

FORM A

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,
MUNGER

Date of the Judgment – 29.05.2026
S.T. No. -179 OF 2015
C.I.S. No.- 281/2015
Jamalpur P.S. Case No. 167 of 2014

Informant	Anil Kumar , S/o- Late Ramchandra Mandal, Vill- Chhoti Dariyapur (Rampur), P.S.- Jamalpur, District- Munger
Represented by	Sri Santosh Mishra, Ld. A.P.P.
Accused persons	Rajeev Yadav , S/o- Late Saryug Yadav R/o- Chhoti Dariyapur, P.S.- Jamalpur, District- Munger.
Represented by	Sri Subodh Kumar Yadav, Ld. Advocate

FORM B

Date of offence	16.11.2014
Date of FIR	16.11.2014
Date of charge-sheet	31.03.2015
Date of Framing of Charges	19.09.2018
Date of commencement of evidence	19.11.2018
Date on which Judgment is reserved	22.05.2026
Date of the Judgment	29.05.2026
Date of the Sentencing Order, if any	--

Accused Details :

Rank of the Accused	Name of the Accused	Date of Arrest/Sur render	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428 Cr.P.C.
1	Rajeev Yadav	09.01.2015	22.05.2015	302/34, 201/34/ 120(B) IPC	Acquitted	-	-

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS)
P.W. 1	Lal Chand Tanti	Hostile witness
PW. 2	Dr. Rampreet Singh	Medical Witness
P.W. 3	Amarjeet Kumar	Hostile witness
P.W. 4	Dr. Mohammad Faiz Uddin	Medical Witness
P.W. 5	Ravindra Kumar	Hostile witness
P.W. 6	Navita Devi	Other witness
P.W. 7	Santosh Kumar	Hostile witness
P.W. 8	Manoj Kumar Yadav @ Dhanraj Yadav	Hostile witness
P.W. 9	Anil Kumar	Informant
P.W. 10	Ganesh Kumar	Investigating Officer

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS)
DW	Nil	

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS)
CW	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	Exhibit 1	Signature of Dr. Rampreet Singh on P.M. Report
2	Exhibit 2	Signature of Dr. Faizuddin on P.M. Report
3	Exhibit P3/P.W.9	Written Report
4	Exhibit P4/P.W.9	Signature of witness Anil Kumar on inquest report
5	Exhibit P5/P.W.9	Signature of witness Anil Kumar on statement u/s 164 Cr.P.C.
6	Exhibit P6/P.W.9	Signature of witness Anil Kumar on protest petition
7	Exhibit P6/1/P.W.9	Signature of witness Anil Kumar on protest petition
8	Exhibit P6/2/P.W.9	Signature of witness Anil Kumar on protest petition
9	Exhibit P6/3/P.W.9	Signature of witness Anil Kumar on protest petition
10	Exhibit P6/4/P.W.9	Signature of witness Anil Kumar on protest petition
11	Exhibit P6/5/P.W.9	Signature of witness Anil Kumar on protest

		petition
12	Exhibit P6/6/P.W.9	Signature of witness Anil Kumar on protest petition
13	Exhibit P6/7/P.W.9	Signature of witness Anil Kumar on protest petition
14	Exhibit P6/8/P.W.9	Signature of witness Anil Kumar on protest petition
15	Exhibit 7	Formal FIR
16	Exhibit 8	Charge-sheet

B. Defence :

Sr. No.	Exhibit Number	Description
1	Nil	

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
	Nil	

D. Material Objects :

Sr. No.	Exhibit Number	Description
	Nil	

J U D G M E N T

- (1) Accused Rajeev Yadav is facing trial for the offences punishable u/ss 302/34, 201/34/ 120(B) IPC.
- (2) The prosecution case as per the written report of the informant Anil Kumar is that his son, Devashish Kumar @ Chhotu, was repeatedly subjected to disputes, fights, and assaults by the accused persons namely Vikesh Kumar Singh,

Ashish Singh @ Hero Sinha, Rajiv Yadav, and Rintu Yadav, all residents of Rampur. For a few days, the informant's son had been residing with another person named Mangla Kumar at his house at Badi Dariyapur. On 16.11.2014, at around 6:00 AM, the dead body of the informant's son Devashish Kumar @ Chhotu was found thrown near the Revenue Court '(Rajaswa Kachhari)' near Shivpuri Colony, Jamalpur. The informant firmly alleged that all the aforementioned accused persons, along with Mangla Kumar, plotted a criminal conspiracy and murdered his son. On the basis of the aforesaid written report, Jamalpur P.S. Case No. 167/2014 under Sections 120(B), 302, 201/34 IPC was registered against five accused persons namely Vikesh Kumar Singh, Ashish Sinha @ Hero Sinha, Rajeev Yadav, Rintu Yadav & Mangla Kumar.

(3) That after completion of the investigation the I.O. has submitted a charge-sheet under No. 34/15 dated 31.03.2015 against accused Rajeev Yadav u/ss 302/34, 201/34/ 120(B) IPC and the investigation continued against FIR named accused persons namely Vikesh Kumar Singh, Rintu Yadav, Ashish Sinha @ Hero Sinha & Mangla Kumar and other non-FIR accused persons namely Sanjay Yadav, Pankaj Yadav, Nunu Poddar, Dhanraj Yadav @ Manoj Yadav, Santosh Mandal. Thereafter, the Ld. Trial Court took cognizance of the offences vide order 13.04.2015 against the charge-sheeted accused Rajeev Yadav u/ss 302/34, 201/34/ 120(B) IPC. Further on 23.05.2015 the case record was committed to the Court of Sessions where it was registered as S.T. 179/2015.

(4) That the charges were framed against the accused Rajeev Yadav on 19.09.2018 u/ss 302, 201, 120 read with section 34 of IPC. The contents of the charges, so framed, were read over and explained to the accused in Hindi to which he pleaded not guilty and claimed to be tried.

(5) The statement of the accused U/S 313 Cr.P.C. was recorded on 06.05.2026 in which he has stated that he is innocent and has not committed any offence.

(6) Now the question for determination is as to whether the prosecution has been able to prove the charges levelled against the above named accused beyond all

the reasonable doubt or not?

FINDINGS

Evidence :-

(a) Prosecution Evidence :

(7) **That during trial P.W. 1 Lal Chand Tanti, P.W.3 Amarjeet Kumar, P.W.5 Ravindra Kumar, P.W.7 Santosh Kumar, P.W.8 Manoj Kumar Yadav @ Dhanraj Yadav were declared hostile** at the request of the prosecution and cross-examined. They deposed in their examination-in-chief that they are not aware of the occurrence and that their respective statements were not recorded before the police.

In their cross-examination by the prosecution they have denied to have stated anything about the prosecution story before the police.

In their cross-examination by the defence he stated that they are voluntarily deposing before the Court without any pressure.

(8) **P.W. 2 is Dr. Rampreet Singh**, who deposed in his examination-in-chief that “on 16.11.2014, he was posted at Sadar Hospital, Munger as Medical Officer. On that day postmortem was conducted of Devashish Kumar @ Chhotu aged about 25 Years S/o Anil Kumar, Village- Chhoti Dariyapur, P.S.- Jamalpur, District- Munger. Deceased was brought by Hawaldar Mohan Paswan, Constable 177 Kailash Sharma, Anil Kumar, Anshu Raj. The dead body was produced by police with inquest report.

In postmortem examination following antemortem injuries were found on the body of the deceased:-

- (i) Contusion around the neck above thyroid cartilage.
- (ii) Contusion (Ligature Mark) around the neck below thyroid cartilage.
- (iii) Contusion ligature mark extending from both angles of mouth to mandible.
- (iv) Multiple contusions on face.
- (v) Contusion lower chest and upper abdomen 3 Inch X 3 Inch.

On dissection- Blood and blood clots were found in the neck muscles and trachea,

with fracture of tracheal ring.

Death in our opinion- The cause by asphyxia. Time Elapsed since death within 24 hours.

In this board Dr. Faiz, witness himself and Dr. Rajeev Kumar were there.

P.W.2 further deposed that the postmortem report is in the handwriting of Dr. Faizuddin and the report bears his signature, which he identified and the same was marked as **Exhibit-1.**”

In his cross-examination P.W.2 deposed that the Deputy Superintendent had constituted the Board of which he was also the member.

(9) **P.W. 4 is Dr. Mohammad Faizuddin**, who deposed in his examination-in-chief that “on 16.11.2014, he was posted at Sadar Hospital, Munger as Medical Officer. On that day postmortem was conducted of Devashish Kumar @ Chhotu aged 25 Years S/o Anil Kumar, Village- Chhoti Dariyapur, P.S.- Jamalpur, District- Munger. Deceased was brought by Hawaldar Mohan Paswan, Constable 177 Kailash Sharma, Anil Kumar, Anshu Raj. The dead body was produced by police with inquest report.

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- (iv) Multiple contusions on face.
- (v) Contusion lower chest and upper abdomen 3 Inch X 3 Inch.

On dissection- Blood and blood clots were found in the neck muscles and trachea, with fracture of tracheal ring.

Death in our opinion- The cause by asphyxia, caused by strangulation. Time Elapsed since death within 24 hours.

In this board witness himself, Dr. Ram Preet Singh and Dr. Rajeev Kumar were there.

P.W.4 further deposed that the postmortem report is in his handwriting which also bears his signature, which he identified and the same was marked as **Exhibit-2.**”

In his cross-examination P.W.4 deposed that on the basis of rigor-mortis, he had assessed the time elapsed since death. He deposed that it is not mentioned in the report as to how the Injuries Nos. 04 and 05 were caused.

(10) P.W. 6 is Navita Devi, who deposed in her examination-in-chief that the occurrence of the present case took place on 16.11.2014. That her son Devashish @ Chhotu was found thrown in the field near the 'Kachhari' situated adjacent to Shivpuri Colony. That as soon as she received information regarding this incident, she proceeded to the place of occurrence. That when she reached there, she observed that her son was dead. That the police arrived after that. This witness further deposed that on the date of 15th at about 7:30 PM, she had gone to bring water from the handpump where Sanjay Yadav, Rajiv Yadav, Rinku Yadav, Pankaj Yadav, Dhanraj Yadav, Santosh Kumar, Nunu Poddar, Mangla, Hero Sinha and her son were present. That when she asked her son to return home, he did not come home and stated that a settlement had been reached among them. The witness further deposed that Sanjay Yadav and Hero Sinha both stated that they had spoken to Mangla and his matter had been settled. That she returned to her home thereafter. That one week prior to the incident, her husband had expelled her son from the house. That her son used to reside in the house of Mangla as a tenant. That she narrated the incident of the dated 15th to her husband at home. That on 18.11.2014, her brother Ravindra visited her house. That her brother Ravindra had witnessed that all the accused persons were slapping her son. This witness further deposed that her statement was recorded by the police and she had narrated all these facts to the police. P.W.6 identified the accused Rajiv Yadav present before the Court and claimed to identify the other accused persons.

In her cross-examination she deposed that no occurrence took place in her presence. That her statement was recorded before the Investigating Officer one month after the occurrence. That her statement was not recorded again thereafter. That she did not go to the police station along with her brother as she was not in her proper senses. The witness had further deposed that her son had engaged in misbehaviour due to which her husband had expelled him from the house. That she remained inside her

house for one month after the occurrence. That she met her brother Ravindra three days after the occurrence and Ravindra had narrated everything to her, but she did not give this information to the police station. This witness further deposed that she did not recollect after how many days she went to the police station along with her brother. She denied the suggestion that she had not gone to the police station along with her brother. That she did not know that her statement was recorded for the first time on 25.12.2014. That there was no litigation between her son and the accused persons. That there was neither any enmity nor friendship between her son and the accused persons. That she did not remember whether she had disclosed to the Investigating Officer or not that Ravindra was her brother. That she gave her statement at the police station as per the narration given by Ravindra and as per her own observation. That she had stated to the Investigating Officer that she had gone to fetch water from the handpump near Rampur Middle School where her son was also present along with the accused persons. That the accused persons were towards the northern side of the handpump. That Sanjay Yadav and Hero were also present there. That Sanjay and Hero were proceeding towards their house. That she remained at the handpump for about half an hour. That she did not go near her son. She denied the suggestion that the association of her son was bad and it was the result of the said bad company. She further denied the suggestion that she has been falsely deposing before

(11) P.W. 9 is Anil Kumar, who deposed in his examination-in-chief that the deceased Devashish Kumar @ Chhotu was his younger son. That he used to reside at his house but for the last few days he had also been residing with Mangla Kumar. That the occurrence of the present case took place on 16.11.2014 at about 6:00 AM. That a commotion arose that his son Devashish Kumar @ Chhotu had been murdered and thrown away. That he had been murdered and thrown near the non-functional 'Kachhari' located on the road leading from Gandhi Library, Badi Dariyapur towards Rampur Basti. He further deposed that on account of a dispute there were altercations between his son Devashish @ Chhotu and Rajiv Yadav, Hero Sinha, Rintu Yadav and Vikesh Singh and the family of Rajiv Yadav and Hero Sinha murdered his son

pursuant to a conspiracy. That the written application of the present case was in his handwriting which bears his signatures in both English and Hindi which he identified and the entire written report was marked as **Exhibit-P-03/P.W.9**. That he identified the inquest report of the deceased Devashish Kumar @ Chhotu and his signature over it and the same was marked as **Exhibit-P-4/P.W.9**. This witness further deposed that on 03.02.2015, he recorded his statement under Section 164 of Cr.P.C. before Sri Arvind Kumar Singh, Ld. Judicial Magistrate Second Class, which bore his signature which he identified and the signature of the witness was marked as **Exhibit-P-5/P.W.9**. That he had filed a protest petition before the Ld. Chief Judicial Magistrate, Munger, containing his signature on each page which he identified and the same were marked as **Exhibit-6/P.W.9**, **Exhibit-6/1/P.W.9**, **Exhibit-6/2/P.W.9**, **Exhibit-6/3/P.W.9**, **Exhibit-6/4/P.W.9**, **Exhibit-6/5/P.W.9**, **Exhibit-6/6/P.W.9**, **Exhibit-6/7/ P.W.9** and **Exhibit-6/8/P.W.9** respectively. That he identified the accused Rajiv Yadav present in the Court today.

In his cross-examination he deposed that the occurrence of the present case did not take place in his presence. That a criminal case was instituted against his son Devashish @ Chhotu by Rintu Yadav. That prior to the occurrence of the present case, the police had visited once or twice searching for his son in the case instituted by Rintu Yadav. That he had secured bail for his son in the said case. This witness further deposed that he could not state the case number of the case instituted by Rintu Yadav as considerable time had elapsed. That another case had been instituted against his son Devashish @ Chhotu by Vikesh Kumar. That to his knowledge, there were two cases against his son and he had secured bail for him in those cases as well. That he knew Gita Sinha wife of Anil Sinha, as she belonged to his village. On being questioned whether Gita Sinha had instituted a case against his son, this witness stated that neither had he secured bail in that matter nor did any prosecution take place, as it was cancelled at the police station itself. He denied the suggestion that he was deliberately suppressing the case instituted by Gita Sinha. On being questioned whether Jamalpur P.S. Case No. 11/15 stood registered against his son by Gita Sinha, this witness stated

that no such case was registered. That his son Devashish @ Chhotu had been residing with Mangla Kumar since one week prior to the occurrence of the present case. He denied the suggestion that his son was a notorious criminal of the Jamalpur area and frustrated with his conduct he had expelled his son from the house. He denied the suggestion that his son was occupied with taking photographs of village girls and demanding extortion and that being frustrated with his conduct he had expelled him from the house and had no concern left with him. He deposed that prior to the occurrence of the present case, there was no personal dispute between him and Rajiv Kumar, but a case under Section 107 Cr.P.C. had had been registered due to a dispute involving children, which occurred one year prior to the occurrence of the present case. That he mentioned in his written application that a commotion arose that his son Devashish Kumar @ Chhotu had been murdered and thrown away near the non-functional 'Kachhari' building located on the road leading from Gandhi Library, Badi Dariyapur towards Rampur Basti. He denied the suggestion that he had falsely stated the fact regarding his son being murdered under a conspiracy. He further denied the suggestion that he is falsely deposing before the Court.

(12) P.W. 10 is Ganesh Kumar, who deposed in his examination-in-chief that on 02.12.2014, he was posted as the Officer-in-Charge at Faridpur O.P. That the charge of the investigation of Jamalpur P.S. Case No. 167/2014 was handed over to him by the then Police Inspector-cum-Station House Officer, Jamalpur, Pankaj Kumar. That due to his transfer, he handed over the charge of the investigation of this case to the then Station House Officer, Jamalpur, Rajiv Kumar.

In his cross-examination he deposed that after taking over the charge of the investigation, he did not examine the investigation conducted prior to him. That he did not record the statement of any witness.

Documentary Evidence :

In support of the case the prosecution has exhibited the following documents :

Sr. No.	Exhibit Number	Description
1	Exhibit 1	Signature of Dr. Rampreet Singh on P.M. Report
2	Exhibit 2	Signature of Dr. Faizuddin on P.M. Report
3	Exhibit P3/P.W.9	Written Report
4	Exhibit P4/P.W.9	Signature of witness Anil Kumar on inquest report
5	Exhibit P5/P.W.9	Signature of witness Anil Kumar on statement u/s 164 Cr.P.C.
6	Exhibit P6/P.W.9	Signature of witness Anil Kumar on protest petition
7	Exhibit P6/1/P.W.9	Signature of witness Anil Kumar on protest petition
8	Exhibit P6/2/P.W.9	Signature of witness Anil Kumar on protest petition
9	Exhibit P6/3/P.W.9	Signature of witness Anil Kumar on protest petition
10	Exhibit P6/4/P.W.9	Signature of witness Anil Kumar on protest petition
11	Exhibit P6/5/P.W.9	Signature of witness Anil Kumar on protest petition
12	Exhibit P6/6/P.W.9	Signature of witness Anil Kumar on protest petition
13	Exhibit P6/7/P.W.9	Signature of witness Anil Kumar on protest petition
14	Exhibit P6/8/P.W.9	Signature of witness Anil Kumar on protest petition
15	Exhibit 7	Formal FIR
16	Exhibit 8	Charge-sheet

Thereafter the prosecution closed its evidence and the case was listed for statement of the accused person u/s 313 of Cr.P.C.

(b) Defence Evidence :

The accused person in his statement u/s 313 Cr.P.C have denied their involvement in the occurrence. However, no evidence in support of his case has been adduced by the accused.

Submissions by Ld. A.P.P :

(13) The Ld. A.P.P submits that the prosecution has examined ten witnesses and placed on record 16 exhibits. He submits that though from the record it seems that there are no eye witnesses of the incident yet it apparent that the present case is based on circumstantial evidence. He submits that P.W. 1, 3, 5, 7 and 8 were declared hostile while P.W. 2 and P.W. 4 are the Medical Officers who as members of the Medical Board conducted the postmortem on the deceased victim wherein after noting antemortem injuries on the dead body opined that the death was caused due to 'Asphyxia'. That P.W. 3 is the mother of the deceased victim who deposed that the body of her son was found on 16.11.2014 while on 15th evening at about 07:30 PM when she had gone to fetch water from the handpump she saw her son with the accused persons namely Sanjay Yadav, Rajiv Yadav, Rinku Yadav, Pankaj Yadav, Dhanraj Yadav, Santosh Kumar, Nunu Poddar, Mangla and Hiro Sinha. That when she asked her son to come home he stated that we have resolved and further co-accused Sanjay Yadav and Hiro Sinha also told her that they have spoken to co-accused Mangla and that her son's account has been settled. Thereafter she went back home. This witness further deposed that her brother had seen all the accused persons physically assaulted her son and accordingly he informed her. The Ld. P.P. submits that the testimony of this witness remained unshaken during the cross-examination. He further submits that P.W. 9 the father of the victim had recorded his statement u/s 164 of Cr.P.C. wherein he had clearly outlined that his son was having dispute with the present accused and other accused persons of the case who are hardened criminals. Further he has confirmed that P.W. 6 his wife and mother of the deceased had informed him of the conversation on 15.11.2014 when her son was present alongwith the accused persons. In his deposition before the Court he has identified his signatures on the statement u/s 164 of Cr.P.C. as well as on the protest petition. Further the witness has clearly stated that the present accused and other co-accused persons pursuant to a criminal conspiracy have murdered him. Also this witness has outlined the disputes of his son with the accused persons of the case. Therefore, the

Ld. P.P. submits that clearly the victim last had a conversation with his mother namely P.W. 6 in presence of the accused persons and thereafter on the next day he was found dead while P.W. 9 in his deposition before the Court has supported the prosecution case.

(14) Hence he submits that on the basis of the abovementioned circumstantial evidence the prosecution has been successful in proving its case beyond the reasonable doubt and the accused be convicted of the offence.

Submissions by Ld. Counsel for the accused persons:

(15) The Ld. Defence Counsel at outset has submitted on the following lines:-

- I. At the outset he submits that the accused is innocent and has not committed any offence. That there is not even an *iota* of evidence on the record to make out a case;
- II. That there are no eye witnesses of the incident and out of ten prosecution witnesses five were declared hostile. He submits that P.W. 10 namely the I.O. of the case has only submitted the charge-sheet in the case and no investigation was carried out by him. That P.W. 6 has claimed that she last saw her deceased son on the evening of 15.11.2014 and on the next day he was found dead. That her brother saw the accused persons physically assaulting his son however the said witness namely Ravindra Kumar was examined as P.W. 5 and declared hostile. Also it is the witness own version that her son and the accused persons had claimed that cordial relations prevailed between them and the disputes has been resolved. However, this witness in her cross-examination on para 15 have stated that she was at the handpump for about half an hour however she did not go towards her son. Also she saw accused Sanjay and Hiro who were going towards their respective homes. Hence, the testimony of the witness is unreliable. That the victim was found dead on the next morning and hence there is a long stretch of time and total negation of any corroborative evidence. Hence,

the last scene theory cannot be applied in the case. Also the statement of the victim was recorded by the police after about one month of the incident and therefore it lacks spontaneity;

III. That P.W. 9 namely the father of the victim who the prosecution has claimed supported the incident is not an eye witness and has claimed that his son had some prior disputes with the accused persons. Hence he has expressed his suspicion that pursuant to a conspiracy they have murdered him. That apart from mere expression of suspicion and a 164 Cr.P.C. statement on similar lines, this witness has not deposed anything substantial;

IV. That no circumstantial evidence is emerging from the case and the case is based more on suspicion rather than any cogent evidence. Infact there is total absence of any link evidence in the case.

Therefore the Ld. Counsel submits that it is a case of no evidence and the accused accordingly be acquitted.

Court Consideration :

(16) In this case accused is facing trial for the offences u/ss 302/34, 201/34/120(B) IPC. The prosecution has examined altogether ten witnesses out of which five were declared hostile while the two Medical Officers being members of the Medical Board who conducted the postmortem have opined about the cause of death and further the I.O. had submitted the charge-sheet in the case. The main witnesses are the parents of the deceased person. That P.W. 6 is the mother of the deceased who a night before the purported incident claims that she had a conversation with her son in presence of the accused persons. That her son and the accused persons claimed that cordial relations prevailed and that their disputes have been resolved. Further, she has claimed that her brother had seen the accused persons physically assaulting her son. From the deposition of the P.W. 9 it seems he has expressed his suspicion over the accused persons since his deceased son has some disputes with them. It is also noted

that the brother of P.W. 6 namely Ravindra Kumar examined as P.W. 5 was declared hostile. The prosecution has claimed that on the basis of circumstantial evidence they have proved the case.

(17) It is noted that in *Sharad Birdhi Chand Sarda Vs. State of Maharashtra*¹ the Supreme Court held that before a case against an accused based on circumstantial evidence can be set to be fully established the following conditions must be fulfilled as laid down in *Hanumant Vs. State of M.P.*²:-

1. *The circumstances from which the conclusion of guilt is to be drawn should be fully established;*
2. *The facts so established should be consistent with the hypothesis of guilt and 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;*
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.*

(18) In *State of U.P. Vs. Satish*³ and *Rama Reddy Rajesh Khanna Reddy Vs. State of A.P.*⁴ it was held that the last scene theory come into play where the time gap between the point of time when the accused and the deceased were last scene alive and the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. Even in such a case, the Court should look for corroboration.

(19) In the factual matrix of the present case, the prosecution has claimed the last scene theory on the basis of the deposition of the P.W. 6 namely the mother of the victim. Apart from P.W. 6, P.W. 9 has expressed his suspicion on the accused

1. AIR 1984 SC 1682

2. AIR 1952 SC 343

3. 2005(3) SCC 114

4. 2006(10) SCC 172

persons. However, apart from this there is no other independent corroboration of the circumstances of the crime. Both the witnesses have stated that owing to the conduct of the deceased he was expelled from the house and he was living as a tenant in the house of one of the accused Mangla since a week before the incident. Also it is noted that the statement of the P.W. 6 was recorded by the police after one month of the incident. Also on para 15 the witness has deposed that she has not gone towards her son and that she was at the handpump for half an hour. Further it is noted that P.W.6 in her deposition had stated that her brother had informed of the physical assault on her son by the accused persons is not corroborated as her brother examined as P.W. 5 and was declared hostile by the prosecution.

(20) That from the record it seems that there is a good time gap between the mother claiming to have conversation with her son and discovery of the dead body and there is total absence of any other piece of corroborating evidence. Also P.W. 6 in para of her cross-examination has also stated that she did not go towards her son. In my view, the chain of evidence is completely broken and the claim of the prosecution of undeniable circumstantial evidence is rejected.

(21) Therefore considering the totality of the facts and the circumstances of the case, I am of the view that the prosecution has not been able to prove its case beyond all the reasonable doubt. As such the accused Rajeev Yadav is not found guilty for the offences u/ss 302/34, 201/34/ 120(B) IPC.

(22) Accordingly he is **acquitted** in this case and he is also discharged from the liabilities of his respective bail bonds.

(23) The record be consigned to the Record Room.

Dictated & corrected by me

Sessions Judge,
Munger
29.05.2026

(ALOK GUPTA)
Sessions Judge,
Munger
29.05.2026