prosecution) and the prosecution to have established the factum of accused Pradeep Kumar having confessed his guilt before the Investigation Officer (PW-19). The Ld. Trial Court also found the recovery of articles seized as a result of the disclosure of statement, to be an additional link, as a chain of events, in support of the case set up by the prosecution.

5. However in an appeal preferred by both the accused, the High Court upheld the conviction of accused Pradeep Kumar in relation to all the offences and the sentences in terms thereunder, but acquitted accused Bhainsa alias Nandlal on all counts.

6. Hence, the present appeal filed by the Appellant - accused Pradeep Kumar. Significantly, none of the Courts below have returned finding to the effect that the guilt of the accused stands proven by the prosecution, beyond reasonable doubt.

Suspicion, howsoever grave or probable it may be, cannot substitute the evidence, be it circumstantial or direct in nature, in establishing the guilt of the accused beyond reasonable doubt, the onus of which, at the first instance, is to be discharged by the prosecution. The distance between "may be" and "must be" is quite large and it divides vague conjectures from solid conclusions. [Shivaji Sahabrao Bobade & Another v. State of Maharashtra, (1973) 2 SCC 793.]

7. The High Court, by relying upon the principles of law enunciated by the Apex Court in Hari Charan Kurmi vs State Of Bihar, AIR 1964 SC 1184, to the effect that confession of a co-accused being inculpatory in nature, cannot be used against the accused, acquitted Bhainsa alias Nandlal.

8. However, in so far as accused Pradeep Kumar is concerned the Court found testimonies of (PW-1) and (PW-7) to be absolutely inspiring in confidence and that the witnesses "being independent and disinterested", having no reason to "manufacture evidence", "falsely implicating" the accused.

Further, the High Court held that the defence was not able to show that the extra-judicial confession made by Pradeep Kumar (Appellant No.2) before the said witnesses was "involuntary" or "made on account of any coercion", "inducement", "promise" or "favour". The Court below also held that there is no reason "whatsoever" to disbelieve the testimonies of PW-1 & PW-7 qua the issue of extrajudicial confession.

9. The accused cannot be convicted on the principles of preponderance of probability. It is the duty of this Court to ensure avoidance of miscarriage of justice at all costs and the benefit of doubt, if any, given to the accused. [Sujit

Biswas v. State of Assam, (2013) 12 SCC 406, Hanumant Govind Nargundkar v. State of M.P. (AIR 1952 SC 343) and State v. Mahender Singh Dahiya, (2011) 3 SCC 109].

10. The impugned judgement to say the least, is sketchy. The presumption of the guilt of accused Pradeep Kumar by both the courts below is based on improper and incomplete appreciation of evidence which in the considered view of this Court, has resulted into travesty of justice.

11. The prosecution case, at best, rests upon three circumstances (a) the alleged confessional statement of accused Pradeep Kumar made before PW-1 and PW-7; (b) prior animosity/"tension" between Pradeep Kumar and the deceased; and (c) the recovery of the keys of the shop of the deceased and his currency notes amounting to Rs.300/- on the asking of the accused.

12. Since both the Courts below have placed paramount significance and reliance to the extra judicial confession made by the Appellant, it is important to take note of the principles enunciated by this Court in the case of Sahadevan v. State of T.N., (2012) 6 SCC 403 as under:

"16. .....

(i) The extra-judicial confession is a weak evidence by itself. It has to be examined by the court with greater care and caution.

(ii) It should be made voluntarily and should be truthful.

(iii) It should inspire confidence.

(iv) An extra-judicial confession attains greater credibility and evidentiary value if it is supported by a chain of cogent circumstances and is further corroborated by other prosecution evidence.

(v) For an extra-judicial confession to be the basis of conviction, it should not suffer from any material discrepancies and inherent improbabilities.

(vi) Such statement essentially has to be proved like any other fact and in accordance with law."

13. Before we deal with each of the aforesaid circumstances, we must place on record certain undisputed facts. Those being (a) the homicidal death of deceased Umesh Chowdhary S/o Gajadhar Chowdhary, (b) the identity of the deceased, (c) the recovery of the dead body of the deceased from the Dodki Nala of village Chitarpur, (d) the post-mortem of the dead body conducted by PW-14 affirming

the deceased to have died as a result of asphyxia due to throttling and (e) the cause of the death being homicidal in nature. The antemortem analysis reflects multiple abrasions present on the front portion of the neck of the deceased caused by a hard and blunt object. There was a fracture of the hyoid bone, congestion in both the lungs and the trachea rings.

14. Proceeding further, examining the testimonies of the prosecution witnesses we find that it is the case of Manorama Devi (PW-11), w/o the deceased to have deposed that on 1.10.2003 finding her husband not to have returned home at night, asked her elder son Vinay Kumar (PW-12) to visit the shop and makes enquiries. Soon, he returned informing that his father's dead body was lying besides the road at Dodki Nala with marks of injuries. On the basis of suspicion, Gajadhar Chowdhary (PW-10) father of the deceased lodged a complaint with the police bearing FIR No.126/03 (Ex.P-6) dated 2.10.2003.

15. Significantly, at this point in time, neither PW-11 nor PW-12 had suspected any person to have committed the crime.

16. Gajadhar Chowdhary (PW-10) states that it was he who made inquiries about the death of the deceased and as disclosed to him by Sirodh (PW-6), owner of the shop, deceased was lastly seen by him closing the shop around 8:00 PM. We note that there is a significant time gap between when the deceased was lastly seen by him and the time of the crime.

Also he was not seen in the company of the accused. In his testimony he states that accused Bhainsa and Pradeep Kumar killed Umesh Chowdhary but then this fact is based on "his suspicion" for the reason that accused had "harboured animosity" in connection with the shop. Well that is about all and without any further elaboration.

17. Significantly, even this limited fact is not disclosed in the complaint. Also to this effect, we find there is material improvement in his testimony. That apart, we do not find this witness to be reliable or his testimony worthy of credence. He failed to make inquiries about the cause of the incident from any of the villagers. He is not a spot witness.

He is also not the witness who had lastly seen the Appellant with the deceased or the Appellant having gone either towards the shop of the deceased or the place of occurrence of the incident, both being two separate places. However, what is crucial, rendering his version to be self belied, in his unequivocal admission that, "no quarrel ever took place prior to the fatal incident between the deceased and the accussed" and that he "never lodged any report in connection with any quarrel."

18. To this very effect, we may also take note of the deposition of Sirodh (PW-6) who, in any event, has not supported the prosecution in Court.

19. When we come to the deposition of Vinay Kumar (PW-12) son of the deceased, unequivocally he states that "later on the police personnel told me that accused persons have thrown my father after committing murder." Now this totally belies the testimony of his grandfather Gajadhar Chowdhary (PW-10). To similar effect, it is the testimony of Radhika (PW-13) who only adds that "Later on I came to know that Umesh has been murdered. I heard from the villagers.".

Significantly, her statement that she was not informed by her husband (PW-7), of the deceased being murdered by the Appellant was not recorded in her previous statement with which she was confronted. But what is crucial is her deposition is that her husband himself was a suspect and that she admits it to be correct, "that the police personnel took my husband for inquiry in connection with the murder of deceased. The police personnel kept my husband for one day." This negates one of the circumstances that there was tension between the deceased and the accused, which was, the motive of commission of crime, i.e. issue of use of the shop inter se the parties.

20. We notice in respect of the next circumstance, which is the recovery of keys and the money, that there is no independent corroborated material except for the confessional statement of the accused, which also is not proven on record. Even otherwise, the keys, the currency notes and the blood stained clothes were not sent for chemical analysis. There is only an unexhibited copy of the FSL Report of the alleged blood stained clothes of the Appellant which stands not proven by anyone. Also none has come forward to depose that the accused had kept the keys of the shop with himself, for after all, it is not the case of the prosecution that the shop belonged to the accused.

21. The substratum of the evidence, that is the extra judicial confessional statement of the Appellant, apart from being hit by Section 27 of the Indian Evidence Act, 1872, we find it not to have been supported by Ramkripal Soni (PW-1) and Gopal Yadav (PW-7), who as is evident, was himself a suspect. He admits it to be "correct to say that the Inspector had detained me and some villagers where the dead body was laying." and "it is correct to say that I did not disclose the statement made by accused Pradeep to any other person before 4 o'clock."

We have already noticed his wife Radhika (PW-13) to have supported this statement. Now, if this witness was himself a suspect, his testimony cannot be said to be unimpeachable or free from blemish. Still further, deposition of PW-7 reveals the witness not to have deposed truthfully and the prosecution to have introduced another theory as according to him the accused had immediately, after

the incident confessed the crime with him. This was in the night intervening first and second October, 2003. But then, he does not disclose such fact to anyone.

We may remind the prosecution that he is a covillager. His version also appears to be false for he admits voices and noises were audible from the place of the occurrence of the incident and that he heard none on the fateful day. He admits that there are houses of other persons including Ramsanehi, closer to the spot of crime. He did not bother to make inquiries for ascertaining the truth from any of the co-villagers, including all those named by him.

This witness, in our considered view, cannot be said to be reliable and trustworthy and this we say so for the reason, that as according to his deposition, he received information of the death of deceased at 7:00-8:00 AM, the following morning and yet he did not visit the spot of the crime until the police reached, which was at 10:00 AM and only much later, got his statement recorded at about 4:00 PM. His stoic silence, in not informing or meeting any of the family members of the deceased, neighbours or Police is unexplainable.

22. Dealing with the star witness of the prosecution which is the Investigation Officer, I.Tirkey (PW-19), we find his testimony to be wholly unworthy of any credence: unbelievable; and the witness to be unreliable. This we say so for the reasons that he did not record the statement of Gajadhar Chowdhary (PW-10) or Gopal Yadav (PW-7) in respect any prior animosity between the deceased and the accused. The evidence pertaining to the genesis of the crime was not collected by him.

He also does not state as to what made him detain accused Pradeep Kumar on 3.10.2023. Be that as it may, he did not examine witnesses, who in our considered view, perhaps may have thrown some light about regard to the actual occurrence of the incident. He admits that houses of Ramsevak, Gopal and Rashri are just at a distance of 30 to 70 meters from the spot of the crime. Yet, he did not examine any of them. Why so? No explanation is forthcoming. Crucially, he admits that, "the investigation concluded having no direct evidence" indicating the time and the manner in which the crime took place.

He admits to have prepared some document in relation to the keys recovered from the accused however no such fact is recorded in his diary. In fact, such fact is not found recorded in the Panchnama prepared by him. The basis for the Investigation Officer (PW-19) to have arrived at the guilt of co-accused Bhainsa is missing in his statement. In fact, he does not even state to have suspected Bhainsa of having committed any crime.

The sole basis for the Investigation Officer (PW-19) to have arrested the Appellant for having committed the crime is his extra judicial confession (Ex.

P.11) which in our considered view, apart from becoming inadmissible, is of no use as it has not led to recovery of any new fact - be it the place of the grocery shop; prevailing tension between the accused and the deceased; recovery of the body of the deceased near the Dodki drain: All these facts were known to the police from before and as far as recovery of money and keychain is concerned we have already discussed issue.

23. Apart from sending the dead body for post-mortem, the Investigation Officer (PW-19) does not state what investigation he conducted on the crime spot. It is the case of the prosecution that only this person conducted the investigation and that he was not engaged in any other crime or had to attend to other urgent work, resulting into the delay thereof. Perusal of the First Information Report (Ex.P-6) does reveal Gajadhar Chowdhary (PW-10) to have disclosed the name of accused Pradeep Kumar as a suspect in the crime. Whether such report was lodged in time or not, itself is in doubt.

That apart if the Investigation Officer (PW-19) was himself aware of the suspect then what prevented him from immediately detaining or examining him. In fact, it has come on record that other persons were detained as suspects. The investigation conducted is absolutely shady and has been done in a casual manner. In this backdrop it cannot be said that the prosecution witnesses, more specifically (PW-19), (PW-10) and (PW-7) have deposed truthfully.

24. It is important to note that the cardinal principles in the administration of criminal justice in cases where heavy reliance is placed on circumstantial evidence, is that where two views are possible, one pointing to the guilt of the accused and the other towards his innocence, the one which is favourable to the accused must be adopted. [Kali Ram v. State of H.P. (1973) 2 SCC 808].

25. In the present case, we state that the circumstances present before us, taken together, do not establish conclusively only one hypothesis, that being the guilt of the accused, Pradeep Kumar. The presumption of innocence remains in favour of the accused unless his guilt is proven beyond all reasonable doubts against him. [Babu v. State Kerala, (2010) 9 SCC 189]. The cherished principles or golden threads of proof beyond reasonable doubt which runs through the web of our law should not be stretched morbidly which was done by the Courts below.

26. In the present case, we find neither the chain of circumstances to have been completely established nor the guilt of the accused alone, having committed the crime to be proven, much less beyond reasonable doubt. This Court has stated essential conditions that must be fulfilled before an accused can be convicted in a case revolving around circumstantial evidence in the landmark case of Sharad Birdhichand Sarda v. State of Mahrashtra, (1984) 4 SCC 116:

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 Crl LJ 1783] where the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047] "Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

27. Normally, we do not interfere with the concurrent findings of fact of the Courts below. We step in only in exceptional cases or where gross errors are committed, overlooking crying circumstances and well established principles of criminal jurisprudence leading to miscarriage of justice. Hence it becomes our bounden duty to correct such findings in view of the principles enunciated in Ramaphupala Reddy v. State of Andhra Pradesh, (1970) 3 SCC 474, Balak Ram v. State of U.P., (1975) 3 SCC 219 and Bhoginbhai Hirjibhai V. State of Gujarat, (1983) 3 SCC 217.

28. To conclude, we state that both the courts below, erred in finding the Appellant guilty of having committed the crime, charged for, under Section 302/34 IPC read with 201/34 IPC. Hence we set aside the findings of guilt and sentence arrived at vide judgment dated 28.08.2004 by the Ld. Trial Court as subsequently affirmed by the High Court in its judgement dated 21.07.2017 in

CRA No.940 of 2004 titled as Bhainsa@Nandlal and Anr. vs. The State of Chhattisgarh.

29. The appeal is allowed and the Appellant stands acquitted of all the charges framed against him. We direct the Appellant Pradeep Kumar be released forthwith unless required in any other case.

.....J. (B.R. Gavai)

.....J. (Sanjay Karol)

New Delhi;

16th March, 2023.

IN THE SUPREME COURT OF INDIA

Udayakumar
Vs.
State of Tamil Nadu

[Criminal Appeal No. 1741 of 2010]

HEADNOTE – Investigation parade does not hold much value when the identity of the accused is already known to the witness

JUDGMENT

Sanjay Karol, J.

1. The Appellant Udayakumar (A-2) stands convicted by both the courts below for murdering one Purushothaman, thus having committed an offence punishable under Section 302 of the Indian Penal Code, 1860. Consequently he is sentenced to suffer imprisonment for life. However, in relation to an offence under Section 120-B of the Indian Penal Code, 1860 he stands acquitted vide impugned judgement delivered by High Court dated 15.03.2010 in Criminal Appeal No. 17, 22 and 24 of 2010 titled as Udayakumar & Ors. v. The State of Tamil Nadu.

2. Significantly, in terms of the very same impugned judgement, the other two co-accused persons namely Panneer Dass (A-1) and Periyasamy (A-3) stand acquitted in the relation to both the offences i.e. Section 302 and Section 120-B of the Penal Code.

3. As a result, the present appeal filed by convict, Udayakumar (A-2).

4. Prosecution through the testimonies of 23 witnesses has tried to establish complicity of all the three accused on the prognosis that Panneer Das (A-1) was having business relationship with the deceased (Purushothaman). Since certain disputes and business rivalry emerged between the two, the former harboured a grudge against the latter. Resultantly, he along with A-3 hatched a conspiracy to murder the deceased and for achieving such a design services of A-2 were engaged.

On 22.10.2008, at about 8:30PM, A-2 killed the victim with a sickle by giving blows on the side of the neck. Immediately thereafter, A-1 and A-3 came in a vehicle, in which A-2 fled away from the spot of the crime which was an open public road. The incident was witnessed by Venkatesan (PW-1) who was known

to the deceased. With the matter being reported to the police, FIR No. 2261 / 2008 dated 22.10.2008 was registered at Police Station, Theynampet.

The investigation was conducted by Police Officer Kuppusamy (PW-23) and after recovering the body of the deceased, the post-mortem was conducted by Dr. K.Mathiharan (PW-21). Initial investigation revealed complicity of A-1 and A-3. As such, the latter was arrested on 16.12.2009, who disclosed the cause and the manner of commission of crime.

5. With the completion of investigation, challan was presented before the Court for Trial. Vide judgment dated 04.12.2009 in S.C. No. 113 of 2009 titled as State v. Panneerdass & Ors. the Ld. Trial Court, convicted all the accused in relation to the offences charged for and sentenced them to a term of life imprisonment.

6. Significantly, the High Court, by disbelieving the testimonies of the prosecution witnesses, repelling the case of conspiracy, acquitted A-1 and A-3 on all counts and only on the basis of identification of A-2 by PW-1, upheld the conviction and sentence with respect to the offence punishable under Section 302 of the Indian Penal Code. It is a matter of record that no appeal against the judgement of acquittal of A-1 and A-3 stands preferred by the prosecution / State. Hence, this Court has been called upon only to examine the guilt or innocence of A-2.

7. We may reiterate that other than the identification of A-2 being the assailant as witnessed by PW-1, there is no material on record, be it of whatsoever nature, linking the Appellant to the crime. There is no material to indicate that A-1 or A-3 hired the services of A-2 for murdering deceased Purushotaman. Further, there is no material indicating the accused to have murdered the victim with a sickle, the alleged weapon of offence. No tell-tale signs or evidence, be it of any nature, scientific or otherwise, is on record, even remotely linking the convict to the crime.

8. Examining the testimony of PW-1, we notice him to have firstly reported the matter to the police and in the FIR there is no description of the assailant, much less identity of A-2 to have been disclosed. Yet, the High Court, even while discarding the disclosure statement of A-3, convicted A-2, which in our considered view has resulted into travesty of justice.

9. This Court in the case of Anil Phukan v. State of Assam, (1993) 3 SCC 282 has held that:

"3. So long as the single eyewitness is a wholly reliable witness the courts have no difficulty in basing conviction on his testimony alone. However, where the single eyewitness is not found to be a wholly reliable witness, in the sense that

there are some circumstances which may show that he could have an interest in the prosecution, then the courts generally insist upon some independent corroboration of his testimony, in material particulars, before recording conviction. It is only when the courts find that the single eyewitness is a wholly unreliable witness that his testimony is discarded in toto and no amount of corroboration can cure that defect."

Examining the testimony of PW-1, we find him to be materially contradicted and his version belied through the testimony of the Investigation Officer, (PW-23). This is with regard to the identification of the accused. Whereas the former states that he identified the accused in front of the judge, pursuant to the summons issued to him for making himself available at Pulhal Jail, Chennai for the purpose of identifying the accused, but the latter, in unequivocal terms states that, "it is correct to say that PW-1 would give the statement that they came to know that the second accused Udayakumar had murdered Purushothaman" and that "it is correct to say that only after identifying the accused at the Police Station, they had identified the accused at the identification parade."

Now, if the identity of the accused was already in the knowledge of the police or the witnesses, then we only wonder, where would the question of conducting the identification parade arise? We reiterate that the entire necessity for holding an investigation parade can arise only when the accused are not previously known to the witnesses.

The whole idea of a test identification parade is that witnesses who claim to have seen the culprits at the time of occurrence are to identify them from the midst of other persons without any aid or any other source. [Heera v State of Rajasthan (2007) 10 SC 175]. We may also state that the investigation parade does not hold much value when the identity of the accused is already known to the witness. [Sheikh Sintha Madhar v. State, (2016) 11 SCC 265]. This Court has elaborately stated the purpose of conducting the identification parade in the case of State of Maharashtra v. Suresh, (2000) 1 SCC 471 as:

"22. We remind ourselves that identification parades are not primarily meant for the court. They are meant for investigation purposes. The object of conducting a test identification parade is twofold. First is to enable the witnesses to satisfy themselves that the prisoner whom they suspect is really the one who was seen by them in connection with the commission of the crime. Second is to satisfy the investigating authorities that the suspect is the real person whom the witnesses had seen in connection with the said occurrence.

So the officer conducting the test identification parade should ensure that the said object of the parade is achieved. If he permits dilution of the modality to be followed in a parade, he should see to it that such relaxation would not impair the

purpose for which the parade is held [vide Budhsen v. State of U.P. (1970) 2 SCC 128; Ramanathan v. State of T.N. (1978) 3 SCC 86]."

Further in Gireesan Nair & Others v. State of Kerala (2023) 1 SCC 180, the Court observed that:

"44. this Court has categorically held that where the accused has been shown to the witness or even his photograph has been shown by the investigating officer prior to a TIP, holding an identification parade in such facts and circumstances remains inconsequential.

45. Another crucial decision was rendered by this Court in Sk. Umar Ahmed Shaikh v. State of Maharashtra (1998) 5 SCC 103, where it was held:

8. But, the question arises: what value could be attached to the evidence of identity of accused by the witnesses in the Court when the accused were possibly shown to the witnesses before the identification parade in the police station. The Designated Court has already recorded a finding that there was strong possibility that the suspects were shown to the witnesses. Under such circumstances, when the accused were already shown to the witnesses, their identification in the Court by the witnesses was meaningless. The statement of witnesses in the Court identifying the accused in the Court lost all its value and could not be made the basis for recording conviction against the accused."

10. If the theory of conspiracy was disbelieved by the High Court then in our considered view, there was no basis or reason to have upheld the conviction of A-2, more so, when on the basis of the very same set of evidence led by the prosecution, the principle conspirators involved in the crime were acquitted.

11. Unfortunately in the impugned judgement, there is neither any reasoning, nor any appreciation of evidence on record. We cannot convict the accused on the basis of the principles of preponderance of probability. It is our duty to make sure that miscarriage of justice is avoided at all costs and the benefit of doubt, if any, given to the accused. [Sujit Biswas v. State of Assam, (2013) 12 SCC 406, Hanumant Govind Nargundkar v. State of M.P. (AIR 1952 SC 343) and State v. Mahender Singh Dahiya, (2011) 3 SCC 109].

12. We may also record that in the impugned judgment running into 21 pages, the High Court has extensively dealt with the theory of conspiracy and guilt of A-1 and A-3 and only in the penultimate part, that is, paragraphs 26 and 27, casually, dealt with the guilt of the A-3.

13. In our considered view, prosecution has failed to establish the guilt of the accused much less meeting the requirement of the same having been established beyond reasonable doubt.

14. In the present case before us, we find neither the chain of evidence to have been completely established nor the circumstances, conclusively pointing towards the guilt of commission of crime by the Appellant. The prosecution has failed to prove its case beyond reasonable doubt. This Court has stated essential conditions that must be fulfilled before an accused can be convicted in a case revolving around circumstantial evidence in the landmark case of Sharad Birdhichand Sarda v. State of Mahrashtra, (1984) 4 SCC 116.

15. In the normal course of adjudication followed by this Court, when there is a concurrent findings of fact by the Courts below, this Court interferes only in exceptional cases or where gross errors have been committed which overlook crying circumstances and well established principles of criminal jurisprudence. [Ramaphupala Reddy v. State of Andhra Pradesh, (1970) 3 SCC 474, Balak Ram v. State of U.P., (1975) 3 SCC 219, Bhoginbhai Hirjibhai V. State of Gujarat, (1983) 3 SCC 217]. Hence in the attending circumstances, it becomes our bounden duty to correct such findings.

16. To conclude, we state that the judgments of conviction and sentence in respect to the appellant present before us, Udayakumar (A-2), passed by the Ld. Trial Court in S.C. No. 113 of 2009 dated 04.12.2009 as affirmed by the High Court in Criminal Appeals No. 17, 22 and 24 of 2010 dated 15.03.2010 titled as Udayakumar & Ors. v. The State of Tamil Nadu are quashed and set aside.

17. Appeal stands allowed.

18. Since the appellant is already on bail, his bail bond shall stand discharged.

.....J. (B.R. Gavai)

.....J. (Sanjay Karol)

New Delhi

16th March, 2023

IN THE SUPREME COURT OF INDIA

Shankar
Vs.
The State of Maharashtra
Criminal Appeal No. 954 of 2011
With
Criminal Appeal No.955 of 2011

HEADNOTE – Time at which deceased was lastly seen with accused should be proved conclusively

JUDGMENT

C.T. Ravikumar, J.

1. The captioned appeals, by lifers, are directed against the self-same judgment and order dated 12.08.2009 passed by the High Court of Judicature at Bombay, Bench at Nagpur in Criminal Appeal No.7 of 2004. The former appeal was filed by the second and third appellants therein who were accused Nos.2 and 3 in Sessions Trial No.80 of 2002 on the file of Additional Sessions Judge, Bhandara.

The sole appellant in the latter appeal was the first appellant in Criminal Appeal No.7 of 2004 and he was the first accused in Sessions Trial No.80 of 2002. During the pendency of the trial, the fourth accused breathed his last and the first appellant in the former appeal viz., Sri Hiralal died during its pendency. Hence, qua him the former appeal stands abated.

As per the judgment of the Trial Court the appellants were convicted under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (hereinafter, 'the IPC') for having committed murder of one Rahul Pundlik Meshram (hereafter referred to as 'the deceased'). They were sentenced to suffer imprisonment for life besides imposing a fine of Rs.500/- and in default of payment of fine they are to suffer rigorous imprisonment for one month each. As per the impugned judgment the conviction and sentences thus imposed by the Trial Court were confirmed. Hence, these appeals.

2. The prosecution case, in nutshell, is as follows:-

On 12.12.2001 at about 5.00 pm, the deceased along with a friend went to Indira Gandhi Ward at Bandhara where the house of Chintaman Giddu Gatey (PW-8) situates. After parking his Luna Moped the deceased went inside of the house of Chintaman Giddu Gatey (PW-8), leaving his friend near the vehicle. Deceased and Chintaman Giddu Gatey (PW-8) smoked ganja and while so the deceased accused No.4 (Raju Pande), Hiralal, the first appellant in the former appeal who is no more and accused Nos.1 and 3, who are the surviving convicts (hereinafter referred to as 'the appellants'), came there on two motorcycles and they too, went inside the house of Chintaman Giddu Gatey (PW-8).

All of them smoked ganja. While so, appellant in the latter appeal viz., accused No.1 questioned the deceased as to why he along with his friend Parag Sukhdeve assaulted his brother. It is worthy to note at this juncture that according to the prosecution, on 29.09.2001, the deceased along with his friend Parag Sukhdeve assaulted the brother of the appellant in the latter appeal. Though, the deceased denied assault on his brother, the appellant in the latter appeal (the first accused) continued to say that the deceased did dishonesty and assaulted his brother.

Though, the friend of the deceased who was waiting outside came inside and asked him to come out the deceased remained there and thereupon his friend left the place. Later, the first accused invited the deceased for drinks and all of them, including the deceased, left the house of Chintaman Giddu Gatey (PW-8) on two motorcycles by about 6 p.m. After about an hour, the dead body of the deceased was found by one Manoj Goswami, a resident of Paladi. The case is that upon being informed by the villagers, Manoj Goswami (PW1) went to the spot and on finding the dead body he went to Bhandara Police Station and lodged a report.

As per the prosecution, the deceased was taken by the accused on one of the motorcycles through National Highway No.6 towards Lakhani town. To the north of the said National Highway and at a distance of about 10 kilometers from Bhandara there was another road leading to village Paladi and on the side of the said Bhandara-Paladi road, at about by one kilometer from National Highway No.6, they stopped their motorcycles and started assaulting the deceased using sharp weapons. The deceased sustained 22 antemortem injuries, all over his body and met with instantaneous death.

3. Admittedly, there was no eye-witness in this case. Based on the circumstantial evidence, the Trial Court found the appellants guilty and convicted and sentenced them, as mentioned above. Aggrieved by the conviction and consequent sentence, the surviving accused viz., accused Nos. 1 to 3 in the said Sessions Trial preferred appeal before the High Court.

After considering the circumstances relied on by the Trial Court and despite its reservation against some of the procedures followed the High Court confirmed

the conviction and sentence imposed on appellants by the Trial Court holding that certain proven circumstances are material circumstances and would complete the requisite chain.

4. The appellants in the captioned appeals challenge the findings of conviction and consequential imposition of sentence raising various grounds. But, before considering the contentions against the concurrent findings raised by the appellants, we find it only appropriate to refer to the following decisions on the law relating circumstantial evidence.

5. In the decision in Sarbir Singh v. State of Punjab1, this Court observed and held thus: -

"5. But in a case based on circumstantial evidence neither the accused nor the manner of occurrence is known to the persons connected with the victim. The first information report is lodged only disclosing the offence, leaving to the investigating agency to find out the offender.

6. It is said that men lie but circumstances do not. Under the circumstances prevailing in the society today, it is not true in many cases. Sometimes the circumstances which are sought to be proved against the accused for purpose of establishing the charge are planted by the elements hostile to the accused who find out witnesses to fill up the gaps in the chain of circumstances. In countries having sophisticated modes of investigation, every trace left behind by the culprit can be followed and pursued immediately. Unfortunately it is not available in many parts of this country. That is why courts have insisted

(i) the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established;

(ii) all the facts so established should be consistent only with the hypothesis of the guilty of the accused and should be such as to exclude every hypothesis but the one sought to be proved;

(iii) the circumstances should be of a conclusive nature; and

(iv) the chain of evidence should not have any reasonable ground for a conclusion consistent with the innocence of the accused.

6. Further it was held therein as under:-

7. It has been impressed that suspicion and conjecture should not take the place of legal proof. It is true that the chain of events proved by the prosecution must show that within all human probability the offence has been committed by the

accused, but the court is expected to consider the total cumulative effect of all the proved facts along with the motive suggested by the prosecution which induced the accused to follow a particular path. The existence of a motive is often an enlightening factor in a process of presumptive reasoning in cases depending on circumstantial evidence.

7. In Brijlal Prasad Sinha v. State of Bihar2, this Court held thus: "In a case of circumstantial evidence the prosecution is bound to establish the circumstances from which the conclusion is drawn must be fully proved; the circumstances should be conclusive in nature; all the circumstances so established should be consistent only with the hypothesis of guilt and inconsistent with the innocence; and lastly the circumstances should to a great certainty exclude the possibility of guilt of any person other than the accused.

The law relating to circumstantial evidence no longer remains res integra and it has been held by catena of decisions of this Court that the circumstances proved should lead to no other inference except that of the guilt of the accused so that, the accused can be convicted of the offences charged. It may be stated as a rule of caution that before the court records conviction on the basis of circumstantial evidence, it must satisfy itself that the circumstances from which inference of guilt could be drawn have been established by unimpeachable evidence and the circumstances unerringly point to the guilt of the accused and further, all the circumstances taken together are incapable of any explanation on any reasonable hypothesis save the guilt of the accused."

8. In the decision in Prakash v. State of Rajasthan3, this Court took note of the following principles laid down regarding the law relating circumstantial evidence in Sharad Birdhichand Sarda v. State of Maharashtra4:-

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793] where the following observations were made:

19. "Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence."

9. After noting the above five golden principles, it was held in Prakash's case (supra), that they would constitute the Panchsheel of the proof of a case based on circumstantial evidence and conviction could be sustained on the basis of last seen, motive and recovery of incriminating articles in pursuance of the information given by the accused if those five golden principles of the proof of a case based on circumstantial evidence are satisfied.

10. Virtually, the law laid down relating circumstantial evidence in those decisions are unfailingly followed by this Court while dealing with the cases where conviction is rested on circumstantial evidence.

11. We are also fully aware of the position that normally in an appeal by special leave under Article 136 of the Constitution of India when concurrent findings of conviction and sentence are against the appellants / convicts there would be no scope for interference except in exceptional circumstances. In the decision in Tomaso Bruno & Anr. v. State of Uttar Pradesh5, a Three Judge Bench of this Court held:-

"42. By and large, this Court will not interfere with the concurrent findings recorded by the courts below. But where the evidence has not been properly appreciated, material aspects have been ignored and the findings are perverse under Article 136 of the Constitution, this Court would certainly interfere with the findings of the courts below though concurrent. In a case based on circumstantial evidence, circumstances from which inference of guilt is sought to be drawn should be fully proved and such circumstances must be of conclusive nature pointing to the guilt of accused. There shall be no gap in such chain of circumstances."

12. Heard, Mr. Sanjay Jain and Mr. Sunil Kumar Verma, learned counsel for the appellant and Mr. Sachin Patil, learned counsel for the respondent-State.

13. In view of the law relating circumstantial evidence exposited under the decisions referred hereinbefore and the scope of interference in exercise of power under Article 136 of the Constitution of India in respect of cases where concurrent findings are recorded by the Lower Courts, we are of the considered view if doubt lingers with respect to the probability or conclusiveness of any circumstance relied on by the prosecution, forming a link in the chain of circumstances pointing to the guilt of convict, despite the existence of concurrent findings, the evidence has to be scrutinized by this Court so as to ensure that the totality of the evidence and circumstances relied on, did constitute a complete chain and it points to the guilt of the convict and it did not brook any hypothesis other than the guilt of the convict.

Upon hearing the learned counsel on both sides and on careful consideration of the evidence and materials on record, we are of the considered view that the case at hand is a befitting case where such an exercise is required. Before we undertake such an exercise, it is only proper to look into the questions whether the death of Rahul Pundlik Meshram is homicidal in nature. As a matter of fact, there is not much dispute on this aspect.

14. The evidence of PW-13 with Exhibit-54 postmortem report made the Courts below to concurrently come to the conclusion that death of Rahul Pundlik Meshram is homicidal in nature. The postmortem report would reveal the presence of 22 ante-mortem injuries on the body of the deceased. It would also reveal that out of the 22 ante-mortem injuries, except 7 of these are incised wounds. The said 7 injuries are serious stab injuries inflicted on different parts of the body.

It is taking into account the nature of all those injuries that PW-13 opined that the cause of death of deceased was due to multiple injuries on the chest and back involving the vital organs such as heart and lungs. We have absolutely no hesitation to hold in the said circumstances that the Courts below have rightly arrived at the conclusion, in the light of the evidence that death of Rahul Pundlik Meshram is homicidal in nature.

15. Admittedly, the conviction of the appellants is rested on circumstantial evidence only. As per the Trial Court, the following circumstances were relied upon by the prosecution to establish the guilt of the accused, including the appellants, before it: -

"1. Visit of the deceased Rahul Meshram to the house of Chintaman Gatey (P.W.8).

2. While the deceased was at the house of Chintaman, the accused nos. 1 to 3 and deceased accused Raju Pande arrived at the house of Chintaman Gatey.

3. The motive altercation had taken place between the accused on one side and the deceased on the other side.

4. That, the accused persons, under the pretext of consuming liquor persuaded the deceased to accompany them.

5. That, the deceased and the accused nos. 1 to 3 and deceased accused Raju Pande, left the house of Chintaman Gatey, on two motor-cycles.

6. That, immediately, there after i.e. after the deceased left the house of Chintaman Gatey with accused persons, he was found met with homicidal death.

7. Recovery of the weapon from the accused No.1 with the blood stains of Group 'A' which was of the deceased.

8. The Opinion of the Dr. Sau. Manjusha Rangari that by the said weapon, the injuries which were found on the dead body of the deceased, could be caused.

9. The discovery of the fact of burning clothes stained with blood by the accused No. 1 and those clothes were belonged to accused nos. 1 and 2.

10. The full pant belonged to accused No.1 was stained with blood, of blood group "A" which was of the deceased."

16. After considering the said relied on circumstances, the Trial Court held that the prosecution had succeeded in establishing eight circumstances, as under: -

"1. The visit of deceased Rahul Meshram at the house of Chintaman Gatey.

2. Arrival of the accused No. 1 to 3, alongwith the deceased accused, at the house of Chintman Gatey.

3. That, the accused No.1 to 3 and deceased accused succeeded in persuading the deceased to join them for consuming liquor.

4. That, the accused No.1 to 3, deceased accused Raju Pande, and deceased Rahul Meshram left the house of Chintaman Gatey, on two motor cycles.

5. That immediately after the deceased and the accused persons left the house of Chintaman Gatey, the deceased was found murdered.

6. At the instance of the accused No.1 weapon having handle at one end and the other end sharp and edged one, was recovered, which was found stained with blood, of Group "A" which was of the deceased.

7. Doctor opined that by the said weapon, the injuries could be caused, which were found on the dead-body of the deceased.

8. The accused No.1 burnt the clothes at place near the water tank in M.S.E.B, Colony, Bhandara."

17. Consequently, the Trial Court considered the question whether the culled-out circumstances would form a complete chain unerringly pointing to the guilt of the accused and that accused alone and obviously, the conviction was entered into upon answering that question in the affirmative. According to the Trial Court, the following three proven circumstances are sufficient to constitute circumstantial evidence unerringly connecting the accused with the homicidal death:-

"1. That, while the deceased was at the house of Chintaman Gatey, deceased accused Raju Pande along with the accused Nos.1 to 3. came to the house of Chintaman Gatey and succeeded in persuading the deceased to accompany them, for consuming liquor.

2. That the deceased in the company of the accused Nos.1 to 3 and deceased accused Raju left the house of Chintaman Gatey, on two moto cycles.

3. That, soon thereafter, the deceased was found murdered."

18. There can be no doubt with respect to the fact that in a case where the conviction is based on circumstantial evidence, motive assumes great significance. A Three Judge Bench of this Court in Nandu Singh v. State of Madhya Pradesh (now Chhattisgarh)6 by its judgment dated 25.02.2022, after observing thus, held as under:-

"It is not as if motive alone becomes the crucial link in the case to be established by the prosecution and in its absence the case of prosecution must be discarded. But, at the same time, complete absence of motive assumes a different complexion and such absence definitely weighs in favour of the accused."

We may add here that just like complete absence of motive failure to establish motive after attributing one, should also give a different complexion in a case based on circumstantial evidence and it will certainly enfeeble the case of prosecution.

19. In the decision in Nandu Singh's case an earlier decision of this Court in Anwar Ali & Anr. v. State of Himachal Pradesh7, was quoted with agreement, thus: -

"24. Now so far as the submission on behalf of the accused that in the present case the prosecution has failed to establish and prove the motive and therefore the accused deserves acquittal is concerned, it is true that the absence of proving the motive cannot be a ground to reject the prosecution case.

It is also true and as held by this Court in Suresh Chandra Bahri v. State of Bihar (1995 Supp (1) SCC 80) that if motive is proved that would supply a link in the chain of circumstantial evidence but the absence thereof cannot be a ground to reject the prosecution case. However, at the same time, as observed by this Court in Babu (Babu v. State of Kerala, (2010) 9 SCC 189), absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused. In paras 25 and 26, it is observed and held as under: (Babu case, SCC pp. 200-01).

"25. In State of U.P. v. Kishanpal (2008) 16 SCC 73), this Court examined the importance of motive in cases of circumstantial evidence and observed: (SCC pp. 87-88, paras 38-39)

'38. the motive is a thing which is primarily known to the accused themselves and it is not possible for the prosecution to explain what actually promoted or excited them to commit the particular crime.

39. The motive may be considered as a circumstance which is relevant for assessing the evidence but if the evidence is clear and unambiguous and the circumstances prove the guilt of the accused, the same is not weakened even if the motive is not a very strong one. It is also settled law that the motive loses all its importance in a case where direct evidence of eyewitnesses is available, because even if there may be a very strong motive for the accused persons to commit a particular crime, they cannot be convicted if the evidence of eyewitnesses is not convincing. In the same way, even if there may not be an apparent motive but if the evidence of the eyewitnesses is clear and reliable, the absence or inadequacy of motive cannot stand in the way of conviction.'

26. This Court has also held that the absence of motive in a case depending on circumstantial evidence is a factor that weighs in favour of the accused. (Vide Pannayar v. State of T.N. (2009) 9 SCC 152)".

20. In the decision in Shivaji Chintappa Patil v. State of Maharashtra8, after referring to the decision in Anwar Ali's case (supra), this Court observed thus:-

"27. Though in a case of direct evidence, motive would not be relevant, in a case of circumstantial evidence, motive plays an important link to complete the chain of circumstances."

21. In the case on hand, the prosecution alleged a motive. According to the prosecution on 29.09.2001, the deceased along with his friend Parag Sukhdeve assaulted the brother of appellant in the latter appeal (the first accused in the Sessions Trial). It is also the case of the prosecution that after the accused persons entered the house of PW-8, Chintaman Giddu Gatey the first accused/the appellant in the latter appeal hurled abuses on the deceased and asked him why he along with his friend Parag Sukhdeve assaulted his brother.

It is also the case of the prosecution that though the deceased denied any such occurrence, the said appellant continued to say that the deceased had done dishonesty and assaulted his brother. After alleging motive as above, prosecution had failed to establish the same. In this context, it is to be noted that the Trial Court made a positive finding that the prosecution had miserably failed to establish the alleged motive. Despite the said finding of the Trial Court and despite that issue was pointedly raised before the High Court, obviously the High Court in the impugned judgment did not consider the said aspect at all.

This failure on the part of the High Court is a ground specifically taken in this appeal. In the light of the decision in Anwar Ali's case (supra) and Shivaji Chintappa Patil's case (supra), and also based on what we held in respect of the impact of failure to establish the alleged motive in a case based on circumstantial evidence it can only be held that the said failure had weakened the case of the prosecution. This aspect should have been given proper weight by the courts below.

22. Now, we will proceed to consider the other circumstance(s) relied on and whether they would make a complete chain of circumstances and dispel the hypothesis of the innocence of the appellant. In that context, it is only appropriate to refer to the circumstance mainly, relied on and held as proved by the High Court for confirming the conviction of the appellants viz., that the deceased was 'lastly seen' in the company of the appellants just prior to the finding of his dead body. Having observed thus, the High Court held that the proof thereof would depend upon the quality and nature of the testimonies of Chintaman (PW-8) and Dhanraj (PW-10).

23. Paragraph 14 of the impugned judgment would reveal that after referring to evidence based on 'last seen theory', recovery of weapons and seizure of clothes the High Court observed that the following twin material circumstances would complete the requisite chain, namely:-

"(a) On the day of incident, at about 4.00 p.m., deceased Rahul and all the appellants were present at the house of Chintaman (PW-8).

(b) Deceased Rahul left the house of Chintaman at about 5.00 p.m., on the day of incident along with the appellants and within two hours, the dead body of Rahul with multiple incise and stab wounds was found lying by the side of the road, 10 kms. away from Bhandara city. There is nothing on record to show that deceased Rahul had enmity with anybody other than the appellants and in absence thereof, the possibility of somebody else committed assault on the deceased and would have caused so many multiple injuries is completely ruled out."

24. With respect to the material circumstance referred to as (a) in the impugned judgment, as extracted above, what is stated by the High Court is totally against the weight of evidence. The evidence of PW-8 when juxtaposed to that of PW-10 would reveal the said position. It is stated therein that on the day of incident, at about 04.00 pm, the deceased Rahul Pundlik Meshram and all the appellants were present at the house of Chintaman (PW-8).

In a case rested on circumstantial evidence and 'last seen' theory is relied on as a link in the chain of circumstances, the evidence relating the time at which the deceased was lastly seen with the accused has to be proved conclusively as when it is proximate with the time of finding the dead body the burden to establish the innocence would be that of the accused. Indisputably, in contrast to the aforesaid statement therein what is deposed by Chintaman (PW-8) is that on the day of the incident at about 05.00 pm, the deceased came to his house and then asked for a glass of water and thereafter, Raju Pande (the deceased accused No.4) along with three other persons with respect to whom he got only nodding acquaintance, came to the house.

He would also depose that thereafter Raju Pande started hurling abuses on the deceased. Both the Trial Court and the High Court noted the case of the prosecution that Raju Pande hurled abuses on the deceased for having assaulted the brother of accused No. 1, along with his friend Sri Parag Sukhdeve. However, a scanning of the oral testimony of PW-8 would show that he did not depose that Raju Pande hurled abuses on the deceased on the ground of assault on the brother of accused No. 1. Naturally, he did not mention the name Parag Sukhdeve as well.

So also, it would go to show that he had stoutly denied involvement in the sale of ganja, or availability of ganja in his house. According to him Raju Pande and accused No. 1 alone had come to the chappari of his house and the remaining two accused were standing in the courtyard of his house. That apart, as per PW-8 it was about 06:00 PM that accused Raju Pande and the deceased left his house. Thus, it is obvious that the statement in the material circumstance mentioned as

'a' in paragraph 14 of the impugned judgment is based on the oral testimony of Dhanraj (PW- 10).

It is true that PW-10, deposed that at about 04.00 pm he was returning home from S.T. Stand and then he found two motorcycles parked at the house of Chintaman (PW-8), that at the house of Chintaman, 4 to 5 persons were then sitting and at that time accused Nos. 2 and 3 viz., deceased first appellant and the surviving appellant in the former appeal, whom he knew by face and one Pande were present. It is pertinent to note that PW-10 did not depose about the presence of the deceased in the house of Chintaman when himself, Pande and the other accused persons were there in the said house. Naturally, in his oral testimony he had not deposed anything about the hurling of abuses by Pande on the deceased.

Another aspect of his oral testimony is that he deposed about the query made by Pande about the identity of a pregnant girl who resides behind the house of Chintaman. According to him, Chintaman told Pande that he did not know anything about that girl and then Pande asked him about her. On being told that he did not know anything about her, Pande asked him to leave that place, going by the deposition of PW-10. At this juncture, it is to be noted that PW-10 did not make any mention about this aspect in his evidence. It is true that the Trial Court found that this is an improved version by PW-10.

Anyway, the fact revealed from the oral testimony of PW-10 is that he saw the accused persons, including Raju Pande and the appellants herein, at the house of Chintaman (PW-08) immediately after 04:00 PM on the day of occurrence and he did not speak about the presence of the deceased in the house of PW-8. That apart, according to him, Raju Pande was enquiring with him and PW-8 about a pregnant girl who was residing behind the house of PW-8.

It is also relevant to note that the evidence on record would further go to show that PW-8 had not mentioned about the alleged hurling of abuses by deceased accused Raju Pande on the deceased in his statement under Section 161 of Cr.P.C. Above all, PW-8 did not mention the presence of PW-10 at his residence anytime during the period from 04:00 PM to 06:00 PM on that fateful day.

25. When the above being the factual position obtained from the oral testimonies of PW-8 and PW-10, the Hon'ble High Court which observed that the circumstance of 'last seen' is an important circumstance in the case on hand and its proof would depend upon the quality and nature of the testimonies of PW-8 and PW-10 should have bestowed a threadbare, serious consideration to answer the question whether the evidence of PW-10 would lend corroboration to the evidence of PW-8.

So also, the courts below in the overall circumstances, ought to have carefully considered the question whether the solitary oral evidence of PW-8 would conclusively prove the factum of the deceased lastly seen in the company of the deceased. On our careful scrutiny of the evidence of PW-8 and PW- 10 as above we are constrained to hold that both the Trial Court and the High Court have failed to make a proper exercise of that task taking into account the fact that the prosecution relies only on circumstantial evidence to establish the guilt of the accused.

According to us, the discussion as above would go to show that virtually the evidence of PW-10 not only failed to lend corroboration to the evidence of PW-8 but also puts it under a shadow of doubt. Hence, according to us, the Hon'ble High Court went wrong in holding that as relates the said circumstantial evidence of 'last seen' the evidence of PW-8 gets corroboration from the evidence of PW-10 and in that view of the matter, in agreeing with the conclusion of the Trial Court that the prosecution has succeeded in proving that the deceased was lastly seen with the accused, conclusively.

26. The above-mentioned situation constrained us to scan the evidence of PW-8 scrupulously to find out whether his sole testimony is unimpeachable and impeccable to conclusively establish the joining up of the deceased and the accused/convicts at the house of PW-8 at the relevant point of time as alleged by the prosecution. In this context, it is to be noted that the prosecution case would suggest that the house of PW-8 is a hub of ganja smokers. But then, PW-8 stoutly denied of any kind of involvement with ganja business. Hence, the question is why it still attracts and allures persons?

If the prosecution case is to be believed then what made all those persons viz., the deceased, the accused/convicts and PW-10, visit the house of PW-8 at that time? Obviously, there is no indicatory material on that count. It is to be noted that it is not the case of the prosecution that the accused persons, including the appellants, reached there on coming to the know about the presence of the deceased. Going by the case of the prosecution the deceased reached the home of PW-8 on his Luna Moped along with his friend and he went inside after leaving the friend near the parked vehicle.

PW-8 did not say that he had friendship with the deceased and he deposed only to the effect that he knew the deceased and the deceased on occupying a seat asked for a glass of water. Soon, thereafter, Raju Pande and the three others with whom he had only nodding acquaintances came to his house. PW-8 would further depose that thereupon Raju Pande hurled abuse on the deceased and then the deceased pleaded that he did no wrong.

As noted earlier, it has come out in evidence that the act of hurling of abuse by Raju Pande on the deceased was not recorded in the previous statement of PW-8 recorded under Section 161, Cr.P.C. Above all, PW-8 in his testimony before the court did not depose anything even to suggest that hurling of abuse by Raju Pande was because of the assault on his brother by the deceased and his friend Parag Sukhdeve. Then, how and for what reason this incident was alleged as the motive for the murder of the deceased Rahul?

Who introduced this story as part of the prosecution case before the court. Certainly, it cannot be said that it was PW-10 who spoke to that effect as his testimony would reveal he had not even spoken about the presence of the deceased at the house of PW-8 when the accused/convicts were seen there.

27. Another aspect revealed from the evidence on record is that as per PW-10 when he entered the house of PW-8 after 04:00 p.m. on the day of occurrence, Raju Pande and the others were present there and Raju Pande asked him about a pregnant girl who was residing behind the house of PW-8. According to PW-10, Raju Pande asked the same to PW-8 as well and both of them revealed their lack of knowledge about such a girl and then Raju Pande asked PW-10 to leave the place and thereupon he left the place. It would suggest, if it was true that he reached there along with others ahead of the deceased, in search of such a girl lest why he got infuriated/dejected over it and asked PW-10 to leave the place. PW-8 did not speak about the presence of PW-10 and also about such a query made by Raju Pande.

28. For all the above reasons and circumstances, it is unsafe to rest on the sole testimony of PW-8 to apply the 'last seen theory' in this case against the appellants especially, going by PW-8 he had only nodding acquaintance with them.

29. Thus, in a nutshell the correctness of the last seen version emanating from PW-8-Chintaman becomes doubtful, especially against the appellants herein. As noticed earlier, virtually, the oral testimonies of PW-8 and PW-10 are at variance about the last seen and it becomes inconclusive for the reasons mentioned hereinbefore.

We have also found that the prosecution has miserably failed to prove the alleged motive. In such circumstance, though the deceased had met with a homicidal death it cannot be said that the rest of the circumstantial evidence culled out by the courts below unerringly point to the culpability of the appellants in the homicidal death of Rahul Pundlik Meshram.

Even the recovery of the weapon and the dress, at the instance of the appellant in the latter appeal cannot, by itself, be conclusive as admittedly, the panch

witnesses for their recovery also did not support the prosecution. In our considered view, the remaining circumstances relied on by the prosecution and held as proved by the courts below would not unerringly point to the guilt of the appellants.

30. Thus, in our view, it is unsafe on the aforesaid circumstances to maintain the conviction of the appellants; we thus, extend to them the benefit of doubt. Accordingly, we order for the acquittal of the appellants.

The appeals are thus allowed, upsetting the judgments and orders of the High Court as also that of the court of Session. The bail bonds executed by the appellants stand discharged.

.....J. (Ajay Rastogi)

.....J. (C.T. Ravikumar)

New Delhi;

March 15, 2023.

1 1993 SCC (Cri) 860

2 (1998) SCC (Cri) 1382

3 (2013) 4 SCC 668

4 (1984) 4 SCC 116

5 (2015)7 SCC 178

6 2022 SCC OnLine SC 1454

7 (2020) 10 SCC 166

8 (2021) 5 SCC 626

ITEM NO. 1501

Shankar
Vs.
State of Maharashtra
[Criminal Appeal No(s). 954/2011]
[Criminal Appeal No. 955/2011]

Date: 15-03-2023

These appeals were called on for pronouncement of reportable judgment today.

For Appellant(s)
Mr. Sanjay Jain, AOR
Mr. Sunil Kumar Verma, AOR
Mr. Sunil Kumar Verma, Adv.

For Respondent(s)
Mr. Sachin Patil, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, Adv.
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Geo Joseph, Adv.
Mr. Risvi Muhammed, Adv.
Mr. Durgesh Gupta, Adv.

Hon'ble Mr. Justice. C.T. Ravikumar pronounced the reportable judgment of the Bench comprising Hon'ble Mr. Justice Ajay Rastogi and His Lordship.

"Thus, in our view, it is unsafe on the aforesaid circumstances to maintain the conviction of the appellants; we thus, extend to them the benefit of doubt. Accordingly, we order for the acquittal of the appellants. The appeals are thus allowed, upsetting the judgments and orders of the High Court as also that of the court of Session. The bail bonds executed by the appellants stand discharged".

Pending application(s), if any, shall stand disposed of.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(signed reportable judgment is placed on the file)

IN THE SUPREME COURT OF INDIA

Rajendra Kumar Shrivas
Vs.
State of Madhya Pradesh and Ors.

[Civil Appeal No. 1514 of 2023
arising from S.L.P. (Civil) No. 32872/2018]

HEADNOTE – District Judges Appointment – Only 10% Posts Can Be Filled Through Limited Competitive Examination

JUDGMENT

M.R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 23.02.2018 passed by the High Court of Madhya Pradesh, Principal Seat at Jabalpur in Writ Petition No. 3190/2018, by which the High Court has dismissed the said writ petition by holding that the original writ petitioners are not entitled to seek a writ of quo warranto, the original writ petitioner No.1 has preferred the present appeal.

2. Before the High Court, the original writ petitioners prayed for the following reliefs:

A. It is, therefore, prayed that this Hon'ble Court may kindly be pleased to call the entire record of the appointments of the Quota under limited competitive examination since 2007 and pursue it and quash the impugned order dated 19.01.2018 (Annex. P-11) and 25.01.2018.

B. It is therefore, prayed that this Hon'ble Court may kindly be pleased to cancel the appointments Exceeds 10% of Quota of the candidates to appointed through limited competitive examination u/r 5(1)(b) of rules 1994, since 2007 to 2017 exceeds the limit of 10% quota as fixed by Hon'ble Supreme Court and direct to filled up the seats with regular promotion.

C. It is therefore, prayed that this Hon'ble Court may kindly be pleased to direct to the respondents to make the necessary amendment in rule 5(1) (b) of the rules 1994 and reduce the limit from 25% to 10% appointment in limited competitive examination so that Hon'ble Apex Court order dated 20.04.2010 passed in All

India Judges Association and others V/s Union of India and others may be compliance.

D. The Hon'ble Court may kindly direct to the initiate departmental enquiry, against the authority who deliberately disobedient the order of the Hon'ble Supreme Court and with regard to not following the quota limit of 10% u/r 5(1)(b) of rules of 1994 with regard to limited competitive examination, and punish to them an accordance with law.

E. Any other relief as deemed fit and proper in the circumstances of this case, along with the cost of this writ petition be also awarded.

3. Before the High Court, it was the case on behalf of the original writ petitioners that despite the directions issued by this Court in the case of All India Judges' Association and Others v. Union of India and Others, reported in (2010) 15 SCC 170, directing all the High Courts to fill up the posts in the higher judiciary by reserving 10% seats to be filled up by limited departmental competitive examination, the High Court of Madhya Pradesh has exceeded the quota and has filled up the posts in the higher judiciary beyond 10% quota.

It is/was the case on behalf of the original writ petitioners that despite the specific direction issued by this Court directing all the High Courts to see that the existing Service Rules be amended positively with effect from 1.1.2011, the High Court of Madhya Pradesh did not amend the rules providing 10% seats to be filled up by limited departmental competitive examination.

4. By the impugned judgment and order and despite the fact that the aforesaid reliefs were prayed by the original writ petitioners, the High Court has considered that the original writ petitioners have prayed for a writ of quo warranto. The aforesaid reliefs cannot be said to be the reliefs of a writ of quo warranto. However, instead of remanding the matter to the High Court, we ourselves have considered the matter and the issues on merits.

5. Learned counsel appearing on behalf of the High Court has submitted that initially in the year 2005, the High Court did amend the Recruitment Rules, however, the same came to be set aside by the High Court and the matter reached to this Court and thereafter after conclusion of the proceedings before this Court in the year 2018, the High Court amended the Recruitment Rules in line with the directions issued by this Court in the case of All India Judges' Association (supra).

5.1 Learned counsel appearing on behalf of the High Court has also further submitted that in absence of the selected/appointed candidates, no relief can be

granted by quashing and setting aside the appointments made in excess of the quota beyond 10%.

6. Heard learned counsel for the respective parties at length. This Court in the case of All India Judges' Association (supra) specifically directed that from the date of the said judgment, there shall be 25% of seats for direct recruitment from the Bar, 65% of seats are to be filled up by regular promotion of Civil Judge (Senior Division) and 10% seats are to be filled up by limited departmental competitive examination.

This Court also further directed that if the candidates are not available for 10% seats, or are not able to qualify in the examination then vacant posts are to be filled up by regular promotion in accordance with the Service Rules applicable. This Court also further directed that all the High Courts to take steps to see that existing Service Rules be amended positively with effect from 1.1.2011. This Court also further directed that if the Rules are not suitably amended, the said order shall prevail and further recruitment from 1.1.2011 shall be continued accordingly as directed.

7. Therefore, as per the directions issued by this Court in the aforesaid decision, on and from 1.1.2011, only 10% seats are to be filled up by limited departmental competitive examination. Any appointment beyond 10% seats filled up by limited departmental competitive examination therefore shall have to be considered appointment excess in quota.

8. In the present case, in the year 2017, there were 740 sanctioned posts. Therefore, 74 seats were to be filled up by limited departmental competitive examination against which 78 posts were filled up by limited departmental examination. Thereafter, further 11 posts were advertised, out of which 5 posts were filled up. The result would be that the posts were filled up by limited departmental competitive examination beyond 10% seats quota for limited departmental competitive examination.

As observed hereinabove and as directed by this Court, 10% seats were required to be filled up by limited departmental competitive examination w.e.f. 1.1.2011 and any recruitment made from 1.1.2011 onwards. Therefore, the High Court has to undertake the exercise from 1.1.2011 adjusting the posts and if any appointments are found to have been made beyond 10% seats in a particular recruitment, the same shall have to be adjusted in future recruitment.

9. So far as challenge to the appointments made in excess of the quota under limited departmental competitive examination since 2007 and the appointments made in the year 2017/2018, no relief can be granted to the original writ petitioners in absence of those selected/appointed candidates.

At this stage, learned counsel appearing on behalf of the High Court has strongly opposed the locus of original writ petitioners by submitted that original writ petitioner No.1 - appellant herein was a suspended judicial officer who subsequently came to be compulsorily retired. However, without further opining on the locus of the original writ petitioners, we have considered the matter on merits in light of the decision of this Court in the case of All India Judges' Association (supra).

10. In view of the above and for the reasons stated above, the present appeal stands disposed of by directing as under:

The High Court of Madhya Pradesh is hereby directed to act as per the directions issued by this Court in the case of All India Judges' Association (supra), more particularly directions contained in paragraphs 8 & 9 of the said decision and is directed to see that 10% seats are filled up by limited departmental competitive examination on and from 1.1.2011 and if it is found that in any recruitment subsequent to 1.1.2011, the 10% quota is breached, all such posts shall be adjusted in the future recruitments.

11. The instant Civil Appeal stands disposed of in the aforesaid terms. No costs.

.....J. [M.R. Shah]

.....J. [C.T. Ravikumar]

New Delhi;

March 13, 2023.

IN THE SUPREME COURT OF INDIA

Pawan Kumar Chourasia
Vs.
State of Bihar

[Criminal Appeal No. 2230 of 2010]

HEADNOTE – Evidentiary value of extra-judicial confession also depends on person to whom it is made

JUDGMENT

Abhay S. Oka, J.

Factual Background

1. The appellant who is accused no.1 was prosecuted along with four others for the offences punishable under Section 302 read with Section 34 as well as Section 201 of the Indian Penal Code (for short, 'IPC'). The appellant has been convicted for both offences. For the offence under Section 302 read with Section 34 of IPC, he has been sentenced to undergo life imprisonment. The High Court confirmed the conviction of the appellant, whereas the remaining four accused were acquitted.

2. First informant is one Lakhi Prasad Chourasia (PW5). First Information Report (FIR) was registered on 20th June 1989. The statement of the first informant on the basis of which the FIR was registered notes that it has been recorded in the presence of Radhey Prasad Mandal (PW1); Kisan Lal Mandal (PW4); Satya Narain Mandal (PW6); and Mohammad Tamijuddin (PW7). It is alleged that on 10th June 1989, PW5 had lodged a missing report.

The missing report was in respect of his son Kamlesh and nephew Bulla, son of one Hira Chaurasia (PW9). They were missing from 02nd June 1989. PW5 stated that at about 02:00 p.m. on 20th June 1989, he received a secret information that both the boys had been murdered by the present appellant in association with others. Therefore, he along with the persons mentioned above went to the house of the appellant and made inquiries.

Though initially, the appellant denied, after some persuasion, he admitted in presence of the aforesaid persons that he and four others (coaccused) had killed both the boys by strangulating them and had concealed their bodies in the field of one Bhagirath at Nakki Bari. PW5 along with the appellant and others went to the

said field. The appellant removed the soil and both dead bodies were found. Thereafter, he came to the police station and lodged a complaint.

3. The prosecution examined 10 witnesses. PW1 Radhey Prasad Mandal; PW2 Jagdish Prasad Chourasia; PW3 Shobha Lal Mandal; PW4 Kisan Lal Mandal; PW5 the complainant himself; and PW6 Satya Narain Mandal were declared hostile.

According to the prosecution case, the appellant had made a confession in presence of these witnesses. PW7 Md. Tamijuddin; PW8 Suchai Mandal and PW9 Hira Lal Chourasia supported the prosecution case and deposed about the extrajudicial confession made by the appellant to them. PW10 is a doctor who performed the autopsy. The Investigation Officer was not examined. The conviction of the appellant is based on the extrajudicial confession. Both the Courts have believed the prosecution case regarding the alleged extrajudicial confession.

4. With the assistance of the learned counsel appearing for the parties, we have perused the depositions of the prosecution witnesses and in particular P.W. nos.7 to 9 and the findings recorded by the courts below.

Evidentiary Value of Extrajudicial Confession

5. As far as extrajudicial confession is concerned, the law is well settled. Generally, it is a weak piece of evidence. However, a conviction can be sustained on the basis of extrajudicial confession provided that the confession is proved to be voluntary and truthful. It should be free of any inducement. The evidentiary value of such confession also depends on the person to whom it is made.

Going by the natural course of human conduct, normally, a person would confide about a crime committed by him only with such a person in whom he has implicit faith. Normally, a person would not make a confession to someone who is totally a stranger to him. Moreover, the Court has to be satisfied with the reliability of the confession keeping in view the circumstances in which it is made. As a matter of rule, corroboration is not required. However, if an extrajudicial confession is corroborated by other evidence on record, it acquires more credibility.

Analysis of Evidence

6. As narrated earlier, PW1 to PW6 including the complainant himself whose son was killed did not support prosecution. The case of the prosecution was that the appellant had confessed to PW1 to PW9. We have carefully analyzed the evidence of P.W. Nos.7, 8 and 9 who were the only material prosecution witnesses. Here is the analysis of their evidence:

(a) PW7 has stated that on 20th June 1989 at about 02:30 p.m. when he along with PW1 and PW6 and other persons were talking near the gate of Bhagirath Mandal, PW5 came there and told them that he had received information that Pawan(appellant) had murdered his son Kamlesh and nephew Bulla and had concealed their dead bodies. The prosecution has made no attempt to investigate into the source of the alleged information received by PW5.

(b) The version of PW8 Suchai is different. PW8 Suchai's name is not mentioned in the complaint of PW5. PW8 Suchai claims that on 06th June 1989, he heard the appellant telling two persons that he had murdered two boys and had concealed their dead bodies. It is pertinent to note that though PW8 had knowledge about the alleged confession made by the appellant on 06th June 1989, he did not complain to the police. The omission to report to the police is very significant as he was admittedly the uncle of the deceased Bulla. His silence creates more suspicion about the prosecution case.

(c) PW8 stated that he along with others went along with the appellant to the place where dead bodies were buried. His version is that the appellant made a confession when he along with others was sitting at the gate of Bhagirath. The witness has not stated that PW1 to PW9 visited the house of the appellant on 20th June 1989 when the appellant made the extrajudicial confession. Though PW8 did not say so, PW9 Hiralal stated that it was PW8 who took out the dead bodies after some digging was made by the appellant.

(d) As far as PW9 Hiralal is concerned, he is the father of Bulla. He has not stated the place at which the extrajudicial confession was allegedly made by the appellant. He simply stated that 19 days after his son went missing, the appellant disclosed in his presence to one Bhagirath (not examined by the prosecution), PW1, PW4 and PW6 that he had murdered both the boys and had concealed their dead bodies in the field of Bhagirath. His version is that it was Suchai (PW8) who took out the bodies. However, PW8 himself did not state that he took out the bodies.

(e) According to the version of PW7, PW1 did not inform him about any extrajudicial confession made by the appellant but PW1 informed him that he had received the information that the appellant had murdered both boys. Out of these three witnesses, PW7 is the only witness who stated that the appellant made the confession in his own house.

(f) According to the version of PW7, in the afternoon of 20th June 1989, he was informed by PW5 that the appellant had murdered both the boys. There is no explanation as to why PW7 did not approach the police. This conduct of the witness is unnatural.

(g) None of these three witnesses who supported the prosecution, have stated that the appellant was either their relative or a close acquaintance. In fact, they have not even stated that they personally knew the appellant. There is nothing on record to show that the relationship between the appellant and these three witnesses was such that the appellant had implicit faith in these three witnesses and, therefore, he confided with them.

(h) Even after the alleged extrajudicial confession of committing murder was made before them by the appellant, PW7 to PW9 did not report to the police. The prosecution case is that without informing the police, they accompanied the appellant to the field of Bhagirath where dead bodies were found buried. This conduct of PW7 to PW9 is unusual and unnatural. PW7 to PW9 are not consistent about the place at which the alleged confession was made.

(i) There is no explanation offered by the prosecution for not examining Bhagirath who was also present according to PW9 when the alleged confession was made. This omission becomes more significant as the dead bodies were allegedly found in his land.

Conclusion

7. Hence, the prosecution's case about extrajudicial confession does not inspire confidence at all. Moreover, there are no other circumstances brought on record which could support or corroborate the prosecution case. Therefore, in our considered view, the evidence in form of the extrajudicial confession of the appellant deserves to be discarded. Admittedly, there is no other evidence against the appellant.

Therefore, the conviction of the appellant cannot be sustained at all. Accordingly, the impugned judgments are set aside and the appellant is acquitted of the offences alleged against him.

The bail bonds of the appellant stand cancelled. The appeal is allowed.

.....J. [Abhay S. Oka]

.....J. [Rajesh Bindal]

New Delhi

March 14, 2023

IN THE SUPREME COURT OF INDIA

Sarabjit Kaur
Vs.
State of Punjab & Anr.

[Criminal Appeal No. 581 of 2023]

HEADNOTE –A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction

JUDGMENT

Rajesh Bindal, J.

1. The Appellant having failed before the High Court has filed the present appeal. A prayer was made for quashing of F.I.R. No.430 dated 16.10.2017 under Sections 420, 120- B and 506 of the Indian Penal Code, 1860. The petition filed before the High Court seeking quashing thereof was dismissed.

2. Learned counsel for the appellant submitted that the appellant entered into an agreement to purchase a plot measuring 1 (Kanal) on 27.05.2013 with Malkit Kaur, wife of Surender Singh resident of Dhillon Colony, Near Electricity Grid, G.T. Road, Moga, Jagraon, District Ludhiana, Punjab on 27.05.2013. On the basis thereof appellant entered into an Agreement to Sell the same to Sarabjit Kaur wife of Darshan Singh (respondent No.2) on 18.11.2013.

The date for execution of sale deed was fixed as 25.06.2014. It was categorically mentioned in the Agreement to Sell that at present the vendor was not the owner of the property. The appellant received a sum of ₹ 5,00,000/- as earnest money and the date of registration of sale deed was fixed as 25.06.2014. The date for execution of sale deed was extended to 24.12.2014 on receipt of additional sum of ₹ 75,000/-.

A complaint was filed by Darshan Singh (complainant/ respondent No.2), son of Jangir Singh on 30.09.2015 with reference to the same alleged Agreement to Sell however against property dealers Manmohan Singh, son of Prakash Singh and Ranjit Singh alias Billa, son of Pal Singh. In the aforesaid complaint, reference was made to two other transactions entered into by Darshan Singh and prayer was that an amount of ₹ 29,39,500/-be got recovered from the property dealers.

3. The aforesaid complaint was investigated and finally on 18.05.2016, it was opined that the dispute being civil in nature, no police action was required. Darshan Singh made another complaint on 05.10.2016 with the same allegations without disclosing the fate of his earlier complaint. Referring to the earlier enquiry made, the aforesaid complaint was consigned to record on 23.01.2017. Thereafter, another complaint was made by Darshan Singh against the appellant, Ranjit Singh and Manmohan Singh. It is on the basis thereof that F.I.R. in question was registered under Sections 420, 120-B and 506 IPC against the appellant, Manmohan Singh and Ranjit Singh.

4. The argument raised by learned counsel for the appellant is that the respondent No.2 who claims himself to be the husband of vendee had filed two complaints earlier with the same set of allegations and those were consigned to record on the basis of the legal opinion received opining the case to be of civil nature. In the first such complaint, there were no allegations against the appellant. In fact the dispute is purely civil in nature.

In case the appellant failed to execute the sale deed for which admittedly the last date fixed was 24.12.2014. Respondent No.2 could have availed of his appropriate remedy of specific performance of Agreement to Sell but no suit was filed. However, third complaint was filed without disclosing the fate of earlier two complaints. The F.I.R. in question was registered on the basis of the complaint filed by respondent No.2 on 15.06.2017 i.e. nearly three years after the date fixed for execution of sale deed.

The respondent No.2 had never issued any notice prior to the filing of the compliant with the police seeking any remedy. A perusal of three complaints filed by respondent No.2 clearly suggest that from the initial prayer for return of the amount paid by him, subsequently the allegations of cheating was made. In the first complaint while referring to different transactions, the allegation was only against the property dealers not against the appellant whereas in subsequent complaint improvement was made and she was also involved.

5. Learned counsel for the State submitted that the chargesheet having been filed, the appellant can raise all the pleas before the court below. It is not a case for quashing of the F.I.R.

6. Despite service of notice, respondent No.2/complainant has not appeared.

7. Heard learned counsel for the parties and perused the paper book.

8. On the material placed on record by the parties, it is evident that an Agreement to Sell was executed by the appellant in favour of the wife of respondent No.2, namely Sarabjit Kaur for sale of plot measuring 1 (kanal). The agreement to Sell

specifically mentions the fact that appellant/ the vendor gets entitled to the property on the basis of the Agreement to Sell executed in her favour by Malkit Kaur on 27.05.2013.

The last date fixed for registration of sale deed was 25.06.2014 which was extended to 24.12.2014. There is nothing placed on record by the complainant or the State to show that besides filing of the criminal complaint, respondent No.2 had initiated any civil proceedings for execution of sale deed on the basis of Agreement to Sell or in the alternative return of the earnest money.

9. A perusal of the first complaint made by respondent No.2 on 30.09.2015 shows that the prayer was made for return of the amount paid by him with no allegation of cheating. It was filed only against Manmohan Singh and Ranjit Singh, the property dealers. Reference in the aforesaid complaint was made to the Agreement to Sell executed between the parties. In addition, there was a reference to two other Agreements to Sell executed in total.

A prayer was made for getting an amount of ₹29,39,500/- refunded from the property dealers. Though, in the aforesaid complaint reference was made to the Agreement to Sell in question, however there was no complaint made against the appellant. The aforesaid complaint was investigated by the Economic Offences Wing and a report was submitted to the Senior Superintendent of Police on 22.03.2016.

A report was submitted on the basis of which the legal opinion was sought from the District Attorney who opined that no criminal offence was made out and the complainant shall be at liberty to invoke jurisdiction of the civil court. The aforesaid opinion was accepted by the Senior Superintendent of Police, Ludhiana (Rural) on 18.5.2016.

10. Thereafter, Darshan Singh (respondent No.2) made another complaint to DIG, Ludhiana on 05.10.2016 which again was enquired into and a finding that earlier identical complaint was filed as no criminal offence was made out and the second complaint was consigned to record. In the second complaint, there was no reference made to the earlier complaint filed by Darshan Singh.

11. Still not satisfied as the result of the earlier complaint was not to the liking of the respondent No.2. He filed another complaint on 23.01.2017. Thereafter, another complaint was filed by the respondent No.2 on 15.06.2017 on the basis thereof F.I.R. in question was registered.

On the facts of the case in hand, it is evident that the effort of respondent No.2 was merely to put pressure on appellant while involving her in a criminal case to get his money back whereas there is nothing pleaded that respondent No. 2 that

he was ever ready and willing to get the sale deed registered. There was no effort made by the respondent No.2 or the vendee in the Agreement to Sell to initiate any civil proceedings to get the sale deed executed on the basis of the Agreement to Sell. In fact, the last date fixed for execution of the sale deed even after extension was 24.12.2014.

12. There is nothing on record to suggest that any notice was issued by the respondent No.2 or the vendee to the appellant to get the sale deed registered just either before expiry of the last date fixed for executed of sale deed or immediately thereafter. No civil proceedings were also initiate rather the respondent No.2 proceeded only by filing complaints with the police two of which were earlier filed.

Had there been any civil proceedings initiated, the question of readiness and willingness of the vendee is also an aspect to be examined by the Court. 13. A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up promise will not be enough to initiate criminal proceedings.

From the facts available on record, it is evident that the respondent No.2 had improved his case ever since the first complaint was filed in which there were no allegations against the appellant rather it was only against the property dealers which was in subsequent complaints that the name of the appellant was mentioned. On the first complaint, the only request was for return of the amount paid by the respondent No.2.

When the offence was made out on the basis of the first complaint, the second complaint was filed with improved version making allegations against the appellant as well which was not there in the earlier complaint. The entire idea seems to be to convert a civil dispute into criminal and put pressure on the appellant for return of the amount allegedly paid.

The criminal Courts are not meant to be used for settling scores or pressurise parties to settle civil disputes. Wherever ingredients of criminal offences are made out, criminal courts have to take cognizance. The complaint in question on the basis of which F.I.R. was registered was filed nearly three years after the last date fixed for registration of the sale deed. Allowing the proceedings to continue would be an abuse of process of the Court.

14. Hence, in our opinion the impugned order passed by the High Court deserves to be set aside. The petition filed by appellant for quashing of F.I.R. is ordered to be allowed.

As a consequence, F.I.R. No.430 dated 16.10.2017 and all the subsequent proceedings therewith are ordered to be quashed.

The appeal is, accordingly, allowed.

.....J. (Abhay S. Oka)

.....J. (Rajesh Bindal)

New Delhi;

March 01, 2023.

C. Legal Article

Independence of Judiciary

Introduction

The judiciary is a system of courts that works to uphold the supremacy of the law in every country. It is essential to the operation of democracy. The judiciary, together with the executive and legislative branches of government, is one of the three main institutions recognised by the doctrine of the separation of powers. The judiciary checks to see if the law is correctly obeyed, as well as interprets and applies the law in a variety of legal situations, whereas the legislative and executive are involved with creating and carrying out the law, respectively. The judiciary must act impartially and independently, per the principle of separation of powers. For a democracy to thrive, an independent judiciary is crucial. As a result, it is assumed that the judiciary will maintain its neutrality. Nonetheless, the independence of the judiciary is frequently jeopardised as a result of some outside forces and pressure from numerous powerful groups. It is further stated why having an independent judiciary is crucial, why it has specific characteristics, and most importantly, why its independence is sometimes questioned.

Concept of a completely independent judiciary

An independent judiciary implies that the executive and legislative branches must refrain from interfering with its operations. The judiciary should not represent the government or the ruling party and should be free from all of their influences and interests. In an independent judiciary, judges should be free to use their judicial authority without outside interference, restraint, or fear. The judiciary's autonomy is crucially protected by impartial judges, who also serve as the cornerstone of a just and impartial judicial system.

To put it another way, the concept of an independent judiciary refers to the political idea that the judiciary should interpret the laws and the Constitution of the relevant nation without being influenced in any way by the other branches of government, political parties, the general public, or any partisan interests.

A basic assurance of the judiciary's independence is the division of powers. Judges should be free to render impartial judgments in accordance with their view of the law and the evidence when making decisions. They should be free to act without being constrained by unjustified pressure, fear, or favour.

An iconic ruling issued by the US Supreme Court in the case of **United States v. Nixon 1974 U.S. LEXIS 93,** that unanimously ruled against President Richard Nixon and demanded that he turn over the Watergate Trial Tapes serves as a prime example in this regard. This decision upheld the Rule of Law principle and served as a reminder that even the US President is not above the law. Parallel to this, in the Indian case **State of U.P. Vs. Raj Narain and Ors. AIR 1975 SC 865,** the Allahabad High Court found that Indira Gandhi, who was the country's prime minister at the time, committed electoral fraud and ordered the election to be annulled.

The USA adopted the system of separation of powers to guarantee an independent court. But when a constitutional system is founded on parliamentary sovereignty, as it is in the UK or India, judicial supremacy is typically used to guarantee the independence of the judiciary.

In India, judges are appointed to the Supreme Court and High Courts with a minimum of intervention from other government branches in order to guarantee the independence of the judiciary. A judge can be appointed, but it is very tough to get them out. The precondition for ensuring the strong democratic spirit of any country is an independent judiciary.

The need for a separate judiciary The judiciary is the most significant branch of the government and it prevents the executive and legislative branches from abusing their authority. In a democracy, judicial independence is crucial. To ensure that persons who come before them to seek justice and the public at large can have faith that their cases will be judged properly and in accordance with the law, judges must be impartial and separate from any outside forces as well as from one another.

Judges must be free from any inappropriate influence while performing their judicial duties. Any number of entities, including the executive branch, lawmakers, the media, and specific plaintiffs, particularly pressure organisations, may exert such influence.

With the expansion of the government's influence over our daily lives over the past century, judges' roles have become more complex. Together with the expansion of governmental duties, disagreements between citizens and the government have also grown. The judiciary now safeguards the common man against the illegal actions of the government in addition to delivering justice. Since then, there has been a greater need for an independent judiciary.

Types of judicial independence

Two types of judicial independence predominate. These are decisional independence and institutional or functional independence.

Judicial independence is institutional Judicial independence, whether institutional or functional, refers to the idea that the other branches of the government must never, under any circumstances, meddle in the affairs of the court. It completely depends on the level of power separation. The judiciary is free to choose the judicial officers' or judges' salary, benefits, and other employment-related decisions. It is the judiciary's separation from other State institutions or departments.

Protection against interference and freedom from the influence of strong people, groups, and lobbyists are two aspects of institutional or functional judicial independence. The concept of the rule of law is fundamentally based on the institutional or functional independence of the judiciary from the executive and the legislature.

Independent judicial decision-making

The concept of decisional judicial independence states that when making a decision in a specific case, a judge should be objective, unbiased, and free from any biases. Decisional judicial independence is the phrase used to describe a judge's independence.

Additionally, it states that a judge must make decisions based only on the relevant facts and laws, free from political or media viewpoints, outside pressure, interference, or influence, as well as any fear of repercussions for their own careers.

Again, there are two sorts of judicial independence in decisions.
1) Substantive judicial independence, which states that when a judge is making a decision and using the judicial authority granted to them, they are not subject to any other authority but rather the law itself.
2) Personal judicial independence is the idea that judges should be unbiased or neutral, free from outside pressure or fear, and should make decisions based only on the evidence presented and the legislation in effect.

Conclusion

The judiciary is frequently referred to as a "fragile bastion" because of concerns that the outside influences and pressures it must contend with may cause the

institution's impartiality and neutrality as well as a judge's personal integrity to disintegrate. A strong democracy is built on an independent court, which also serves as the last resort for those seeking justice. It is crucial to keep in mind that it is the individual judges' job to uphold the independence of the judiciary.

At the end of the day, it is important to keep in mind that maintaining the rule of law requires the independence of the judiciary. Because of this, the rhetoric used by the government and the media to demonise the court should be of considerable concern. Despite all of its shortcomings, the legal system remains the last resort for the average person seeking justice. A democracy cannot function successfully without an independent court because there will be no institution to guard and regulate the rights of the ordinary people. Therefore, it is imperative to protect the judiciary's independence at all costs.

2. Study Material-G.K.

Important Books and Authors in Modern India

Editor /Author	Book Name
bindo Ghosh	➢ Kalmayogi ➢ New Lamp for Old ➢ Bhawani Mandir
im Chandra Chatterjee	➢ Anand Math ➢ Durgesh Nandini
Ambedkar	➢ Mook Nayak ➢ Bahishkrit Bharat
bhai Naoroji	➢ Rast Goftar ➢ Voice of India ➢ Poverty and Un-British Rule in India
nand Saraswati	➢ Veda Bhasya Bhumika ➢ Satyartha Prakash
l Krishna Gokhale	➢ Nation ➢ Sudharak
har Lal Nehru	➢ Discovery of India ➢ Glimpses of World History
Gandhi	➢ Navjeevan ➢ Young India ➢ Harijan ➢ Indian Opinion
n Mohan Maliviya	➢ Hindustan ➢ Leader
Tagore	➢ Letters form Russia, Gora
Ram Mohan Roy	➢ Samvad Kamaudi, Mirat – ul Akhbar, Barga Dutta
ni Vivekananda	➢ Prabhudha Bharat Udbodhana ➢ Prachya Acir Pashchaya

3. Study Material-Language

Synonyms

Synonyms are words or phrases which have the same or nearly the same meaning as other words or phrases in the same language:

Amazing	incredible, unbelievable, improbable, fabulous, wonderful, fantastic, astonishing, astounding, extraordinary
Anger	enrage, infuriate, arouse, nettle, exasperate, inflame, madden
Angry	mad, furious, enraged, excited, wrathful, indignant, exasperated, aroused, inflamed
Answer	reply, respond, retort, acknowledge
Ask	question, inquire of, seek information from, put a question to, demand, request, expect, inquire, query, interrogate, examine, quiz
Awful	dreadful, terrible, abominable, bad, poor, unpleasant
Bad	evil, immoral, wicked, corrupt, sinful, depraved, rotten, contaminated, spoiled, tainted, harmful, injurious, unfavorable, defective, inferior, imperfect, substandard, faulty, improper, inappropriate, unsuitable, disagreeable, unpleasant, cross, nasty, unfriendly, irascible, horrible, atrocious, outrageous, scandalous, infamous, wrong, noxious, sinister, putrid, snide, deplorable, dismal, gross, heinous, nefarious, base, obnoxious, detestable, despicable, contemptible, foul, rank, ghastly, execrable
Beautiful	pretty, lovely, handsome, attractive, gorgeous, dazzling, splendid, magnificent, comely, fair, ravishing, graceful, elegant, fine, exquisite, aesthetic, pleasing, shapely, delicate, stunning, glorious, heavenly, resplendent, radiant, glowing, blooming, sparkling
Begin	start, open, launch, initiate, commence, inaugurate, originate
Big	enormous, huge, immense, gigantic, vast, colossal, gargantuan, large, sizable, grand, great, tall, substantial, mammoth, astronomical, ample, broad, expansive, spacious, stout, tremendous, titanic, mountainous
Brave	courageous, fearless, dauntless, intrepid, plucky, daring, heroic, valorous, audacious, bold, gallant, valiant, doughty, mettlesome
Break	fracture, rupture, shatter, smash, wreck, crash, demolish, atomize
Bright	shining, shiny, gleaming, brilliant, sparkling, shimmering, radiant, vivid, colorful, lustrous, luminous, incandescent, intelligent, knowing, quick-witted, smart, intellectual
Calm	quiet, peaceful, still, tranquil, mild, serene, smooth, composed, collected, unruffled, level-headed, unexcited, detached, aloof
Come	approach, advance, near, arrive, reach
Cool	chilly, cold, frosty, wintry, icy, frigid
Crooked—	bent, twisted, curved, hooked, zigzag
Cry	shout, yell, yowl, scream, roar, bellow, weep, wail, sob, bawl
Cut	gash, slash, prick, nick, sever, slice, carve, cleave, slit, chop, crop, lop, reduce
Dangerous	perilous, hazardous, risky, uncertain, unsafe
Dark	shadowy, unlit, murky, gloomy, dim, dusky, shaded, sunless, black, dismal, sad
Decide	determine, settle, choose, resolve

Definite	certain, sure, positive, determined, clear, distinct, obvious
Delicious	savory, delectable, appetizing, luscious, scrumptious, palatable, delightful, enjoyable, toothsome, exquisite
Describe	portray, characterize, picture, narrate, relate, recount, represent, report, record
Destroy	ruin, demolish, raze, waste, kill, slay, end, extinguish
Difference	disagreement, inequity, contrast, dissimilarity, incompatibility
Do	execute, enact, carry out, finish, conclude, effect, accomplish, achieve, attain
Dull	boring, tiring,, tiresome, uninteresting, slow, dumb, stupid, unimaginative, lifeless, dead, insensible, tedious, wearisome, listless, expressionless, plain, monotonous, humdrum, dreary
Eager	keen, fervent, enthusiastic, involved, interested, alive to
End	stop, finish, terminate, conclude, close, halt, cessation, discontinuance
Enjoy	appreciate, delight in, be pleased, indulge in, luxuriate in, bask in, relish, devour, savor, like
Explain	elaborate, clarify, define, interpret, justify, account for
Fair	just, impartial, unbiased, objective, unprejudiced, honest
Fall	drop, descend, plunge, topple, tumble
False	fake, fraudulent, counterfeit, spurious, untrue, unfounded, erroneous, deceptive, groundless, fallacious
Famous	well-known, renowned, celebrated, famed, eminent, illustrious, distinguished, noted, notorious
Fast	quick, rapid, speedy, fleet, hasty, snappy, mercurial, swiftly, rapidly, quickly, snappily, speedily, lickety-split, posthaste, hastily, expeditiously, like a flash
Fat	stout, corpulent, fleshy, beefy, paunchy, plump, full, rotund, tubby, pudgy, chubby, chunky, burly, bulky, elephantine
Fear	fright, dread, terror, alarm, dismay, anxiety, scare, awe, horror, panic, apprehension
Fly	soar, hover, flit, wing, flee, waft, glide, coast, skim, sail, cruise
Funny	humorous, amusing, droll, comic, comical, laughable, silly
Get	acquire, obtain, secure, procure, gain, fetch, find, score, accumulate, win, earn, rep, catch, net, bag, derive, collect, gather, glean, pick up, accept, come by, regain, salvage
Go	recede, depart, fade, disappear, move, travel, proceed
Good	excellent, fine, superior, wonderful, marvelous, qualified, suited, suitable, apt, proper, capable, generous, kindly, friendly, gracious, obliging, pleasant, agreeable, pleasurable, satisfactory, well-behaved, obedient, honorable, reliable, trustworthy, safe, favorable, profitable, advantageous, righteous, expedient, helpful, valid, genuine, ample, salubrious, estimable, beneficial, splendid, great, noble, worthy, first-rate, top-notch, grand, sterling, superb, respectable, edifying
Great	noteworthy, worthy, distinguished, remarkable, grand, considerable, powerful, much, mighty
Gross	improper, rude, coarse, indecent, crude, vulgar, outrageous, extreme, grievous, shameful, uncouth, obscene, low
Happy	pleased, contented, satisfied, delighted, elated, joyful, cheerful, ecstatic, jubilant, gay, tickled, gratified, glad, blissful, overjoyed

Hate	despise, loathe, detest, abhor, disfavor, dislike, disapprove, abominate
Have	hold, possess, own, contain, acquire, gain, maintain, believe, bear, beget, occupy, absorb, fill, enjoy
Help	aid, assist, support, encourage, back, wait on, attend, serve, relieve, succor, benefit, befriend, abet
Hide	— conceal, cover, mask, cloak, camouflage, screen, shroud, veil
Hurry	rush, run, speed, race, hasten, urge, accelerate, bustle
Hurt	damage, harm, injure, wound, distress, afflict, pain
Idea	thought, concept, conception, notion, understanding, opinion, plan, view, belief
Important	necessary, vital, critical, indispensable, valuable, essential, significant, primary, principal, considerable, famous, distinguished, notable, well-known
Interesting	fascinating, engaging, sharp, keen, bright, intelligent, animated, spirited, attractive, inviting, intriguing, provocative, though-provoking, challenging, inspiring, involving, moving, titillating, tantalizing, exciting, entertaining, piquant, lively, racy, spicy, engrossing, absorbing, consuming, gripping, arresting, enthralling, spellbinding, curious, captivating, enchanting, bewitching, appealing
Keep	hold, retain, withhold, preserve, maintain, sustain, support
Kill	slay, execute, assassinate, murder, destroy, cancel, abolish
Lazy	indolent, slothful, idle, inactive, sluggish
Little	tiny, small, diminutive, shrimp, runt, miniature, puny, exiguous, dinky, cramped, limited, itsy-bitsy, microscopic, slight, petite, minute
Look	gaze, see, glance, watch, survey, study, seek, search for, peek, peep, glimpse, stare, contemplate, examine, gape, ogle, scrutinize, inspect, leer, behold, observe, view, witness, perceive, spy, sight, discover, notice, recognize, peer, eye, gawk, peruse, explore
Love	like, admire, esteem, fancy, care for, cherish, adore, treasure, worship, appreciate, savor
Make	create, originate, invent, beget, form, construct, design, fabricate, manufacture, produce, build, develop, do, effect, execute, compose, perform, accomplish, earn, gain, obtain, acquire, get
Mark	label, tag, price, ticket, impress, effect, trace, imprint, stamp, brand, sign, note, heed, notice, designate
Mischievous	prankish, playful, naughty, roguish, waggish, impish, sportive
Move	plod, go, creep, crawl, inch, poke, drag, toddle, shuffle, trot, dawdle, walk, traipse, mosey, jog, plug, trudge, slump, lumber, trail, lag, run, sprint, trip, bound, hotfoot, high-tail, streak, stride, tear, breeze, whisk, rush, dash, dart, bolt, fling, scamper, scurry, skedaddle, scoot, scuttle, scramble, race, chase, hasten, hurry, hump, gallop, lope, accelerate, stir, budge, travel, wander, roam, journey, trek, ride, spin, slip, glide, slide, slither, coast, flow, sail, saunter, hobble, amble, stagger, paddle, slouch, prance, straggle, meander, perambulate, waddle, wobble, pace, swagger, promenade, lunge
Moody	temperamental, changeable, short-tempered, glum, morose, sullen, mopish, irritable, testy, peevish, fretful, spiteful, sulky, touchy
Neat	clean, orderly, tidy, trim, dapper, natty, smart, elegant, well-organized, super, desirable, spruce, shipshape, well-kept, shapely
New	fresh, unique, original, unusual, novel, modern, current, recent

Old	feeble, frail, ancient, weak, aged, used, worn, dilapidated, ragged, faded, broken-down, former, old-fashioned, outmoded, passe, veteran, mature, venerable, primitive, traditional, archaic, conventional, customary, stale, musty, obsolete, extinct
Part	portion, share, piece, allotment, section, fraction, fragment
Place	space, area, spot, plot, region, location, situation, position, residence, dwelling, set, site, station, status, state
Plan	plot, scheme, design, draw, map, diagram, procedure, arrangement, intention, device, contrivance, method, way, blueprint
Popular	well-liked, approved, accepted, favorite, celebrated, common, current
Predicament	quandary, dilemma, pickle, problem, plight, spot, scrape, jam
Put	— place, set, attach, establish, assign, keep, save, set aside, effect, achieve, do, build
Quiet	silent, still, soundless, mute, tranquil, peaceful, calm, restful
Right	correct, accurate, factual, true, good, just, honest, upright, lawful, moral, proper, suitable, apt, legal, fair
Run	race, speed, hurry, hasten, sprint, dash, rush, escape, elope, flee
Say/Tell	inform, notify, advise, relate, recount, narrate, explain, reveal, disclose, divulge, declare, command, order, bid, enlighten, instruct, insist, teach, train, direct, issue, remark, converse, speak, affirm, suppose, utter, negate, express, verbalize, voice, articulate, pronounce, deliver, convey, impart, assert, state, allege, mutter, mumble, whisper, sigh, exclaim, yell, sing, yelp, snarl, hiss, grunt, snort, roar, bellow, thunder, boom, scream, shriek, screech, squawk, whine, philosophize, stammer, stutter, lisp, drawl, jabber, protest, announce, swear, vow, content, assure, deny, dispute
Scared	afraid, frightened, alarmed, terrified, panicked, fearful, unnerved, insecure, timid, shy, skittish, jumpy, disquieted, worried, vexed, troubled, disturbed, horrified, terrorized, shocked, petrified, haunted, timorous, shrinking, tremulous, stupefied, paralyzed, stunned, apprehensive
Show	display, exhibit, present, note, point to, indicate, explain, reveal, prove, demonstrate, expose
Slow	unhurried, gradual, leisurely, late, behind, tedious, slack
Stop	— cease, halt, stay, pause, discontinue, conclude, end, finish, quit
Story	tale, myth, legend, fable, yarn, account, narrative, chronicle, epic, sage, anecdote, record, memoir
Strange	odd, peculiar, unusual, unfamiliar, uncommon, queer, weird, outlandish, curious, unique, exclusive, irregular
Take	hold, catch, seize, grasp, win, capture, acquire, pick, choose, select, prefer, remove, steal, lift, rob, engage, bewitch, purchase, buy, retract, recall, assume, occupy, consume
Tell	disclose, reveal, show, expose, uncover, relate, narrate, inform, advise, explain, divulge, declare, command, order, bid, recount, repeat
Think	judge, deem, assume, believe, consider, contemplate, reflect, mediate
Trouble —	distress, anguish, anxiety, worry, wretchedness, pain, danger, peril, disaster, grief, misfortune, difficulty, concern, pains, inconvenience, exertion, effort
Ugly	hideous, frightful, frightening, shocking, horrible, unpleasant, monstrous, terrifying, gross, grisly, ghastly, horrid, unsightly, plain, homely, evil, repulsive, repugnant, gruesome
Unhappy	miserable, uncomfortable, wretched, heart-broken, unfortunate, poor,

	downhearted, sorrowful, depressed, dejected, melancholy, glum, gloomy, dismal, discouraged, sad
Use	employ, utilize, exhaust, spend, expend, consume, exercise

4. Current Affairs

MARCH 2023

31 March 2023

- Who is titled as the Most Followed Twitter User - Elon Musk
- Who assumed as Head of NASA's Moon to Mars Program - bAmit Kshatriya

30 March 2023

- Who won Wildlife Conservation Award 2023 – Dr. S A Hasan
- Sasha female cheetah from Namibia died in which National Park – Kuno National Park
- Which medal did Neetu Ghanghas win in the 48 kg category in the World Women's Boxing Championship 2023 – Gold medal
- Which medal won by Manu Bhaker in 25 meter pistol event in ISSF World Cup 2023 – Bronze medal
- Which country tested missiles in the Sea of Japan – Russia
- How long has the deadline for linking PAN with Aadhaar card been extended – 30 June 2023
- S&P Global Ratings has predicted India's economic growth rate in FY2024 at what percent – 6 percent
- Russia announced to deploy nuclear weapons in which country – Belarus
- How long SEBI has extended the deadline for demat account holders to name the nominee – 30 September 2023
- Where is the first training squadron of the Indian Navy located – Kochi
- The World Bank has approved a loan of $108 million for flood management projects in which state – Assam

29 March 2023

- Who won the Women's Premier League Trophy 2023 – Mumbai Indians
- Where did the meeting of the second Environment and Climate Sustainability Working Group begin – Gandhinagar
- Who is the author of the launched book "War and Women" – Dr. M. A. Hasan
- Who inaugurated Maa Sharda Temple near LoC in Kashmir – Amit Shah
- In which state Gandhamardan Hill Range has been declared Biodiversity Heritage Site – Odisha

- How many gold medals won by India in the Women's World Boxing Championship – 4
- IMF approved loan of how many billion for war-torn Ukraine – 6 billion
- Who is the author of the launch book "Azad" – Ghulam Nabi Azad
- Who was awarded the highest civilian honor of Kerala – MT Vasudevan
- Who won the GenNext Entrepreneur Award at the Forbes India Leadership Awards – Isha Ambani
- Which space agency launched "LVM3-M3/OneWeb India-2" mission – ISRO
- Who has become the second Indian woman to win two gold medals in the Women's World Boxing Championships – Nikhat Zareen

28 March 2023

- Musa Moola has passed away he was a famous – freedom fighter
- ISRO successfully launched how many satellites from India's heaviest rocket LVM-3 – 36
- Which space agency discovered active volcano on Venus – NASA
- Which state started Mukhyamantri Vriksha Sampada Yojana – Chhattisgarh
- Which Congress leader was disqualified as the Lok Sabha Parliament – Rahul Gandhi
- Who won the first Gold for India in World Boxing Championship 2023 – Neetu Ghanghas
- Which exercise was conducted by the Indian Army and Air Force along the LAC in the Northeast – Vayu Prahar
- The Chief Minister of which state unveiled the youth policy and youth portal – Madhya Pradesh
- Which became the first state to pass the Right to Health Bill – Rajasthan
- Which country's hockey federation was honored by the Asian Hockey Federation with the Best Organizer Award – India
- By what percentage did the central government increase the dearness allowance – 4 percent
- In which city did the PM inaugurate the 13.71 kilometer long metro line – Bangalore

27 March 2023

- PM Modi addressed the One World TB Summit in which city – Varanasi
- Who was elected as the head of the New Development Bank – Dilma Rousseff
- Who is the author of the launch book "Chhatrapati Shivaji Maharaj" – Shrimant Kokte

- PM Modi presented a Buddha statue made of sandalwood to the Prime Minister of which country – Japan
- According to UNESCO report, what percentage of the world's population does not have safe drinking water – 26 percent
- Kiran Mazumdar Shaw resigned from the post of which company – Infosys
- When Earth Hour Day was celebrated – 25 March
- Which bowler took the first hat-trick of the WPL – Easy Wong
- The central government announced a subsidy of how many rupees to the beneficiaries of Pradhan Mantri Ujjwala Yojana – ₹200
- The city of old pearls was discovered from the island of Siniyah located in which country – United Arab Emirates
- Where will the first sports university of Uttarakhand be established – Haldwani

25-26 March 2023

- Who won the title of Asian Billiards – Pankaj Advani
- Jio started 5G service in how many cities of India – 41
- Who has topped the list of the most expensive city in the world according to Business Travel – New York
- Who made the world record of playing most matches in international football – Cristiano Ronaldo
- In which state the Statue of Knowledge statue dedicated to Ambedkar was established – Maharashtra
- Hurun Global Rich List In terms of self-made billionaires, what place did India stand – 3rd
- Bomb cyclone caused havoc in which country – California
- Which state celebrated Ugadi festival – Karnataka
- According to the United Nations, the water flow of which rivers will decrease due to global warming – Ganga and Brahmaputra
- Which state has declared Gandhamardan Hill Range as Biodiversity Heritage Site – Odisha
- Who is the author of the book "A Matter of the Heart: Education in India" launched – Anurag Behar
- Which country tested an underwater nuclear attack drone – North Korea

24 March 2023

- Who was awarded the Abel Prize for Mathematics? – luis cafarelli
- Who is the only Indian in Top 10 Hurun Global Rich List 2023? – Mukesh Ambani
- In which city the 26th edition of 'Elevate Expo' is being organized? – Dubai

- Which player won the first gold medal of the ISSF World Cup Shooting Championships in the Men's 10m Air Pistol category? – Sarabjot Singh
- Who launched an app called 'Call Before You Dig' on 22nd March 2023? – Narendra Modi
- In March 2023, who has been appointed as an Honorary Officer in the General Division of the Order of Australia (AO)? – Ratan Tata
- When is the World Meteorological Day observed annually? – 23rd March
- Who won the title of Saudi Arabian Grand Prix 2023? – Sergio Perez
- In which country the festival 'Ghode Jatra' was celebrated? – Nepal
- Which state has become the first state to pass the Right to Health Bill? – Rajasthan
- Which authority has launched a series titled 'Stories of Change' to promote grassroots innovations?– NITI Aayog
- Who has been conferred with the 'Kerala Puraskarangal', the highest civilian honor of Kerala? – MT Vasudevan Nair

23 March 2023

- According to the World Happiness Report 2023, which country is the happiest country in the world? – Finland
- Who won the gold medal in the men's 10m air pistol event at the ISSF World Cup Shooting Championships? – Sarabjot Singh
- International Monetary Fund has given a bailout package of how many billion dollars to Sri Lanka facing financial crisis? – 3 billion
- Which Indian industrialist has been appointed to the 'Order of Australia' for distinguished service? – Shri Ratna Tata
- When is World Water Day celebrated every year? – 22nd March
- What is the theme of World Water Day 2023? – accelerating change
- Which Indian company has got India's first BIS license to manufacture fire-resistant steel? – Jindal Steel
- Who has been appointed as the Managing Director and CEO of Invest India? – Manmeet K. Nanda.
- Who has become the first sports woman to have a stadium named after her in Rae Bareli? – Rani Rampal
- Which country launched its first submarine base BNS Sheikh Hasina – Bangladesh

22 March 2023

- What is the rank of India in the World Happiness Index 2023 – 126th
- Which country reached the second position in terms of sugar exports in the world – India
- Which Indian was named in the Order of Australia – Ratan Tata

- Who was awarded the National Humanities Medal – Mindy Kaling
- When was International Forest Day celebrated – 21 March
- Who was honored with Sangeet Kalanidhi Award – Bombay Jayshree
- who won the women's singles title in the Asian Under-16 Tennis Tournament – Riya Sachdeva
- Who won the women's doubles title in the Asian Under-16 Tennis Tournament – Riya Sachdeva and Sejal Bhutada
- Who topped the list of best airport in the world – Singapore
- Where was the Matua fair organized – West Bengal
- Which country was invited by Japan in the G7 Hiroshima summit – India
- Who was appointed as the Deputy CM of United States International Development Finance Corporation – Nisha Biswal
- UBS bought Credit Suisse for how many billion dollars – 2 billion dollars
- When was the International Day for the Elimination of Racial Discrimination celebrated – 21 March

21 March 2023

- Which country's Prime Minister Fumio Kishida has come on a 2-day visit to India – Japan
- Who inaugurated Sagar Parikrama Phase-IV – Purushottam Rupala
- Who became the fastest Indian person to swim across the Palk Strait – Sampanna Ramesh
- P-8 aircraft of the Indian Navy arrived to participate in the exercise Sea Dragon-23 – America
- The pilot who shot down the drone of which country in Russia was honored – America
- Who became the oldest player to win the ATP Masters 1000 title – Rohan Bopanna
- According to government survey what percentage of rural households do not have toilet facilities – 21%
- Where was the two-day Global Millet Conference held – New Delhi
- Who inaugurated the Global Millets Conference – PM Narendra Modi
- What is the rank of India in the Global Terrorism Index – 13th
- In which state Sagar Parikrama Phase IV was completed – Karnataka
- Who became the first woman in the world to get 400 million followers on Instagram – Selena Gomez
- Who became the third cricketer in the world to score 7000 runs and take 300 wickets in ODIs – Shakib Al Hasan

20 March 2023

- Tarak Sinha has passed away he was a famous – cricket coach

- "Al-Mohad-al-Hidi -23" exercise was conducted between India and which country – Saudi Arabia
- Which country hosted the United Nations 2023 water conference – America
- Which country topped the Global Terrorism Index – Afghanistan
- The second edition of AFINDEX-23 exercise was held between the army of India and which country – Africa
- When was International Happiness Day celebrated – 20 March
- What is the theme of International Happiness Day 2022 – Be Mindful, Be Grateful, Be Kind
- In which state for the first time an electric engine run train started – Meghalaya
- Who was given the Balbir Singh Sr. Award for Player of the Year 2022 at the 5th Hockey India Versus Awards – Hardik Singh and Savita Punia
- Who was excluded from the list of least developed countries by the United Nations – Bhutan
- Asia's largest international food and hospitality fair "AAHAR 2023" started where – Delhi
- Patrick French has passed away what was a famous – Writer
- Who will be honored with the International Booker Prize for the year 2023 – Perumal Murugan

19 March 2023

- By which year the Indian Railways has set a target of Net Zero Carbon Emission – Year 2030
- Who is the author of the book "Bipin: The Man Behind the Uniform" launched – Rachna Biswat
- Which cyclone caused massive devastation in Malawi and Mozambique – Freddy
- Who approved the merger of HDFC and HDFC Bank – National Company Law Tribunal
- By March 2023, India's foreign exchange reserves were in how many billion dollars – 560 billion dollars
- Which state of India has the lowest literacy rate in the year 2023 – Bihar
- Which state of India has the highest literacy rate in the year 2023 – Kerala
- Which space agency unveiled the new generation of spacesuits – NASA
- Which country has recognized the McMahon Line as the international border – America
- Who became the third Vice President of Nepal – Ram Sahai Prasad
- When was the Global Recycling Day celebrated – 18 March
- What is the theme of Global Recycling Day 2023 – Creative Innovation

- Who is the author of the book titled "Snakes in the Ganges: Breaking India 2.0" – Rajeev Malhotra and Vijaya Viswanathan
- In which State announced the formation of 19 new districts and three new divisional headquarters – Rajasthan
- 2023 How many Indian places have been included in the list of greatest places in the world – 2

18 March 2023

- Who has been honored with the 'Governor of the Year' 2023 by the International Publication Central Banking? – Shaktikanta Das.
- To whom did President Murmu present the 'President's Colour'? – INS Dronacharya
- Which Indian-American has been appointed as the Assistant Secretary of the US Air Force? – Ravi Chowdhary
- Which airport topped the list of world's top airports released by Skytrax? – Indira Gandhi International Airport
- Which country participated with India in Exercise Sea Dragon 2023? – America
- The Union Home Ministry has announced 10 percent reservation for ex-Agniveers in which security force? – CISF
- Tata Consultancy Services (TCS) has appointed whom as its new CEO and MD? – Kritivasan
- OneWeb will launch 36 satellites with which organization for low-orbit connectivity? – ISRO
- Which company has recently signed a licensing agreement with cloud gaming provider Boostroid? – Microsoft
- In which city the Union Agriculture Minister has inaugurated 'Agriunifest'? – Bangalore
- When was World Sleep Day observed in 2023? – 17th March
- Union Minister Purushottam Rupala will inaugurate the fourth phase of 'Sagar Parikrama' in which state on 18 March 2023? – Karnataka

17 March 2023

- According to the recent report of Swiss firm iQAir, which is the most polluted country in the world? – Chad (India – 8th)
- Which military exercise took place between India and Singapore from 6 to 13 March 2023? – Bold Kurukshetra
- Who was re-elected as FIFA President till 2027, on 16th March 2023? – Gianni Infantino

- According to World Bank estimates, the literacy rate of women in India is set to increase from 9 percent at the time of independence to what percent in 2023? – 77 percent
- In which city is the IBA Women's World Boxing Championship being organized? – New Delhi
- Which agency has been given the status of Infrastructure Finance Company by RBI? IREDA
- With which country India released postage stamp on completion of 75 years? – Luxembourg
- RBI has tied up with which country's Central Bank to promote innovation in financial products? – UAE
- National Immunization Day is observed on which day? – 16rh March
- Who has been appointed as its brand ambassador by JioCinema recently? – Suryakumar Yadav
- Which country has recently become the first country to import Co2 and store it under the sea? – Denmark

16 March 2023

- Which country was the world's largest arms importer in 2022 as per SIPRI report? – India
- According to the 'World Air Quality' report, what is the rank of India in the list of polluted countries? – 8th
- According to the Ministry of Education, which state has the lowest literacy rate? – Bihar
- According to the India State of Forest Report (ISFR) 2021, India's forest and tree cover has increased by how many square kilometers in the year 2021? – 2,261
- Who has been appointed as India's ambassador of 'She Changes Climate'? – Shreya Ghodawat
- Madhya Pradesh Governor Mangubhai Patel inaugurated the third Divya Kala Mela in which city? – Bhopal
- Which Indian company has become the title sponsor for the International Boxing Association (IBA) Women's World Boxing Championships 2023? – Mahindra Auto
- Which bank was shut down by the US government after Silicon Valley Bank? – Signature Bank
- Who has been selected for the 2022 Saraswati Samman for his book Suryavansham? – shivshankari
- Who has been promoted as the Managing Director of LIC recently? – tablesh pandey

15 March 2023

- Which created history by becoming the first Indian film to win the Oscar for Best Original Song? – RRR
- Who topped the list of most women billionaires in City Index 2023 – America
- who became the 7th player to score 17000 runs in international cricket – Rohit Sharma
- America handed over its satellite to ISRO – NISAR
- India's digital payments market will reach $10 trillion by which year – Year 2026
- What percentage of reservation has been announced by the Government of India to Agniveers in BSF – 10 percent
- Who was appointed as the interim chairman of Life Insurance Corporation of India – Siddharth Mohanty
- Where did the biennial exercise 'La Perouse' begin? – Indian Ocean Region
- In which city is the G20 Flower Festival being organized? – New Delhi
- Shanghai Cooperation Organization (SCO) Tourism Ministers' meeting will be held in which city of India? – Varanasi
- When is World Consumer Rights Day celebrated? – 15th March
- Who has launched the new Artificial Intelligence Chatbot GPT-4? – open AI

13-14 March 2023

- At which place did Prime Minister Modi inaugurate the 118 km long Bengaluru-Mysore Expressway project? – Mandya
- How many feet high has the Indian Army hoisted the tricolor in the mountainous Doda district of Jammu and Kashmir? – 100
- Who became the first woman to drive the newly introduced semi-high-speed Vande Bharat Express train? – Surekha Yadav
- In which city the Ministry of AYUSH will organize Yoga Mahotsav 2023? – New Delhi
- In which city was the 8th meeting of Chief Justices of Supreme Courts of Shanghai Cooperation Organization (SCO) member states held? – New Delhi
- When is International Mathematics Day observed every year? – 14th March
- Which cricketer became the second highest scorer in Test cricket? – Virat Kohli
- Who became the fastest bowler to take 50 wickets in his 12th match? – Akshar Patel

- According to the United Nations, which is the world's most oppressive country for women – Afghanistan
- Where was the Divya Kala Mela organized – Bhopal

12 March 2023

- Which country will host the Malabar 2023 exercise? – Australia
- The aim of the government is to pass the Digital India Act. Which act will it replace? – Information Technology Act (IT), 2000
- In which city did Prime Minister Modi inaugurate the world's longest railway platform? – Hubli-Dharwad
- Who has been appointed as the new Prime Minister of China? – li qiang
- According to City Index 2023, what is the rank of India with 9 women billionaires? – fifth
- India's first death due to H3N2 Influenza virus was reported from which state? – Karnataka
- Shaun Marsh announced his retirement from first class cricket. He was the cricketer of which country? – Australia
- Defense Ministry signed a contract with which company to buy 6 Dornier aircraft? – HAL
- India's first electric pilgrimage corridor is being built in which state? – Uttarakhand
- What is the name of India's trap shooter who won bronze medal in ISSF Shotgun World Cup 2023? – Prithviraj Tondaiman

11 March 2023

- In Jammu and Kashmir, the Indian Army installed the tallest 'iconic national flag' in which district on 9th March 2023? – Doda
- In which city will the 4th Y20 consultation meeting be held? – Pune
- In which country was the 'Golden City Gate Tourism Awards' ceremony held? – Germany
- Who launched the Global Greenhouse Gas Monitoring Infrastructure, which aims at standardized and real-time tracking of greenhouse gases? – world meteorological organization
- After 'Commercial Dialogue 2023', India signed an MOU with which country on Semiconductor Supply Chain and Innovation Partnership? – United States of America
- Who was elected as the President of China in March 2023? – Xi Jinping
- Which country has recently introduced military service for women for the first time in 25 years? – Colombia
- Which railway zone has achieved 100% electrification of entire broad gauge? – Central Railway

- Who has launched 'Har Payment Digital' mission? – Reserve Bank of India

10 March 2023

- Muhyiddin Yasin has been arrested on charges of corruption. He was the former Prime Minister of which country? – Malaysia
- Who has been elected as the new President of Nepal? – Ram Chandra Paudel
- Who has recently been awarded the CBIP Award 2022 for the best contribution to solar energy? – Bharat Heavy Electricals Limited
- Who organized the TROPEX 2023 exercise? – Indian Navy
- From which station Indian Railways started Bharat Gaurav train? – Mumbai
- Which player has surpassed Steffi Graf's all-time record to become the world number one? – Novak Djokovic
- Bumchu festival is related to which state/UT? – Sikkim
- What is the rank of India in the Electoral Democracy Index 2023? – 108th
- The Ministry of Youth Affairs and Sports is all set to organize the Khelo India Dus Ka Dum event from March 10 to 31, How many games will be played in the tournament? – 10
- Who has become the first Indian-American judge in New York Court? – Arun Subramanian

09 March 2023

- Which Indian airport has been declared as one of the best and cleanest airports in the Asia Pacific region by international group ACI? – Indira Gandhi International Airport, Delhi
- Which racing driver has won the season-opening Bahrain Grand Prix 2023? – Max Verstappen
- Attukal Pongala festival is celebrated in which state? – Kerala
- Scientists have recently confirmed the existence of which layer in the Earth's core? – fifth layer
- Who is the first woman IAF officer to get Command appointment? – Shalija Dhami
- In which state the 23rd Commonwealth Law Conference is being organized? – Goa
- Which candidate has won the Lifetime Achievement Award at the 8th National Photography Awards? – Shipra Das
- Who has been appointed as the new Chief Minister of Tripura? – Manik Saha

- The first edition of the Naval Commanders' Conference 2023 was held on which aircraft? – INS Vikrant

08 March 2023

- Rest of India team defeated whom to win the prestigious Irani Cup title? – Madhya Pradesh
- Which sportsperson has won the BBC Indian Sportswoman of the Year title for 2022? – Mirabai Chanu
- Shashidhar Jagdishan of which bank has been selected as "BS Banker of the Year 2022"? – HDFC bank
- Recently which state has gold reserves found at different places in three districts? – Odisha
- Which state has won the Santosh Trophy 2023? – Karnataka
- Mauganj has been made the new district of which state? – Madhya Pradesh
- Which state government has recently exempted electric vehicle buyers from tax and registration fee? – Uttar Pradesh
- On which day International Women's Day is celebrated? – 8th March
- No Smoking Day was observed on which day in 2023? – 8th March
- Who is the author of the book "India's Vaccine Growth Story – From Cowpox to Vaccine Friendship"? – Sajjan Singh Yadav
- Which state government has launched the 'Laadli Bahna' scheme for women? – Madhya Pradesh

07 March 2023

- In which city will President Draupadi Murmu inaugurate the 7th International Dharma-Dhamma Convention? – Bhopal
- Who has been appointed as the new coach of the Indian Men's Hockey team? – Craig Fulton
- Ales Baliatsky, who will win the Nobel Peace Prize in 2022, was sentenced to 10 years in prison. To which country does he belong? – Belarus
- Where did the Women's Premier League start for the first time? – Navi Mumbai
- Recently RBI has imposed a fine of Rs 06 crore on which e-commerce company? – amazon PAY
- In which institute the Youth Festival-India@2047 was launched? – IIT Ropar
- Prime Minister Narendra Modi recently inaugurated the eighth edition of Raisina Dialogue in New Delhi. What is the theme of the 2023 edition of Raisina Dialogue? – Provocation, Uncertainty, Turbulence: Lighthouse in the Tempest

06 March 2023

- In which state's GIFT City will two Australian universities be set up? – Gujarat
- Asia's longest ever cycle race was started from which city? – Srinagar
- After 10 years of retirement, which player's life size statue has been announced at Wankhede? – sanchin tendulkar
- Reliance Jio has become which of the world's strongest telecom brand? – Second
- Which former Indian diplomat and recipient of Padma Bhushan has passed away at the age of 82? – Chandrashekhar Dasgupta
- Who has been appointed as the Director General of Border Security Force Sashastra Seema Bal (SSB)? – Rashmi Shukla
- In which city is the Pusa Krishi Vigyan Mela being organized? – New Delhi
- Which ministry has received the Porter Prize 2023 in the management of Kovid-19? – Union Ministry of Health and Family Welfare
- What is the theme of Jal Shakti Abhiyan Catch the Rain 2023 campaign? – Source Sustainability for Drinking Water'

04-05 March 2023

- On which day National Security Day is celebrated? – 4th March
- In which state the 2nd meeting of the Environment and Climate (ECSWG) will be held from 27 to 29 Sustainability Working Group March 2023? – Gujarat
- ISRO has recently successfully tested the cryogenic engine of its rocket for which mission? – moon mission
- Which state presented a green budget of Rs 3,14,025 crore on 1 March 2023? – Madhya Pradesh
- Which sportsperson has won the gold medal in the men's shot put event of the AFI National Throw Championship? – Tejinderpal Singh Toor
- Bola Tinubu has recently been elected as the new President of which country? – Nigeria
- Axis Bank has acquired the Indian consumer business of which bank? – City Bank
- Who has been honored with the Player of the Year award by the Asian Chess Federation? – D Gukesh
- Where did the G20 meeting of the Anti-Corruption Working Group begin on 1 March 2023? – Gurugram

03 March 2023

- On which day the World Wildlife Day is observed? – 3rd March
- What is the theme of World Wildlife Day 2023? – Partnership for Wildlife Conservation
- Who won the women's singles title of National Badminton Championship? – Anupama Upadhyay
- India's GDP growth rate has come down to what percent in the October-December quarter? – 40%
- Which state's tourism has been selected for the Best Adventure Tourism Award by the India Today Tourism Survey? – Jammu and Kashmir
- Which football club has won the Carabao Cup by defeating Newcastle? – manchester united.
- Which country has been honored with the Government Leadership Award 2023 by the GSM Association? – India
- Which actor has been roped in by PepsiCo India as the brand ambassador of its flagship soft drink brand Pepsi? – Ranveer Singh

02 March 2023

- Pepsi made whom as its brand ambassador – Ranveer Singh
- Who was selected as the best FIFA player of the year 2022 – Lionel Messi
- Who inaugurated Shivamogga airport – Narendra Modi
- Which company operated its new logo – Nokia
- The Ministry of Tourism organized the first snow marathon in which city – Jammu
- Who was appointed as the Secretary General of FICCI – Shailesh Pathak
- Which state unveiled the first compressed biogas plant of the Northeast – Assam
- Which country launched the Commercial Arms Transfer (CAT) policy – America
- The 22nd Law Commission extended the tenure of which judge till the year 2024 – Justice Rituraj Awasthi
- Which player scored the 700th goal of his career club – Lionel Messi
- Which state inducted robotic elephant for temple ritual duties – Kerala

01 March 2023

- Which team won the Women's T20 World Cup title for the sixth time – Australia
- Which state won the Senior Women's National Hockey Championship – Madhya Pradesh
- 2nd SEMCON India Future Design Roadshow started in which city – Bengaluru
- Which country started the Desert Flag-VIII exercise – UAE

- Which city hosted the Youth-20 India Summit – Vadodara
- Which country signed an agreement to build 30 hotels in Uttar Pradesh with an investment of Rs 7,200 crore – Japan
- Which company has been ranked number one independent power producer in the world by S&P – NTPC
- Who won the title of Qatar Open – Daniil Medvedev
- Which country topped the International IP Index for the year 2023 – America
- Who is the author of the book launched Indian Fiscal Federalism – YV Reddy
- Which state has tied up with UN Women to empower women in tourism – Kerala

5. Prelims and Mains Notes Preparation Scheme

V.S. DREAM COACHING
FOR
HJS, PCS (J.) AND CLAT

Prelims and Mains Notes Preparation Scheme is going on. Prepare your own excellent study notes to crack HJS, PCS (J) and CLAT on the subjects mentioned below under the able guidance of Hon'ble Mr. Justice Vedpal (Former Judge), High Court of Judicature at Allahabad, Ex-Director of Judicial Training and Research Institute, U.P., Lucknow and resource person of various legal academies and institutions. Seek prior appointment to avoid despair. Subjects;-

1.General Knowledge	2.Law
1. Current Affairs 2. G.K.MCQs 3. History of India and Indian Culture 4. Geography of India 5. Indian Polity 6. Current National Issues 7. Topic of Social Relevance with special reference to newly added 9 Social Acts 8. India and the World 9. Indian Economy 10.International Affairs and Institutions 11. Development in the field of: (a) Science and Technology (b) Communications and Space	1. Constitutional Law 2. Law of Evidence 3. Criminal Procedure Code 4. Code of Civil Procedure, 5. Indian Panel Code 6. Law of Contract 7. Partnership Act 8. Easements Act 9. Law of Torts 10. Transfer of Property Act 11. Principles of Equity , 12. Law of Trust 13. Specific Relief Act 14. Hindu Law 15. Muslim Law 16. U.P. Revenue Code. 17. U.P. Municipalities Act 1916 18. U.P. Panchayat Raj Act 1947 19. U.P. Consolidation of Holdings Act, 1953 20. U.P. Urban (Planning and Development) Act, 1973
3.CLAT 1. General Knowledge 2. A Guide for CLAT	

6. About Coaching

V.S. Dream coaching is one of the premiere law institute that offers coaching for Judicial Services Examinations at all the three levels – Preliminary Test, Main Examination and Personality Test.

We started our journey the month of Sept. 2022 with a vision driven by the socialist ideology. Since its inception, the coaching is successfully conducting courses for Judicial Services Exams and has always worked by aligning itself to the best interest of its students. The coaching Institute is focused on providing comprehensive and reliable training and support to all its students, who plan to appear for the Judicial Services Exam and are in the search of highly qualified targeted and dedicated faculty to crack examinations successfully.

The teaching faculty of the Institute has been drawn from highly qualified persons having experience. We also guide the aspirant in preparing his own notes and quality study Material

Teaching pedagogy

Our faculty uses a teaching pedagogy which is easily understandable and is aspirant friendly. Our patron Hon'ble Mr. Justice Vedpal former Judge High Court Allahabad had been a Trainer of Trainers. Director of Judicial Training and Research institute U.P., Resource person of several Judicial Institutes and member of Law commission U.P. The faculty of the coaching Institutes consists of those who have several decade experience in teaching in the field of law.

7. About Director and faculty

Ms. Anshu Singh B.A., LL.B is the director of the coaching who remained associated with the law for more than two decades. The director of the coaching possess self-awareness, garner credibility, focus on relationship-building, exhibit humility, empower others, stay authentic, present themselves as constant and consistent, become role models and are fully present

The director aims to improve performance and focuses on the 'here and now' rather than on the distant past or future. The director is subject expert. And focuse on helping the individual to unlock their own potential

Regular Faculty

1. Ms. Anshu Singh, B.A. (English Literature) LL.B. The Director, herself
2. Shri Shantanu Baliyan, B.A. LL.B who is a Law graduate from C.C.S. University Campus. He has also received Certificate of Excellency from the

University. He has started teaching at a very young age and now with his teaching experience, he has developed innovative ways of teaching Law and general knowledge, which suites to the need of a law student, as well as an Judicial service aspirant. He has conducted many online and offline Courses. His notes on Law subjects as well as on general knowledge are masterly work

8. Resource persons/Guest Speakers

1. Hon'ble Mr. Justice Vedpal, Former Judge, High Court Allahabad -Mentor
2. Shri Soraj Singh, Ex-Director (Ag.), U.P. Government- Guest Speakers
3. Mrs. Kalpana Malik, B.Sc., LL.B., LL.M. (P) - Guest Speakers
4. Dr. Venu Agarwal M.A.(English), M.Com. M.Ed., PhD - Guest Speakers

9. Library with Research wing

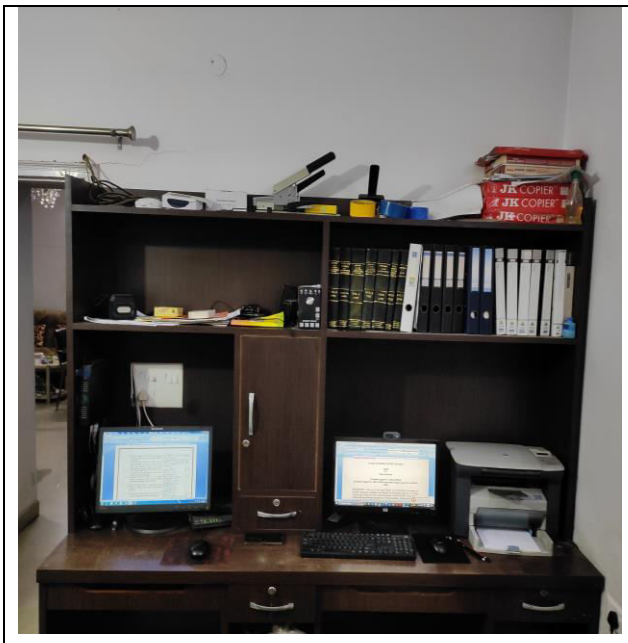
V.S. Dream Coaching has an excellent Library containing **about five thousand books, Journals, brochures, notes and guides**. The library in a coaching institute plays an important role in the life of students by serving as the store house of knowledge. It facilitates the work of the resource person and faculty also. The students have also access to library, after coaching hours. Our library changes as technology changes and remains updated in Course subjects. The coaching itself prepares study excellent and qualitative reading material.

Preparing a study material on a subject on Law and General Knowledge, is a herculean task. There is always a debatable question to be asked regarding what, and what not to include and how to differentiate the books and brochures from the ones already available in the market.

There should be a system for the verification of facts, data, etc. While preparing study material, we always keep in the mind the quality, so we hope that the book, brochures prove beneficial to all the aspirants taking examinations with law and General Knowledge..

A coaching should provide students with the fundamental knowledge base or foundation needed in order to be successful in their exam. Aspirants were surveyed to determine how they should be taught. The survey was developed based on course content. We encourage accredited programs to regularly evaluate current curricula for and develop new curricula that reflect changing construction technologies and management trends.

Library



Research wing